

SENATE*Wednesday, July 16, 2014*

The Senate met at 1.30 p.m.

PRAYERS[MR. PRESIDENT *in the Chair*]**PAPERS LAID**

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Accreditation Council of Trinidad and Tobago for the year ended September 30, 2006. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Report of the Central Bank of Trinidad and Tobago on Insurance and Pensions for the year ended December 31, 2012. [*Sen. The Hon. L. Howai*]
3. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the financial year ended December 31, 2013. [*Sen. The Hon. L. Howai*]
4. Ministerial Response to the Third Report of the Joint Select Committee of Parliament on Ministries, Statutory Authorities and State Enterprises (Group 1) on the Administration of the Legal Aid and Advisory Authority. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

**STANDING ORDERS COMMITTEE REPORT
(Presentation)**

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President. Mr. President, I have the honour to present the following report as listed on the Order Paper in my name:

The Report of the Standing Orders Committee of the Senate, Fourth Session (2013/2014), Tenth Parliament.

STATEMENT BY MINISTER

**Foreign Direct Investment
(Energy Sector)**

The Minister of Energy and Energy Affairs (Sen. The Hon. Kevin Ramnarine): Mr. President, I rise to make a ministerial statement on foreign direct investment in the energy sector for the period 2007 to 2013, and what is forecast to the year 2016 in terms of investment.

Statement by Minister
[SEN. THE HON. K. RAMNARINE]

Wednesday, July 16, 2014

Mr. President, according to the Central Bank's Monetary Policy Report dated May 2014, energy revenue in fiscal 2013 was TT \$26.5 billion or just over 50 per cent of government revenue. Put in a simpler manner, Mr. President, that means that for every dollar the Government collects as revenue, 50 cents comes from the energy sector. The genesis of that revenue stream to the Government is investment in the energy sector. Mr. President, given the nature of the industry, it is imperative that we constantly attract investment to optimize production from already producing fields and to explore for and discover new resources.

Mr. President, there is an invisible economic treadmill in our economy that has three parts: the first part is investment in exploration and production; the second part is production and monetization of reserves and, finally, the third part is the realization of government revenue. In 2008, Mr. President, that treadmill broke down because the wrong signals were being sent to oil and gas companies, and because of the creation of an environment of uncertainty around the country's fiscal regime.

The situation was compounded by the global economic crisis of 2008. In April 2010, of course, there was the BP Macondo disaster in the Gulf of Mexico that changed the way BP and other companies did business, not just in Trinidad and Tobago but internationally. Coincidentally, in the same period, the shale gas revolution began to take root in the United States. These exogenous events have no doubt had an impact on our economy.

Mr. President, in the last three years the right signals have been sent and there is certainty around the fiscal regime that governs the oil and gas business in this country. As a consequence, the treadmill of investment into revenue has been restarted. Mr. President, the data from the Central Bank show a marked increase in foreign direct investment in the energy sector in the last three years. In 2010, foreign direct investment in the energy sector was US \$501 million. By 2011, it had increased to US \$1.7 billion. [*Desk thumping*] In 2012, Mr. President, provisional figures show an investment of US \$2.2 billion, the largest on record for a single year, and in 2013 that figure was US \$1.4 billion.

Mr. President, the numbers for the last three years are the highest on record for the energy sector in nominal terms. They represent a significant increase in activity in the upstream side of the energy sector where we explore for and produce oil and natural gas. The increase in investment levels in the energy sector is a function of increased investor confidence that is not only manifesting itself in the energy sector, but is manifesting itself throughout the wider national economy. I commend my Cabinet colleagues, led by the hon. Prime Minister, for their efforts in boosting investor confidence in the last four years.

Investor confidence in the energy sector, Mr. President, is related to the fiscal incentives that we have provided in every budget for the last four years. These include reduction in petroleum profits tax for the deep water; increased rates of cost recovery for the deep water; harmonization and simplification of the supplemental petroleum tax regime; introduction of incentives for development of small fields and mature marine fields; introduction of incentives for drilling into deeper horizons and a restructuring of the system of tax allowances for exploration and development.

Mr. President, four years ago, the major multinational oil and gas companies operating in this country had no growth story to tell their shareholders. Fast-forward to 2014 and the picture is very different. In the case of BP there is optimism around the results of the Ocean Bottom Cable Seismic that has given that company a much better understanding of the geology of the Columbus basin.

In the case of BG, there are progressive plans around Block 5C and Block 5D, both of which have significant potential for natural gas. In the case of BHP Billiton, there is tremendous optimism around the deep water where they have partnered with BP and Repsol. And, finally, in the case of Repsol—and Repsol, incidentally—which is a fact that may not be known to the national public—owns 30 per cent of bpTT—in that company there is new-found optimism around the Teak, Samaan and Poui fields which are now subject to a two-rig drilling programme.

Mr. President, data gathered by the Ministry of Energy and Energy Affairs Research and Planning Department indicate that the total investment by foreign and local companies—and this is not just foreign direct investment, but foreign and local companies—and by local companies we mean Petrotrin, the NGC and so on—will average over US \$3 billion per year between 2014 and 2016. That is over US \$9 billion in investment in the next three years with the emphasis being on the upstream exploration and production component of the energy sector.

Mr. President, to underscore the point, there are currently 28 active production-sharing contracts in Trinidad and Tobago with the earliest one dating back to 1974. These contracts are administered by the Contracts Management Division of the Ministry of Energy and Energy Affairs. Of these 28 active production-sharing contracts, Mr. President, 12, almost half, were signed in the last four years. [*Desk thumping*] In addition, in the last three years, the Ministry of Energy and Energy Affairs has signed three exploration and production licences. These 12 production-sharing contracts and three exploration and production licences that have been signed in the last four years are valued at almost US \$2 billion worth of investment. [*Desk thumping*]

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Mr. President, in addition, in 2013, the Ministry of Energy and Energy Affairs commenced and concluded the first dedicated land-based bid round in 14 years. Arising out of this, three blocks were awarded to three companies: Range Resources, Touchstone and Lease Operators Limited. These licences will be finalized shortly. [*Desk thumping*]

In addition, another deep water bid round was launched in August 2013 and closed in March 2014. Announcements would be made shortly with respect to two deep water blocks arising out of that bid round. These two new deep water production-sharing contracts will bring to nine, the number of deep water blocks under production-sharing contract. Our deep water province, Mr. President, has been opened up to exploration, and that is a historic development. Mr. President, I note, however, a discovery of oil in the deep water will only be realized as production by the early part of the next decade.

Some of the other major upstream projects in the period 2014 to 2016 include the BP Savonette drilling project which is now complete, and the BP Juniper project which is expected to commence in 2015, and will require the fabrication of a new platform. The capital expenditure for this Juniper project is estimated at US \$2.1 billion, and will make available 1.1 trillion cubic feet of natural gas. At present, as we speak, BG and Chevron are undertaking the development of the Starfish Field with first gas expected in October 2014 at a capital expenditure of US \$550 million. Other upstream developments include Petrotrin's South West Soldado project and the EOG Resources Oilbird project, both of which will be in the period 2014/2015.

Mr. President, further evidence of the positive investment climate is evident by the fact that in the last two years, we have had five new discoveries of natural gas or oil. These are:

1. Bayfield, now Trinity, EG 8 discovery in Galeota; [*Desk thumping*]
2. Petrotrin's Jubilee discovery in Trinmar's Cluster Six; [*Desk thumping*]
3. BP's discovery of one trillion cubic feet of natural gas in its Savonette 4 well; [*Desk thumping*]
4. Trinity's TGAL 1 discovery in Galeota; [*Desk thumping*] and the most recent one
5. Repsol's Teak Bravo North discovery in its Teak Samaan and Poui acreage of approximately 40 million barrels of oil. [*Desk thumping*]

Statement by Minister

Wednesday, July 16, 2014

Mr. President, all this means is that the upstream component of the national energy sector has been reinvented and is poised to continue to be the mainstay of the economy in the foreseeable future. [*Desk thumping*]

Mr. President, in the downstream sector, the Ministry of Energy and Energy Affairs and state-owned National Energy continue to pursue new projects that are in different stages of maturity. The development of the Mitsubishi—that is now Mitsubishi-Massy—not Neal & Massy—Methanol to Dimethyl Ether project is now in a very advanced stage. The project represents an investment of US \$850 million, and it is made all the more relevant since 2014, Mr. President, is Japan-Caricom friendship year, and we take the opportunity to recognize the presence of three vessels from the Japan Maritime Self Defence Force that are right now in the Port of Spain Harbour.

Mr. President, in addition to Mitsubishi, the Ministry of Energy and Energy Affairs and National Energy are progressing the project development agreement for the Gasfin project which is a mid-scale LNG project, and is also progressing the Massy—and this is another Neal & Massy project—formerly Neal & Massy—Metaldom metals-processing complex. All three projects are carded for the Union Industrial Estate in La Brea. This Government, Mr. President, has articulated a clear vision for the development of the south-west peninsula growth pole.

1.45 p.m.

Mr. President, in the last three years a lot has been achieved and we have met the challenges of external forces such as the shale gas revolution. In the words of BP CEO Bob Dudley, speaking less than a year ago at the Hyatt, Trinidad and Tobago has survived the shale gale. We have also had to come to terms with the new operations paradigm of many companies that places safety ahead of production. That is a very important point: placing safety ahead of production targets.

In conclusion, our energy sector has held its own and continues to be the pillar of the national economy. This does not mean that we are without challenge. There is more work to be done. The facts are, however, that the energy sector related investment has recovered from a downturn in the period preceding 2011, to reach the highest levels ever recorded in the last three years. [*Desk thumping*] Drilling has increased fourfold since 2009. Companies are investing again and are speaking with confidence about the future of their business in this country. As we move forward into the future, we will continue to ensure that Trinidad and Tobago remains the most attractive destination for energy-related investment in the Americas.

Mr. President, I thank you.

**MISCELLANEOUS PROVISIONS
(ADMINISTRATION OF JUSTICE) BILL, 2014**

[Second Day]

Order read for resuming adjourned debate on question [July 15, 2014];

That the Bill be now read a second time.

Question again proposed.

Mr. President: Hon. Senator, you have 41 minutes remaining of original speaking time.

Sen. The Hon. A. Ramlogan SC: Thank you very much, Mr. President. Having the benefit of listening to my colleagues in the Senate on this important measure, the large majority of time being spent on the amendments to the DNA legislation, I took the opportunity to look at the legislative history and the chronology of the development of DNA legislation in, perhaps, the country that we look the most to, which is the United Kingdom.

In the UK and America, they are at the opposite end of the spectrum. In the US, as we can see, they take a more robust approach. Their retention policy is 75 or 80 years, and they are not bogged down by the jurisprudence that emerges from the European Court of Human Rights. The Strasbourg jurisprudence is something that has developed in Europe, based on the conditions and the jurisprudence there.

In the United States of America, what the research shows is that the larger the database, the greater the prospect of detection and conviction. In fact, in Stanford University Criminology Department, an article written by Jennifer Doleac on November 11, this is what they had to say, and I quote:

“On average, DNA profiling has a large net probative effect—it helps identify suspects (as designed). In other words, profiled offenders...”—meaning persons who have their DNA on the database—“continue to commit new offenses, but are caught much more often than those not in the database: They are 23.4 % more likely to be convicted of another crime within three years than...”—someone whose DNA is not on the database—“The net probative effect is particularly large for offenders released before age 25,...”—interesting conclusion—“this suggests that collecting DNA from more offenders early in their criminal careers could deter even violent offenders from reoffending.”

So it has a direct correlation with the rate of recidivism, in that, if young career criminals know that they are likely to be caught because their DNA is on the database, it has a very potent deterrent effect on them reoffending.

I continue, Mr. President:

“...I find that larger databases are associated with lower crime rates during the years 2000 to 2008.”

That is the conclusion: so the larger the database, the lower the crime rate. That is not just common sense, it is the empirical evidence in the United States of America. The larger your DNA database, the lower the rate of crime. That is common sense; it is empirical data and it makes sense.

Here we are faced with an Opposition, and all they are concerned about is the rights of people to give their fingerprint and their DNA. They want us to keep the net restricted, and they are not telling us that the smaller the DNA database, the less likely you are to catch criminals and the lower the rate of conviction, detection and crime on the whole.

The net effect of what the Opposition is saying, which they do not tell the country, is whilst they are concerned about the rights of the bandits to give their DNA and their fingerprints, they are not telling us—while they morph it in this amalgamation, of this “verbigation” of all—[*Interruption*]

Sen. Maharaj: Ethical hypocrisy.

Sen. The Hon. A. Ramlogan SC: My friend Devant Maharaj says ethical hypocrisy. But when they mask it in all of that, “boil it down to brass tacks”, deconstruct it for the man in the street; tell the man in the street. Come clean and tell him you are saying bandits must not give their fingerprints and DNA. The net effect of that is that it will have a higher rate of crime. That is, in fact, it. [*Interruption*]

Sen. Robinson-Regis: Will the Attorney General give way?

Sen. The Hon. A. Ramlogan SC: No, I have limited time today.

Sen. Robinson-Regis: The Attorney General is not being truthful. That is not what was said. [*Interruption*]

Sen. The Hon. A. Ramlogan SC: I am saying, Mr. President—[*Interruption*]

Mr. President: Senators.

Sen. Al-Rawi: You are misleading the House.

Sen. The Hon. A. Ramlogan SC: The smaller the database, the higher the rate of crime; there is a direct inverse relationship. That is what the empirical evidence shows. [*Interruption*]

Sen. Al-Rawi: The Opposition never said—

Sen. Young: That they were engaging the rights of criminals.

Mr. President: Sen. Al-Rawi, you know that you are not allowed to engage—

Sen. Al-Rawi: I am sorry. I was following the example of the Attorney General.

Mr. President: Senator, that is out of order.

Sen. Al-Rawi: Sorry.

Mr. President: I do not appreciate your comments.

Sen. Al-Rawi: I am just stating facts, Sir.

Mr. President: I do not appreciate your comments; end of story.

Hon. Senator: Apology!

Mr. President: I do not see any improper motives having been imputed and, therefore, the Standing Order that you relied on is overruled.

Sen. Al-Rawi: May I enquire for clarification, accepting your ruling as I do, just wondering for the benefit of understanding, as to what aspect of the Attorney General's position you do not find offensive, in saying that the Opposition has stood up for the rights of criminals? [*Crosstalk*]

Mr. President: The Attorney General has expressed his view on how the contributions were made, and I think he is entirely entitled to do so.

Sen. The Hon. A. Ramlogan SC: I am grateful, Mr. President.

For clarification, what I am saying is the position advocated by the Opposition is for a restrictive approach. In other words, cast a smaller net, not a wider net.

Sen. Al-Rawi: You did not say that just now.

Sen. The Hon. A. Ramlogan SC: The point I am making is that the larger the DNA database, the lower the rate of crime. That is the empirical data that I have cited from the Stanford University Criminology Department. [*Crosstalk*]

Sen. Al-Rawi: Not true!

Sen. The Hon. A. Ramlogan SC: May I speak in peace? Yesterday I sat here and listened to my learned friend, you know.

Sen. Al-Rawi: No you did not.

Sen. Robinson-Regis: Talk the truth.

Mr. President: We will have to listen to the Attorney General. You may not agree with him; of course you have had your opportunity to speak. Whether you disagree or agree is not an issue that can be raised relative to the Attorney General at this point in terms of his winding-up. Attorney General.

Sen. The Hon. A. Ramlogan SC: You see, my learned friend spoke at length, and this morning I had to engage a few members of the Ministry of the Attorney General. I want to say this for the record: today in the *Express* you saw a nice quote: “worst drafted legislation ever”, and he has repeated that over and over.

Sen. Al-Rawi: It is true.

Sen. The Hon. A. Ramlogan SC: He says it is the truth. I want to tell my learned friend something. The officers in the Chief Parliamentary Counsel department who draft legislation, I have the highest regard for them. [*Desk thumping*] I will not tolerate that kind of insult to the officers of the Ministry of the Attorney General. [*Interruption*]

I want to say, furthermore, the officers in that department who draft and stay with us here, they are at the top of their game, scholarship winners, upper second class honours in the LLB, not like you—not like you. You are no paragon of intellectual virtue.

Sen. Al-Rawi: Bad policy.

Sen. The Hon. A. Ramlogan SC: In fact, when I heard my learned friend’s contribution, what came to mind was the quote from Macbeth:

“Out, out, brief candle! Life’s but a walking shadow, a poor player

That struts and frets his hour upon the stage

And then is heard no more. It is a tale

Told by an idiot, full of sound and fury.

Signifying nothing.” [*Desk thumping*]

Act 5, Scene 5, lines 17—28.

Sen. Al-Rawi: You are not an idiot, AG. [*Crosstalk and desk thumping*]

Sen. The Hon. A. Ramlogan SC: Let me set the record straight today—

Sen. Cudjoe: Confession is good for the soul.

Sen. The Hon. A. Ramlogan SC:—to correct a number of glaring, blatant inaccuracies in my learned friend’s contribution. I have sat here and allowed him a lot of latitude. He repeats things and when we try to correct, he interjects. Today I am going to set the record straight.

The first thing, the rate of crime. He says the detection rate—he seeks to give the impression that the detection rate has gone down under this Government.

Sen. Al-Rawi: For murder!

Sen. The Hon. A. Ramlogan SC: He is qualifying it now for murder.

Sen. Al-Rawi: I have always qualified it.

Sen. The Hon. A. Ramlogan SC: Anyway, we will get to that. I asked the police service for the detection rate, Mr. President, and they gave me this morning. [*Interruption*]

Sen. Al-Rawi: For what?

Sen. The Hon. A. Ramlogan SC: For serious crimes, including murder.

Sen. Al-Rawi: Aaaah! Playing smart. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: Let us look at what the rates of detection were in the country for serious crime, including murder.

Sen. Al-Rawi: Aaaah! Smart!

Sen. The Hon. A. Ramlogan SC: In the year 2000, when the PNM assumed office.

Sen. Robinson-Regis: Year 2000? We were not in office.

Sen. The Hon. A. Ramlogan SC: Okay, we will take it from 2000—good, well the UNC was in office you say. So in the year 2000 when the UNC was in office, the rate of detection was 31 per cent. In the year 2001, when the PNM assumed office, it dropped from 31 per cent to 26 per cent. In the year 2002, it remained at 26 per cent. So the minute they came into office an immediate 4 per cent reduction. In the year 2003, it went up by 1 per cent to 27 per cent and it remained that way to 2004. In 2005, 26 per cent, it dropped; 2006, it dropped, 24 per cent. In the year 2007, it dropped 23 per cent, and in the year 2008, for the first time in the country’s history under the PNM, the rate of detection dropped to an abysmal 17 per cent.

Sen. Robinson-Regis: How much is it now?

Sen. The Hon. A. Ramlogan SC: In 2009, it remained at 17 per cent. When we assumed office in 2010, this is what we inherited, 16 per cent. In 2011, it went up, the rate of detection for serious crime jumped from 16 to 19 per cent. In 2012, 17 per cent; in 2013, 18 per cent.

So when my learned friend seeks to project the image of what we inherited from them—what we inherited was not a bed of roses, and the idea that the detection rate for serious crime has gone down, including murder—[*Interruption*]

Sen. Al-Rawi: Murder, AG!

Sen. The Hon. A. Ramlogan SC:—it is false, it is incorrect and it is ludicrous.

Hon. Senator: “Allyuh murdering de debate.”

2.00 p.m.

Sen. The Hon. A. Ramlogan SC: Now, you know, Mr. President, when I presented in the other place I made the point that the police service had asked for this legislation. I was at pains to point out the stakeholders who formed the implementation committee. There were persons from—[*Interruption*]

Sen. Al-Rawi: 32(4), Mr. President.

Mr. President: I do not see anything offensive or insulting in that. Overruled.

Sen. Al-Rawi: That is not what I am referring to, Mr. President, 32(4) is not insulting language.

Mr. President: Oh, sorry, you said 32. I thought you said 34.

Sen. Al-Rawi: No, Sir.

Mr. President: Frankly, I do not see how what the Attorney General has said could open up the question of a misinterpretation of what you had said earlier by what he said now.

Sen. Al-Rawi: Mr. President, thank you. I was not quoting statistics to deal with serious crime. I was dealing with murder, and the Attorney General is giving an excursion that I misrepresented facts on serious crimes.

Mr. President: The Attorney General—we cannot have, because you disagree with what the Attorney General or anybody else says, a Senator deciding—well they want to put another point of view forward. The Attorney General has presented some statistics. I cannot allow another Senator to put a different set of statistics before us because he wishes to present a different point of view. I do not think that is permissible.

Sen. Al-Rawi: Thank you, Mr. President. Standing Order 32(4):

“A Senator who has spoken on question may again be heard to offer explanations of some material part of his speech which he alleges has been misunderstood or misrepresented, but he shall not introduce new matter.”

So I am saying he has misrepresented the position squarely and untruthfully.

Mr. President: I do not agree with you. The Attorney General has presented certain facts as he sees them. They may differ from what you believe to be the case, but I do not think it constitutes a misrepresentation or a misunderstanding of your position.

Sen. Al-Rawi: He said I had been untruthful.

Sen. The Hon. A. Ramlogan SC: I hope I get some injury time for all of this. This is not—[*Crosstalk*]

Sen. Al-Rawi: This is not the time to tell lies.

Sen. The Hon. A. Ramlogan SC: Really. Really, Faris.

Mr. President: This is the second time. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: It is unparliamentary, lacking in decorum. [*Crosstalk*] You see—[*Interruption*]

Sen. G. Singh: What did Creed lawyer say about—

Sen. The Hon. A. Ramlogan SC: Yeah. Yeah. Yeah. [*Crosstalk*] He claims that he is a descendant from the Prophet, you see, I will come to that. [*Laughter*] He said that to a national newspaper.

Sen. Al-Rawi: Mr. President. If the Attorney General wants to raise a substantive Motion on me, let him do so.

Mr. President: I am sure the Attorney General will withdraw the remark. I am sure that it was made in jest.

Sen. The Hon. A. Ramlogan SC: Yeah, yeah. He said that actually, but anyway.

Sen. Al-Rawi: And it is the truth. And I am proud of it.

Sen. The Hon. A. Ramlogan SC: You are a descendant from the Prophet. It is the truth. That is the truth?

Sen. Al-Rawi: Why are you concerned with that?

Sen. The Hon. A. Ramlogan SC: No. No. No. I want to know if I should bow because you are a descendant of the Prophet. [*Crosstalk*]

Now you see, Mr. President, during the period 2006 to 2014, the crime scene unit in the police service indicated that they attended to 1,500 crime scenes from which they obtained DNA evidence, 1,500. So as a country we have 1500 DNA that they have picked up from crime scenes, but we have a database the size of this [*Senator displays with his hands*] and we have DNA evidence the size of this. [*Senator displays with his hands*] You cannot get a match because the database is simply too small and restrictive. So what is the police doing with all that DNA? They create a DNA police museum? Is that what we are asking the police to do? Or do we take a practical, pragmatic approach and get a DNA database so that they can get a match with it.

On the issue of fingerprinting, in April when the police service made a written submission to us, they pointed out some of the benefits of fingerprinting that we did not raise in this debate, and we did not think of. But they pointed out, for example, if you had people's DNA and their fingerprint and so on, when you have a natural disaster, as occurred with the tsunami, as occurred with flooding, landslides, it is the DNA and the fingerprint that the police use all over the world to identify the victims, the victims. [*Desk thumping*]

You remember one of our nationals, one of our citizens was in Haiti when the earthquake took place. Up to now we do not know if they ever found him. We go by dentures and you know, a little dental work and so on. But all over the world they use it for that purpose. They also say that in countries where it is easy to have fraudulent documents such as passports and driver's licence and so on, the backup really to determine the true identity of the individual is the DNA and the fingerprint. That is what they do.

So in Trinidad and Tobago I know, Mr. President, you would know as a lawyer people can go and do what is called a deed poll—a deed poll to change their name.

Sen. Dr. Mahabir: A point of clarification.

Sen. The Hon. A. Ramlogan SC: Sure.

Sen. Dr. Mahabir: Mr. President, on a point of clarification from the AG. During the debate, hon. Attorney General, I did not get it clear, what was the sample size that the Government thought was going to be appropriate for Trinidad and Tobago, with respect to DNA and with respect to the fingerprinting? Is it that you wanted 10 per cent of the entire population? Did you want to get the entire at-risk population? That remained unclear, and I think it is going to be very important to determine that before we proceed.

Sen. The Hon. A. Ramlogan SC: What we did is not go with a percentage, but rather go with the categories that we want to target. The first category was persons involved in law enforcement because we think that we should rule them out of any involvement in crime early on. So that was the first category.

The second category is the potential pool of bandit category. That is people who have a demonstrated propensity or a proclivity towards criminal behaviour, and those are the persons upon arrest, by suspicion and so on, you take their DNA and fingerprint, and those are the two main categories. Those who are responsible for enforcing the law, and upholding the law, and those who are intent on breaching and violating the law. Those are the two categories. Whether that results in 10 per cent, 20 per cent or 100 per cent, I do not care.

Now in the United Kingdom when one looks at the chronology of the legislation—you see, Sen. Al-Rawi is on his cell phone while I am speaking. Even when he is in the Chamber he does not pay attention, you see. But those are the privileges of a direct descendant from the Prophet, you see. [*Crosstalk*]

Hon. Senator: At least he is in the Chamber.

Sen. Al-Rawi: What is your problem, AG? What is your real problem? [*Crosstalk*] You come to the Senate, you do not talk. You talk—come on, man. What is your problem?

Sen. The Hon. A. Ramlogan SC: Go back on the phone, “nah”.

Sen. Al-Rawi: What is your problem?

Sen. The Hon. A. Ramlogan SC: Now in the United Kingdom, the history of the DNA legislation—[*Crosstalk*]

Mr. President: Senators, can we listen in silence?

Sen. The Hon. A. Ramlogan SC: Could the Prophet give me a chance to speak? Really. He said that he is a descendant from the Prophet Muhammad. [*Crosstalk*]

Sen. Al-Rawi: Mr. President, I must on a point of privilege in general and under 35(5) [*Interruption*] I just said two points of privilege. Learn your work. Mr. President, the Attorney General is engaged in constant commentary on a person of this House. I am a Senator of this House. If he wishes to raise a substantive Motion concerning my conduct, anything that I have done, he is entitled to do. I do not talk about the Attorney General’s background, heritage; I comment on his work or lack thereof. So, I must insist that you as the President, consider the privileges of Members of this House and arrest this horrible behaviour [*Desk thumping and laughter*] on the part of the Attorney General because it is the weakest form of debate to engage your opponent on himself as opposed to the issues. [*Desk thumping*] Weak!

Mr. President: I will ask the Attorney General to refrain from referring to heritage.

Sen. The Hon. A. Ramlogan SC: My learned friend—yes.

Sen. Al-Rawi: He has a problem with Arabs? What is his problem?

Mr. President: That is an end of the matter, please. Sen. Al-Rawi, that is an end of the matter. You have asked me to rule, I have ruled. I have got, I think, an undertaking from the AG, he will not make those references. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC: It was more out of respect, you see, but anyway. [*Laughter*] One must be concerned about titles.

Sen. G. Singh: You cannot have a running commentary now man. [*Crosstalk*]

Hon. Senator: Why?

Sen. The Hon. A. Ramlogan SC: I want to give him his correct title, come on.

Mr. President: I asked that we listen to the remainder of the AG's presentation in silence, thank you.

Sen. The Hon. A. Ramlogan SC: I am grateful, Mr. President. Now, Mr. President, in terms of the chronology of the legislation in the United Kingdom, what I will show this honourable Senate is that, as they started off, they started off small and they expanded and expanded. What you had was an expansionist approach in terms of policy and legislation in the United Kingdom, and that is mirrored in every, single country in the world. And I want to show you by reference to facts.

Nineteen eighty-four, the Police and Criminal Evidence Act of the United Kingdom: you could not take someone's fingerprint or non-intimate sample without his consent. That was a general rule with exceptions where they were charged or convicted of recordable offence. So only if you get charged or convicted of a recordable offence, then you can take it, with or without their consent. Other than that, they are entitled to say "no, I am not giving it". That was 1984.

In 1995, the United Kingdom realized that the DNA database needed to be expanded if they were to win the fight against crime. And the National DNA database set up in 1995 then took a turn and they said, after being arrested they wanted to expand the database. And on May 11, 2001, an amendment to the PACE, Police and Criminal Evidence Act was made, and that was DNA taken after arrest no longer had to be destroyed on acquittal or where proceedings were discontinued. That is an important point.

The Opposition here has argued that when someone is innocent and so on, you should not take their DNA and fingerprint. In May 2001—[*Interruption*]

Hon. Senator: We never said that. [*Crosstalk*]

Sen. The Hon. A. Ramlogan SC:—the United Kingdom amended their legislation, so that when someone is acquitted or a case is discontinued, what you have is the continued retention of their DNA.

In April 2004, they amended it again to say anyone over the age of 10 you must be able to take it; 10 years and upwards.

Two thousand and five, Serious Organized Crime and Police Act: under the Serious Organized Crime and Police Act all offences become arrestable offences, they cast the DNA net even wider. All offences became arrestable offences, they cast the net for DNA sampling even wider.

And it is against that backdrop, Mr. President, that you have the position in the United Kingdom where they changed their policy in the Criminal Justice Act in 2003, so that DNA could be taken on arrest rather than charge. That is important. Once the police arrested someone, they were able to take their DNA. They did not even have to charge the person.

Sen. Young: Where they see “keep it for 20 years”?

Sen. The Hon. A. Ramlogan SC: Now, I will come to that; I will come to that, do not worry. They asked the question, their problem is with the 20-year retention period. I will come to that.

Now, in the United Kingdom, at present their DNA database is over six million, and at a rapid rate of over 30,000 samples per month are being added. Over six million and at a rapid rate over 30,000 samples per month added to that database.

Sen. Dr. Mahabir: Ten per cent of the population.

Sen. The Hon. A. Ramlogan SC: Sorry.

Sen. Dr. Mahabir: Ten per cent of the population.

Sen. The Hon. A. Ramlogan SC: Ten per cent of the population; six million people on that database, six million. We are 1.5.

Privacy concerns raised, and out of that six million, they had samples for over 25,000 children, 25,000 children. And, you know, it is interesting when we speak about civil liberties and so on, one of the most respected Lord Justices in England, Lord Justice Sedley. Lord Justice Sedley is one of the most experienced Court of Appeal judges that the English legal system has ever produced. And it is

interesting, Lord Justice Sedley said as far as he was concerned, they should DNA every single citizen of the United Kingdom. Here was a Lord Justice saying that every, single citizen should submit their DNA sample and profile; every citizen. And then to back it up, the former Prime Minister, an internationally respected libertarian, Tony Blair came and said the same thing. He said he saw no reason why people should want to object to having their DNA sample on the record, and he has had no problems with a national DNA database, national DNA database.

2.15 p.m.

Now, that brings us to the point Sen. Al-Rawi raised about the Protection of Freedoms Act in the United Kingdom, which was introduced as a result of the decision in the European court in the Marper case. Now, he puts it across and says in his speech, you know, again, we did not raise it, he accused us of incompetence and all sorts and so on.

He is okay to use all the denigrating words, derogatory remarks and so on. That is fine.

Sen. Al-Rawi: About research.

Sen. The Hon. A. Ramlogan SC: About—And I want to show you—
[*Interruption*]

Sen. Al-Rawi: Did I talk about your parentage? It was about research.

Sen. The Hon. A. Ramlogan SC: I am not being derogatory to you.

Sen. Al-Rawi: Did I talk about your parents in the debate?

Sen. The Hon. A. Ramlogan SC: By saying you are a prophet is not derogatory, Sir.

Sen. Al-Rawi: By your parents I spoke about, AG? [*Crosstalk*] You are preaching division in the society.

Sen. The Hon. A. Ramlogan SC: Maybe you want me to spell it p-r-o-f-i-t.

Sen. Al-Rawi: Spell it. Spell it.

Sen. The Hon. A. Ramlogan SC: You see, Mr. President, in the Home Office policy paper, on the Protection of Freedoms Act, my learned friend has a habit of raising things that he sees on the Internet.

He uses Google. You google search it, it pops up. [*Interruption*] And because you do not mention something he finds interesting he comes and says, “look it here, and they are incompetent, and they did not raise it, incompetent research”, and that is how he gets on.

Miscellaneous Provisions Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Wednesday, July 16, 2014

I want to tell you, you do not raise things that are not relevant in a debate. Now that he has raised it, I would engage him on it. The Protection of Freedoms Act, 2012, Mr. President, came about, not because of a legal decision alone, it was the coalition government between the Lib Dems—Liberal Democrats and the Labour Party, that was a promise they made at the election as a matter of policy. That is the first point.

The second point was that the court in Marper ruled, and I quote:

“...the blanket retention of DNA profiles taken from innocent”—persons—
“posed a disproportionate interference with the right to private life...”

We are not proposing a blanket indefinite retention policy, that is why we say the case is distinguishable. But even on the Protection of Freedoms Act in the United Kingdom, let me tell you what that Act contains. You see, he mentions the Act to appear to be bright and then he does not go into it. This is what the Act says, Mr. President:

“Any...convicted (including given a caution or youth caution) of a recordable qualifying offence...”

And a recordable qualifying offence covers all imprisonable offences, it also includes some non-imprisonable offences like begging and taxi touting and so on. So, the net is cast very wide.

In the United Kingdom the Protection of Freedoms Act—you know what is the retention policy? We are proposing 20 years and they object, and he cites this Act and says, Protection of Freedoms Act in the United Kingdom, “you eh talk about it”. You know what is the retention policy? Indefinite. [*Desk thumping*]

Sen. Al-Rawi: For all, for all?

Sen. The Hon. A. Ramlogan SC: He did not say that.

Sen. Al-Rawi: For all?

Sen. The Hon. A. Ramlogan SC: He does not mention that the retention policy is indefinite.

Sen. Al-Rawi: “He eh tell you where it created.”

Sen. The Hon. A. Ramlogan SC: Mr. President, may I speak—

Sen. Al-Rawi: Standing Order 34(2) then, Mr. President.

Sen. The Hon. A. Ramlogan SC: No, no, come on.

Sen. Al-Rawi: If he would not give the truth, 34(2).

Sen. The Hon. A. Ramlogan SC: Mr. President, I ask that he withdraws that comment. Really.

Sen. Al-Rawi: That is not unparliamentary, that is a fact.

Mr. President: I would say to this House that certainly we do not intend to have more than one debate. It would appear that if we were looking at that issue of replying to everything the Attorney General has to say, that is what would occur. We have a single debate and it goes in a certain sequence. The Attorney General is on his legs, we need to listen to him in silence, until he completes his delivery. That is what the Standing Orders call for, Sen. Young. So, can we proceed on that base? I will ask the Attorney General or let Members know, in general, that one refers to other Senators by their title, and therefore, by no other means, and therefore, we would keep within that Standing Order that requires that names be referred to by title.

Sen. The Hon. A. Ramlogan SC: I am obliged.

Sen. Al-Rawi: Relative to the misrepresentation—I have no objection, Mr. President. It is the misrepresentation by the Attorney General that I wish to be heard on, because what he has put forward to the Parliament is not what I said. That is all I am asking.

Mr. President: Overruled.

Sen. Al-Rawi: Thank you.

Sen. The Hon. A. Ramlogan SC: I am grateful, Mr. President. I am saying that when my learned friend cited the Protection of Freedoms Act in the United Kingdom as in support of his argument, that the Government's retention policy of 20 years was unsound, I am saying that he did not tell this Senate that in that Protection of Freedoms Act, the United Kingdom Parliament has provided for an indefinite retention policy in a wide breadth and scope of cases, [*Desk thumping*] and permit me to read it.

Sen. Al-Rawi: For all? For all?

Sen. The Hon. A. Ramlogan SC: I will read it.

Sen. Al-Rawi: Right.

Sen. The Hon. A. Ramlogan SC: I said a wide scope and breadth—what is he not understanding? [*Interruption*] But, I read it, I will read it again.

“Any age convicted (including given”—[*Crosstalk*]—Can I speak, Mr. President?

Mr. President: Hon. Senators.

Sen. The Hon. A. Ramlogan SC: Yes, they want to write my speech for me. They want to have, you know—

“Any age convicted (including given a caution or youth caution) of a recordable qualifying offence...”

And a recordable qualifying offence means imprisonable offences and it includes some non-imprisonable offences, such as begging and taxi touting.

Now, if it is they are going to retain a man’s DNA sample indefinitely for begging and touting, that is telling you how wide the net is cast.

Sen. Al-Rawi: What section is that?

Sen. Ramlogan SC: “Yuh see?”

Sen. Al-Rawi: What section is that?

Sen. The Hon. A. Ramlogan SC: You check it, nah. You is the research master.

Sen. Al-Rawi: I have checked it. I am saying it is not there.

Sen. The Hon. A. Ramlogan SC: Furthermore—I am reading, Mr. President, from the United Kingdom Government’s Home Office Policy Paper. I can give my friend the relevant document. He can check it.

Sen. Al-Rawi: Chap. 1, section 3(6).

Sen. The Hon. A. Ramlogan SC: Listen, listen, really. [*Crosstalk*] I continue:

“Adult convicted (including... a caution)”—[*Interruption*]

May I continue in silence, please?

Mr. President: Senators, the interruption and the underlying continuing remarks do not help this debate. I will ask that we listen in silence to the Attorney General.

Sen. The Hon. A. Ramlogan SC: I am reading from the policy document of the United Kingdom Government. It says:

“Adult convicted (including given a caution) of a recordable minor offence.”

Indefinite retention policy. That is what they have said.

Now, Mr. President, the mere fact that the United Kingdom Government can adopt a retention policy of indefinite retention of DNA samples, and we are proposing 20 years, that should tell us something. That the Government is not just being

proportionate, reasonable and measured, but as a matter of constitutional theory and jurisprudence, that we meet the reasonably justifiable interest in a democratic society beyond the shadow of a doubt. That is what it should say.

Now, one would have thought when they heard the contribution, that the United Kingdom does not have an indefinite retention policy. It was not even mentioned that they have an indefinite retention policy. But, let me show you as well, since they have passed that Act, to the extent that they have moved away from the wide net that they had cast. This is what is happening in the United Kingdom; they, themselves, are regretting that decision.

In that debate, the shadow Home Secretary, Miss Yvette Cooper, this is what she said and I quote:

“The Home Secretary will know that a considerable number of cases have been solved because of DNA. Kensley Larrier was arrested in 2002 for the possession of an offensive weapon. The case never reached court, but two years later he raped someone and was found because of a DNA match. Lee and Stephen Ainsby raped and kidnapped a 17-year-old girl in Barnsley. A match with Lee Ainsby’s DNA was found years later in a case review. It had been taken because he had been arrested for”—behaving—“drunk and disorderly. Under the Home Secretary’s”—new—“system, his DNA would not have been kept. Without that DNA, those two men would still be free, and justice for that young girl would not have been done.”

And she goes on, she says:

The police and everyone did not want the kind of restrictions that they were about to impose on that DNA database.

In fact, permit me to quote from the article, “DNA of thousands of rape suspects being destroyed as Government yet to bring in the appeal process”.

In the United Kingdom, that same Protection of Freedoms Act has put them in a state of chaos and confusion, and the crime rate has impacted directly and negatively on it. This is an article by Mr. James Lyons, July 31, 2013, from the *Daily Mirror*, and this is what they say:

“Rapists could escape justice because Government blunders have left police unable to hold DNA from”—persons—“arrested on suspicion of sex crimes...

Samples from thousands of”—persons—“arrested over sexual and violent offences but”—who were—“not convicted”—in other words, they are innocent—“are now being destroyed because safeguards promised by David Cameron...

Miscellaneous Provisions Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Wednesday, July 16, 2014

They include genetic material from 18,000 people arrested but not charged with rape.

In the meantime, forces must destroy the DNA held for anyone arrested on suspicion of sex offences but against whom no further action was taken.

Shadow Home Secretary Yvette Cooper said police are ‘powerless’ to retain—the DNA—“evidence of more than 4,000”—potential rapists and—“18,000 such profiles”—have already been—“destroyed...”

She said:

“Even the Government has admitted that there will be cases where a prosecution fails for other reasons but there are strong public safety reasons for retaining the DNA evidence on file.”

In other words, the very Act my learned friend cites is an Act that has put the United Kingdom in total chaos—4,000 potential rapists are walking free, and they are now trying to see what they could do to clawback the lost ground. You see, and when my learned friend comments on the research incompetence, that is what should have been said.

But when my learned friend promulgates himself as the paragon of intellectual virtue, such that he can cast doubt on the competence of my staff, I want to say this for the record, Mr. President—and my competence as well. [*Interruption*] Yes, fine.

I want to say to him, I noticed today—I was just scanning around—my learned friend describes himself boldly on the PNM website, in glowing terms he says, he attended Hugh Wooding Law School, where he obtained the certificate of legal education, graduating at the top of his class—[*Interruption*]

Mr. President: Attorney General—

Sen. Al-Rawi: Is that in the debate?

Sen. The Hon. A. Ramlogan SC: It is not true.

Mr. President: Senators! Attorney General, I cannot let you enter into the personal issues regarding—

Sen. The Hon. A. Ramlogan SC: Certainly, Sir. Certainly. Now, the point made about young people, children—they say we have to protect the children. Mr. President, I do not know if they read newspapers, you know, but I want to say, I read the newspapers and I know that I graduated at the top of my class. [*Desk thumping*]

So, when my learned friend speaks about competence, I want to say for the record, when he attacks my competence, I want to say, I spent three years doing my LLB with my learned friend.

Sen. Lalla: I was there.

Sen. The Hon. A. Ramlogan SC: Mr. Lalla was there. At the end of year one I graduated with a mark of merit; at the end of year two, I topped the law faculty at Cave Hill Campus out of all the students. [*Desk thumping*] At the end of year three, I got the Time Kendall, Q.C. Prize for contract law from all three campuses [*Desk thumping*] and I got a commonwealth scholarship to go and do my Masters.

So, when my learned friend talks about my competence, and I could say that I, unlike my learned friend, have done constitutional law cases throughout my career representing the poor and downtrodden from here to the Privy Council, every single month. [*Interruption*] So, when my learned friend talks about that, I want to say further, I did not have a single supplemental exam in my LLB—there are other people in this Chamber who had plenty. [*Laughter*]

The Commissioner of Police response in yesterday's newspaper, July 14, and he provides the perfect answer to the very point my learned friend raised, and what is that about children? This is what the Commissioner of Police says, and I quote:

“STATISTICALLY”—the headline in the *Newsday* is, “Ag”—acting—“ COP: Police concerned about youth killings”. This is what he says—

Hon. Senator: Is it AG or acting COP?

Sen. The Hon. A. Ramlogan SC: “STATISTICALLY, young people have been in the majority when it comes to violent crime whether as victim or perpetrator.”

The Commissioner of Police says:

“A lot of murders during the years have involved young people. Young people are the victims, and perpetrators. That population group is the most vulnerable.”

—says Commissioner Stephen Williams.

So, if the Commissioner of Police is telling us that the young people are the ones who are disproportionately involved in crime, we must get their DNA. In fact, Mr. President, I could tell you, when you practise in the Magistrates' Court, you know what happens now? Because a young person is treated as a juvenile offender and you go easy when you come to sentence a young person, when the

drug men transporting drugs now, do you know what they do? They have a young fella with them. When the police catch them, the young fella does go to court and say, “is my drugs, I plead guilty”.

2.30 p.m.

“He pleading guilty, all the real other fellas could get away and the court will impose a lil juvenile sentence on him.” So the young people are exploited by the criminal gangs and the young people are that—they are the missing link in the jigsaw puzzle of the criminal enterprise in this country. And that is why we must listen to the Commissioner of Police and we must include them in the DNA database. It is for their own protection and safety and for the wider population. That is why, I cited in the United Kingdom, out of six million they have 25,000-plus DNA profiles for children under the age of 10. Even under the age of 10.

Sen. Dr. Mahabir: Clarification.

Sen. The Hon. A. Ramlogan SC: Sure.

Sen. Dr. Mahabir: Yes, thank you for giving way, Attorney General. I was just wondering, given that last comment, whether it is the policy position of the Government that all young persons, say, between the ages of 15 to 24 be then subject to giving their DNA, as samples in the country?

Sen. The Hon. A. Ramlogan SC: No. It is not a blanket policy. It is one that relies on the police, when they have reasonable grounds to suspect anyone, young, old, is involved in the commission of a crime then they can take their fingerprints and DNA. So it is not mandatory for everyone.

Now, Mr. President, you see, when we came to the issue of the treaty of Chaguaramas, I think Sen. Cudjoe raised the issue of—[*Interruption*]

Sen. Cudjoe: No.

Sen. The Hon. A. Ramlogan SC:—being discriminatory or not, someone raised it—who?

Hon. Member: Sen. Young.

Sen. The Hon. A. Ramlogan SC: Sen. Young, yes. Now, I do not think, with the greatest respect, that obtains here. The issue is whether the imposition by a sovereign state of an additional requirement as part of its immigration procedures will offend the treaty, and I do not think it does. In fact, permit me to quote from the opinion of Timothy Straker, one of the world’s leading constitutional law experts. Mr. Straker says on this matter:

The purpose of fingerprinting is essentially to record information about those entering Trinidad and Tobago and to aid, it may be supposed, accurate identification. In a world with increasing digital technology and the security problems being faced by countries, maintenance of rigorous security procedures has become both a necessity and a norm.

It seems to me that if one can refuse an undesirable person entry, then one ought to be able to identify that person. No one quarrels with that proposition, that someone at a port of entry should say who he is, and if fingerprinting provides a quick and easy way of stating identity then such a step is consistent with the ability to refuse entry to undesirable. This proposition proceeds on the basis that the fingerprint taken at the time of entry would be used to see if it represented a person falling, as drug dealers and arms dealers do, within the class of undesirable persons.

Plainly, the treaty encourages, at least to an extent, secured free movement of a person within member states. The introduction of fingerprinting does not preclude someone from visiting Trinidad and Tobago. A visitor will inevitably expect to give details as to his identity. This expectation does not materially damage freedom of movement. Nowadays, one can give details of one's identity in a number of different ways. A passport may contain biometric details, but in any event will paint a picture and the description of the passport holder. If I enter another country and my passport is scanned, the country I am visiting has details of my identity subject to the quality of information that they could find. A fingerprint has the same consequence, save that it is likely to be more accurate than a photograph in my passport.

And what Mr. Straker has advised, essentially, is that it is about identification. In his contribution, my learned friend said there are people who object to giving their fingerprint and DNA. I challenge him and ask him to say, well, tell us why, tell us why they object. Let me quote him, he says:

“...there are people that have a serious opposition to DNA profiles and samples being in existence for 20 years.”

There are people who object to give their fingerprint.

Now, Mr. President, when you read what the opinion says, it is about furthering the identification. Your passport itself may contain biometric details. But my learned friend said that, and I ask on what basis, and throughout his contribution we do not get that. On what basis do they object? In fact, the hon. Leader of the Opposition has led a delegation to New York, and to enter New

Miscellaneous Provisions Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Wednesday, July 16, 2014

York there, they have to go through—Uncle Sam put your five fingers, give your fingerprint, let the green light pass. The hon. Leader of the Opposition has to watch, “he ha to watch under he eye”, have a retinal scan before he could enter into the United States of America.

Mr. President: AG, you have another three minutes to go.

Sen. The Hon. A. Ramlogan SC: Yeah, certainly. And with all of that we have no objection from the hon. Leader of the Opposition. I did not see them return and come back to Trinidad, nothing of the sort.

Now, my learned friend then says, he says it is not just the right of privacy that is involved. He says they deal with the right to family life, the right to avoid self-incrimination, they deal with the right to equality, they deal with the right to counsel, they deal with the right to due process, they deal with the rights of the child, they deal with the rights of minority groups. I said to myself, well tell us how. You know, having made that statement throughout his contribution, he never once condescended to tell us how it involves those rights.

But I want to say, even if it involves those rights, Mr. President, I want to ask today: of what value to any citizen of Trinidad and Tobago is the right to private and family life if a bandit could enter your home and murder and rape? Of what right is there, is the right to avoid self-incrimination if you do not feel safe and secure in your own home? Of what value is the right to equality of treatment from a public authority in the exercise of its functions? Of what value is that right when you are living in a state of siege where you are terrorized and unsafe in your own home? Of what value is the right of the child when the child is being recruited by gang men, being pimped out and being exploited as part of the criminal enterprise and we know it for a fact? Of what value is the right of any minority-interest group when the murder rate is soaring and we cannot guarantee the most basic fundamental right, which is the right to peace, liberty and enjoyment of property? That and the right to life. If you cannot guarantee that, and that is the first constitutional right in section 4, then what is the point in going to all the others? And this year, it is about underpinning and supporting the first right in the Constitution to all citizens. The right to life, liberty and enjoyment of property and security of person. That is the right of those involved here. So therefore, Mr. President, we say—[*Interruption*]

Mr. President: Hon. Senators, the speaking time of the hon. Attorney General has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes.
[*Hon. G. Singh*]

Question put and agreed to.

Sen. The Hon. A. Ramlogan SC: Thank you. Now, you will see, Mr. President, these rights, we have devalued. The criminals in this country by virtue of their illegal conduct, they have devalued and undermined the fundamental human rights and freedoms guaranteed in the Constitution in this country. And we as Parliament must take stock of that. The time has come to rebalance the scales of justice and not only focus on the rights of those who are intent on breaking the law.

This DNA database and fingerprinting database, the only reason you will have to fear anything is if you intend to commit criminal activity. If you intend to lead a life of crime and injure and harm, rape, rob and maim then you should fear your fingerprint and your DNA being on a database. Because that is the sole purpose for having the fingerprint database and DNA database. There is no other reason.

So, my learned friend, then on the issue of the proportionality, he said that he disagreed with me, that the Inshan Ishmael case necessarily said a three-fifths majority is good enough. I attempted to correct him and he did not give way. So I will do so now. I never said that the Inshan Ishmael case said that a three-fifths majority is good enough, far from it. In fact, the reason I was trying to correct you, is because I did the case of *Inshan Ismael v The Attorney General of Trinidad and Tobago*, and that case does not involve an Act of Parliament that was passed with a special majority. So the three-fifths issue cannot arise. The Act was passed with a simple majority.

Sen. Al-Rawi: Before you got Silk or what?

Sen. The Hon. A. Ramlogan SC: That is before I got Silk. Thank you. And you see when he misrepresents that and does not give way, I come now to set the record straight, that at no time did I say, Mr. President, that there was a three-fifths majority in the Inshan Ishmael case and that would suffice. In fact, I was at pains to take this Parliament through the law to show the proportionality of the legislation, its rational connection to the legitimate aims and objectives of the law that we are proposing, and I went through it step by step.

Now, my learned friend raised the issue of a graded approach, a tiered approach. Mr. President, “we ketching we tail” in this country with layers of bureaucracy and maladministration. And if you have a tiered approach, you are going to overburden the police service and distract them and divert their energy from the fight against crime. A tiered approach means, well, look, in England they had the protection of freedoms, they did it to some extent. So in some cases you could retain the DNA for three years; other cases four years; other cases five years. So the police have to now—in one suggestion I saw even it was about a residence requirement—I think Sen. Prescott raised it for the jury. Correct, Sen. Prescott?

Sen. Prescott SC: Yeah.

Sen. The Hon. A. Ramlogan SC: I do not agree with it, because listen, if to empanel a jury people have to go and check to see if the man has a two-year prior residence. The immigration department right now, you know, is challenged to do that. We are going to impose that burden on the court to say, before you are eligible to serve as a juror you must have a prior residence requirement of two to five years. Who is going to check that? And likewise with the police service, if we have a tiered approach and say, well, look, in some cases keep it for two years, three years, four years, five years. If we do that, we create layers—we are going to keep the police service mired in bureaucracy.

The bureaucratic morass it will create is such that they will never be able to fight crime. They will have to question the person; the person would lie to the police, you have to go and check. Look, like the United States of America, like Australia, like Canada, we are going for a straightforward policy, 20 years retention and after that it can go subject to a court order. We do not as a matter of policy agree with the graded or tiered approach.

Now, Mr. President, not everything they do in the United Kingdom is good for Trinidad and Tobago. I have shown—you know why the UK could do this now? The UK could pull back, because the UK has a police service, an immigration department, and a court system, and so on, that is First World. So they could pull back, but I was at pains to chronicle the development of the legislation in the United Kingdom to show, to reach the stage what they did. To reach the stage, they start off small with a restricted approach and they went into an expansionist mode.

First, you could only take DNA if he got convicted of a crime. And after if he got freed you could not keep it. From that they said no, even if he is acquitted, keep it. But then they could not take DNA and fingerprint from people who were not convicted of a crime or who they did not charge. If they did not charge the man, they could not take it. What they did, they said well okay, let us broaden it. Even if you did not charge the man, once you arrest him, take his fingerprint and DNA. The net kept widening and widening to the point where they created a DNA database of over 6,000 citizens. And that is why they can now—[*Interruption*]

Hon. Member: Six million.

Sen. The Hon. A. Ramlogan SC: Six million, sorry; six million citizens. And that is why they can afford to scale back now, because they have arrested the problem. In Trinidad and Tobago, we are at the stage they were in 1984 when

they just started. What is our stage? We have a DNA police museum with 1,500 DNAs. And we have no database to match it to. That is the stage we are at. And Governments have come, Governments have gone, and no one has attended to this issue of the creation and establishment of a DNA database that can assist in the fight against crime.

Now, Mr. President, yes, my learned friend, you see, my learned friend does not like to get personal, you know, but when the shoe is on the other foot they get a little jumpy. But let me quote from the *Hansard*, remind him what he said.

“...worst drafted legislation...”

Do you remember the Attorney General coming to tell us that Jamaica had a law which was repealed...when we told him the law was repealed he was crestfallen?. He started to shout at two people in the back. Two advisors I understand were fired from his Ministry after that. This is the worst prepared Attorney General in the history of Trinidad and Tobago...presided over a state of emergency which had no rationale.”

2.45 p.m.

Really, Mr. President? Really? I want to say for the record, my learned friend, the only person that could have only been fired if they were working in the Ministry of the Attorney General would have been someone like the Senator. No one has ever been fired as a result of any such intervention. In fact, when that debate took place—[*Interruption*]

Sen. Al-Rawi: Fired for being PNM.

Sen. The Hon. A. Ramlogan SC: No, no, no. Anybody who “have too much supplemental exam an ting, I doh hire dem.”

Hon. Senator: “Doh talk about people so, boy.”

Sen. Al-Rawi: That is not me “yuh” talking about.

Sen. The Hon. A. Ramlogan SC: You bring your transcript. I challenge you to bring it. You had the most sups in UWI, man—the most, always failing.

Sen. Al-Rawi: Mr. President, 35(5)—

Sen. The Hon. A. Ramlogan SC: No, he was a failure.

Sen. Al-Rawi:—the Attorney General is telling gross untruths.

Sen. The Hon. A. Ramlogan SC: Bring your transcript!

Sen. Al-Rawi: Gross untruths! Gross!

Mr. President: Senator, I asked the Attorney General—[*Interruption*]

Sen. Al-Rawi: Horrible! Horrible!

Mr. President:—not to refer to any personal—[*Interruption*]

Sen. Al-Rawi: But it is untrue as well, Mr. President.

Sen. The Hon. A. Ramlogan SC: Prove it! Prove it! Bring your transcript.

Mr. President:—not to refer to any personal background of yourself or any other Senator. Attorney General.

Sen. The Hon. A. Ramlogan SC: I am grateful.

Sen. Al-Rawi: You are a man of untruth, Attorney General!

Sen. The Hon. A. Ramlogan SC: Yeah, yeah, yeah. Bring the transcript.

Sen. Al-Rawi: Serious untruth!

Sen. The Hon. A. Ramlogan SC: Bring the transcript.

Sen. Al-Rawi: Serious untruth! Shame!

Sen. The Hon. A. Ramlogan SC: I was in your class, my friend. Mr. President—[*Interruption*]

Sen. Al-Rawi: You are a shameful man! You continue. Go ahead!

Sen. The Hon. A. Ramlogan SC: You have all the shame, do not worry.

Sen. Al-Rawi: “We go deal with you”. Go ahead.

Sen. The Hon. A. Ramlogan SC: Please do. I anxiously await.

Sen. Al-Rawi: Go ahead!

Sen. The Hon. A. Ramlogan SC: Mr. President, I want to say, for the record, that when that debate took place on the “soldier/police” Bill, at no time did I accept that my learned friend was right. In fact, I was at pains to point out, in the same way that he has done with the Protection of Freedoms Bill, it was a red herring and totally irrelevant to the debate. And I want to say for the record that I resent the fact that he would imply that anybody was shouted at or fired from the Ministry. Nothing could be further from the truth. In fact, I was at pains during the course of that debate to point out how irrelevant my learned friend’s contribution was. So for him to attack, at a personal level, and then when the compliment is being returned, he refuses to produce a transcript—[*Interruption*—I do not know where it is going. Produce the transcript.

Sen. Al-Rawi: Untruthful! Untruthful!

Sen. The Hon. A. Ramlogan SC: Yes. “Ah notice yuh eh sayin yuh go produce de transcript.”

Sen. Al-Rawi: Untruthful man! Keep smiling! Untruthful!

Sen. The Hon. A. Ramlogan SC: You see, Mr. President, when my learned friend speaks about these matters, there must be a measure and a modicum of truth and fact to the presentation, and in the presentation, when one cites a Bill from the United Kingdom—*[Interruption]*

Sen. Al-Rawi: On 34(2), Mr. President.

Sen. The Hon. A. Ramlogan SC: But I have not completed my sentence. Why is he so jumpy?

Sen. Al-Rawi: 32(4), sorry.

Sen. The Hon. A. Ramlogan SC: When my learned friend cites the United Kingdom—*[Interruption]*

Sen. Al-Rawi: I am waiting on a ruling AG. Thank you.

Sen. The Hon. A. Ramlogan SC: Sorry, I beg your pardon.

Sen. Al-Rawi: Yeah, keep going.

Mr. President: Well, I thought that the Attorney General had not completed his sentence, so I did not know where he was going.

Sen. Al-Rawi: No, I was talking about what he just said previously.

Mr. President: I cannot say that I can entitle you to any reply. My response is exactly the same for all the previous occasions in which you have raised that issue.

Sen. Al-Rawi: I have to find a way to deal with the truth with the AG. Go ahead, AG. Go through, man!

Sen. The Hon. A. Ramlogan SC: You see, Mr. President, you cannot cite an Act of Parliament from a different country but not tell us, in the face of the issue that is for the debate, which is the retention policy the Government is proposing of 20 years—you cannot cite that Act in aid and in support of your argument, without telling the Parliament that that Act has in it an indefinite retention policy for a large majority of crimes committed, including things like touting and begging—touting for a taxi and begging.

Sen. Al-Rawi: 32(4), Mr. President.

Hon. Senator: “Oh gawd.”

Mr. President: Overruled.

Sen. The Hon. A. Ramlogan SC: Thank you very much. Mr. President, my learned friend—*[Interruption]* Bring the transcript, “nah man”.

Sen. Al-Rawi: Untruthful man!

Sen. The Hon. A. Ramlogan SC: “Show dem how bright yuh was in university.”

Sen. Al-Rawi: Untruthful man!

Sen. The Hon. A. Ramlogan SC: Now, you see, Mr. President—*[Interruption]*

Sen. Al-Rawi: Small, untruthful man!

Sen. The Hon. A. Ramlogan SC: Yeah. Mr. President, in Sen. Prescott’s contribution, I think Sen. Prescott pointed—I have dealt with the residency requirement—*[Interruption]*

Sen. Al-Rawi: I had to go to my grandfather’s funeral and missed an exam *[Inaudible]* and that is what he says? Untruthful son of a gun! Untruthful man!

Sen. The Hon. A. Ramlogan SC: Can I?

Mr. President: I think you are crossing the border of what is accepted. You can take up those matters outside of this Senate.

Sen. Al-Rawi: Sorry, Mr. President. I wish to apologize. I am upset by the Attorney General’s lack of truth in issues *[Crosstalk]* and I apologize. I apologize. I apologize.

Mr. President: Thank you. Take your seat, Senator.

Sen. Al-Rawi: I apologize.

Mr. President: Attorney General, please complete your contribution. *[Crosstalk]*

Sen. Al-Rawi: Untruth! No, he crossed the line.

Sen. The Hon. A. Ramlogan SC: Mr. President, I think Sen. Prescott agreed with us on the issue of the interference with witnesses for both civil and criminal trials. I think we are *ad idem* on that. So that I think the Government’s policy in respect of that, I do not see that we should confine interference with witnesses to the criminal arena alone. I think it is properly expanded to include the civil arena.

With respect to Sens. Wheeler and Mahabir, their contributions, really, in principle they seemed to have supported the legislation but they have some concerns about the infrastructure that is necessary to support it. And I was at pains during my contribution to say that we have to target, in a major way, the Forensic Science Centre, and we have to pump some resources into the whole question of the office of the custodian to make sure that it properly functions in accordance with the Act, and to ensure that the concerns raised by other Senators on the Independent Bench about the security of the DNA sample and the profile it generates, that that is something we can be safe and confident about.

I want to make the point, though, eh, that although, theoretically, the possibility of DNA being planted on the scene of a crime to frame someone, yes, that exists. In theory there is nothing perfect, but the empirical evidence has not demonstrated that there are cases where people have done that. And furthermore, I want to say that if police want to frame somebody, “dey eh ha tuh go through all dat, yuh know. Police want tuh frame somebody, dey stop yuh in a roadblock and dey pelt a gun in yuh car trunk and charge yuh fuh possession of an illegal firearm.” So that, you know, “yuh” could plant some drugs in a trunk.

If people want to frame you, they do not have to resort to breaking into a secure DNA facility and reading all the DNA—20,000, whatever—and getting your DNA to plant it. No! And furthermore, I want to say this: The DNA evidence is not the sole evidence that one will rely on in investigating the crime. It is a tool. It is an investigative tool. It is an aid to the police, but it is not the sole determining factor. So if your DNA is there, you may have a good explanation. “Yes, I was there. She is my girlfriend but I left.” But it is just one part—an important part—of the evidence to which the police can have regard when they are, in fact, looking and investigating the case.

So that the question of contamination raised by my learned friend, Sen. Wheeler, I want to say that it is a concern that I share and it is one that we have tried to properly address, and in the implementation we will make sure to deal with it. In fact—

Mr. President: Attorney General, you have another five minutes to wrap up.

Sen. The Hon. A. Ramlogan SC: Thank you very much, Mr. President. In fact, I share the view—Sen. Wheeler said that there were two murders in Tobago, and I think you said that—well, one of the individuals was known to be displaying expensive jewellery, but you had another employee of the TRHA who was murdered. I want to say, you know, I do not accept that even wearing jewellery should be, in some way, a downgrade for a murder victim, you know. The man in Tobago is known to be wearing, yes, a coat of arms medallion.

But, you know, the truth of the matter is, we have reached—the mere fact that an Independent Senator can say that, it shows where we have reached, you know, because what you are reflecting is public perception, and it is this: “If somebody go out dey, wearin ah big gold chain, and dey geh rob, people ha less sympathy for dem, becor we say, well, boy wey he gone wearin dat for? Ent he know bandit go rob him?”

That is where we have reached, where people who have worked hard for their money, or they inherit some family heirloom—you know, in our tradition, my “grandmudder give meh mudder a slave band; yuh ha churia; yuh ha bera; bracelet, all kina ting.” We have a culture in this country. So “yuh musn’ wear jewellery now.” Because why? It is expected that the bandit will rob you if you wear jewellery. That is how we are thinking.

Crime has impacted on the psyche of the Trinidadian and Trinbagonian. My learned friend, Sen. Lalla, raised that point during his contribution and he asked for a study on how crime has impacted on the national psyche, and I think that demonstrates it. But I agree with you. I agree with you. Look, we have to take back this country from the hands of the bandits. [*Desk thumping*] We have to take it back!

Mr. President, Sen. Cudjoe had raised the point about the forensic pathologist and the reports in the media—Dr. Alexandrov. She is not here. I saw those interviews myself and I thought Dr. Alexandrov spoke in a very sincere and genuine manner. I looked at those interviews, and I know that is why my colleague, the hon. Minister of Justice, has, in fact, been trying to treat with those concerns. It is a fact that the Forensic Science Centre has not been what it should. That is a fact. But that is something we inherited. You know, every time people speak sometimes—we have been in power for four and a half years now. Rome was not built in a day and we cannot fix everything at the same time. That is the reality.

Now, when my learned friend speaks, for example, I tell him, I say, “Well, look, you know, with all of the contributions, we have not had any successful constitutional challenge to any law we have passed”. He reminded me. He said, “Well, the Central Bank one”. Yes. That is on appeal. There are two judges who came to different views in the High Court, one in favour of us, one against. But in any event, we had to pass that because of the Clico bailout because of the mess we inherited with the Clico fiasco. We had to pass that.

Hon. Senator: He was on board at that time.

Sen. The Hon. A. Ramlogan SC: You see? But when they talk about state of emergency and so on, talk all you want. Nobody has challenged the constitutional validity of the state of emergency, you know. No one has.

Mr. President, I think, when we look at the countries in the world, like Australia, where they keep your DNA and fingerprint for 80 years, Canada they keep it for 15 years, New Zealand they keep it for 14 years, and in the United States of America, they keep it for 75 years, I think our retention policy of 20 years is extremely reasonable and realistic. [*Desk thumping*]

With respect to children, I think we have appropriately protected them because they will have a right to a representative being present. The representative would include a parent or legal guardian, any person over 18 who has custody of the child, an attorney-at-law, a qualified social worker, a representative of the Children's Authority or a person appointed by the court itself.

With respect to the special jurors, I think some Senators raised the question of the qualification of the jurors, and I want to say that I think we have adequately dealt with that by—we have included the forensic accounting expertise already in the other place. So that is already there. I think, Sen. Prescott, you had raised that, but that is already there.

I think the doubling of the drug trafficking penalty from \$25,000 and five years to \$50,000 and 10 years at the summary trial, what that will do is give the DPP a little more comfort in terms of electing for summary trial as opposed to indictable trial. Because the reasoning for that change is, on indictment, it is \$100,000 and 25 years, but if you try for the same offence, if you are tried summarily, it was \$25,000 and five years—same offence—and it is an either way offence. So the DPP, obviously, would go for the indictable. So by bringing up the penalty, by doubling it on the summary side, we will now have that as a realistic possibility. So that explains that.

Now, Mr. President, in closing, I want to say that this is a major piece of legislation. The DNA and fingerprint database that we are seeking to establish and expand in this country is one that is critical to the fight against crime. We need to convert all the DNA evidence in this country that we have at the moment into a database. We need to create a database that is as wide as possible, targeting the two potential categories I have identified: those who are sworn to uphold the law and those who are hell-bent on breaking the law. Those are the two categories we have targeted. If you are in law enforcement, or if you are trying to avoid those who are seeking to enforce the law, those are the two categories.

Miscellaneous Provisions Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Wednesday, July 16, 2014

Mr. President, I think, if we go this route, it will have a synergistic effect on many other pieces of legislation, including the Anti-Gang Act, including the Bail Act, and most importantly, the plea bargaining legislation which we are about to bring to the Parliament. In the United States of America, it is primarily because of the scientific approach to the investigation of crime that their plea bargaining law has worked to such an extent that 90 to 95 per cent of criminal cases do not even reach trial in the United States.

So instead of telling the Government, build more courts, appoint more judges, we are saying no. We will do that. That has to be done, but we still may not be able to catch up. Let us think smarter and say, let us get the plea bargaining and the DNA evidence law working so that cases may not even reach to trial. The most potent thing you can find is a deterrent to offend and re-offend. And if there is an effective and functioning criminal justice system that functions from the time the police is investigating the crime, you will find that people will be discouraged from a life of crime.

3.00 p.m.

The recidivism rate in this country is too high and the Commissioner of Police, we must listen to his pleas about the fact that young people are having a disproportionate involvement in a life of crime. The gangs have organized themselves to the point where they have penetrated the communities, to the point where they have become the virtual alter ego of the communities that they have set up shop in. That is why you will see people protesting, and burning tyres, and crying and saying how good the boy was when police or soldiers shoot someone, arrest someone or give somebody a rub-down. But you would notice that every single day, when it is not a police or soldier and a young man dies, the community does not erupt. There is no burning of tyres, there is no debris.

So, Mr. President, we say that this is a double-edged sword. It will help those communities by discouraging and deterring those who are hell-bent on breaking the law and at the same time, it will help those who are trying to enforce the law so that the detection and conviction rate in the country can go up.

I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Sen. Ramlogan SC: Mr. Chairman, I beg to move that the committee stage of this Bill be suspended until later in the sitting.

Question put and agreed to.

Senate resumed.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL, 2014

Order for second reading read.

The Minister of Transport (Hon. Stephen Cadiz): Mr. President, I beg to move:

That a Bill to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50, be now read a second time.

Mr. President, the history of vehicles and the motor cars that we use in Trinidad and Tobago goes back to over 114 years ago, when around March 24, 1900, the first motor car arrived in Trinidad and Tobago. It was a steam-powered Locomobile runabout, built by the Locomobile Company of America. That was on 24 March, 1900. That was the first car.

By 1910—so 10 years hence then—there were 50 vehicles operating in Trinidad and Tobago, and at that time, there was no reason to have a motor vehicles Act, not for 50 vehicles. But something terrible happened in and around 1912, where there was the first road fatality, and strangely enough the driver of that vehicle was actually the driver of the then Governor General. So out of necessity, the Governor General saw it fit then, to enact a motor vehicles Act as a result of that fatality, and that is when we moved forward from 1910, 1912, to where we are today, because today, we have in excess of 730,000 registered vehicles in Trinidad and Tobago. Not all obviously are on the road. Some have been taken off, but the register shows 730,000. Of course, the amount of licensed drivers we have also would have increased from 50 in 1910 to hundreds of thousands of licensed drivers in Trinidad and Tobago and, again, varying types of licences for either motor vehicles, motor cycles, heavy trucks, buses, et cetera, et cetera.

Of course, with the one fatality in that very telling year, we have moved from that one fatality now to—for last year 152 fatalities. In fact, between the years 2002 to 2012, we had 2,279 road fatalities. Maybe the majority of citizens of this country, children, parents, young people, male, female, the whole strata, 2,279 people according to the Trinidad and Tobago Police Service records were killed on our

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

roads. Why is that? It is from a multitude of things. People do not know how to drive; people who think they know how to drive, but are driving recklessly; people driving under the influence of alcohol; some people driving under the influence of other substances; some of those deaths obviously were pedestrians also; we have people driving without safety belts; we have people talking on their phones; we have people texting whilst they are driving; we have people eating whilst they are driving.

So it is a whole host of reasons as to why you would find yourself in a vehicular accident. Of course, there is mechanical failure, bad tyres, weather conditions, road conditions, but the fact is that over 2,000 people were killed and that is way too high. And even though Trinidad and Tobago is in an—according to world statistics, we are not in that much of a bad place per se. We are not the highest in the world, we are not by any means the lowest, we are sort of mid range. When it comes to deaths per 100,000 as a result of motor vehicle accidents, we run about 16.2 per 100,000, which is very mid range when you look at the global stats.

But what do we do as a responsible Government? We do not just say, “Well, we are mid range, and therefore, we could work with that”. That is not the case. The issue for any responsible Government is to examine the causes of these accidents, like in anything else, whether it is illness, whether it is issues of crime. We have examined these reasons and we will try our best to alleviate any accident and, of course, the mission for this Government is a zero fatality, zero rate fatality. Because, of course, Mr. President, when you lose someone in an accident, whether it is a child, whether it is a young person, whether it is the breadwinner of the family—and the statistics will show that the majority of people who are killed in road accidents are actually male, which we tend to believe then would be the main breadwinner in any household. Ladies, that is not being—[*Interruption*]

Sen. Al-Rawi: Sexist.

Hon. S. Cadiz:—sexist or discriminatory in any way. It is a fact. The majority of people killed in road accidents are male. But the loss of earnings together with the medical bills, the funeral costs, legal bills can have an effect on a family’s finances that some families will never ever recover from that. And besides that, that phone call in the morning—that phone call at two o’clock/three o’clock in the morning, which the majority of accidents happen between midnight and five o’clock in the morning, and I will show you where they also happen on early Saturday morning, early Sunday morning and it says something.

But that phone call for those of us who ever got that phone call, to say that there has been an accident and this voice you never heard from before, they wake you up in the middle of the night: are you so and so? Yes. Well I am sorry to tell you that there has been an accident and worse again, I am sorry to tell you that we believe that a family member by the name of X, Y and Z has been killed in this accident. Okay? And when you get that phone call—I mean, I know of people who have gotten that phone call, and after decades they could never come to terms with it, and therefore, a responsible Government would look at that and say, no, that is something. Mission zero is what we have to go for. We have to eliminate road fatalities and there is a way in which you can do it, Mr. President.

This Government—well, previous administrations—let me go further back—enacted seat belt law. That helped. They enacted the breathalyser law. That helped. They enacted the cell phone law, not using a cell phone whilst driving. That has helped somewhat even though if you sit down in traffic and you look at the people going the other way, the amount of people still on their phones, they are not taking it on. I must say when I sit down in traffic I “maco” to see who is wearing a seat belt, and I must say the majority of people you see wearing seat belts these days. So all of that has helped.

In addition to that, you have the issue of the cable barriers along the highway. And why is that important to mention that? There were over 280 crashes into the cable barrier during a particular period, and because of the severity of the impact into the cable barrier, the Ministry of Works and Infrastructure through the traffic branch, they have determined that it saved over 80 crossings. In other words, the purpose of these cable barriers is to prevent the vehicles leaving the direction in which they are going and leaping over on to the other side. Leap the median as it is known—to go on to the other side and create havoc on the other side.

3.15 p.m.

So, between all those things: breathalyser, safety belt, cell phone laws, the installation of the cable barriers—of course, one other thing that the Government has done recently, and extremely successful of that also, is the new highway patrol. I travel all over this country and I must say, you would see they are very, very visible [*Desk thumping*] and you see the police vehicles out on the road all over Trinidad and Tobago. When I go to my constituency from Port of Spain, sometimes I count five patrol cars on the highway for that short distance.

So, all of those initiatives have really and truly shown where we have gone now from, in 2011, figures from Trinidad and Tobago Police Service show 181 road deaths; in 2012, it went up slightly to 193, and then in 2013, it is down to 152. When we look

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

at the statistics for this year for the period June 14—the same period last year—to June 13, we are more or less on par, which is not where we want to be. I thought that by now that we would have been below the figure for 2013 but we still have so many months left in the year and we hope that we would be able to go down below 152 for the end of this year, 2014. I must say, for 2013, there were 152, and to date, I think, there are 72 recorded road fatalities for this current period ending June—sorry, July 07; 76 as of July 07. Those are the last figures that we have. Seventy-six road deaths for the period ending July 07, 2014.

So, to get that figure down—or, I was going to say that the last time road fatalities went below 100 in any one year was in the year 1958. So we have a serious problem on our hands. To be able to get that down below 100, we have to go back to the car population that was in 1958, we have to go back to a road system that was in 1958; we have to go back to the amount of drivers that we had at that time.

Mr. President, I lived out in the east in Arima and I remember going home at nights up the Churchill Roosevelt Highway with two lanes, nothing on the road. By midnight, one o'clock in the morning, “it have” nobody on the road. But that has changed because for those of us who are on the road at all hours and some here, I believe, in this House, no offence to be taken, are on the road at wee hours in the morning, doing what, I do not know, but—[*Interruption*]

Sen. Ramnarine: Leaving Parliament.

Hon. Senator: Yeah. [*Laughter*]

Sen. Al-Rawi: Tell the SRC that.

Hon. S. Cadiz: I will inform them—the amount of traffic that you have on the roads. The roads, there is constant traffic regardless of what time you are on the road, regardless of where you are going, you are seeing people on the road.

So, we have one other thing that we want to do which is the purpose of this Bill, which, of course, is the controlling of the breathalyser. I must say, when you read the papers on Monday morning—and I am so glad to say that some people, \$15,000, \$10,000, pulling your licence for three years, pulling your licence for six months. If you come before the judge with a second offence of driving under the influence, I hope that we reach the stage where on this second charge—which is another issue—that we take your licence for good because people have to learn.

Trinidad and Tobago has to become more responsible because when you sit down in a 1,500-pound or 2,000-pound vehicle and you are strapped in, all of a sudden you feel that it is a weapon, that nothing can happen to you. Until you go past one of these

horrific accidents and you see this crumpled ball of metal, and up to now, we still do not understand that if you are driving a car at 50 miles an hour, the impact that—the level of impact that you will have by driving a car at 50 miles an hour is impact “x”. Ten miles above 50 miles an hour, if you travel at 60 miles an hour, that same vehicle, same weight, same loading, same whatever, it will have double the effect. Just for 10 miles in excess over and above the 50-mile limit.

So we have to understand that the old saying, “speed kills”, it does. It just so happens that it does, and we have to be able, for those who cannot feel and who cannot understand that speed kills, we have to find a way in which we can deal with that. Again, we have already dealt with the issue with the breathalyser; to some extent, with the cell phone; to a great extent with safety belts. The real issue now is speed.

Mr. President, the statistics will show, and whether you are looking at the US statistics from the National Transport Agency, that 30 per cent of all traffic fatalities, all road fatalities, between 30 per cent to 32 per cent would be for drunk driving, and the other 30 per cent to 32 per cent is going to be for speeding, and of course, some of them work together. Many times, those who are driving under the influence are, in fact, speeding and therefore, it says that over 60 per cent of road fatalities are caused by either drunk driving or by speeding.

So, the issue today here is the issue of speeding because not all people who speed are driving under the influence, okay? Not all people who speed, speed at three o'clock in the morning. You have people going to work in the morning, at six o'clock in the morning, speeding; after lunch, Sunday afternoon, speeding. Speeding in areas, in built-up areas, in communities, in good, nice, quiet neighbourhoods, speeding. We see it all over the place, all of us who drive on the road, we will see it.

And therefore—well, since the inception of that famous road traffic Act in 1912, the method of checking for speeding was that the Minister would dictate—well, up until the last amendment—the speed limit within a designated area. Okay, that is fine. How do we determine that speed? Again, the majority of us here will remember the police officers behind the piece of galvanize, behind the lamppost, behind the mango tree, taking their lives into their own hands, with a gazette paper in one hand—one fella with a gazette paper, one fella with a time clock and the other poor fella down at the end who has to stand up in the middle of the road with this car coming down the track to stop him, and that was the method, that was the system. And of course, we all remember us flashing lights when we know that this is the area that typically would have a speed trap—
[*Interruption*]

Sen. Lalla: Called timing.

Hon. S. Cadiz: And timing is what they call it—and we would flash lights and the police would sometimes stop you from flashing your lights because you are warning the other drivers that they have a speed trap. I am sure Sen. Al-Rawi has fought many a case when it came to that, with fellas flashing lights and getting caught in speed traps.

But, Mr. President, that obviously cannot work. And I spoke about driving from here to Arima many years ago, it is a two-lane highway, okay, and it could probably have worked to some extent. The other issue with that, you could only do speed traps between 6.00 in the morning and 6.00 in the evening. Why? Because you cannot do a speed trap in the night. Okay. So, here it is that we have people being in these horrible road crashes at three o'clock in the morning and there is no way in which the police can actually determine whether or not they were speeding, at least to stop them from speeding. So the purpose of this Bill is to bring Trinidad and Tobago into the 21st Century [*Desk thumping*] by utilizing a system of electronic speed detection, and that is the purpose of this Bill. So, the issue of the gazette paper and the time clock and—the other fact is that with the advent of six-lane highways—[*Interruption*]

Sen. Ramnarine: You would need more gazette paper.

Hon. S. Cadiz: Now, you have to do away with the gazette paper. But with these six-lane highways, now, multiple-lane highways that we have, it is impossible to catch somebody speeding. I remember the last time I saw a speed trap going up by El Socorro there, going up on the highway.

Hon. Senator: By Lifestyles Motors.

Hon. S. Cadiz: By Lifestyles Motors. I did not want to call anybody in case, “yuh cannot advertise in the Senate”. And I remember the police officer trying to stop the car that was in the far right lane, okay, and he nearly got licked up, the poor police officer. Therefore, it is impossible for you to conduct a speed trap exercise on a multiple-lane highway; impossible to do it. So, we have to now go to where everyone has gone now. Okay?

I remember in Guyana, 15 years ago, 20 years ago, the police in Guyana driving along the Sea Wall using radar detection. I looked at that and I say, here it is that Guyana that has half of our population, I do not know what percentage of vehicles, and they are using radar guns in Guyana and that is 15 years ago, and we still with the gazette paper and the time clock and the stopwatch. So that has to change, and again, this Bill will do exactly that.

So, here it is that we come to this House with a Bill to amend the Motor Vehicles and Road Traffic Act and I must say we had a—no, I am not supposed to talk about the other House. Right?

Hon. Senator: The other place.

Hon. S. Cadiz: The other place, all right, so I would not.

Sen. Lalla: No, you can. You could make reference to the other place.

Sen. Hadeed: The other place you came from. [*Laughter*]

Hon. S. Cadiz: And about to go back to. [*Laughter*] We had a very lively debate and there were some major changes that we had made to the Bill that was proposed and one of the major changes was, and I will read the change that we have and I quote:

“Whereas it is enacted *inter alia* by subsection (1) of section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it should have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any Act does so declare, it shall have effect accordingly;

And whereas it is provided in subsection (2) of section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House;”

And we were able to secure unanimous approval for this Bill in the other place. So, one of the first things that we did, and that was following the debate that we had passed in the Lower House, this Act, with a three-fifths majority because there were many issues regarding the issues of evidence, et cetera.

Mr. President, this Act allows for the use, now, of an electronic device and the electronic device that is going to be used by a certified police officer. This police officer will be trained, will be certified, to use the particular instruments that are going to be determined. The police officer, under the Act and the regulations, will also be in a position to satisfactorily check the condition of the instrument. Now, this is—the instrument that is being proposed is the lidar system as it is different from the radar system. There are two systems that are basically used in law enforcement now. One is the radar which is the old system. The new system is the lidar system which is basically a laser system that is being used.

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

The particular device, when being operated by a certified police officer, will actually take a picture of the vehicle, of the vehicle's licence plate, and on that picture, will show the location that it was taken at, it will show the current speed limit for that location; if there is an excess of the speed limit, it will show what the excess is of that location. It will give the number of the particular instrument that is being used, where that picture came from; it will also give the officer's number—what do you call it?—regimental number, on the picture.

3.30 p.m.

So when that picture is taken by this instrument—when it checks the speed and the picture is taken by the instrument—the police officer will have evidence with him to show the offending driver exactly what had happened and, therefore, the issue of providing the necessary evidence, whereby the gazette paper officer with the timing clock officer, both of them have to come to the car, one corroborating the other one. In this particular case, the evidence is corroborated by the actual photograph and instrument of the lidar instrument.

There were issues that were brought up, for instance the issue of night—how are you going to check speed in the night? These instruments do in fact have accessories like infrared, which will allow the instruments to be used at night. I must say that the lidar system is deathly accurate. It is of a technology that will actually record speed up to 1/3000th of a second. It is accurate in the sense that where a radar system—for instance, if you had a number of vehicles coming down the highway at the same time in a grouping, it is very difficult for the radar to pick up which one of the vehicles was actually—well all were speeding but if you are going to issue a ticket for one, it could not really identify which one that you actually picked up because they were all moving at normally the same speed. The accuracy of the lidar system, the police officer zones into that one particular vehicle and that is the vehicle that will be charged. The others, maybe, will get away this time but we will pick them up on the next run around.

So, the actual accuracy of the system is, as far as technology goes, as accurate as you could possibly want. You know, some people have questioned the accuracy of the instruments and I say: well, you know, if you are going to start questioning the accuracy of all instruments, you know, I use the analogy of anybody leaving Trinidad, flying to New York, flying to London—as soon as that aircraft is airborne, on goes the autopilot and off we go to London. Nobody is steering that aircraft, constantly checking compass and the moon and the stars and the line-up and all of that. What they are depending on is the navigational instrumentation of the aircraft, and, therefore, some people have doubted the accuracy of the instrumentation, and this thing has been proven time and time again.

Mr. President, this is the technology that is used in many, many jurisdictions, whether it is the United States and Canada, all of Europe, in England, Australia, Singapore, all over the world. Now, there have been some cases, people have contested some of the charges, some people have won and they have proven, maybe, that the officer that was actually operating the instrument was not certified. So we can prove that. Because on the—when the picture is taken it will show the regimental number, as I said, and then we can check back and see: was that particular officer actually trained and certified in the use of this instrument? So that is where that guarantee comes from.

Instrumentation these days of this type, where it is all digitized and computerized, the lifespan and the accuracy is for many, many, years and we are proposing that every 12 months the instrument will be properly checked, either by the manufacturer for them to verify the test or by a third party laboratory that will also do the test for the accuracy of the instrumentation.

Besides the operator being certified, of course, the instruments themselves would be internationally recognized. There is a group called the International Police Chiefs Association and they have membership from countries all over the world, on both sides of the Atlantic, from the Pacific, everywhere, and they recommend and they say these are the manufacturers that have shown to have instrumentation that is extremely reliable and this is what they use. So, the selection of the instrumentation will be done, based on the recommendations of organizations like the International Police Chiefs Association and other private laboratories like UL, et cetera, that will vouch for the accuracy of these instruments.

So, Mr. President, when we come to this Senate with this Bill, really and truly what we are replacing, and again, is the old outdated mechanical way and physical way of doing speed checks.

I remember hearing a story many years ago of Dr. Rudranath Capildeo, who, apparently was a wizard mathematician and at the time with the gazette paper and the time clock, he actually proved that there was no way that the police officer could in fact have timed him in the time that he said he was going, based on the distance, the length of time it took to drop his hand with the gazette paper, the length of time it took for the other officer to start the stopwatch and the length of time it took for the other officer down the road to actually stop his car, and he won his case. I understand that he won his case.

So we have gone past all of that where the instrumentation that is being used is internationally recognized as being deathly accurate and extremely reliable.

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

There are some drawbacks to the instrumentation, for instance, in heavy weather conditions, if there is very heavy rain, et cetera. But I do not think you are going to be seeing too many police officers out in the rain looking for speeders. Again, if the weather is that bad. And, of course, in other climates they speak of snowstorms, et cetera, which, of course, we are not subject to down here. So, there are a couple areas that have been identified as there are times, maybe, when you would not want to use the instrumentation because you could in fact have interference with it.

Other areas that people have spoken about, as far as interference, were more related to the radar system rather than the laser system. And, therefore, when they spoke of interference from a telephone line, interference from a lamppost, that is no longer the case. This instrumentation is very, very reliable and extremely accurate.

So, we have dealt with the issue of the three-fifths majority. We have dealt with the issue of the corroborative evidence, which is probably one of the main issues. We have dealt with the issue of the training and certification of the particular police constable. We have checked with the—I am not too sure if I mentioned that before the police constable is issued with the instrument, before he goes out on a particular day, the instrumentation will be checked before he goes to ensure, of course, that the battery power is sufficient and the calibration—in other words, if you pointed the instrument to a wall and you got a reading that the wall was moving then obviously that instrument would be deemed to be faulty and would not be issued to the particular officer. So, the manufacturer has a test procedure before you go out and, therefore, we will be following those test procedures.

Mr. President, Trinidad and Tobago, I think, has waited very, very long for this particular legislation to come into effect and I really and truly look forward to the support of all Members of the Senate, when it comes to this particular legislation.

I am pretty sure, for any of us who have done our homework for this particular Bill, that we would see all the statistics regarding accidents. We have some additional statistics when it comes to Trinidad and Tobago, whether it is the driver's age, the hours. For instance, in the year 2013, out of 152 road deaths, 22 were drivers between the ages of 18 and 24; 46 were between the ages of 25 and 34. So we are looking at what? We are looking at 68 drivers out of 152; 68 drivers that were killed—[*Interruption*]

Sen. Ramnarine: Young people.

Hon. S. Cadiz:—were young people under the age of 34.

When we look at the times at which these accidents happened, between 12.00 a.m. and 5.00 a.m. Twenty-seven point five per cent of fatal accidents occur between 12.00 a.m. and 5.00 a.m. So we have the statistics. We know what the problem is. What we have to do is to be able to go and manage our road network in a far more effective way.

A couple of the other things that are going to happen here when we are dealing with this electronic speed detection, more drivers are going to be stopped. And what is that going to do? The police are going to have an opportunity now by stopping more vehicles as we go along, that if there is any other reason to suspect any other thing going on, the vehicle has already been stopped for lawful reasons, and if there is any reason other than that, whether it is a broken tail light, whether there is reason to believe that the vehicle has been stolen, whether there is overcrowding of the vehicle, whether the vehicle has faulty tyres, whether there is reason to believe that there is something else in the vehicle, because of the scent coming out of the vehicle, whether the drivers are drunk, whether there is, I do not know, anything else, that there would be cause. If there is just cause for the police officer to further examine, whether it is the driver or the vehicle, then that will be an opportunity there.

So when we talk about how we are dealing with crime in this country, that is one of the other ways that we will be dealing with crime; by not only stopping this madness that we have on the roadways, because everybody thinks it is a free-for-all on the roads, of bringing more management and control onto the roads, and by doing that then it affords another opportunity for us to do, in certain cases where again, it is felt that there is something else happening there, that we would be able to do additional searching, maybe, of a vehicle.

Mr. President, when we talk about the issue of the three-fifths majority, it all had to do with the issue of evidence and the corroborative evidence and, therefore, it was felt that by the rights enshrined in our Constitution that it would have been better for us to go for the three-fifths majority rather than just say simple majority and hence the reason we changed that.

So, I do believe that we have all areas covered in this Bill, and even though it might be a fairly simple Bill with just section 62 really and truly being changed, that it is a very, very important Bill and a Bill that will—many parents in this country would welcome this particular legislation coming to this Senate and I

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

think that by passing this Bill, and I hope that we get the support from all in the Senate, that Trinidad and Tobago, the parents in Trinidad and Tobago, can breathe a sigh of relief that finally, after many, many years, that a piece of legislation that has come to the Senate, where the chances of them getting that phone call in the wee hours of the morning would be lot a lot less and, therefore, they can rest a lot easier.

So, Mr. President, in conclusion, I just ask that the Bill be supported, and we look forward to Trinidad and Tobago, within the next couple of months, if that being the case, being a much safer, much better managed road network. Mr. President, I beg to move.

Question proposed.

3.45 p.m.

Sen. Faris Al-Rawi: Thank you, Mr. President. [*Desk thumping*] I rise to happily make contribution to this Bill before us, not having to rise in circumstances of Standing Orders or otherwise. [*Interruption*] It is good to be unfettered, Mr. President. I welcome the hon. Minister Cadiz to this House, and thank him for bringing this Bill.

This Bill proposes amendments to the Motor Vehicles and Road Traffic Act, Chap. 48:50. This will be the 91st amendment to this piece of legislation. It was an Act of Parliament incorporated as Act No. 42 of 1934, and indeed, the hon. Minister is quite correct that we have had the laws to deal with motor vehicles on the books of Trinidad and Tobago for a very long time.

Mr. President, we are in this Bill proposing amendments to two sections. We are proposing amendments to two sections of the parent legislation, they being section 62 and section 66 of the Act. Section 62 of the Act that we propose to deal with, Mr. President, deals specifically with speed limits; it falls under Part V of the parent legislation, which deals with driving and other offences, and general conditions relating to the use of roads. Section 62 deals with speed limits, and we propose an amendment to the manner in which speed limits may be dealt with, the manner in which one may find evidence to prosecute breaches of the law.

In section 66, which we propose to amend, we deal with the section that prescribes how drivers are to comply with traffic directions.

Now, Mr. President, if I could seat this debate in the context of the hon. Minister's correct acknowledgment of the usefulness and purpose of this legitimate aim, in helping Trinidad and Tobago to fall into a system of

compliance with the laws of this country. It is a legitimate aim; it will assist us in bettering the management, which seems at times to be an uncontrolled thing in this country, of the obedience to laws.

We are in Trinidad and Tobago dealing with an incredible crime situation, something which affects us all, something which is an issue which cannot be partisan, something which the Opposition joins the Government in trying to find mechanisms to deal with, responsible and measured approach, to the obedience to laws.

Mr. President, the hon. Minister was correct, crimes can be dealt with by the passage of this kind of law. Not only the specific crime of speeding, but as the hon. Minister put, the stop of search and seizure, dealing with anything that a lawful stop or arrest of a car involves. After all, the Minister is quite correct. Crime as a core concept can be managed through application of laws such as this, because if you stop a car which is not only speeding, but one which causes you suspicion, you realize that in Trinidad and Tobago, kidnapping involves the use of some form of transportation. Murders involve the fleeing from the scene or arriving at the scene by way of transportation. If we look to that horrible assassination of Dana Seetahal SC, it involved a Nissan Wingroad pulling up alongside, another car blocking the way, and her being murdered, assassinated at 12.00 that night; tragedy beyond belief, she being not the only person.

We look to Mrs. Espinoza who went to pay her salary roll at Rivulet Road, \$40,000 in cash. Two men approached her, assassinated her, shot her in the back, and then fled in a motor vehicle waiting just at the highway. So there is a scourge of crime. There is, in fact, Mr. President, contrary, entirely contrary to representations by the hon. Attorney General, a significant drop in the detection of crimes in Trinidad and Tobago.

The statistical evidence which the hon. Minister brought out a while ago has exact comparator to the statistical evidence from the Trinidad and Tobago police force, which show in 2008, a detection rate of 15.9 per cent; 2009, a detection rate of 26.8 per cent; 2010, a detection rate down to 22.8 per cent; 2011, a detection rate down to 21.9 per cent; 2012, a detection rate down to 16.6 per cent; 2013, down to 10.3 per cent and 2014, down to 3 per cent.

But that is not the kind of statistical evidence with respect to murders, Mr. President, murders happening in the context of commissions of crime in cars, which the Attorney General will tell us about, far be it from the case. We get statistical information talking about serious crimes, diluting the true, real statistics, which we as an Opposition time and again take care and caution to deal with, with specificity, but my learned colleague is never here. He is not here again.

Mr. President: Senator, perhaps at this point I need to interject. What May's *Parliamentary Practice* suggests, that it is not good form to refer to the absence of any Member of the Senate. It is understood that Cabinet Ministers may have other work to do and may be otherwise engaged, so that they may not be present. So I would ask that you would be wary of that, that good practice demands that you ought not to refer to the absence of anybody from the Senate.

Sen. F. Al-Rawi: Thank you, Mr. President, I will not refer to the constant absence of the hon. Attorney General. [*Crosstalk*] Thank you.

Anyway, Mr. President, the reason why I do that is not to refer to his absence, because we have the Minister of the Environment and Water Resources, the Minister of Food Production, the Minister of Local Government, the Minister of Finance and the Economy, the Minister of Tertiary Education and Skills Training, the Minister of Energy and Energy Affairs, all busy Cabinet Ministers I am sure, who are constantly in Parliament. But anyway, Mr. President, the point that I raised it for, was not so much to indicate his absence, far be it from the case. It is really so that he gets his statistical information correct, [*Desk thumping*] so that when he is citing what Senators say, that he gets it right.

Another point, Mr. President, because we must always be correct. When one goes to school with someone, as the Attorney General and I did, sitting in class together as we did, he is aware that I would miss an exam because of the death of my grandfather and, therefore, have to take a supplemental exam. [*Crosstalk*]

Mr. President: Senator, you are entering into a different debate. I did rule previously. I cannot allow you through a side-wind to introduce other matters.

Sen. F. Al-Rawi: Thank you. Mr. President, I accept that I am testing the limits of relevance on that point, [*Laughter*] but there is often little way to put forward the truth of an argument. So I thank you for correcting me in bringing me back to the relevance, [*Desk thumping*] but I wanted to correct the record, which the Attorney General knows, because he gives false impressions at times. Not intentionally, I am sure. It may have slipped him. It is a little slippery for him.

Sen. Maharaj: Mr. President, Standing Order 35(5). He is imputing improper motives on behalf of the Attorney General, saying he is giving false information to this House. He has to withdraw that.

Mr. President: No, I thought that the Senator went on to say that he did not do so purposely, but that the information was false. Now, whether or not I must say it was false or not, is not a matter for me to decide. And indeed, for all I know, both parties could be false about it, but it will be what was said, is said.

Sen. F. Al-Rawi: Thank you, Mr. President, [*Desk thumping*] I just like to make sure I get the facts right, because the facts are, detection rates are down to 3 per cent—Trinidad and Tobago police statistics. I do not need to go further than that, and I am talking about murders, Mr. President, that is what I am talking about. Nothing else.

The fact is, Mr. President, that this Bill deals with the issue of tackling criminality. We are tackling unlawful procedures. We are tackling the fact that our citizens feel unbridled to obey the laws. There is a sense of irresponsibility that exists, as the hon. Minister correctly put, in some persons' care, some persons' circumstances, where they feel that they can enter into a motor vehicle, into a car, and just do as they will. All of us see the phenomenon of road rage rising in Trinidad and Tobago.

You sit in traffic, we look at the manner in which—actually, Mr. President, we look at the manner in which the police themselves proceed along the roads of Trinidad and Tobago, where at 7.30 every morning, there is a constant need for a police car to put on a siren precisely at that time in traffic, for the same route every day. So we wonder if there is equality in terms of the approach which all citizens take to obeying the laws.

Now, Mr. President, in this context in Trinidad and Tobago, we are introducing into the laws, an addition to very useful laws which have come before. The watershed of requiring seat belts was a very useful addition into the laws of Trinidad and Tobago, into this parent Act. The watershed of introducing the prohibition against the use of cell phones is a very useful addition to the laws of Trinidad and Tobago. The watershed of requiring the prohibition against driving with blood alcohol levels at a particular point, by detection through the use of a breathalyser, excellent manoeuvre in Trinidad and Tobago. [*Desk thumping*] So this kind of concept of finding a useful tool to cause compliance with the laws of Trinidad and Tobago is welcome, Mr. President, seriously welcomed by the Parliament, this law does have a legitimate aim.

Mr. President, the hon. Minister spoke to the ability of a police officer in stopping someone to also have cause for search if there was legitimate reason. In doing that, Mr. President, the hon. Minister, I would have hoped that he would have given us, and perhaps he can do this in his wind-up, the status update with respect to the Motor Vehicle Authority.

I say so, Mr. President, because this law will be operationalized in its central operation, in terms of how parts of equipment and procedure operate, in terms of how offences arising from this law are booked. They are going to be operationalized by the Motor Vehicles Authority, and in particular, by the legislation which will no doubt accompany that.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

Mr. President, we, in looking at this law, in wanting to support this law, are very concerned that the enabling environment for the operationality of the law happens. We are very, very concerned, Mr. President, that we can see the useful purpose through a policeman who stops someone with the use of a laser-detection speed device, as this prescribes; that the police officer can have the ability to use the radio frequency tag identification chip to be put into number plates, as well as the tag identification to come in the chassis or engine into the cars, upon inspection through a Motor Vehicles Authority, that the police would have the immediate ability to track whose car it is, where it ought to be, whether it is stolen, what is happening with it. It is a very, very useful purpose, Mr. President, and the manner in which we procure the devices to operationalize this particular law is also of serious concern, because procurement is something that occupies the minds of Trinidad and Tobago, and the citizens of this country in a serious way.

We note for instance, Mr. President, that procurement issues have been raised in the debates. In reading and watching the debates in the Lower House, there was issue in relation to how these devices will be procured, what method will be prescribed, when the specifications to these devices will happen. The procurement issue rattles the country's mind, in relation to a host of other issues, be it Invaders Bay or be it, Mr. President, for instance, in the procurement of lunches, or school feeding aspects, or feeding programme through the LifeSport Programme.

I mean, Mr. President, Trinidad and Tobago wants to get the facts right. I found it quite interesting that the newspaper coverage could have dealt with a statement of denial, by way of dealing with an issue of procurement, by Ashwin Creed, where there is no explanation as to which Mrs. Creed—[*Interruption*]

Sen. Maharaj: Standing Order 35(1), Mr. President, he touched on the issue of procurement. He is veering off in an area here—

Sen. F. Al-Rawi: “Yuh fraid? Yuh fraid? Yuh fraid?”

Sen. Maharaj:—in a new debate.

4.00 p.m.

Mr. President: Senator, I do think that is outside of the debate but, more than that, it is contrary to a ruling which I made. So, I do not know if you are challenging the ruling of this Senate.

Sen. F. Al-Rawi: Sorry. What rule, Mr. President?

Mr. President: I ruled that the reply could be allowed to be put into the thing, and now you are referring to the newspaper report and the reply. So, on two grounds, I would ask you to stay away from that: one, because it is not relevant to this particular matter and two, it seems to touch upon my authority and, of course, if you want to do that, you are free to, but you must take a substantial Motion out. [*Laughter*]

Sen. F. Al-Rawi: Mr. President, I apologize. I did not mean to touch on your authority at all, far be it from the case. I was just dealing with the fact that there are significant issues in relation to procurement, including this particular device. My learned friend is a lil jumpy—I do not know why—in dealing with the truth and facts. [*Crosstalk*] But the bottom line is that the procurement of devices including these guns, et cetera, match up to the population’s need to be assured that procurement would happen correctly, because procurement, if it is to happen correctly, cannot happen like the LifeSport Programme where there are three Mrs. Creeds, and we are not talking about one. But, anyway, I would move along.

Mr. President: Do not go down that road.

Hon. Senator: He has to withdraw that.

Sen. F. Al-Rawi: I am not withdrawing it, it is a fact. Sorry.

Sen. Maharaj: You want to talk about Creed, well do that outside.

Sen. F. Al-Rawi: Yes, yes, yes, the dealing of procurements under that is an important issue and facts exist but, anyway, Mr. President.

Mr. President, we are dealing in this particular law—[*Interruption*] Mr. President, may I have your protection?

Mr. President: You have my protection. Please, let us listen in silence to Sen. Al-Rawi.

Sen. F. Al-Rawi: I do not understand the testiness of my learned colleague, Sen. Maharaj. The heckles are welcomed but, you know, you cannot stop the Opposition from bringing the facts to the population’s attention.

So, Mr. President, we are looking at this Bill. I heard the hon. Minister say something quite interesting, and he spoke anecdotally about it, that we are bringing Trinidad and Tobago into the modern era, essentially; that we are no longer going to see the old archaic method of two policemen with a gazette paper and a stop clock and people flashing lights coming down the road. I wonder if the hon. Member read the particular amending section carefully, because there is no other way to put this law into effect as prescribed in this Bill, other than by the use of two policemen operating at the same time, stopping a line of traffic and running the risk of people flashing lights coming down the road. We have not removed that at all.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

The law, Mr. President, prescribes, if we look to clause 4 of the Bill, the new section 62, and we say, as we look to that particular, in the new proposed (6E):

“Where a motor vehicle is stopped pursuant to...(6D), a constable shall—”

Let us jump up a little bit, forgive me. So, at (6C)—and I will come to (6A) and (6B) separately:

“A constable shall, after complying with...(6B), record in a log book for that purpose, an entry stating that he has complied with...(6B).”

Mr. President, (6D):

“A constable who determines with the use of a speed measuring device that a motor vehicle has exceeded the speed limit, shall cause the motor vehicle to be stopped.”

Now, this particular technology, Mr. President, this lidar system—assuming that is the current technology that we are going to use, as the hon. Minister says—is a very delicate piece of instrumentation which must, according to the literature on the lidar system, it must be used from a stationary position. It cannot be used from a mobile position. It must be stationary. There are certain weather conditions; there are certain atmospheric conditions; it must not be raining; it must not be heavy smoke, so, you have to have it in a stationary position. That means one policeman on the six-lane highway must be training the gun at the particular vehicle in question. That is why (6D) says that:

“A constable who determines with the use of...device that a motor vehicle has exceeded the speed limit, shall cause the motor vehicle to be stopped.”

Because he cannot run out to the road and stop it, precisely. This means that we must have another person higher up the road who must stop the cars. So, all that we are doing, Mr. President, is we are ensuring that we are replacing the gazette paper and stop clock with a radar device, but it must be operationalized by another person.

Now, Mr. President, read on into the Bill, this is (6E):

“Where a motor vehicle is stopped pursuant to subsection (6D), a constable shall”—he must do two things; he must:

(a) inform the driver...”—he has—

“(i) exceeded the speed limit”—and he has:

(ii) committed an offence...”—and he must:

“deliver to the driver of the motor vehicle a printout with a photograph of the vehicle identifying the registration plate from the speed measuring device...”

So, you must have the second officer.

Now, the hon. Minister gave the impression almost that we would not have a line of traffic or a line of people stopped, but far be that from the case. You are actually going to have—I make no complaint to it, but I want to dust off the procedures—one person training the device, somebody up the road is going to have to be in radio communication with this officer—you are going to have to stop a car at a particular point, maybe several—you line them up, the officer with the gun or with the technology instrument to make the printout which has the information specified in (6E)(a)(i), (ii) and (iii), that printout must come from, presumably, the device or something associated to the device.

So, you are going to have a nice long line of traffic, you wait until enough people have clocked; somebody up the road stops him, and it is at that point that you go up the road and then you proceed one by one to give the speed tickets. So, we are really not doing anything other than replacing the gazette paper and clock with the gun, because the process for implementing, it is going to be exactly the same.

Now, Mr. President, what concerned me in the Bill were two things in particular. The first aspect is the certification of the instrument, and the second aspect that concerned me, Mr. President, involved the implementation of techniques to avoid the law. Those are the two essential aspects. If I come to those, Mr. President—and I should add a third—that the Bill, as worded, seems to me to be a little too technologically specific. I wonder whether the Minister may be boxing himself into a situation where the law, as written, if it becomes full law, has prescribed for something which must be changed when technology changes. So, there are three issues.

If I deal, Mr. President, with the certification aspect, when we look to clause 4 which is the amendment to section 62, permit me to tell you, Mr. President, what section 62 of the Act deals with. Section 62 of the Act, which we are repealing—we are repealing subsection (6) of section 62. Subsection (6), Mr. President, is a very important section. The law to be repealed reads as follows:

“A person charged under this section shall not be liable to be convicted solely on the evidence of one witness to the effect that in the opinion of the witness, the person charged was driving a motor vehicle at a speed greater than the maximum speed allowed.

That deals, essentially, with due process; that deals essentially with the rule of law. There is merit in the subsection (6) which is to be repealed and replaced with these new sections in saying, one must exercise care and caution in relation to relying upon the testimonial evidence of one witness only.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

Now, the law goes some way in the proposed sections as amended in the House—and I thank the hon. Minister for listening to the Member of Parliament for Diego Martin North/East, in particular, in making the contribution that the law should be amended such as we have seen here—but Mr. President, what we note—and I know that this is a concern that troubled the Member for Diego Martin North/East as well, and the hon. Minister, I believe, may be thinking about it—the certification aspect that we see in clause 4 of the Bill in the new section (6B) which is at page 3 of the Bill, section (6B) reads as follows:

“Before using a speed measuring device on any day, a constable shall satisfy himself that the device is—

- (a) in a satisfactory condition; and
- (b) properly calibrated...

after which the constable shall enter into the device his name, regimental number and the speed limit of the area where the speed check is to be conducted.”

Let me pause here. Two thoughts jump out here: one is in relation to the point of satisfying yourself; “himself onto himself”. The second one that concerns me here: what happens if the device in terms of technology specificity evolves to a place or no longer has the characteristics of being able to receive into the device, name, regimental number and speed limit for the area where the speed check is conducted? I do not know if that wording is going to capture developments in technology. So, I wondered about that. It may be that we have the ability to come back to Parliament to do it, but I think that there is merit in having law which can withstand the developments of technology.

Let us come back to the satisfaction of self. Subsection (6) which we are repealing of section 62 is that there ought to be discomfort from a due process point of view in law about satisfying yourself hence the reason, as the hon. Minister has said, that you should have certification of the device every 12-month period or so. Perhaps, it is—and I did read the hon. Minister’s position in relation to it in the House of Representatives—that the regulations may speak to the manner of certification of the device.

But, Mr. President, when you note that the law prescribes later on, in the proceedings in court, that the evidence produced as to the speed at which the car was going by the device stands the scrutiny is deemed to be correct, is *prima facie* correct, unless it is challenged—the state and condition as to the device itself—

you therefore begin to worry about whether the State is going to have on its hands a case of 100 per cent conviction records for instruments which may have malfunctioned. And this is not a conspiracy theory against this Government. This is the reality of the literature that you can find in relation to radars and lasers as well, Mr. President.

There is a plethora of information available that says that the devices have tendencies to malfunction or that you may have incorrectly targeted the wrong motor vehicle—be it a car, a bus or whatever it is—and, in those circumstances, I have a little problem about the lack of certification as to the quality of the device by someone else prior to it being employed. Should there be—this is why I had raised the issue of the Motor Vehicles Authority and how it would operationalize some of this—will there be a central department where technology-specific devices such as these are calibrated on a daily basis or regular basis? Will they be stored in a satisfactory condition? Are they going to be exposed to vagaries of state and condition?

Mr. President, I cannot forget a particular case I did. I did a case in copyright, acting for the State, together with the police. It was a private indictable matter, and we had to deal with a case of copyright infringement. In dealing with copyright infringement and in coordinating with the police and the technology departments of the police in tandem with their counterparts, through Interpol, in Czechoslovakia and in Canada—a very interesting case—in working inside of the police area, what I found very interesting, Mr. President, they had a whole suite of technology—some of the best printers, some of the best machines, et cetera, and we got to a point where I had some information and I said, “Well, could you print it here on your printer?” And the fellow said to me, “I would love to, but the printer doh work.” So, I said to him, “Well, why the printer does not work?” He said, “Well, the printer is working but we doh have toner for the printer and we have not had toner for two years. It has not been procured.”

So, you may find yourself, if you superimpose this particular technology, in the situation where the police have lidar detectors as they may be right now or other devices that may be developed, and the failure to have them in safe and satisfactory conditions—properly stored, properly calibrated on a continuous basis—may put the population at risk of running into acceptance of a charge which is beyond ability.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

4.15 p.m.

That may have a beneficial effect, everybody may slow down instantly, but because of how this law will be operationalized, it must be operationalized with the use of two or more police officers separated from each other. It is a glorified version of the clock and gazette paper.

Sen. Lalla: That is not true.

Sen. F. Al-Rawi: But that is true. You want to tell me how it is not true? I will give way; go ahead.

Sen. Maharaj: “He feel he bright.”

Sen. Lalla: Mr. President, I am quite grateful for the opportunity to clarify what the learned Senator has just said, but the Minister was quite clear in his presentation that this device will give you a printout of the car number, the place where the reading was taken, and the regimental number of the officer. So it is quite unfair to say that what we are dealing with here is gazette paper and a clock. It is a very advanced state-of-the-art piece of equipment, Mr. President. It is quite unfair of the hon. Senator.

Sen. F. Al-Rawi: Mr. President, I am very grateful that my learned friend has intervened. Let me make it “pellucidly” clear. I am not saying to the Minister that there is any sinister purpose in his mind. I am saying that this law, when you read the law—I am not challenging the fact that there will be a printout or a licence plate point. I am saying that the law to be operationalized requires two policemen to operate. I am saying there will be one at point X with the gun stationary and there will be one at point Y. So the consequence is, you are going to have a line of cars stopped until the printout arrives into your hand, and therefore you are going to have the phenomenon of people driving down the highway flashing their lights to warn you that there is a speed trap in the area.

I am saying something entirely different from my learned colleague, Sen. Lalla. Perhaps he has not had an opportunity to appreciate that yet, but the point is, when we are in a circumstance like that, the calibration and the certification of the device become critically important. [*Desk thumping*]

The usefulness of the amendment in the House, that when the officer delivers to you the printout that there must be a photograph of the vehicle identifying the registration plate. Sen. Maharaj, I hope you understand it is not “feel yuh bright” right now, it is that you must listen and appreciate the argument; so I will give you an opportunity to get there. [*Interruption*] It is not only that you must feel you are bright, you must actually have the ability to be bright.

Sen. Maharaj: When it is hot air, I choose not to listen.

Sen. F. Al-Rawi: Mr. President, the point is, in relation to the device itself, the use of a corroborating bit of evidence of the photograph is very useful, but I wonder whether the device itself has that ability to do it. If it does not, do we need to find a way to phrase (6E) slightly differently, so that we do not box ourselves into a technology-specific point:

“(b) deliver to the driver of the motor vehicle a printout with a photograph of the vehicle identifying the registration plate.

I do not know, hon. Minister, if the particular device has the ability to do that. Will there be some other piece of advice? The manner in which this concern was raised in the House was very important.

In identifying that the need for corroboration of evidence, to take you out of “himself onto himself”, to take you away from that circumstance, the United States of America and other places where these devices are done, the use of photographic evidence happens because there are arch towers over the highways, and there is an ability to have photographs at certain points automatically given. The photograph, together with the laser in a fixed point, the two mechanisms happen at the same time and therefore you have identification of the number plate, et cetera and corroboration and the laser reading.

In fact, they automate the process by delivering that to you in the mail. They no longer have somebody stopping you, and two officers in a glorified gazette and stop clock situation. What they have is a different form of implementation of the technology.

If the photograph cannot come out of the lidar device itself at the same time, then we have a problem, because a police officer targeting the wrong vehicle with one device and taking a photograph with another device can corroborate the evidence by himself. So unless the device is capable of both dealing with the photograph and the laser detection at the same time, we have a problem in terms of corroboration, and that fits into the understanding in the literature as to why radar and laser devices run into problems without corroborative evidence.

Something concerned me further. If we are seeking to deal with an elimination of backlog or clogging of systems, we have spent some time dealing with the criminal justice system in this particular session of Parliament, and something that is of interest is the number of traffic cases that the magistrates have to deal with. There are, as we know, if I remember the number correctly, approximately

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

147,000 new cases in the Magistrates' Court every year, with a backlog as a result of a lesser disposal rate than introduction rate of approximately twenties to thirties to forties of thousands of cases added each year on to the backlog, a couple hundred thousand cases one would guess.

Do we really want to have the system of a duplication of effort? If in subsection (6E) as this Bill proposes, you are to be stopped, (a) informed, (b) you are to receive by way of delivery from the officer the printout itself, it is quite interesting that we then provide later on in proceedings that the prosecution in (6J):

“In proceedings for an offence under subsection (5), a document purporting to be evidence of the speed at which a person was driving a motor vehicle shall not be admissible as evidence, unless a copy of it has, not less than seven days before the date of the first hearing, been served on the accused.”

Do I really want to go through a further step of administrative layer? Or can the prosecution say, “I have a printout. The printout was given to you”, because I cannot meet muster of an offence under (6E) unless I have given you the printout. So why is there a need to duplicate the effort as we see in (6J)?

I can understand that there may be a position of due process; I can understand that. But does (6J) arise instead in the context of where one expects that one would deliver the notice of the offence by the use of, for instance, camera technology—in camera technology? We heard the hon. Minister of National Security tell us yesterday that there are cameras being put out. There is one right outside the Parliament. What is the usefulness of those cameras? They are not to detect seditious placards outside the Parliament. They are not to detect crimes going on. I am raising it in the context of a real example.

Sen. G. Singh: All those breaking the red light.

Sen. F. Al-Rawi: There were placards outside the Parliament under the view of these particular cameras outside, which demonstrate—*[Interruption]* We are talking about crime; do not get jumpy, Sen. Maharaj, listen. Put on the understanding cap.

Mr. President, outside the Parliament, right in the middle of a large gathering of UNC protesters outside, all wearing yellow shirts. I presume they were UNC in their yellow colours. Right in the middle of that is a protester group being organized, and the police still cannot find the evidence of that, but we have the cameras right outside there. What I am saying in relation to that is that the camera technology in this manner in which it is introduced into this Bill must make sense.

How do I, with a laser gun, which is targeting at 1,000 feet away, produce a photograph at the same time? What kind of telephoto focus on to the car moving—I do not know, hon. Minister. Do you want me to give way?

Sen. Hadeed: Your CV says you are a technology expert. [*Laughter*]

Hon. Cadiz: Hon. Senator, the technology that is being used today, if you spend a little time looking at the specifications of lidar systems, they are dealing in nanoseconds; they are dealing in speeds. These things can detect a registration number from 4,000 feet away. The driver does not even see the police officer in a position to operate the equipment, and he can already be tagged.

Sen. F. Al-Rawi: Thank you, hon. Minister. I am raising a concern, and I have read, but I am assuming it is lidar because the Minister has said it. I do not know if there is going to be other technology coming on. I just want to make sure that the corroboration of evidence could be prescribed by the Bill, which is good in its intent. I think it is required that you have some corroborative evidence as to the actual vehicle that was checked and timed by way of identification, in producing its number plate registration. But I was concerned about the ability to actually zone in on the particular vehicle registration number at that distance. The Minister is satisfied and it can work, well then we will see how it goes that way. I do hope that it, in fact, can materialize.

Mr. President, when we look to the definition of “constable”, I found it interesting in the subclause (6f)(b)—am I correct that that is the clause? It is on page 6 of the Bill; it is just (b). It must be (b):

“In subsection (8), by inserting—

(i) after the words ‘this section’ ...”

We go down to (ii):

“in the appropriate alphabetical order, the following definitions:

‘constable’ means—

(a) a police officer as defined in section 3 of the Police Service Act; or

(b) a member of the Special Reserve Police established...”

I wonder, does that capture all elements, including the municipal corporation police? The municipal corporation police are brought out in the Act to deal with it, itself. Are we anticipating in built-up areas, where this law is to be put into effect within the municipal corporations, that the municipal police will be authorized to deal with this law? I do not think so, hon. Minister; perhaps you may wish to look at that and consider whether that is the case or not.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

We have in other particular laws that we are contemplating right now in the Parliament, without being specific as to the thing, because we are still in committee stage of the laws to come this morning, there is an interesting concept inside of there, of broadening the scope of police. In the very Bill that we are considering next in committee stage, the definition of “police” is a much broader definition of police. I wondered whether it would be appropriate to include the municipal police, and the legislation which establishes them and governs them, into this particular subsection by way of a new subsection (c). I wondered whether the hon. Minister wanted to do that.

That becomes all the much more useful when you consider that certainly it is the PNM policy and perspective that the municipal corporations ought to be better utilized, that the municipal police themselves ought to take some of the load off of the police service. That would allow the police to concentrate, the substantive Trinidad and Tobago Police Service, as supplemented by the SRPs, to focus on serious crimes or on investigative matters. I mean, it must cause concern, Mr. President, that we have a situation where there are allegations that the defence force in Trinidad and Tobago are acting without the assistance of the police in the investigation of crimes. Is that because there are not enough police officers to go around? Is that the position? The point is that we need to understand how we utilize resources that are very scarce in terms of the Trinidad and Tobago Police Service.

I noted a very interesting situation in the new section 62A which is proposed by clause 5 of the Bill. Mr. President, 62A provides it to be an offence—and I think it is a laudable section—for any device designed to jam, scramble, neutralize, disable or otherwise interfere with devices. I think that is a very useful clause. One of the lacunae noted in the United States in particular was that the laws prescribed jamming devices for radars only and not lasers, et cetera. There is, of course, technology which you can install, either by way of mobile devices or into the actual car itself, into the dashboard of the car, devices to effect jamming or scrambling of signals.

I note that there is literature, and in particular case law, to say that detection devices are not unlawful. It is jamming or scrambling devices that are unlawful. The Supreme Court in the United States has noted that it is a fair thing to allow persons the opportunity to know whether they are being monitored or not.
[*Interruption*]

Mr. President: Hon. Senators, the speaking time of Sen. Al-Rawi has expired.

Motor Vehicles (Amdt.) Bill, 2014

Wednesday, July 16, 2014

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. C. Robinson-Regis*]

Question put and agreed to.

Mr. President: Before I ask Sen. Al-Rawi to continue, it is now 4.30, I therefore propose to take the tea break and we will resume at 5.00 p.m.

You have a question, Sen. Al-Rawi?

Sen. F. Al-Rawi: Mr. President, I actually think you took four minutes off of my 45 minutes, but I am not sure.

Mr. President: Both the Clerk and myself seem to be in unison with where we are. [*Laughter*]

Sen. Al-Rawi: Thank you, Mr. President.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. President: Before the tea break, we had just extended the speaking time of Sen. Al-Rawi. I take it, Sen. Al-Rawi, we have the times matching?

Sen. F. Al-Rawi: Yes, Sir, thank you.

Mr. President: So, we have another 15 minutes from Sen. Al-Rawi.

Sen. F. Al-Rawi: Thank you. [*Desk thumping*] Mr. President, I was, before the tea break, dealing with the issue of section 62A as is proposed to be inserted by clause 5 of the Bill. Clause 62A makes it an offence to have:

“...any device that is designed for jamming, scrambling, neutralizing, disabling, or otherwise interfering with a speed measuring device...”

And in dealing with that, Mr. President, I noted that the literature tells us that it is perfectly lawful to actually have a device which may interfere only by way of detection. So, I wondered whether interference, otherwise interfering as is prescribed in the third line of this Bill, is something that intrudes upon the lawful right of a citizen to actually have a detector installed in the car for purposes of telling you if there is a device ahead.

Now the consequence of that is that you slow down. The consequence of that is that you choose to either break the law or obey the law, but an interference from that point of view is something that caused me a little concern. I agree that you ought not to jam, scramble, or otherwise cripple the laser device or other

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

speed detection devices that the officers may be using; that would be unlawful. But otherwise interfering, I wonder whether it may be extrapolated wrongly by the police who are using that kind of point to say that a detection device is something which would run contrary to the law and, therefore, expose you to a fine. Because the subsection below, (2) says that:

“A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars and imprisonment for six months.”

Mr. President, I have seen instances where the police actually, very interestingly, gave me a ticket once for parking on the road. And when I came back and I saw the ticket there, the policeman said that well there is a no parking sign there. So, I looked up and down the road, and say, “What no parking sign?” He said, “Well, there was a no parking sign there, and it has been removed, but it still is a no parking zone. And because there was a no parking sign there, you are going to be charged.”

I had to go to court. When I went to court and I pulled out the legislation that said, it shall be a defence for circumstances such like that, I was very concerned that this policeman could have gone on that exercise to choose to give me a ticket in those circumstances.

Another very interesting real example. When my mother was serving as a Member of Parliament and in the Ministry of Trade, she pulled up outside her Ministry one day, and they were offloading at the zone stuff coming from the car, and a policeman came up and gave her a ticket. My mother, being my mother, quite happily accepted the ticket because she would not interfere with the policeman’s discharge of his exercise. But I asked him, I said, “You know, she is offloading at the Ministry’s loading zone, why are you giving her a ticket?” His answer was, “Well this is a no parking zone. The definition of no parking means no parking, no standing, stopping or waiting, and therefore, you are getting a ticket.”

So the manner in which the police sometimes interpret the law causes me a little concern. And I think that it is a perfectly lawful thing, as has been recognized in the US jurisprudence in particular, that citizens of Trinidad and Tobago can equip themselves with a detection device, not a scrambling or jamming device, but a detection device. And I wondered whether the inclusion of the words “or otherwise interfering” may be brought into that. Perhaps the ejusdem generis rule may assist us with that purpose, but I wondered whether we had any difficulty there.

Mr. President, I hope that the hon. Minister will assist us with the position of some update in relation to the Motor Vehicle Authority. I think that the Motor Vehicle Authority as a mechanism for delivering serious improvement to licensing, to positions in Trinidad and Tobago, to management of the whole traffic system, and the manner in which users of the system interarticulate with each other, is critical. This law will bite into that, because if a new Motor Vehicle Authority comes into being, and if the law resembles that which was contemplated by the PNM prior to 2010—of course, Mr. President, you will remember that the software for the RF identification tags, et cetera, that associate with these things, all of that was purchased in partnership with the Government of Canada, Nova Scotia in particular, since 2009. And these systems have been in Trinidad and Tobago bought and paid for, ready to be mobilized by 2010.

Unfortunately, we will remember the Motor Vehicle Authority was moved from the very convenient location at Mount Hope where it was meant to be placed, down into the back of Frederick Settlement. It would have cost the taxpayers of this country an increase of a lot of money. I think that the newspaper report showed a movement from \$42 million to \$232 million. Of course, that contract as we know was the subject of a lot of criticism.

But, Mr. President, the Motor Vehicle Authority in having offences arise under the new sections that we propose here, it would be very interesting to see speed points introduced, points against your licence which would result in a revocation of licence. In fact, section 62 and section 66 of the Act which we are proposing to amend have the opening for that in the existing law. Therefore, the birth of this Motor Vehicle Authority, the mechanism which will track how infringers of the laws against speeding, et cetera, can be managed and taken off the roads if there is too frequent an incidence of offences against the law or breaches of the law and offences created; how they will be managed will all be done in this Motor Vehicle Authority.

And I do hope that the hon. Minister will also tell us why it is that the taxpayers of this country will be subjected to a tune of close to \$800 million, \$700-odd million, where the only real beneficiary in that kind of structure seems to be the most ubiquitous SIS, the recipient of some \$2 billion worth of government contracts in terms of procurement.

Mr. President, I think that the language of the Bill needs a little tightening. I saw an interesting concept in the definition in the parent Act of “motor vehicle”. I noted that “motor vehicle” as defined in the parent Act is a definition which is different from “motor omnibus” and “motorcycle”. And I wondered whether it is

Motor Vehicles (Amdt.) Bill, 2014
[SEN. AL-RAWI]

Wednesday, July 16, 2014

time for us to look at the definition of “motor vehicle” being a little bit more expansive or if it is as good as it is. Whether one can argue that a bus may not be taken into account in terms of this legislation. “Motor omnibus” versus “motor vehicle” versus “maxi taxi” versus “motorcycle”, are all separate concepts. Maxi-taxi is taken care of, but I wondered whether it was time to look at that or if we just rely upon the implications of law as they stand.

So, hon. Minister, if I may, in summary indicate, one, the technology specificity of the Bill causes me a bit of concern. Are we boxing ourselves into the need to come back to Parliament to amend the laws in the event of movement of technology away from that which is currently contemplated?

Two, I wondered whether the operationalization of the stopping of the individual, and the issuance of the warning and the statement as to there being an offence, and the delivery of the photograph and the speed indicator documents, whether that was something which could be tightened up, in particular the concerns about the independence of the photograph mechanism to record the plate versus the laser mechanism, to make sure that there was corroboration. There is concern in relation to the officer satisfying himself. And I wondered whether we should really in the parent Act provide some prescription so that we are not having a situation of “himself onto himself”.

I am concerned as well, Mr. President, that we have some ambiguity as to whether the municipal police ought to be included in the definition of constable, as we have proposed in this, so that we can use the auspices of the municipal corporation police and incorporate them into this Act. I am concerned as to the use of the words “or otherwise interfere with”, and I am hoping that the Minister will, at least for the sake of *Hansard*, indicate that detection devices are not unlawful, it is only jamming devices.

And, Mr. President, I do hope that the hon. Minister will explain to us what we consider to be a wholly unacceptable situation in respect of the failure to launch, operationalize and put into effect the Motor Vehicle Authority. Certainly it could have been done in 2010. Why are we waiting for 2015 or thereabouts? And, Mr. President, we are also very concerned that the hon. Minister gives us some explanation as to why this constant choice of SIS, a company bankrupt in 2010. Where they are now the recipients of certainly the contracts for the building of the Motor Vehicle Authority, and certainly over \$2 billion worth of expenditure. Why this exclusivity of only one person where the evidence on the record suggests that the Mount Hope location would have cost us \$42 million, and the Frederick Settlement will cost us \$262 million? Money is just not to be frittered away.

Mr. President, I thank you for the opportunity to contribute. Once again for the record, I say that I feel that my learned colleague, the Attorney General, ought to be precise in what he says, and deliver full statements. I took great exception to his misrepresentation at having to miss an exam because of the death of my grandfather. I make no apology for having to rewrite an exam when I attended the funeral of my beloved grandfather. I considered that a more important duty, and I took great exception to his misrepresentation of the truth.

I thank you for the opportunity to contribute. [*Desk thumping*]

Sen. H.R. Ian Roach: Thank you, Mr. President. I thank you for the opportunity of making a very brief contribution to an Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50.

During the interval, I had the opportunity of having a short discussion with the hon. Minister of Transport and much of my concerns, my concerns are few, but he was able to shed some light, and indicated that the policy behind this Bill actually is a very specific and focused amendment to take care of a very urgent concern on our roads which is the carnage that seems to be increasing rather than decreasing, and as such this Bill is a sort of a stopgap so to speak, and that a more robust and comprehensive Act in terms of the Motor Vehicle Authority Bill is supposed to be coming some time shortly in the Parliament.

I have also had the opportunity of, again, listening to Sen. Faris Al-Rawi, and made some very important points concerning what he perceived as some shortcomings or areas in which the Act could be probably fortified a bit.

My comments where the Bill is concerned in particular, if we go to (6i) which says:

“In proceedings for an offence under subsection (5), evidence of the condition of a speed measuring device...shall not be required unless evidence that the instrument was not in a satisfactory condition...has been adduced.”

Now this places a significant, onerous obligation on a defendant in determining whether or not the device actually is efficient or is not faulty. And, I think, given the consequence of being found guilty and the fines to be probably imposed, I found this a bit onerous and probably should be looked at in dealing with this because it reverses the burden in law. It reverses the burden in the person who alleges must prove. It means that here in this instance, unless you can adduce evidence to the effect that the device is difficult, it is taken that the device is operational. I had a little concern about that. I guess some probable reflection by the Minister could be brought to bear on that aspect of it.

5.15 p.m.

The other thing I raised with him that was of concern, given the fact that we are dealing a lot in recent times with the manpower of the police service, that they are being overwhelmed, they are understaffed and so forth, that traffic police and probably at this point in time, a specific cadre of officers or probably the time has reached where we probably need to look at having designated police officers or traffic officers, that their designation deals specifically with traffic matters as you have in several other countries.

I had an experience in South Africa where you have the traffic police which operate alongside with the police officers, and it certainly frees up a lot of the police work in dealing with this. The police are not in any way undermined by not being able to engage in enforcing the law where traffic matters are concerned. But you have a designated force called the traffic police which carry out things like speed and checking for vehicles and so forth, and they are very vigorous and competent in doing so, I must say.

I had raised with the Minister during the tea break, if it was an “under sight” or foresight or, you know, in the case of transport officers not being accredited with the same powers of the police to be able to carry out the use of the speed gun. But as he assured me, he said that, I believe that this may be coming in the MVA later on in the year. If that is the case, I look forward to something like that happening, because I think, again, transport officers should be given similar type of authority to assist in the enforcement of this. After all, your principal duty is dealing with the enforcement of the Motor Vehicles and Road Traffic Act as it stands at this point in time.

Earlier on, I think somebody did mention the fact that the Minister did say earlier in his presentation as well that there is a lot of increased visibility of police officers on our roads and highways. That, to some extent, I do agree with him, but having agreed with him as well, I am also of the opinion that sometimes that they may be just present, but not really active. They are just there, and I do not know if they are just there to bring about some sort of visual impact, to have some sort of forebearing impact on persons.

But I have been present, I have the experience of police officers on the roads, in vehicles and they are not really doing anything, because you will see a vehicle or two speeding past them and they are going at 50 or 60, and there is no sign or attempt by the police to bring them to any halt or anything of that nature.

I have also had the opportunity where I stopped a police officer on Long Circular Road—Long Circular and Barbados Road some time ago, in a very long afternoon of traffic. And the reason for that is because the traffic light had stopped. And when I indicated to the police who was there what the problem was and whether he should be—he said that is not my problem you need to call St. James Police Station. And he was a police officer, in a police uniform, in a police vehicle.

And then again, I live in Maraval and almost every morning, well, I have not heard it since school has gone on vacation, that around 7.15/7.30 every single morning I will hear a police vehicle at that point in time, which is brought about by the alarm of my dogs making a response—that there is some police engagement that requires a police car to engage—every single morning, but only Monday to Friday, not on Saturdays and Sundays. And obviously that has to be an abuse of the police privilege in using a siren to escape traffic.

So as much as we, and I am not here to bash the police in the execution of their duties, but I think a lot more ought to be done in terms of bringing the police to be more effective in carrying out their duties. So being present and seeing police on the streets, that is just one part of it. They ought to be able to be engaged in actual police duties in helping to stem the flow of crime in the country. And I think that nobody will disagree with that, that a lot needs to be done, because we are living very much now in a state of a sort of gated community and a sort of fear. Persons are afraid to step out of their homes. They are afraid to drive their cars. There is blatant infringement going on by Tom, Dick, Harry and Mary dealing with phones and all the number of things, the infringements the hon. Minister was speaking about in terms, that carries on on our roads on a daily basis which endanger the life and limb of other citizens.

So I think this Bill, in the sense, as the Minister said, is just an immediate “short gap” to deal with an urgent problem. I see the merit in supporting it. I also, as it may not be perfected at this point in time, I believe no legislation passes through here is perfected. And for obvious reasons—because I think the method in which we engage in dealing with passing legislation here causes me a lot of concern because, to me, it is very wasteful and non-productive, because speaker after speaker—I mean, on the Government—would have had a policy of a Bill before it reaches the Parliament. They would have discussed it, and I see no sense in several members of the same administration, one after the other get up and speak on the Bill as though they are going to find some sort of issue with it. I find it is just a wasteful and non-productive way of doing business. The fact that this may have been done from time immemorial, from the inception of Parliament in Trinidad and Tobago, does not mean that it cannot be improved upon.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. ROACH]

Wednesday, July 16, 2014

Similarly, to the Opposition, the Opposition as a party will take a position because whether they support the Bill or whether they are not going to support. What is the merit in Members, after the Opposition, one after the other will get up and use the time and extended time to say basically the same thing? When they have a position, and their position is either I am for or not—against it. You know, I think the time could be better spent in probably committee stage or some kind of thing, you know. And then when it comes to us as the Independent Senators, we unlike the Opposition or the Government, are not allowed to caucus. We are all individual Independent, but I have noticed a sort of practice that is not stated, because no one has ever sat and discussed this with me, is that if they see some of the other colleagues or Senators that have made contributions that you are about to make, they pass, they pass.

So you will not have a proliferation or a regurgitation, one after the other of us saying the same thing. And I just have some concerns about that, because whether or not I am disadvantaged by being disabled here and sitting is a problem for me for unduly long periods, if I walk on my legs I will still find it difficult, mentally and psychologically to sit for these undue hours to engage in serious passing of legislation that has consequences, not for today or for tomorrow, but for a very long time and expect people to make serious contribution to this.

Now, when I look around, inside of here, I have a number of colleagues who are all eminently qualified and capable proven attorneys-at-law. Yesterday I could have counted at least 10, including yourself, Mr. President, who are all lawyers. We are skilled in various different areas. I am sure not one of us is skilled in legal drafting. Legal drafting is a specialized skill; it is almost like a subspecialty in the practice of law. Like you will have gynaecology, you will have what you may in medicine, right, and engaging as best as we will want in drafting legislation here, we fall short.

Hence the fact that legislation coming out here will be faulty, because, what you really require, I mean, I think much more time should be spent in discussing Government's policy. What we think ought to be the right policy, engaging the policy and things like that. But when it comes to the technical aspect of it, even when you retire to the committee stage, that should be left to the Chief Parliamentary Counsel, the persons who are trained and experienced in drafting and putting the correct language to really capture what exactly is the policy of the Government including the Parliament is trying to achieve.

I think again that is another opportunity of wastage. We as lawyers are schooled in legal writing and legal research, but legal drafting is a completely different expertise altogether and you spend quite a while after—I think probably it is two or three years—doing a masters to be a legal draftsman. Then to be a very good legal draftsman

you have to have some years in doing it. So what we engage here as much as for the benefit of the public, I do not think we serve the public very good in using up this kind of time doing this. We should spend more quality time really getting into the meat and thrust of good policies, right?

So I find it very challenging at times to, after I have heard a number of my colleague Senators speak and will have captured some of the things I want to say, to just for the sake of having your audience, to repeat it, it really, really—I find it really challenging, you know. As it is right now, I think I have spoken too much. [*Desk thumping*]

So in closing, Mr. President, I will just say that this is a Bill that I think that I am prepared to support. Yes, there are certain things that I believe that the Minister, probably, in the committee stage will probably want to reflect upon. But if in fact as he said that the motor vehicles Bill which is a more robust and comprehensive Bill is to be passed shortly, I look forward with eagerness to see that, and certainly to lend the support if it is necessary. I thank you. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. President. I wish to thank the Leader of Government Business for the courtesies extended to the Independent Bench by allowing me to come after my colleague, Roach. I did assure him that I shall not take up more time than is absolutely necessary. And let us see if I can keep to that target and that commitment.

I rise, Mr. President, to support this particular Bill. And when I examined the Bill itself, I asked, what really was the intent of the legislation? Was it to ensure that those individuals who speed are going to be caught and given the appropriate punishment? Or was it really to ensure that we as a society can promote much more responsibility on how we all use the roads? I think really the intent of the legislation is to promote more responsible driving. And I see this, Mr. President, in the context of the laws we have passed in the past with respect to the use of the seat belts, where the technology, the engineers, the designers of the automobiles have all indicated that seat belts save lives. And while individuals may have initially been reluctant to use them, after a while, the habits of individuals will change and now the seat belt would perhaps be the first thing one would implement as soon as one enters the automobile.

And we have known that it does save lives and saves the society in addition to the individuals concerned a tremendous amount of health care costs, and also whatever inconvenience and pain may be involved.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. DR. MAHABIR]

Wednesday, July 16, 2014

One also knows that alcohol is a contributor to reckless driving, irresponsible driving, dangerous driving, and the laws we have passed with respect to the breathalyser legislation is an indication that we are promoting more responsible driving on the road.

We know that speed kills. It is not an opinion. The physics is clear. To stop a car going at 30 miles per hour results in a different outcome than when one attempts to stop a car going at 60 miles per hour. A 60-miles-per-hour car that is going to be stopped suddenly is one that is prone to a number of unpredicted actions based upon a number of unknowns. This car can flip and this car can jump the median.

5.30 p.m.

When we were growing up, Mr. President, jumping the median was not something that was normal, where a car would drift from one side of the highway and get into a head-on collision with cars going, minding their business, in another direction. But it has to be that the automobiles we have now are faster. It is easier to accelerate from zero to 60 in any of the modern cars that we have, than in a car like an Austin Cambridge. I know that and I can testify to that. [*Interruption*]

Yes, that Austin Cambridge if it gets you a good 40 miles per hour after 10 minutes of driving, it has accelerated very well. [*Laughter*] The good thing about the Austin, it would last forever, and these current cars simply do not. But, what they do have, really, is a capacity for speed. Engineering talents have been such that even the simplest engines now can generate phenomenal speeds in very short spaces of time, and so we have faster cars. And given that the population of cars is faster, that they perhaps have been built over the last 10 years. We, perhaps, have some older cars, but the cars certainly built over the last 10 years would, by nature, be very fast—by fast, being that they can accelerate very quickly.

And the suspension systems are so excellent that the driver does not know that he is really going at a very fast dangerous pace. Well, others on the road will know, but sometimes an individual may not. And in this regard, I recall a TV show in the 1970s called “CHIPS”, California Highway Patrol. And the function of these two officers on the motorbikes was really to drive up and down the California highway, looking for these driving miscreants. While their presence deterred a number of individuals from speeding, simply seeing the policemen on the motor bikes would have prevented a lot of people from speeding, they found themselves in a lot of different misadventures as to what the Minister is telling us in that they were able to solve a lot of different crimes.

But we do need, as a policy perspective, to have a greater police presence on the roads. These motorbike officers simply patrolling the highways, on the lookout, acting as a deterrent to the general population, that the police officers are on the road. We hear that the majority of the fatal accidents occur in the hours of the morning and when the normal congestion has ended. That is not surprising because, given the type of congestion that we see on the roads, it is difficult for someone to really engage in reckless and dangerous driving from one traffic light to the next, though it has been seen.

But, in general, one would expect that at the time when it is known that the road is clear, the Ministry of Transport, working in tandem with the police force, would certainly have an officer presence on the road, and this particular presence would act as the kind of deterrent so that individuals who are inclined to speed will know that there are officers—we have not seen them but they are there ready to emerge at a time when it is most inappropriate for you.

So that we do need to enforce the law to change driving behaviour, not only by letting individuals know that we do have modern technology that will serve to convict you, but we have old fashioned technology, those police officers who will hold you, and who can detain you, and who can really ensure that you could cease and desist from reckless and dangerous driving.

This is one side of the picture: that is, we do have the fast cars and we have therefore the need for the patrols on the road. We are told that you could drive in the night and you would not see a police patrol. We would like to see the police patrol in the night, not only to prevent speeding inevitably which occurs, but also to act as a kind of a protection for individuals who are going about their lawful business in the wee hours of the morning, as well as some of us in the Parliament would have to find our way home at two and three in the morning.

Gladly, the Leader of Government Business has ceased and desisted from these late-hour sittings within recent times. Whether he would revert, we do not know. [*Desk thumping*]

Sen. G. Singh: It all depends on you.

Sen. Dr. D. Mahabir: It all depends on us, yes. [*Laughter*] But we do not have any police escorts, any police presence.

Mr. President, driving at that hour of the morning confirms exactly what the Minister of Transport is saying, the drivers on the road at that time really drive, and you know they are speeding. I do not need one of these guns to let me know

Motor Vehicles (Amdt.) Bill, 2014
[SEN. DR. MAHABIR]

Wednesday, July 16, 2014

they are speeding. I am going at 80 and if they are passing me and they are causing my car to shake, I know they are going at 120, and therefore, the incidence of speeding in the night is certainly very high.

At the same time, the Minister indicated that a large number of individuals who were involved in fatal or serious accidents were young individuals. Now, this has to be only an indicator of the population of speeders. Not every individual who is engaged in speeding will find himself in a fatal accident or in a serious accident. Many will get away with it, causing injury to others, and we need to ask ourselves whether these drivers have been properly trained. They are young.

It is said that the young in our society do not necessarily recognize the dangers which exist. But, if they are properly trained, we know that some of the dangers which exist on the road would have been made available to them, they would have been alerted to it. What the Minister, I think, would have to do, is to ensure that the driving schools out there are licensed and we are, as a society, assured that the instruction that they give is rigorous instruction.

We hear stories that there are many individuals, young people out there who do not even have to take a driving test to obtain a driver's licence. For a fee of \$500 such a licence can be procured. We need procurement legislation for that licence fee, because we need to look at the government employees themselves who are behaving in this way. Do whatever you have to do, Mr. Minister. Set up your sting operations, check out places like Chaguanas and Arima and all the outlying areas and try to find out the incidence of this practice and whether the fee has now moved from \$500 to \$1,000 before you get that particular document in your hand. So, this is one of the ways we can ensure that young people are properly trained and that agents of the State, the employees of the Minister in the Ministry of Transport, are not really subverting the process whereby young people obtain their driving licences.

Another solution that one could offer, Mr. President, to ensure that we are going to promote responsible driving, is really to ask that these individuals who are caught speeding via the new technology be subjected to—in addition to whatever fines may be levied by the courts for reckless and dangerous driving—they should be required to undertake a defensive driving course as part of the process of rehabilitation. Paying the fine is going to impose a monetary cost on the individual, and the potential of imprisonment time is going to be a sufficient deterrent, but what you want are drivers who are responsible on the roads. I think if we are to include in the penal code that a defensive driving course is something that they must undertake to remedy whatever deficiencies existed in their initial training, then, I think, that can go some way in ensuring that we have much more responsible young drivers on the road.

We can use the economic incentive system whereas, if you are caught once, not only must you be subjected to a defensive driving course, but the actual fees for the renewal of your licence can increase. The increase in your licence fee would be then different from the increase in the licence fee of an individual who is not convicted or who is not a reckless, dangerous, speedy driver.

So, the State can consider this particular fee being built in. It would mean that if someone was to be convicted in the courts for speedy dangerous, reckless, speedy driving, if in fact it is known that this guy has gone over the speed limit, it has to be that the information can be so placed in the database of the Ministry of Transport that the licence number of the individual will be updated, and when he goes to renew there is a separate fee for that. Something to consider. It is an economic incentive not to speed.

There is the notion of the suspension of the licence which can apply to habitual, chronic offenders. It is something we can actually consider that after three offences—we have had discussions on the one-strike, two-strike and three-strike rules, we can now apply this to the roads, and if within a particular period of time an individual has been found speeding and is facing the fine, then it has to be that maybe he is beyond rehabilitation. We can suspend his licence, let him or her see the errors of his or her ways and after a period of time—a three-year period—then we can ensure that his licence can be reissued.

This, of course, I know is something that will come within a larger framework. But, all of this, Mr. President, will work only if the people out there know that the law is going to be enforced. We have seen some success in the breathalyser legislation, where we know that there are spots where the police officers are waiting so that individuals who are leaving certain bars, clubs, and association spots by certain rivers, they can be subjected to a police charge for driving under the influence. This has to be a bit more random because now it is predicted—you know that if you are going to the Caura River, for example, you should not be driving in the afternoon, get someone else to drive because the police are always waiting there. If they were to go across the country, we will see much more success there, but we do need to ensure that the law is enforced.

We need to send a message to the driving population, inevitably the young driver, that there are serious penalties for reckless driving and driving over the speed limit is endangering you. The cars now are soft, they are light, they are fast and they flip. This is the nature of the machine, and this has caused injury, not only to the reckless, speedy driver, but to others who are minding their own business when these cars jump the medians and cause tremendous problems for people on the road.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. DR. MAHABIR]

Wednesday, July 16, 2014

One recalled a former judge of the High Court in that particular situation, minding his own business, car just flipped in front of him and that judge is no longer with us. So, it is a serious problem and we do need to deal with it in a very serious manner.

I would, therefore, recommend, finally, Mr. President, that the Ministry of Transport engages in an advertising campaign to indicate that this particular technology is now in use. The knowledge that this particular technology is now in existence, widespread knowledge will, in my opinion, send a signal to others that the old ways of driving are past. With social media now, it should be a case where people on the roads, driving, minding their business, seeing someone who is really breaking the rule, breaking the red lights and breaking all the rules, that individual, in my mind, should have his number plates on every social media site so he should be identified as someone who is causing potential risk, posing risk, to the drive population.

That individual could be named and shamed, and I think with a number of these interventions it would be possible to have much more responsible driving on the road. I commend the Government for this piece of legislation and I support it in its entirety.

Thank you very much. [*Desk thumping*]

5.45 p.m.

Mr. President: Sen. Lalla. [*Desk thumping*]

Sen. Larry Lalla: Thank you, Mr. President, for allowing me the opportunity to make a small contribution on this Bill that is before the floor of the Senate, an Act to amend the Motor Vehicles and Road Traffic Act, Chap. 48:50. I think I am the luckiest Senator in this House at present because for the short time that I have been here, I have had the great fortune to see three—at least three—incredibly amazing pieces of legislation pass through the House, legislation that promises to change the landscape of this country and the way we do things in this country for many, many years to come, and for that I am grateful—the first being the procurement legislation, the next being the Planning and Facilitation of Development Bill, and now this piece of legislation.

Chills went up my spine when the hon. Minister, in piloting the Bill, spoke about that phone call that so many of our parents—our mothers and fathers—have received from the police time and time again, when they would be told that their child, or somebody in the family, died in a road traffic accident. I believe that

Motor Vehicles (Amdt.) Bill, 2014

Wednesday, July 16, 2014

with this piece of legislation, as the Minister said, we are going to have a change in that, and a very, very dramatic change, even more so, when the Motor Vehicle Authority comes into effect.

I want to touch a bit on the Motor Vehicle Authority because it was Sen. Al-Rawi who raised this issue about the Motor Vehicle Authority, and he raised the issue of procurement, and I remember seeing him on the television on Monday morning, as he tends to be every Monday morning now, speaking about the Motor Vehicle Authority, and he made—to me, respectfully—a very unfortunate comment, that the Motor Vehicle Authority was put “in the back of Caroni”, in Frederick Settlement, Caroni. And the thing about it, I thought that very unfortunate—[*Interruption*]

Sen. G. Singh: It is the front of Caroni, really. [*Laughter*]

Sen. L. Lalla:—because to begin with, as the Leader of Government Business has stated, it is really the front of Caroni. Where the Motor Vehicle Authority is going, is really only five minutes from the highway—that bridge over the Caroni River. Five minutes and you will get there. So it is misleading to tell the public that this Government is taking taxpayers’ money to put something behind anywhere, because it is not.

The point is that this Government, as I stated before in a previous contribution, is transforming the road network in this country [*Desk thumping*] to ensure development is able to take place all over this country, and to ensure that our citizens could no longer be referred to by other people as being behind God’s back. We “doh” want any citizen in this country to be behind God’s back, we want them in front God’s face and in front of the development that this Government [*Desk thumping*] is putting in place in this country.

But, you know, I have been going for many years to a straightener and painter in Caroni which I do not consider behind anywhere. It is simply in Caroni. I was there last weekend when I took one of my vehicles to him to be repaired, and in passing to go to him at Harris Street in Caroni, I was impressed at the work I saw being undertaken on the Motor Vehicle Authority. The roads are being transformed, and that is going to benefit the citizens who live in that area, but more importantly, the thousands of citizens who have to pass there from places like La Paille, Carapo, Piarco, St. Helena, Las Lomas, Enterprise—every morning, who have to pass there on their way to get to Port of Spain. Because the roads there, once in place, will relieve the traffic that they have to face every morning, and the Government ought to be commended for that, Mr. President. [*Desk thumping*]

Motor Vehicles (Amdt.) Bill, 2014
[SEN. LALLA]

Wednesday, July 16, 2014

But, you know, when I was driving to go to my straightener and painter, and passing by the Motor Vehicle Authority, I looked on the opposite side of the road and my mind went back to the late 1970s, early 80s, when I would sit as a young boy, blue shirt and khaki pants—short pants—in my classroom at Tunapuna Hindu School, and the teachers who I would have there—great men they were; best teachers I have ever had—would shake their heads and bawl at what the then PNM Government was doing right there in Caroni—the Caroni Racing Complex and the Sam P. Wallace Company and hundreds of millions of dollars of taxpayers' money, wasted right there in Caroni. So when it is time to put mega projects and waste money, it is not in the back of anywhere, it is a fit and proper place, but when this Government tries to bring improvement to the lives of the people, it is in the back of somewhere.

The point is, Mr. President, for many, many years, when you would hear about Caroni, right away in the minds of the citizens would pop up, Caroni Racing Complex.

Hon. Senator: Oh Lord.

Sen. L. Lalla: They blighted the name of Caroni. What they have blighted, we are now blessing, Mr. President. [*Desk thumping*] So when Sen. Al-Rawi goes on the television and tries to mislead the public about where the Motor Vehicle Authority is being placed, I would like him to know that there are many citizens in this country who know better and who would disagree with him. So having dealt with that, let me get back to the Bill.

The Minister went through the statistics, and it is a fact that road traffic accidents, and the statistics in relation to that are one of the successes, if one could call it that, because every unfortunate soul whose life is lost, is something that ought to be regretted, and must be regretted tremendously. It is a fact that the breathalyser legislation, which was passed by the previous administration in 2007, is working. We who are before the courts every day see how the legislation is working.

Now people have gotten accustomed to the legislation, and when persons are out at night relaxing, as they should, and sometimes taking one or two more beverages than they should, persons are now starting to get designated drivers, leave their cars, get a lift home and go back for their cars. So the PNM administration ought to be commended for having passed that legislation. [*Desk thumping*] And what we are seeking to do now is to take that one step further because speeding is a serious problem. It was only when the Minister spoke that I understood something, which I did not understand for quite a while.

It is well known that in various parts of the country, our young people, teenagers and persons in their early 20s, even some older ones who like to behave like children, would meet at various places on certain appointed nights to drag race. When I was growing up, it would be by Valpark on the highway there in Valsayn. About three weeks ago I was driving at night and I saw them congregating in Cocorite on the foreshore by the lay-by, and I never understood why the police would not do something about that because it poses a very real and potentially tragic danger to unfortunate citizens who would happen to veer on the road when one of those drag races are proceeding.

We have to understand, Mr. President, as Dr. Mahabir pointed out—Sen. Mahabir—the cars that are being used now are not the cars of long ago. We are talking about cars that have been souped-up to cross 400 horsepower, some as much as 650 horsepower, very expensive, fast cars, cars which, while they have been souped-up to go fast, have not necessarily had their suspensions altered or their braking systems. So it is a very real problem, and it was only when the hon. Minister spoke that I understood that one of the problems was perhaps having a way to issue speeding tickets at night. But this legislation that is being proposed, and the device which will be used as part of that legislation, would deal with that.

I have, as provided by the Minister, a printout from one of the devices, and this addresses, apart from the night issue—because it is taken at night. So someone was checked at night and we see that the measured speed that that person was travelling at the time was 106 kilometres, when the speed limit on that part of the Solomon Hochoy Highway, where the check was made, was much lower. So it enables the police at any time, day or night now, to deal with this issue of speeding on our nation's roads.

And while I am on that, I will deal with another issue that Sen. Al-Rawi raised. In speaking, he touched on this issue of—or he inferred that we are not moving beyond the officer with the piece of gazette paper and “he pardner up the road” with the stopwatch; we are not moving beyond that. We are moving seriously beyond that, Mr. President.

As a young lawyer, I would always wonder when someone is stopped in a speed trap, how the officers would be able to convince the citizen that he or she was really going over the speed limit, and how unfair it would be for the citizen to have to only rely upon the word of this officer who, many times no doubt, would approach the citizens in not as polite a manner as they should. And that is something I would come to deal with shortly.

Motor Vehicles (Amdt.) Bill, 2014
[SEN. LALLA]

Wednesday, July 16, 2014

But what is being provided now by this legislation, and the device which is being proposed, is provision being made for the driver of the vehicle to be provided with a printout from an instrument which gives the driver a picture of his motor vehicle with his licence plate number. It would provide the driver with the serial number of the instrument which is doing the measuring of the speed, the name of the police officer. You know, quite often—I do not want to “pong” the police officers because there are thousands of very, very good police officers out there doing very, very hard work for our country, but there are some who, when they would stop the citizen, for whatever reason—right, wrong or neutral—and you would ask them for their name, they would find difficulty in giving you their name or their regimental number.

6.00 p.m.

So, this is giving the citizen a measure of comfort, in that, as required by the legislation—one of the sections raised by Sen. Al-Rawi. It will be the proposed (6B)—the legislation requires the officer who is using the equipment, before he takes up the equipment to go out, morning or night, whenever, to enter in the device, his name, his regimental number and the speed limit of the area where the speed check is being taken.

So when you are stopped, you are provided with a printout which gives you the serial number of the equipment, the name of the officer, his regimental number, the speed that you were measured at, the distance over which you were measured, the speed limit of the area where you were measured, as well as the name of the road. This, Mr. President, provides the best evidence that any citizen could require to satisfy his or her mind as to the speed that he or she was travelling at on the roadway. The good thing about that is—being someone concerned with the present clog in the Magistrates’ Court system—it would lead to less persons being inclined to challenge the officer, which is a good thing because here you are provided with almost indisputable evidence as to how you infringed the relevant law, and that is a good thing.

Mr. President, we have to admit, when we as citizens drive on the road we know when we are going too fast, nine times out of 10. Sometimes you might not be paying attention to what you are doing and you go over the speed limit without realizing it. But most of the time we know when we are going too fast, and if that is the case and you are provided with this, the good and reasonable citizen, as most of us are, the vast majority of us are, would go and pay the fine and not have, first of all, any doubt in your mind as to whether or not you committed an offence, and not be inclined to go to the court and further clog up the system by seeking to challenge the finding of the officer and his instrument when there is no proper reason to.

So I dealt with the issue of drag racing. One of the very pressing issues which I think that this legislation would deal with, Mr. President—the hon. Minister spoke of vehicles being almost like weapons. One of the problems we have on the nation's roads deals with these large trucks which are driven at ridiculous speeds, and which when they are involved in a crash, it results in very, very tragic circumstances.

Hon. Senator: Remember the one by Kay Donna.

Sen. L. Lalla: That is the point. I was coming to that. I remember some years ago, Mr. President, there was a crash at the Kay Donna Drive-in intersection, where a taxi driver driving a Datsun 280C, filled with passengers going home to their families from work, was coming down the highway travelling from east to west—and I believe that the lights were not working—and that truck was so heavy and going so fast that it literally drove over the car, crushing all five souls inside. I think we really have to find a way to deal with truck drivers on our roads who fail to understand the significance of what they are doing; who fail to understand the potential consequences for citizens when they drive—some of them—in the way they do, the equipment that they do. Very, very heavy equipment going at a very, very high rate of speed, almost like a nuclear bomb, driving into any vehicle that it makes contact with. So this legislation is very good. It would help with that problem.

One of the points raised by Sen. Al-Rawi related to his mother—a lady that I know very well, who I have a great deal of regard for as he well knows. But the point—he knows that. The point he raised is something that we have to deal with, and I am hoping that the Ministers with the relevant responsibility would communicate it to their officers because a large part of the problem that we have with crime, and with the availability of information for the police service, has to do with the way police officers treat with our citizens for these simple things like traffic offences. And the point being made by Sen. Al-Rawi, partially, was the manner in which the officer dealt with his mother.

You know, I have had the experience, and I will say it openly at the risk of chastisement, that in the United States I have had to be on the receiving end of a speeding ticket, and when the officer gave that ticket to me, Mr. President, he was so polite and professional that, having received the ticket—a very, very expensive ticket—I felt sorry for him and I thanked him. I thanked him for the way in which he dealt with me.

Sen. Lambert: “He shoulda leh yuh take two.” You should have taken two.
[*Laughter*]

Sen. L. Lalla: The point is, many of our citizens, their only contact with the police service—the good and decent citizens, their only point of contact with the police service is their contact with officers on the roads, and our officers need to understand—some of them. Many of them have this down already, but they have to understand that when they treat with our citizens for road traffic offences, they must be civil, polite and professional, because once you do that the citizen goes away feeling that he was dealt with in a fair manner. But more importantly, being left with a good impression of the police service and having some comfort in the thought of knowing that should there be a serious problem, should that person come across something which is wrong, he will feel comfortable in going to the same police with that information. So the manner in which the officers treat with citizens for traffic matters goes a very, very long way when we are dealing with the whole broader issue of crime-fighting.

At section 62A, and this is the section dealing with creating a penalty for persons who purchase equipment to detect lasers and radars, et cetera. The section says that:

“(1) A person shall not—

(a) equip a motor vehicle with; or

(b) use, buy, possess, manufacture, sell, or otherwise distribute,

any device that is designed for jamming, scrambling, neutralizing, disabling, or otherwise interfering with a speed measuring device...”

Sen. Al-Rawi raised an issue as to whether the wording “otherwise interfering” is appropriate there. I think it is and I would ask him to accept that, because if you have equipment that interferes in any way whatsoever with this very sensitive equipment that is carrying out this very important function on our nation’s roads, you should fall into the category of having to pay, or having to deal with criminal consequences.

So I think that wording “otherwise interfering” is appropriate. It is okay, as far as I see in this legislation, if you purchase equipment that allows you to detect whether there is a radar or a piece of laser equipment on the roadway where you are traversing, that is okay. But it could no way be right for you to have equipment which interferes in any way with the equipment that the police is using. So I would suggest to him that that wording should stay as it is.

Sen. Roach raised the issue of section (6I), and the evidential burden which is contained in that clause of the Bill, and section (6I) reads:

“In proceedings for an offence under subsection (5), evidence of the condition of a speed measuring device shall not be required unless evidence that the instrument was not in a satisfactory condition has been adduced.”

The thing about it, Mr. President, that provision comes directly from the breathalyser legislation which was enacted by the previous administration, and it is found at section 70C(12) of the Motor Vehicles and Road Traffic Act.

So I would suggest that we ought not to touch that provision. I think it is sound in law. It does not put an onus on the citizen to prove that the device was not working correctly, but simply places on him an evidential burden to adduce some evidence that the device was probably not working correctly, following which the onus will be placed on the State to prove that the equipment was working correctly. So it is what we call in law, a simple evidential burden, which provides a first hurdle for him to cross, following which the onus of proof beyond a reasonable doubt, the criminal standard, will be placed on the State to prove that the device was working correctly.

Sen. Al-Rawi mentioned the point system and I think that is a very good suggestion that he has made. I understand, from the Minister, that the point system is something which will come as part of the all-encompassing legislation that will be brought shortly in the next Parliament to deal with the Motor Vehicle Authority.

We always talk about Singapore. Quite rightly, we try to model ourselves after Singapore for obvious reasons. It is a country that is quite similar in many ways to Trinidad. The level of development, the success that Singapore has been able to achieve is something that we should admire and try to pattern ourselves after, and Singapore, one, uses the laser system and, two, they have a point system.

6.15 p.m.

And just to give an idea for members of the public who might be listening, the point system in Singapore covers 52 different offences, and if one commits any of those offences, one would accumulate points which could result in a number of things, including suspension of your driver's permit or you losing your driver's permit permanently.

Some of the offences for which points are awarded and the points which are awarded are: disobeying the traffic direction of a police officer or, employee of a security authority engaged in the regulation of traffic, three points; conveying a load not properly secured, three points; using tyres with ply or cord carcass exposed, three points; driver failing to wear seat belt, three points; parking within

Motor Vehicles (Amdt.) Bill, 2014
[SEN. LALLA]

Wednesday, July 16, 2014

a pedestrian crossing, three points; driver failing to ensure that every passenger wears a seat belt, three points; using a motor vehicle where a person below 1.35 metres in height is a passenger not properly secured by an approved child restraint, three points; stopping with demerit points, no stopping zone, three points; exceeding the speed limit for a vehicle by one to 20 kilometres, four points; exceeding the speed limit on the road by one to 20 kilometres, four points; careless driving, six points; reversing unnecessarily along an expressway, six points; carrying passengers when clear floor space of an open deck of goods vehicle available for each passenger is insufficient, six points. The point—
[*Interruption*]

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): I hate to cut you in midstream but I need to move a procedural motion. Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC (AMDT.) BILL, 2014

Sen. L. Lalla: Thank you. The point is, Mr. President—I hate to say “point” again, but the point is, in dealing with the point system as we can see, it is very comprehensive. It places a heavy and justifiable burden on users of our nation’s roads. But, we have to understand that a country like Singapore did not get to where it is without calling upon its citizens to make sacrifices. Sacrifices which change, which reorder, which transform the way in which we do things, and we are getting there.

This Government is committed to ensuring that this little island—twin-island Republic that we have in this part of the world, Trinidad and Tobago, which we all love, will be transformed in every possible way to achieve First World status, in the least possible time, using or making the most efficient use of our resources. And for that reason, I would invite all the Senators in this House to support this piece of legislation to ensure that it is properly able to achieve the very noble aims and aspirations, and the great benefit that it promises for road users and, most importantly, the families of our nation’s road users. Mr. President, I thank you. [*Desk thumping*]

Sen. Stuart Young: Thank you very much, Mr. President, Members of the honourable Senate, as I am provided with, yet again, an opportunity to make a contribution for which I am thankful. I will be very brief and be far from usage of my normal time.

I would like to start by speaking a little bit about the prevalence of lawlessness in our society at all levels and how much that bothers me as a citizen of our beloved Trinidad and Tobago. I think it is a good measurement and a good litmus test of a society by how the majority of its citizens follow and adhere to the small laws—the laws that affect us on our daily lives and as we go about our daily lives—and one of those important areas of law is the traffic offences. We see it on a day-to-day basis. I have sat here and we have all listened, and we are all aware because we all use the roads, of the increased level of lawlessness on our roads today. I am not going to belabour the point because significant references have been already made to this lawlessness.

We see it, unfortunately, from the highest levels in our society at the police service go down to—I am certain every Member of this House, members in the public gallery, members listening, would have experienced while sitting in traffic jams, you see people breaking the law by speeding along the shoulders. It is something that irks me tremendously, and it is that type of behaviour by the members of society that we need to reform, we need to reflect on, we need to change, Mr. President, and we need to stop embarking upon these simple, but critical, lawless acts of speeding on the shoulder, of stopping in front of a whole line of traffic to carry on a conversation with somebody coming in the opposite direction. And then if you make the mistake, and you are so boldfaced, as we say in Trinidad, to blow your horn and ask them to move on, you will hear all sorts of things about your heritage and unparliamentary language, and they are more upset than you.

We as a society to move forward to the First World status that we talk about and to become more like Singapore, I think it goes further than what Sen. Lalla was talking about. Reading the book by Lee Kuan Yew, it became very apparent to me from “early o’clock” in the chapters that one of the key differences with the Singaporean society is, as a society, they wanted to succeed, and that is what I call upon all of our citizens of Trinidad and Tobago once again. Let us change our mentality, let us move away from a selfish and a thoughtless mentality as individuals, and let us now dig deep within us and uphold the simplest elements of law, and let us start with the traffic laws.

I will say at this juncture that I support this move by the Government. It is a forward-thinking move, and as the hon. Minister said in his presentation, it is long overdue. I think he said 20 years ago he saw the usage in Guyana, our Caricom neighbour. I remember as a young boy, many years ago, probably more than 20 years ago, seeing the use of it on travels away, and it has taken too long for it to

Motor Vehicles (Amdt.) Bill, 2014
[SEN. YOUNG]

Wednesday, July 16, 2014

get here. It is here now and it is a good step and it is a right step in a forward direction. But, again, it is only a tool that can be used by those in authority and it still comes down to each individual citizen of our country to take up that mantle of responsibility, Mr. President, and to obey the traffic laws. If they obey the traffic laws, the use of the radar guns would be redundant. So, I look forward to the day when we, as individuals, will uphold the law without the police standing over our shoulders, and that this beloved nation of ours would move towards this concept of First World status, that it is within our reach, but we have a way to go still.

I was having a conversation earlier today with a member of the media and she was telling me about her love for the country, and I was telling her the important part, in my respectful opinion, the media has to play in guiding the country towards this First World status, in changing the mentality of our society and changing the way of thinking. And she was talking about something we have said repeatedly in this House, throughout the region, how lucky we are, and the type of resources we have and the lifestyles we can afford our citizenry because of the resources we have. That is not something that we should take for granted and that is not something our citizens should take for granted.

So, moving forward with this piece of legislation and having said this, there is just one area in the legislation that has concerned me that I would like the opportunity to address. I heard Sen. Lalla talk about, a short while ago, in his reference or his response to Sen. Al-Rawi's reference to section 62, and he said that if you have any piece of equipment that interferes with this very, very sensitive equipment, you should be subject to the criminal prosecution procedure we are setting out here.

I think we must be cautious to put it as broad as that because the truth is, in doing some research on this type of system, it comes up time and time again that with the radar gun system, it has been improved by the lidar system, the environment affects the usage of this equipment. The potential problems are as follows: the environment includes both electrical and mechanical sources of interference with the radar units' operations; electronic signals could affect this; it could be radios in a car, CB radios, cellular phones, intrusive alarms, amateur radio operators, air traffic radar, telephone, microwave links, traffic signal controllers, satellite communications, altimeters, and all of these things have the potential to cause ghost readings.

In a very useful and brief article that I think sums up two of the main areas to do with the lidar equipment—and I am just saying this, hon. Minister, when looking at the procurement of your equipment to just be aware of it. It should not stand in the way of us going forward with this legislation, but it is just to mark the point and for us to be aware and put on record that these are some of the things that we must look out for.

This is an article by Debbie Mcrill and it is “Problems With Police Laser Guns”, and she says some of the “Errors” with the lidar system is:

“...never accurate if the gun is in motion. This means that the law enforcement official must be stationary. Additionally, the gun must be held very steady or reflections off of different segments of the vehicle will create a significant error in range calculation, thus the speed figure will be inaccurate.

There have been known instances of mechanical interference with the LIDAR gun. One example is the case of Pennsylvania state troopers finding that their air-conditioner/heater fans were interfering with the guns, clocking a rock at 70 mph...”

Another issue that we need to be aware of is the “Weather”:

“Because of the refracting nature of water upon light, weather conditions such as rain, fog or mist can cause errors in readings as the laser light is scattered.”

So, Mr. President, I think these are things that we need to be cautious about. As I said, it should not stand in the way of us passing the legislation but certainly it must be borne in mind, because we talk about the calibration of the equipment here in the legislation—the necessity to calibrate it. But things like power lines, CB radios and lights have the potential to affect the effective usage of this important piece of equipment.

So I do not think, with the greatest of respect, this is easy as to say, well, anything that affects it via section 62A should be a criminal offence, and maybe we will tighten that up at committee stage, because if something as simple as your cellular phone and weather, et cetera, can affect it, we need to be cautious.

There is also, in an article written by a John Vann, “Problems With Radar Guns”. He talks about the “Shadowing Effect”. He says the:

“Shadowing”—effect—“is one of the main problems concerning radar guns in use today. This occurs when an officer’s radar gun picks up a large moving object instead of the passing terrain, which then causes it to add the difference in vehicle speeds to the actual speed the target is traveling at.”

He then, again, talks about the “Weather...Terrain...Microwave and Radio Signals.” So I have a concern about these articles. Of course, they are not insurmountable, and I am certain that we will—via regulations, or I hope that via regulations and via the approval process and the procurement process— bear these things in mind.

6.30 p.m.

Now I have heard reference throughout, and it was again referenced here today, that the use of static cameras as part of the arsenal and in assisting with traffic offences, and we have heard pointed out there is a test and a pilot one outside of the Parliament. I was hoping that when we looked at the legislation we would have found it here. I think this would have been an appropriate place to include, for this type of technology, but unfortunately it is not, unless the Minister points me to where I can find it. My reading of this proposed Bill is that we are just dealing with the use of the radar guns and the training of the constables to use it. I think we have missed an opportunity to pass legislation in one go and one blow that would have addressed and provided us with that extra arsenal in our technology.

The final point I have is what I call the reverse burden of proof point. Sen. Roach had referred us to it initially and Sen. Lalla referred to it, and I do not think—again, with the greatest of respect, he talked about it being a simple evidential burden. I would like to put forward a different view and I do not accept that it is a simple evidential burden, and we are talking about subsection (6I), which says:

“In proceedings for an offence under subsection (5), evidence of the condition of a speed measuring device shall not be required unless evidence that the instrument was not in a satisfactory condition has been adduced.”

Now, as a simple road user who has been stopped by two police constables and told that you are in breach and they produce a photograph and I accept that that technology exists and a photograph showing your licence plate, showing where you were, showing the speed that they clocked you at, realistically, logically speaking, as a person who has just been stopped, you are not going to be in a position to put forward evidence that the instrument was not in a satisfactory condition. Where are you going to get that evidence from? Then, what we must do is we must be very cautious because what we are doing is reversing in a criminal proceeding the burden of proof, and we are now putting it on the accused that you must now come forward to produce evidence. It is not saying you make an assertion. It is as a higher burden as that of being evidence in a criminal matter that the instrument was not in a satisfactory condition.

I respectfully suggest that that is implausible. There is no way—unless there are wires hanging out or some sort of visual matter that you are seeing with the radar gun and the equipment—that an accused person who has been stopped will

be able to fulfil this evidential burden. I think it is a serious mistake and it is very simple for us to keep the normal burden, which is the burden of you are coming to say that a person—you are accusing a person of breaching the law. You have calibrated your machine that morning, you have logged it in, et cetera, produce that evidence for the court, if it is challenged, meaning that the ticket is being challenged.

I assume those are the proceedings for an offence under subsection (5) we are referring to and put the burden upon the officer charging to just put forward that evidence and leave it there. He has now adduced the evidence and if you can now, as the accused, produce alternative evidence to show it is not working, fine. But to say that it is up to us to produce the evidence, the accused, to produce the evidence it is not in a satisfactory condition is a fallacy. I mean, it is implausible. I do not see it happening and I think that would be a mistake in the legislation.

And with those few words, Mr. President, I would like to thank you again for the opportunity and the Members of the Senate for the opportunity and say that we support the passage of this legislation on this side and it is an important continuing addition to what we need to do as the legislators, to try and bring to a nil effect, hopefully, one day in the future, the amount of tragic road accidents that are taking place on our nation's doorsteps, on a daily basis, and especially as the hon. Minister pointed out in his use of statistics; we see it on a weekend. You open the newspaper on a Saturday morning, on a Sunday morning, on a Monday morning and you are always seeing that over the weekend there has been carnage on our nation's roads.

I make a plea to the people, the citizens of Trinidad and Tobago, let us put a stop to that by, first of all, abiding by the traffic laws and not exceeding the speed limits. Do not drink and drive. Do not abuse other substances and drive. Do not do what Sen. Lalla referred to and engage in illegal car racing activities on the road, because it is not you at the time necessarily putting yourself at risk but it is the innocent people and the innocent bystanders and those who are affected on the other side of the road and those minding their business.

We had a very tragic accident a few months ago. Sen. Hadeed who, like myself, was an avid cyclist, we had the “bouncing down” of Clinton Grant on the foreshore, of someone using a cell phone and taking a life as simply as that and as quickly as that. There are other examples that are very close to home for me. Let us stop the carnage on the roads. Let us abide by the traffic laws, and let us hope that the addition of these laser guns reduces the carnage on the road.

Thank you very much, Mr. President. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Mr. President, I thought this debate was over a long time ago and, I am, therefore, curious to know when we might actually vote on it and carry on with our business. Thank you, Mr. President.

The Minister of Transport (Hon. Stephen Cadiz): Mr. President, I must say, being in this House is a lot different than being in the other place, and I really do appreciate all the comments that have been made on this Bill, very interesting and I am very glad to hear that it seems that we would have support from the Members of this Senate.

However, there are just a couple things and, of course, we cannot leave some of these things just to ride like that because statements are made and really and truly—

[MR. VICE-PRESIDENT *in the Chair*]

—when loose statements, in some cases are made, where they infer all kinds of things, especially on people who are not in this House and are not Members of this House and really and truly do not have the protection of the House, I think we have to clear the air on that.

The good Sen. Faris Al-Rawi, in his statement—[*Interruption*] the good Senator, because I think all Senators here are good Senators, but then some of the good Senators might not be as informed as they should in fact be, before they make a statement.

As Minister of Transport, I have a project under my responsibility, which is the MVA and a lot has been said about the MVA and I must say that when the MVA legislation comes in September, and Trinidad and Tobago will wake up one morning soon to a motor vehicle authority that they would be very, very proud of, I do feel that we have to be a little careful.

Here it is we have an MVA that is being constructed in Frederick Settlement. A lot has been said. “Yuh hear de talk, everything going south of the Caroni and what have you.” But really and truly, when you look—and the other good Sen. Avinash Singh, who, I believe, lives in central, in the Chaguanas Borough, Sen. Singh will tell you that Chaguanas is the largest borough and the largest settlement in Trinidad and Tobago with over 110,000 people living, which is larger than Port of Spain, larger than San Fernando, larger than Point Fortin, larger than Arima and, therefore, when we look at development, so-called south of the Caroni, there is a reason for that. It is not that there is nobody living down here. It is not that we are putting things “in de bush fuh lagahoo and douen to go and visit”. That is not the purpose of doing that.

So when the MVA was moved from Mount Hope, as the good Sen. Al-Rawi said, there was a reason for that. The old Works building and property in Mount Hope, look at where it is. Not that it is north of the Caroni, but it is already placed in a hugely congested area, in that Champs Fleurs/Mount Hope area where all of us, anybody who traverses that area, will know the kind of traffic and issues that we have.

And here it is, 10 minutes, 15 minutes south of Mount Hope, which is Chaguanas, because I tell you, with the new highway system now, you could leave the Central Market and arrive in Chaguanas, and I do it all the time, in 20 minutes, with absolutely no problem. So here it is we moved the main headquarters of the MVA from a very congested area into an area that will be much easier accessible for 110,000 people who are living in Chaguanas, for all the people who live in the Couva area, all the people who live in the eastern area. So there is a reason for that. So when the good Sen. Al-Rawi makes these statements, he really and truly should not make it in the context that “it gone south” of the Caroni and that is all we are interested in. That is not the reason.

The other thing I have a problem with—well, first to begin with, the budgets that were established in 2007 for this Motor Vehicle Authority were totally out of whack. There is no way any administration could have changed something like what is known as licensing office into a Motor Vehicle Authority with the budget that was produced in 2007. [*Desk thumping*] So, doing your simple homework, simple math, and I am not a mathematician, that is for sure, but if you know how to work a calculator you will see that the budgets that were established in 2007 could never ever build a Motor Vehicle Authority.

The other thing is SIS and, of course we hear that name bandied all over the place SIS, SIS. SIS is a company established in 1979. SIS is a company that employs over 1,600 nationals of this country. Okay? Nationals of this country. SIS, from what I know, because my business was concentrated in Chaguanas and working in the Point Lisas area and I know the history of SIS as being a company extremely capable in doing contracts. So much so that one of the most recent contracts that was awarded to SIS, they—SIS, a local company, owned locally, staffed locally, was the main contractor and, they were now subbing, I think, Foster Wheeler, which is an American company. So here it is, Foster Wheeler is coming in as a subcontractor to a large local contractor. But they have a problem with that. They do not like to see anybody locally in progress. They have this affinity with foreign contractors. Only foreign contractors could do certain works.

But I want to tell the good Sen. Al-Rawi that the project in Frederick Settlement is coming in on time. There was one delay which was because of a piling issue that was discovered early in the game and the actual main building had to be stopped, but was

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

not started until we got the topographic surveys, and what have you, done properly. That was one issue. Besides that, besides having a three-month delay in what the original delivery time was, the project is actually coming in within budget and, therefore, that is not something that the balisier side, not the Independent Senators, but the “balisier Brigade” that is not something that they are accustomed with, projects coming in on time and within budget. And here it is, a major project like the MVA, that is what is going on.

So, I would ask that the goodly Senator—oh, one last thing. I would like the goodly Senator, Mr. Vice-President, I would ask that Sen. Al-Rawi produce the evidence that says that SIS was practically bankrupt—*[Interruption]*

Sen. Al-Rawi: Sure.

Hon. S. Cadiz:—in 2010; that they were bankrupt in 2010.

Sen. Al-Rawi: We would bring the documents for you.

Hon. S. Cadiz: Mr. Vice-President, to come into this House and sully the name of this House by making statements, irresponsible statements like that, he cannot be allowed to do that and he has to correct that and he has to go public with it. He has to say it outside—*[Interruption]*

Sen. Al-Rawi: Why?

Hon. S. Cadiz:—and show proof of that, because you cannot hide behind the cloak of this Senate and just drag people’s names in the mud like that. I am very sorry.

Sen. Ramnarine: Abuse of privilege.

Hon. S. Cadiz: It is an abuse of privilege.

A lot has been said, Mr. Vice-President, about the legal issues. Again, I do not profess to be a learned counsel by any means. I am not even a bush lawyer, so I am not going to go and deal with the issues that Sen. Larry Lalla dealt with. Okay?

Sen. George: And dealt with so very well.

Hon. S. Cadiz: And so very well.

6.45 p.m.

This is a man who knows what he is talking about, and one of the good things about Sen. Larry Lalla—he asks. He asks questions. How do I deal with this? What is this? How is this going down there? *[Interruption and laughter]* But I am not going to deal with those things, except to say that, a lot of the contributions from Sen. Roach,

contributions from Sen. Young also, that were made when they were talking about the MVA. The MVA will be coming to the Parliament, and the MVA, again, is going to change the way in which we do business in Trinidad.

What we wanted to do here was because of the road carnage, we had to do something about the speed. Again, as I said in my opening statements, we dealt with the drunk driving, we dealt with safety belts. We dealt with cell phone use. What is the other one? I think those were the three.

Now, the last of the Mohicans really and truly would have been with the speeding. The issues of graduated licences for juvenile drivers, all of that is going to come with the MVA. Just to give a hint, do we put into the new laws where juvenile drivers cannot drive between midnight and five o'clock in the morning? Okay? Other jurisdictions have that. Okay? A juvenile driver is a driver who has just gotten his licence. He could be 80 years or he could be 18 years old or 17 years old, okay?—your first year of driving.

Do we put in the new legislation, for instance, zero tolerance for a juvenile driver when it comes to alcohol? Not a single measurement of alcohol in your system. Do we have juvenile drivers where they are allowed to drive anywhere in Trinidad on the highways alone? Or with a pack of people, maybe of their same age? Or do we insist on having an adult driver who is not under the influence, okay?—riding shotgun with them.

Sen. Prescott SC: Minister.

Hon. S. Cadiz: Yes, Senator.

Sen. Prescott SC: Minister, would you care to find another word instead of “juvenile” and “adult” to make the distinction? Perhaps, “recently authorized/recently licensed”. [*Crosstalk*] It might impact on some other people that you are saying young people should not be on the road.

Hon. S. Cadiz: Well, my friend said maybe “recently certified”, okay? I will find another term, when we bring the MVA. But the fact is that the MVA will make sweeping changes to the way in which we do business. And, therefore, we ask that this honourable House have some patience whilst we—we have just about finished with the new MVA legislation, which will be coming to the Parliament, we hope in September. Therefore, a lot of the other comments that were made, we will deal with that, with the MVA.

When it comes to the jamming devices, all right, it is very, very important that we find ways and means of preventing people from installing devices that will jam the signal of the laser. I want to use the word “laser” and not “radar”, they are two distinctive types of detection. Radar is not what we are going to be using. Radar is old

Motor Vehicles (Amdt.) Bill, 2014
[HON. S. CADIZ]

Wednesday, July 16, 2014

technology. The laser technology is the technology that is being used and, therefore, that is what we are proposing today. For instance, in the State of Virginia in the United States, as one of the—in their Motor Vehicles Act it says:

“Any attempt to thwart or negate police attempts to measure traffic speed is illegal.”

And that is a very wide-ranging statement, it is not only for the laser or not only for radar. It speaks that any attempt to measure—to “negate police attempts to measure traffic speed is illegal”. Therefore, there are laws in other jurisdictions that speak to that, because people are very creative in how they do things and, therefore, we cannot allow that.

The issue of the corroborative evidence, I think Sen. Lalla had dealt with that. Again, we have looked at the breathalyser legislation, and we do not see that we should have any real issue with that.

The issues of the certification for the test of the instruments, again, we have gone into that. I want us to understand this is technology that we are dealing with. We use that technology in a microwave at home, okay?

Sen. George: In the gas station.

Hon. S. Cadiz: We use the technology when we go to the gas station, and we put in our credit card or our debit card into the pump, we assume and we trust that the calibration on the pump is correct. So when we say pay \$50 for fuel received, we get a receipt, we take it. Nobody goes to the—unless, of course, it reads \$5,000 that they have taken, or you have put 1,000 litres of fuel into a tank that can only take 100 litres, okay? So if there is an issue, you then go and deal with it, but you automatically just remove the receipt from the machine, you jump in your car and off you go. We do it with every single other piece of technology, whether it is our computers. Again, a simple thing like your microwave at home, your automatic gate, all of these are things that technology, every single day that we use.

So when we are looking at the laser instrumentation, and again, this laser instrumentation is supported by the International Association of Chiefs of Police—okay?—that has membership throughout the world. All jurisdictions are using electronic speed detection devices, and Trinidad and Tobago cannot say that we are the only country in the world that we do not understand it, and we are not going to be using it, or there is fault in the system; that cannot be.

Motor Vehicles (Amdt.) Bill, 2014

Wednesday, July 16, 2014

Well, as I said in opening my closing remarks, that the contributions from all the Senators were very, very supportive and enlightening, and again, I would ask that we have a little patience with the MVA. It will be coming and it is a very thorough piece of legislation. [*Desk thumping*] It is a new Bill. We are not amending the existing Motor Vehicles and Road Traffic Act. This is a brand new Bill that will be coming to the Parliament. I guess that is about all I would have to say now.

I just want to thank you again, for the support. Mr. Vice-President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Sen. Al-Rawi: Just a question through you, to the hon. Minister, Mr. Chairman. Hon. Minister, are you in a state of ability to proclaim, or do you want to put a proclamation clause in there? I am concerned about the lag time between proclaiming and having the devices. Just a question.

Mr. Cadiz: No.

Sen. Al-Rawi: No? Okay, thank you.

Question put and agreed to.

Clause 3, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Sen. Prescott SC: Mr. Chairman, may I, through you, address this to the Minister? Could the Minister please indicate in relation to section (6E), when does the constable who is using the speed device come into contact with the driver of the vehicle? This is (6E), forgive me, (6E).

Sen. George: (6D)?

Sen. Al-Rawi: (6D) says that he must cause it to come to a stop.

Sen. George: Yes, that is what I mean.

Hon. Senator: No, after that.

Sen. Young: It was after that.

Mr. Cadiz: The technology that is being used is—the way the system would work is that, there will be one operation with a police officer using the device, that device will be the detecting device, that is the actual laser device. There will be a wireless connection to another police vehicle that will have an on-board computer, where the results of the speed check from the first device that I spoke about will be transmitted to the on-board computer, which will also have a printer there, where the printout will be given to the driver. That shows all the information that we spoke about, with the number plate and the regimental number, the time, the excess speed, the distance, et cetera, et cetera.

Sen. Prescott SC: So the driver walks away with, well, not walks, but drives away with something?

Mr. Cadiz: The driver will drive away with a ticket and a printout and a copy of the result of speed check.

Sen. Prescott SC: Together with a photograph of his vehicle?

Mr. Cadiz: Yes.

Sen. Dr. Balgobin: Minister, may I just ask a quick question, because I understand the driver walks away with that, because it says that in (6E).

Mr. Cadiz: Well, he drives away, yes.

Sen. Dr. Balgobin: Well, he may walk, he may drive, you do not know—

Hon. Senator: He leaves the scene.

Sen. Dr. Balgobin:—but yes—

Mr. Cadiz: We are still dealing with 4, right?

Sen. Dr. Balgobin:—he exits the stage, but I have question for you. Why are we so specific on this particular technology? I mean, in other jurisdictions it does not have to have a police officer attached to the laser, there are other things. You can have a stationary device and they actually send the photograph to you in the mail. Is that not contemplated here?

Mr. Cadiz: With the MVA, it is contemplated that the speed detection devices will be mounted on gantries. So on your main highways, you will have gantry-mounted speed detection devices that will—your ticket will arrive in the mail. The reason we cannot do that right now is that the records at the licensing office are not 100 per cent accurate. So if it is that we picked up your registration number, with a 100 per cent accurate system, that registration number will have the correct owner, with the correct address and what have you. We cannot vouch for that right now. So hence the reason that we would actually have to give you in person, give you the ticket with the evidence that we speak of.

7.00 p.m.

Sen. Al-Rawi: So, you will amend the law later to deal with that evolution as it comes?

Mr. Cadiz: For instance, RFID number plates will be coming with the new MVA, and that is how the gantry cameras would pick you up.

Sen. Dr. Balgobin: So, if you have thought this through—I am just curious to understand—why did the legislation not include those provisions now rather than you have to come and fix it later?

Mr. Cadiz: It was felt that what we wanted to do was to have an immediate effect on speed, speed detection and, therefore, to go through with anything further than this would have been a much wider Bill, and just a little more complicated. But the main thing is the records at the licensing office.

Sen. Prescott SC: Before we commit to any language at all, this (6E) contemplates at least two police officers: one who operates the device and another who informs the driver of the motor vehicle—(6E)(a)—and maybe that one or another who delivers to the driver a printout.

Mr. Cadiz: Well, as I said, it would be transmitted from the detection device to an on-board computer. The on-board computer will have a printer attached to it. The police officer that is there—*[Interruption]*

Sen. Prescott SC: The one who interacts with the driver.

Mr. Cadiz: With the driver—he would have that printout from the on-board computer.

Sen. Prescott SC: He provides him with a printout.

Mr. Cadiz: Yes, and will write the ticket for him.

Sen. Prescott SC: If we go down to (b)(iii), it appears that somebody would have pre-signed the thing that is going to be given to the driver, because it says:

“...is signed by the constable who operated the device”

Mr. Cadiz: That would have the electronic signature of the officer.

Sen. Prescott SC: This is what “signed” means in Trinidad now? It would have been pre-signed.

Mr. Cadiz: No, it could be signed on the instrument itself.

Sen. Prescott SC: The operator actually does this before the thing gets to the man?

Mr. Cadiz: No, he can use an electronic signature on that. So the printout that you are going to be getting, the printout will have all the information that we spoke about.

Sen. Prescott SC: It carries the signature of.

Mr. Cadiz: Or it could carry the signature of the officer.

Sen. Prescott SC: Should that be the language we should use?

Sen. Lalla: No, I mean, that covers it.

Sen. Prescott SC: I beg your pardon?

Sen. Lalla: That covers what is contemplated by the operation of the device. I do not think we need to say “an electronic signature”.

Sen. Prescott SC: I would like to recommend that it should say: “it bears the signature of the constable who operated the device”, because we know that he is not about to sign the thing that the man receives. Sen. Lalla, while you consider that, may I invite you to look at another thing?

Sen. Lalla: Yes.

Sen. Prescott SC: If you go back up to the bold print in (b) it reads oddly. It says:

“...deliver to the driver of the motor vehicle a printout with a photograph of the vehicle identifying the registration plate from the speed measuring device...”

Sen. Lalla: Yes.

Sen. Prescott SC: What is meant by that?

Sen. Lalla: I agree, that sounds as though something is—we will go there shortly.

Sen. Prescott SC: So, somebody introduced this without thinking about it. What it perhaps meant to say is:

To deliver to the driver of the motor vehicle a printout from the speed measuring device together with a photograph.

Sen. G. Singh: Before we go there, let us clarify on this issue. [*Pause*]

Sen. Lalla: So, Sen. Prescott, in relation to your original question.

Sen. Prescott SC: With reference to (iii)?

Sen. Lalla: In relation to the signature, what we are being told by the technical people in the Ministry is that in practice the officer could actually sign what is being handed to the person, as well as the machine would allow his electronic signature to be imprinted on the handout as well. So, we prefer to leave it as it is.

Sen. Prescott SC: Let me just—forgive me for not being as quick as that. What if the defendant were to say it was not signed by the constable who delivered it to me or who operated the device? How does one convince the magistrate that this thing, the printed thing, was signed by this person? And remember, he may not turn up in court eh, he might be on the road. I would recommend there is a signature.

Sen. Lalla: I think your point is taken, Sen. Prescott.

Sen. Prescott SC: I am grateful to you.

Sen. Lalla: It should say, which is in (iii): “bears the signature of the constable who operated the device.”

Sen. Prescott SC: I am grateful, but we are not quite done, so if you could now go up to the introductory words in (b). Now that I have pointed out the clumsiness of it, it might be possible to come up with different language. I was thinking that we could say:

...deliver to the driver of the motor vehicle a printout from the speed measuring device together with...”

Sen. Al-Rawi: Correct.

Sen. Lalla: Yes, I think that is what would have been intended. It is an insertion so, perhaps, it was inserted improperly.

Sen. Prescott SC: But the words are in the wrong spot.

Sen. Al-Rawi: But would that leave room for the operation of independent devices? First question; and then, secondly, it may be opened to consider putting the photograph in one of the Roman clauses that follow underneath, because it goes on, which—

- (i) purports to be evidence of the speed of the driver—it would have been opened to say:
- (i) which includes a photograph—and then that would keep with the architectural style of the drafting.

Sen. Prescott SC: Yes, Faris. Give me the language again.

Sen. Al-Rawi: We could delete the words “with a photograph of the vehicle identifying the registration plate”, and then put that into some formulation as a new (i)—make (i), (ii) and (iii) renumber consequentially—“with a printout from the speed measuring device which—

- (i) includes a photograph of the vehicle identifying the registration plate;”

So that there is no doubt that it comes from the same device itself, and it is corroborative.

Sen. Prescott SC: This is always going to be one document, the printout?

Sen. Al-Rawi: Yes.

Sen. Lalla: So, may I have the suggestion again?

Sen. Al-Rawi: It is opened for your consideration to look at (6E)(a)(b), the way it is drafted on page 4. It should read:

Deliver to the driver of the motor vehicle a printout...delete the following words “with a photograph of the vehicle identifying the registration plate from the speed measuring device which:

- (i) includes a photograph of the vehicle identifying the registration plate— and then renumber (i), (ii) and (iii) consequentially.

Sen. Lalla: Stylistically it makes sense.

Sen. Robinson-Regis: Could I suggest though that the first thing that you would want the printout to be is evidence of the speed.

Sen. Lalla: Correct.

Sen. Robinson-Regis: Just in terms of style, I think—[*Interruption*]

Sen. Al-Rawi: And you could do the other one as (ii), sure.

Sen. Robinson-Regis: Yes, that is the first thing you want to make sure that that is what it does:

- (1) it purports to be evidence of the speed;
- (2) it has a photograph;
- (3) it bears an endorsement; and.
- (4) it is signed by the constable—

Sen. Al-Rawi: —who bears the signature.

Sen. Lalla: All right. So it reads:

“...deliver to the driver of the motor vehicle a printout from the speed measuring device which—

- (i) purports to be evidence of the speed at which the driver was driving the motor vehicle;
- (ii) which includes a photograph of the vehicle identifying the registration plate”—so that is (ii).

Sen. Al-Rawi: And (ii) becomes (iii).

Sen. Lalla: And (ii) becomes (iii) and (iii) becomes (iv).

Sen. Al-Rawi: And (iv) is reworded to say “bears the signature”—

Sen. Lalla:—of the officer who operated the device.

Sen. Al-Rawi: Yes, of the constable who operated the device.

Sen. Lalla: I think that is quite acceptable. Do we have it all?

Mr. Chairman: No.

Sen. Lalla: All right:

“deliver to the driver of the motor vehicle a printout from the speed measuring device which—

- (i) purports to be the speed at which the driver was driving the motor vehicle;
- (ii) includes a photograph of the vehicle identifying the registration plate;
- (iii) bears an endorsement”—and everything else which is there, but is now (ii), and the new (iv).

Sen. Al-Rawi: So, Mr. Chairman, it would be that the clause (6E)(a)(b) is reworded by deleting the words in paragraph (b) appearing on page 4, striking the word “with” and continuing up to “plate” by introducing a new subclause (ii) which reads “...includes a photograph of the vehicle identifying the registration plate”...then consequentially amending (ii) to (iii), amending (iii) to (iv) and amending the words appearing at the new (iv) to read: By deleting the words “is signed by” and inserting instead “bears the signature of”.

Sen. Lalla: Yeah, that makes sense.

Mr. Chairman: Give me the wording.

Sen. Lalla: So, we have that, so we will move on to (6J).

Sen. G. Singh: Are there any other amendments?

Sen. Prescott SC: Yes, please, clause (6J).

Sen. Lalla: So, we have that one, so we will move on to (6J) before the question is put.

Sen. Prescott SC: Yes, I am on clause (6J) on page 6, Mr. Chairman.

Sen. Young: If I may, thank you, Sen. Prescott. Mr. Chairman, through you, before we move on to (6J), might I request that we look at (6I)? And it comes back to the same point that has been raised during the debate stage which is: why are we reversing the burden of proof in a situation where it is implausible, if not improbable, to require someone to produce evidence that the instrument was not in a satisfactory condition to adduce evidence?

Sen. Lalla: Well, there are a couple things, Sen. Young: one, it is precedent. It is taken directly from the breathalyser legislation at 7(c)(12); two, that has been in the courts for quite a while, and no problems have been raised with it; three, from a criminal law point of view, it is totally acceptable. Nothing is wrong with it because all it requires the citizen to do is to adduce evidence. It does not cast the final burden of proof on him, which at all times remains on the State in a criminal matter.

Sen. Al-Rawi: Having adduced it.

Sen. Lalla: Correct. So, having adduced it, it then shifts back the evidential burden on the State to prove beyond a reasonable doubt that the device was functioning properly.

Sen. Young: And if I may ask—seeing that you have said quite categorically here that it has been in the criminal system for a while now—how exactly is it that this evidence is adduced?

Sen. Lalla: Well, I could think of—[*Interruption*]

Sen. Young: You cannot just stand up and say, “Well, I think on that day the system was not working and I hereby adduce that...”

Sen. Lalla: It would be up to the magistrate, but I could think of a very simple example.

Sen. Young: For the magistrate to determine, but what is the example?

Sen. Lalla: I would give you an example. You are driving on the road, you have with you a witness in your vehicle, and you are driving at 20 or even 40, and the officer stops you and says you are driving at 60, the witness in the car is evidence adduced that it is not functioning properly.

Sen. Young: With the greatest of respect, Sen. Lalla, you are dealing here with technology, and technology is supposed to be produced after calibration.

Sen. Lalla: It is a perfectly acceptable clause in the criminal law. [*Crosstalk*]

Sen. Young: If I may finish, Sen. Lalla, you are dealing with technology that is producing something that you say is calibrated, saying the speed. You are saying just bring someone there to say you were driving at a different speed and that is the adduction of evidence that would reverse the burden?

7.15 p.m.

Sen. Lalla: We hear you, Sen. Young and with respect, Senior, but we would like to leave it as it is.

Sen. Al-Rawi: Sen. Lalla, could I have your view on just one point? It is the same point on (6I). The breathalyser legislation which has been tested, which uses this form of reversal of burden of proof, which is an initial reversal of burden of proof because it returns to the prosecution—

Sen. Lalla: It remains at all times on the prosecution.

Sen. Al-Rawi: But that was brought about in circumstances where there are two tests done in the breathalyser. One is the field test and then one is the test that is done at the station; then there is a record taken at the station in relation to that. It may not be that we are comparing apples with apples, insofar as the evidence is taken; so we wanted to raise it in that particular context, that there seems to be, as Sen. Ramlogan often says, an almost impossibility in disproving the event, and that is the concern that we had here.

Sen. Lalla: I mean, I understand what is being said. Is there something further?

Sen. Prescott SC: Yes, before you close off on it, could you for the record just confirm to me that the language in bold print in (6I) is taken from the breathalyser legislation.

Sen. Lalla: It is the exact thing, correct.

Sen. Prescott SC: Thank you very much.

Sen. Lalla: Is there any other part of clause 4?

Sen. Al-Rawi: (6J); I think we had shared the same concerns, Senior; I am not sure. Sen. Lalla, if you could consider the usefulness in, perhaps, removing the prescription in (6J) of providing the evidence yet again. At the time of the issuance of the ticket, when you are stopped and the printout is given to you as a prerequisite to the commission of the crime—well, evidence, it must be given to you—it would be reasonable to presume therefore that a duplicate system would be in effect. So that the constable operating the printout device would have a duplicate for his own records. Do we necessarily want to have the issuance of another form of evidence at that point?

Sen. Lalla: I understand your concern.

Sen. Al-Rawi: And a strict requirement of seven days, et cetera?

Sen. Lalla: What we are being told by the Ministry's technical personnel is that two situations could arise: one where the person is served at the scene. Two, you may have a situation where the driver leaves and if that is the case, then I assume a summons would be sent to him, and then when he appears in court in response to the summons, it could then be served on him. It can meet the seven-day deadline.

Sen. Ramlogan SC: You can also have a situation where in a road accident, for example, where you have someone drunk driving or just speeding. They caused the accident, but they themselves are injured and unconscious, so you cannot serve them because they are unconscious. The ambulance comes, they take them to the hospital and they recover, but when you are ready now to have the trial you will have to serve them, and that would be really the first service of it.

Sen. Prescott SC: So are you understanding that “served” in (6J) is a synonym for “deliver” in (6E)(b)?

Sen. Lalla: The service could include the delivery, yes.

Sen. Prescott SC: That service and delivery are one and the same thing?

Sen. Lalla: Yes, correct. If at the scene it is delivered to you, then that would cover (6J), but if for whatever reason, either the example mentioned by me or by the Attorney General, that could not have been done, then there would be a need to serve you to comply with (6J), which would be done afterwards.

Sen. Al-Rawi: Sen. Lalla, perhaps it may be useful then to describe it in exactly the fashion that you have. I will tell you why.

Sen. Lalla: Why have two clauses when one would suffice?

Sen. Al-Rawi: I will tell you exactly why. In (j) as it is prescribed right now, it means every single time you have to issue it, and it is not only issued, it is not sent by mail, et cetera, it must be served. There must be a return of service; a policeman must attend upon you; he must find you; he must come back and swear the return of service, et cetera, so that is one service.

Two, in the event that he has already given it at the scene, not in the exceptional circumstances which I accept can happen, as the AG has pointed out, in the event that those may be the vast majority of time, then you make it a lot easier not to duplicate systems, occupy police time by effecting service through the court, et cetera.

Sen. Lalla: No, but you will not have to. When he is giving evidence in court, he will simply say, "At the scene I gave it to Mr. X".

Sen. Ramlogan SC: Faris, may I make a suggestion?

Sen. Al-Rawi: Sure.

Sen. Ramlogan SC: The concern as I understand it is that you do not want to have the duplicate. The duplication is what you are trying to eliminate.

Sen. Al-Rawi: And the resources.

Sen. Ramlogan SC: Yes, sure. So if we, for example, delete the words, "not less than seven days before the date of the first hearing", what happens?

Sen. Al-Rawi: It helps you.

Sen. Prescott SC: Would you consider substituting "delivered" for "served"?

Sen. Ramlogan SC: I do not see that as a problem really, they are interchangeable, but it would read:

In proceedings for an offence under subsection (5), a document purporting to be evidence of the speed at which a person was driving a motor vehicle, shall not be admissible as evidence unless a copy of it has been served or delivered on the accused.

Sen. Al-Rawi: Delivered—that would help us tremendously.

Sen. Ramlogan SC: You could say “delivered”, you could say “given”, you could say “served”.

Sen. Prescott SC: I like “delivered”.

Sen. Ramlogan SC: So you want to be consistent with the word “delivered”.

Sen. Al-Rawi: Delivered; that eliminates the defence saying, “Well, you did not serve me; and the resources”—

Sen. Ramlogan SC: Minister, I do not think there is a problem with that.

Mr. Cadiz: No, that is fine.

Sen. Lalla: Is that it?

Sen. Prescott SC: When you said “no” you meant “yes”?

Sen. Lalla: I meant yes.

Sen. Ramlogan SC: Elton, that is a rather provocative statement I think. [*Laughter*]

Sen. Prescott SC: I have to do it all the time. [*Laughter*]

Sen. Lalla: So (6j) would read:

In proceedings for an offence under subsection (5), the document purporting to be evidence of the speed at which a person was driving a motor vehicle, shall not be admissible as evidence unless a copy of it has been delivered to the accused.

So we could now have the question put in relation to clause 4, Mr. Chairman. [*Interruption*] No, there is more?

Sen. Al-Rawi: We have a few more.

Sen. Lalla: I thought that was it?

Sen. Prescott SC: I have another observation for your consideration.

Sen. Al-Rawi: I have one more as well.

Sen. Prescott SC: Sir, may I just make a sort of broad statement? Section 5 of the Motor Vehicles and Road Traffic Act says that a transport officer—which is any of the officers in the current licensing department, transport officers—has the same powers, privileges, authorities, immunities, et cetera as a member of the police service. Is he therefore, the transport officer, a person who may do the operation and serve the documents and bring the person to court?

Sen. Al-Rawi: And while you are considering that, exactly on the same point, because it falls within the definition of “constable”, whether you wish to consider broadening in (ii) at page 7 in (b)(ii):

“in the appropriate alphabetical order,…”

In the definition of “constable”, because here is where one could introduce the concept of the Transport Commissioner as contemplated by the Act, unless, of course, it is already taken care of. You could include a new subclause (c) which could read: a member of the municipal police service established under the Municipal Corporations Act”, with the side reference to Chap. 25:04.

Did you hear that bit? You may have been a little bit distracted. I was asking whether you wanted to broaden, hon. Minister, the definition of “constable” to include the municipal police established under the Municipal Corporations Act.

Mr. Cadiz: The issue of the police, whether it is the municipal police or the SRPs, I would say that I do not have a real problem with that, depending. The issue of the transport officers—transport officers have not done these checks for decades, and it is envisaged that in the MVA that they will be concentrating on a particular part of motor vehicle management and not on traffic violations, per se, like speeding and what have you. So if the municipal police are not really geared to conduct these exercises, we did not think it was necessary to put them in.

Sen. Prescott SC: It would not be fatal to what I am thinking, but it does appear to me that we have been talking about shortages of manpower in the police service, and then I thought, well if you had available to you motor vehicle transport officers—but if it is a matter of policy, I have no trouble with it.

Sen. Singh: It is a matter of policy.

Sen. Al-Rawi: Hon. Minister, if I just point out to you, because this particular parent law disaggregates built-up environments from non-built-up environments, and because the municipal police are being operationalized more and more these days, I would think it useful, if you wanted to implement a broader operationality in the police, that you consider the inclusion. It is up to you, I am just raising the point.

Sen. Lalla: If you expand upon the duties of—

Mr. Cadiz: Then you would say traffic wardens.

Sen. Lalla: Yes, correct; so no. From a policy point of view, Sen. Al-Rawi and Sen. Prescott, we would like to leave it as it is.

Mr. Chairman: That is it?

Sen. Lalla: Yes, Mr. Chairman.

Mr. Chairman: So the question is that clause 4 be amended as follows—see if we have it right:

(b) deliver to the driver of the motor vehicle a printout from the speed measuring device which—

(i) purports to be the speed at which the driver was driving the motor vehicle;

(ii) which includes a photograph of the vehicle identifying the registration plate, and then you renumber (i), this becomes (ii), then you have (iii) which says:

bear the signature of—[*Interruption*]

Hon. Senators: No.

Sen. Lalla: There is an endorsement.

Mr. Chairman: The renumbered (iii) now becomes (iv): Bears the signature of the constable who operated the device.

Am I correct?

And to delete in (b) a photograph of the vehicle—then we go here now to (6J), where it says:

In proceedings for an offence under subsection (5), the document purporting to be evidence of the speed at which a person was driving a motor vehicle, shall not be admissible as evidence unless a copy of it has been delivered to the accused.

Sen. Lalla: Correct.

Mr. Chairman: And then we are deleting the other words:

“less than seven days” and all of that, okay? We have it correct?

Sen. G. Singh: Yes.

Question put and agreed to.

Clause 4, as amended, stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Sen. Dr. Mahabir: I do have a concern with 5(1)(b) where it says:

“A person shall not—

(b) use, buy, possess, manufacture, sell or otherwise distribute any device...”

I am wondering whether we are going to prevent any scientist, any lab, any research institute from having these jamming devices purely for scientific purposes. It should not be a criminal offence to prevent a research physicist from having one of these devices or buying it. I would feel more comfortable if a person cannot use this device to jam, scramble, neutralize, disable or otherwise interfere with a speed measuring device used by a constable. Really the intent of the law is to not have a device in your car, or anywhere a police officer might be, to impede the functioning of the police officer, but it should not prevent any researcher, any scientist from having these devices purely to facilitate the creation of new knowledge.

Sen. G. Singh: I think it would provide an opportunity for everybody to claim to be a scientist or to be engaged in manufacturing, and that, therefore, you do not want that from a policy perspective.

Sen. Maharaj: You will have scientists overnight. [*Laughter and crosstalk*]

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

7.30 p.m.

Clause 6 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill, as amended, be reported to the Senate.

Senate resumed.

Question put: That the Bill be now read a third time.

Mr. Vice-President: This Bill requires a three-fifths majority.

The Senate voted: Ayes 27

AYES

Singh, Hon. G.

Coudray, Hon. M.

Motor Vehicles (Amdt.) Bill, 2014

Wednesday, July 16, 2014

Ramlogan SC, Hon. A.
Howai, Hon. L.
Griffith, Hon. G.
Hadeed, Hon. G.
George, Hon. E.
Karim, Hon. F.
Bharath, Hon. V.
Moheni, Hon. E.
Maharaj, Hon. D.
Ahmed, Hon. R.
Ramnarine, Hon. K.
Lalla, L.
Robinson-Regis, Mrs. C.
Al-Rawi, F.
Henry, Dr. L.
Cudjoe, Miss S.
Singh, A.
Young, S.
Balgobin, Dr. R.
Wheeler, Dr. V.
Prescott SC, E.
Mahabir, Dr. D.
Small, D.
Roach, HRI
Le Gall, Dr. S.

Question agreed to.

Bill accordingly read the third time and passed.

**MISCELLANEOUS PROVISIONS
(ADMINISTRATION OF JUSTICE) BILL, 2014**

[MR. PRESIDENT *in the chair*]

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we will now resume the committee stage of the Bill that was suspended, the Miscellaneous Provisions (Administration of Justice) Bill, 2014.

Senate in committee.

Mr. Chairman: Hon. Senators, when we broke off you will recall that we had completed clauses 1 and 2.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Sen. Ramlogan SC: Chair, an amendment was circulated. Chair, there is a small amendment to clause 3 on page 12 of the Bill at subparagraph (g), you will see the words “arrangements of the taking of an intimate sample”. It should really be “a non-intimate sample”. So it is “a” and “non”, take off the “an” and just put “a” and “non”.

Mr. Chairman: Is that “non-”?

Sen. Ramlogan SC: Yeah, “non-”. Yes. And there is a similar amendment, a consequential amendment on page 20. I do not know if we can do that now. Is it part of the same subsection? Where are we, at page 20? Yes, it is the same clause.

Mr. Chairman: Same clause?

Sen. Ramlogan SC: Yes, page 20, paragraph (s), just above Fourth Schedule, there is a paragraph (s), and you will see—sorry—just under Fourth Schedule “An intimate sample”, should read “a non-intimate sample”.

Sen. Al-Rawi: So that is reverting to the position prior?

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: Thanks.

Sen. Ramlogan SC: And that is it.

Sen. Al-Rawi: Mr. Chairman—

Sen. Young: If I may, Mr. Chairman—sorry.

Sen. Al-Rawi: Go ahead, Stuart.

Sen. Young: In the definition of clause 3(a)(i), the definition of “DNA Record”.

Mr. Chairman: Could you tell us what page?

Sen. Young: Sorry. It is page 9. Sorry, Mr. Chairman. Page 9. So it is Part I, clause 3.

Sen. Ramlogan SC: Page 9. Fine; we got it.

Sen. Young: What is that?

Sen. Ramlogan SC: Page 9. We got it.

Sen. Young: Okay, “DNA Record”—

Sen. Ramlogan SC: Sure.

Sen. Young:—“means a record either in textual or electronic format, that is kept in every place or institution which collects DNA samples...”, et cetera.

I would just like to suggest the inclusion of—between “every” and “place”, so it is kept in “every used, registered, approved or official”, but sort of language to capture that, to just qualify the place or the institution by it being registered or approved.

Sen. Ramlogan SC: Well the Bill does not contain any mechanism for approving a place.

Sen. Young: But the parent legislation has the—we have the regulations, so I envisage the regulations will then say what sort of place or institution would be registered or approved to keep this. Because, of course we recognize after two days of debate how important it is for the storage of this type of DNA.

Sen. Ramlogan SC: Chair, I think, I mean, it is hardly likely that, you know, a place would really keep a DNA database that is not really authorized so to do. I mean, it says, that it is kept in “every place or institution which collects DNA samples”. And I think we are comfortable with that.

Sen. Al-Rawi: AG—

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi:—just an enquiry. I understand the intention of a DNA record. It is to make sure that the place where the sample ultimately goes, in any place, be it a police station, a hospital or whatever it is, a first responder to the scene, where you take a sample that you make sure you keep a record of the thing, so you could then match up the issues. Is it that ultimately that is what this definition allows for? In other words then, the portability factor.

Sen. Ramlogan SC: The what?—sorry.

Sen. Al-Rawi: Is it that this definition by not accepting “the approved” as a qualification to place, is it that this definition without it being an approved place is to allow you the mobility for first response on other aspects, or is it that the record is going to be at some permanent place?

Sen. Ramlogan SC: Well, no. It just allows, I mean, the circumstances in which one may find themselves drawing the DNA, taking a sample or profile, is such that, you know, I do not want to—I do not see the need for us to put the word “approved”, to be honest, you know. I mean to say, it is a record of every sample taken. Take the police station for example. They will have a log. They will have to take a record of every sample they take, you follow? So it could be a police station, it could be at Pier 1 when the boat coming in, it could be—you know what I mean. It could be a number of different places. So that is why. Yeah, it is just a record.

Sen. Al-Rawi: May I ask a question in relation to the definition of “exonerated”?

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: The concept of exonerated comes about later on when we are dealing with the destruction of profiles and samples.

Sen. Ramlogan SC: Page 10, on top.

Sen. Al-Rawi: Yep. Sorry, forgive me. Page 10, on top. The definition of “exonerated”. What concerned me in the proposed amendments was the situation where we would have a deportee who is someone who is not necessarily charged and, therefore, not falling within the definition of exonerated per se. Is it at all within the thinking of the Government’s policy that they wish to have a separate form of treatment for people who fall to be subject of this Act, but who are not within the category of chargee, suspect, et cetera?

Sen. Ramlogan SC: No. As a matter of policy we treated with deportees as a separate category. You are deported; we take it. We leave it as simple as that, as a matter of policy.

Sen. Al-Rawi: Okay. Well we can pick it up in the clause itself. And may I ask, please—

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi:—what was the thinking behind “private security officer”? I did not see private security officer—

Sen. Ramlogan SC: Where are you on?—sorry.

Sen. Al-Rawi: Similarly at page 10, in the middle of the page. It is in the schedule.

Sen. Ramlogan SC: All right. Yes. This is in the schedule of persons who would have to give—[*Crosstalk*] mandatory.

Sen. Al-Rawi: So it arose only in that context?

Sen. Ramlogan SC: That is correct.

Sen. Al-Rawi: Okay. So that is disqualification out.

Sen. Ramlogan SC: And the reason for that is because—

Sen. Al-Rawi: I understand. The crime scene attendance, et cetera.

Sen. Ramlogan SC: Yes. All of that.

Sen. Al-Rawi: Okay. All right. And may I point out for your thought—

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi:—page 10 as well under “qualified person”. In Part (c) at the bottom there.

“a person registered under Part II or Part III, of the Nurses and Midwives Registration Act”—it provides for a qualification—“acting under the supervision of a registered medical practitioner,”

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: Did we necessarily want to have that for nurses? Now, I see we have treated out nurses and midwives under Part II which is the—

Sen. Ramlogan SC: They are separate—(c).

Sen. Al-Rawi:—“advanced practice nurse”.

Sen. Ramlogan SC: Yeah. That is correct, (c) is only for them.

Sen. Al-Rawi: So the advanced practice nurse can work without the hindrance of a medical practitioner because of the qualification factor.

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: But nurses themselves, as opposed to nurse interns, which is a creature that we introduced by way of amendment in Part II and III, do we really need to fetter nurses as opposed to nurse interns and midwives? So, we are allowing advanced practice nurses alone to operate by themselves?

7.45 p.m.

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: Registered nurses themselves may have the ability to utilize a rape kit, take a buccal swab, that sort of thing, I just wondered whether it—
[Inaudible]

Sen. Ramlogan SC: So, what are you saying, you are saying they do not need the supervision?

Sen. Al-Rawi: I was wondering. I was wondering what your thought is in relation to registered nurses as opposed to nurse interns or other persons.

Sen. Ramlogan SC: It says, “a person registered under Part II or III”, so it would be a registered person, you see. The only issue I see is whether you are correct in suggesting we should remove the supervision of the medical practitioner.

Sen. Al-Rawi: Yes, and that is because the utilization of DNA kits is a relatively straightforward thing.

Sen. Ramlogan SC: You see, the tiered approach we adopted is such that that last category we felt they would need a little supervision because they are really like nursing assistants, you know.

Sen. Al-Rawi: OK.

Sen. Ramlogan SC: In some hospitals there are people who push trolleys and they are better than doctors, that is the kind of people we are talking about there. Dr. Wheeler.

Sen. Dr. Wheeler: Just to interject, they will be acting on the instructions of a doctor.

Sen. Ramlogan SC: Sorry?

Sen. Dr. Wheeler: They will be acting on the instructions of a doctor.

Sen. Ramlogan SC: Well, no. It is really supervision, eh, because I mean, you do not really need a doctor’s instruction to tell you prick a man’s finger.

Sen. Al-Rawi: That is the point.

Sen. Robinson-Regis: If I may, the person who is the person registered under Part II or Part III is not a nurse, if I recall, it—

Sen. Ramlogan SC: No, they are not. That is why we put the supervision.

Sen. Al-Rawi: Okay, it is not the nurse intern aspect.

Sen. Robinson-Regis: It is for the nurse herself.

Sen. Ramlogan SC: Yes, that is correct. So, we are okay with that.

Sen. Young: Mr. Chairman, on page 11, it is (v)(b)—“in section 5(2)...” at the top of page 11, “in section 5(2), by deleting all the words after the word samples’;” So when you go to the parent legislation and you look at 5(2), it reads:

“The Trinidad and Tobago Forensic Science Centre shall have custody of and control over all DNA samples and DNA profiles, including the Forensic DNA Databank of Trinidad and Tobago.”

Sen. Ramlogan SC: I think the reason that was deleted is because the custodian will be the person who keeps the—[Interruption]

Sen. Young:—who now is keeping the DNA profiles and forensic DNA database of Trinidad and Tobago.

Sen. Ramlogan SC: That is correct because we want to maintain that line of separation.

Sen. Young: Okay, thank you. Going now a little further down to (iii), so subclause (c)(iii), we are suggesting the insertion of a new (ii) and (iii)—

Sen. Ramlogan SC: Where is this, sorry?

Sen. Young: On the same page 11, the middle, (iii), you are looking at the new extended subsections (2) and (3):

The Custodian or any person acting under and in accordance with his general or special instructions under subsection (3) shall be deemed to be a Government expert for the purposes of the evidence Act.

So, presumably this is now someone that is going to come to give evidence in a criminal matter, et cetera, and the question I have is, do we attach any qualifications to this, because, I mean, we all know—

Sen. Ramlogan SC: Well, no, because the qualification would come with the person when they apply for the job.

Sen. Young: The custodian—they have to now be stepping into the shoes of the custodian for this specific purpose for giving evidence.

Sen. Ramlogan SC: No, but listen. The custodian, when they are appointed they would have to hire staff, those staff would be hired by reference to their job descriptions and their qualifications and so on. This is simply—you have about 10 cases going on across the length and breadth of the country, so you cannot have one custodian going 10 places. He cannot.

Sen. Young: Agreed. So, you are saying you would address it via the job descriptions when the custodian is hired.

Sen. Ramlogan SC: Yes. It really is for an administrative practical measure.

Sen. Al-Rawi: AG, is there any advance in terms of the regulations which may contemplate how ISO standards or other things are going on? If it is that the regulations—a concern raised in the initial parent Act’s passage was the removal of certification requirement.

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: We understood that you may have been fettering the growth and necessity for this thing, but not having seen the regulations a few years on, I was wondering whether it is still within the contemplation that we will be having this thing ISO certified, if only by regulations itself. That would relieve some of the issues about the competence factor of persons acting under delegated authority.

Sen. Ramlogan SC: But, this person is only for the purpose of going to the court and saying, “look, this is the document”, you know. That is all. It really does not arise here. All he is doing is going to court and saying, “Ah wokin’ by the custodian office and these is what the man geh me to show all yuh here. Look it here”. That is it.

Sen. Al-Rawi: May I ask a question in relation to (c)? This is at page 11, (c) (ii), where we are inserting the new (a)(a), (a)(b), (a)(c). If you look to section 10 of the Act—I do not know if you have the Act with you—which is on page 64, if it is properly numbered—I will let you get there.

Sen. Ramlogan SC: Yes, sure, I have got it.

Sen. Al-Rawi: Section 10(d) says right now:

“Perform such functions and duties as may be required of him under this Act or any other written law,”

Is it that (d) was insufficient to capture these particular qualifications already?

Sen. Ramlogan SC: It was not insufficient, but it was felt that having regard to the critical role the custodian was playing, we should, as far as possible where his duties are specific in nature, include it in the legislation and we would still have the (d) to be an omnibus catch-all.

Sen. Al-Rawi: Okay, thank you.

Sen. Young: If we may turn the page, AG, through you, Mr. Chairman, and looking at 13(A), at the top of the page.

Sen. Ramlogan SC: What page?

Sen. Young: Page 12, proposed 13(A), as it reads right now:

“Where a police officer is required to serve a summons on a person to appear before a court as a defendant in a criminal case, the police officer may also serve on the person a Notice requiring that person to attend on such date...”

Is it envisaged that it would be someone else taking the decision and giving this police officer, whose purpose is to serve the summons, a notice requiring the DNA sample to be given? Or is it a police officer who is told go and serve this summons for a traffic offence on the person, then has the discretion and the power to go ahead and call for the DNA sample?

Sen. Ramlogan SC: I mean, that would be a matter for the police service. I do not know how they arrange their things, but under the Police Service Act, in the rank of constable or corporal, as the case may be, they all enjoy a multiplicity of powers and it would include this. But, of course, the lead investigator is normally a senior person.

Sen. Al-Rawi: Can I point out something on 13(A)?

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: 13(A) reads:

“Where a police officer is required to serve a summons on a person to appear before a court as a defendant in a criminal case...”—he may serve the notice.

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: What if—now the purpose of inserting 13(A) into the law, 13(A) is where and it is headed in the parent Act under part IV:

Obtaining “...a non-intimate sample...without...consent...”

Hon. Senator: Correct.

Sen. Al-Rawi: So, 13(A) follows that 13, and we are dealing now—my question arose, have we captured everybody we want to?

Sen. Ramlogan SC: Yes, because if what you are driving at is, for example, they may want to test a non-defendant.

Sen. Al-Rawi: Exactly.

Sen. Ramlogan SC: Yes, well then they resort to the normal law. If they want to test them they would have to:

- (a) you could ask them to volunteer;
- (b) you might have reasonable suspicion, which is why you want to test them and in which case you can.

Sen. Al-Rawi: So, you have caught exactly the line quickly. Thank you, AG. The thing that I am looking at there was, would it not be useful insofar as we are now including a clause, a notice to attend for giving a DNA sample, that we allow that notice, which is a trigger for invoking an offence if you refuse. Right? Would we not want to broaden it to anybody? Because the purpose of this 13(A) is really to broaden the notice requirement to anybody who you want a sample from.

Sen. Ramlogan SC: Well, no, it is not for anyone, you know. It is for defendants. That is somebody who has already been arrested and charged, you see, and it will be too wide if we do that.

Sen. Al-Rawi: So, how do we notify anyone else, a non-defendant?

Sen. Ramlogan SC: Well, when you arrest them you tell them.

Sen. Al-Rawi: But, if they are not arrested. You see, the definition of crime scene includes a piece of clothing, et cetera, there may be cause to call anybody. A person who is “an innocent participant” in the equation, not a defendant, in a criminal proceeding, how do you evidence the notice factor?

Sen. Ramlogan SC: Outside of the law enforcement officers who are mandated to give a sample—there are only three options here: you are mandated by law to provide a sample because you fall within the schedule of law enforcement agencies; secondly, the police have reasonable grounds to suspect that you are involved in the commission of a criminal offence and based on that they arrest you and then they can take the sample and then they may charge you, as the case may be; the third category is people who want to volunteer. But, outside of that, the police cannot just walk up to a John Doe in the street and say, “Aye, come nah pardner, leh we go and take a drink and take a DNA sample, nah”.

Sen. Al-Rawi: But, this Act can.

Sen. Ramlogan SC: Sorry?

Sen. Al-Rawi: This Act can, a deportee—

Sen. Ramlogan SC: Ah, that is different. That is a different category.

Sen. Al-Rawi: So, the point is here—

Sen. Ramlogan SC: But John Public, the police cannot walk up to somebody that they have no reasonable grounds to suspect that they are involved in the commission of a criminal offence, they are not a deportee, they are not a member of the protective services, and simply say, “well, you know, boy, long time we eh see each other, leh we take a drink and take a DNA sample, nah”.

Sen. Al-Rawi: But, those suspects in the very categories that you called, do not all necessarily find themselves qualified as a defendant in criminal proceedings.

Sen. Ramlogan SC: No, I agree, but in those cases the practical administration of the law comes into play. If you arrest someone, when you take them to the police station right now—right now, for example, when the police arrest someone and they take them to the police station, if they decide to charge them, they fingerprint them and they process them. They do not serve a notice on you before to say, well, I am about to fingerprint you in five minutes’ time.

Sen. Al-Rawi: No.

Sen. Ramlogan SC: It is a matter of practical administration.

Sen. Al-Rawi: Okay, I have raised it. I logged it as a concern, and thank you for your response.

Sen. Ramlogan SC: I hear you.

Sen. Young: The next clause, if I may?

Sen. Ramlogan SC: Yes, sure.

Sen. Young: It is on the same page 12 and it is (h), the new proposed 16(1), and you would have heard us at the debate stage say that we think it is a retrograde step, to move backwards, from now a citizen of Trinidad and Tobago. The original section 16(1) says:

“Where a citizen of Trinidad and Tobago—

(a) is deported from any place outside of Trinidad and Tobago; and

(b)”—which is the second qualification—“has been convicted of, or has served a term of imprisonment for, an offence which would have been an indictable offence if it had been committed in Trinidad and Tobago, a non-intimate sample shall... be taken...”—et cetera

We understand your point that an immigration officer cannot make a decision as to whether that would have been an indictable offence, et cetera, but the suggestion is, in looking at this new 16(1), should we not put some language:

Where a citizen of Trinidad and Tobago is deported and has been charged with a crime from any place outside of Trinidad and Tobago—

So it still has the qualification of having at least been charged with a crime as opposed to someone who, as we decided to use the example, you have overstayed your visa by one day and you are sent back, et cetera.

Sen. Ramlogan SC: And this really is a policy decision.

Sen. Young: Correct, I am just raising it.

Sen. Ramlogan SC: No, I hear you and we stand firm on this because we feel that anyone who is deported, they may have won their case by a technicality, they may have been clever enough to elude the law while they were in the foreign jurisdiction.

In fact, part of the reason they may be deported is because, you know, they wanted to get rid of them but they do not want to tell you why, and we have that, and that is what the police are saying. People are deported and they give them a clean bill of health because the foreign state that is doing the deporting sometimes recognizes the sensitive diplomatic issues that arise where people say, “you have a homegrown criminal on US soil, and then you having grown the criminal, you send them back to Trinidad and Tobago”.

So, rather than do that, they put them in a detention centre and they send them back, and they do not have a record, they were never charged with anything. But the idea is, they were an undesirable and they just send them back. So that in those situations you have—

Sen. Young: AG, I think you said it. It is your policy decision.

Sen. Ramlogan SC: Well, thank you very much for recognizing.

Sen. Al-Rawi: And for the record—they sometimes confuse Sen. Young and my voice on the record—so I will just say it is me, Faris Al-Rawi [*Laughter*] but, if I could say that for the record, we take strong objection to the policy point and disagree.

Sen. Ramlogan SC: I thought you took strong objection in being confused with Stuart, but this is all right.

Sen. Young: If we may turn then—[*Interruption*]

Sen. Prescott SC: Who is speaking?

Sen. Young: This is now Stuart Young speaking. [*Laughter*] Thank you, Sen. Prescott. I am now on page 15—

Sen. Ramlogan SC: “First time they confuse a Chinese and a Arab.”

Sen. Al-Rawi: Stuart, before you jump there—

Sen. Young: Okay, go ahead.

Sen. Al-Rawi:—page 13, in section 20, which is on page 13 of the Bill, the top part, new subclause (2):

“Where a sample is taken under subsection (1), the person taking the sample shall complete and submit the form set out as Form 6 in the Second Schedule.”

I had an issue about the consent factor and the witnesses. Because here it is only the—is there any witness? I mean, we are looking at, if we turn to section 20 of the Bill.

Sen. Ramlogan SC: You are looking at the form, or what are you looking at?

Sen. Al-Rawi: Well, section 20 of the Act relates to—this is the section which relates to the right of the child or incapable person to have representative present.

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: So, insofar as section 20, which we are amending by this clause, deals with the rights of children, it now proposes in subclause (2) that:

“Where a sample is taken”—this is at page 13 of the Bill—“the person taking the sample shall complete and submit the form set out as Form 6...”

Sen. Ramlogan SC: Right.

Sen. Al-Rawi: But, the question inside of here is the requirement for the representative of the child who is present on the sample taking, or the representative of the incapable person.

8.00 p.m.

Where is the indication of their participation or view of the event? There is nothing to record that. So I was concerned that because we are abrogating the rights of a child or a person in a diminished capacity, that, just the person alone taking the sample, alone certifying the event, was inadequate.

Sen. Ramlogan SC: Well, in the form there is a place for—if I take you to page 19 of the Bill. Page 19 of the Bill, Mr. Chairman, you will see that the form takes care of that concern. Because on page 19 if you say “in the presence of”, page 19, Chair, at the top, you will see the address, date of birth, gender, date taken, in the presence of. Are you with me?

Hon. Senator: Yeah.

Sen. Ramlogan SC: And it says:

“Name in block letters and the signature of representative of child or incapable person”—et cetera—“and relationship...”et cetera.

So the role of the witness is not merely, you know, observer status alone, but you have to sign.

Sen. Al-Rawi: Is it then, AG, that we did not want to include the requirement in the parent law itself?

Sen. Ramlogan SC: No, because the form is part of the law, and it is there in the form.

Sen. Al-Rawi: Okay. Page 15, Stuart.

Sen. Young: Mr. Chairman, through you, Attorney General, page 15, and it is subclause (o).

Hon. Senator: Is there any problem at—

Sen. Al-Rawi: Yeah, I do. We will come back to that.

Sen. Young: Subclause (o) which is the exoneration provisions—
[*Interruption*]

Sen. Ramlogan SC: (o)?

Sen. Young: “in section 26, by repealing subsections (11) and (12) and substituting the following subsections:

(11) Notwithstanding section 7(2), where a sample is taken from a person who is exonerated...”

Sen. Ramlogan SC: This is the 20-year rule?

Sen. Young: This is the 20-year rule.

Sen. Ramlogan SC: Sure, right.

Sen. Young: And Attorney General, I would just like to mark the spot that we do not think that this will fulfil the requirements of section 13 of the Constitution, and I know that I do not need to—you are very familiar with the information.

Sen. Ramlogan SC: We have had that in the debate, that is why, you know, I hear you on that.

Sen. Young: And we are still on the S and Marper point, and the point that 17 justices of the European Court of Human Rights held unanimously that this is not reasonably justifiable.

Sen. Ramlogan SC: And on this, it is a matter of policy. We have adopted a 20-year with retention policy, and we have done so in the context of a country that has enjoyed a historical record, a point that I did not make during the debate, mind you, but the country has had a historical record, since independence I was informed, of an indefinite retention policy, and no one has made that point.

Sen. Young: Who has had an indefinite record?

Sen. Ramlogan SC: Trinidad and Tobago, the police service.

Sen. Young: Retaining what indefinitely?

Sen. Ramlogan SC: Fingerprints.

Sen. Young: But this is DNA.

Sen. Ramlogan SC: I know, I know. Well no, it is both, fingerprint and DNA.

Sen. Al-Rawi: No, we are coming back to fingerprints after.

Sen. Ramlogan SC: But on DNA, I am saying the point is, we have had a retention policy with respect to fingerprints for life. And I am saying that we are now adopting a 20-year retention policy in a country that has traditionally had a life retention policy. In other words, it is a pull back, it is an improvement of what exists, and I think we are comfortable with that policy as is and we are firm on that.

Sen. Al-Rawi: May I for the record state, the PNM's policy on this position is that we have no objection whatsoever to the retention, even for life plus 70 years—if you want to borrow a copyright term—for blood crimes, serious crimes, et cetera. No problems at all.

What we are suggesting in this approach is to be found in—[*Interruption*]

Sen. Ramlogan SC: The tiered approach.

Sen. Al-Rawi: Yes, the tiered approach, and if I may invite you to consider, I know you had some reflection of the Protection of Freedoms Act, 2012. There is a very interesting clause in there, in particular, in that Act which considers in Chapter 1:

Persons arrested or charged for qualified offences or recordable offences.

And the retention period specified there—perhaps it is you did not look at it when you were reviewing it last night—but in the case of DNA profiles, the period of three years beginning with the date of DNA sample, et cetera, the graduated approach in particular is adopted where the police wish to do speculative searches, where there are young offenders or persons who have been deemed not only to be exonerated, but never having fit the clothing of being a defendant in the proceedings.

Sen. Ramlogan SC: Sure, but, Chair, on this matter, I mean, during the course of the debate I think this issue was fully ventilated from the Government’s side. As a matter of policy we do not wish to go with a tiered approach or the graded scale approach. We do not accept the policy of the United Kingdom Government on this particular matter. Our policies are straight 20-year retention.

Sen. Al-Rawi: Okay, thank you. We have noted our position as well.

Sen. Ramlogan SC: You marked the spot. That is it for clause 3?

Sen. Al-Rawi: Yes, that is it for me.

Mr. Chairman: The question is that clause 3, be amended as follows and I will read the amendments as given—

Sen. Al-Rawi: Did you AG, in form 1A, did you want to look to the issue of whether you wanted to deal with the sample, intimate or non-intimate, or are you fine with sample?

Sen. Ramlogan SC: “Nah”, we are fine with sample.

Sen. Al-Rawi: All right.

Mr. Chairman: So the amendments proposed are that, on page 12 of the Bill, in paragraph (g), item No. (2), in the second line, we want to say, “for the taking of” take out the word “an” and introduce “a non-intimate sample”. So we introduce “a non-”.

And then on page 20 under “FOURTH SCHEDULE” on the second half, rather than starting “an intimate sample” it will now read “a non-intimate sample”. That is the only two amendments?

Sen. Ramlogan SC: Yeah, that is the only two amendments.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Sen. Prescott SC: Chair, I would like to be heard on clause 4, please.

Mr. Chairman: What page you are at by the way?

Sen. Prescott SC: Clause 4, page 21.

Mr. Chairman: You were saying, Senator.

Sen. Prescott SC: Much obliged. In the Act, section 4 we are now deleting subsection (e) and retaining subsections (a), (b), (c) and (d) with some amendment. But I would like to recommend that the residence qualification in (c) should now be increased to five years or more because it is my view that the Parliament intended that a person who qualifies to be a juror should have some connection with the society—a freehold or leasehold interest in land suggested a greater permanence. And I want to suggest that a mere appearance in Trinidad and Tobago for a period of two years by anyone ought not to qualify that person to become a juror.

A juror needs to be a bit more familiar with the language styles of our people, the thinking in some places of our people. Culture is a sufficiently broad term. I am recommending that five years gives you a greater connection with the society and makes you potentially a better juror than a person who has only had two years here.

Sen. Ramlogan SC: I am not terribly adverse to it. In fact, the reason I did not pursue that line at the LRC was because of the disjunctive nature of the provision. You see, it gives you two options: two years' residence requirement but there was also that you simply "born here". A man could be born here by accident while "he mudda and fada on honeymoon in Tobago", and never come back until he is at 85 years old and he qualifies to be a juror.

Sen. Young: Not 85.

Sen. Ramlogan SC: Well, you know what I mean. *[Laughter]* Well, all right, under 65, yes. I was trying to make Elton feel comfortable, come on. Now, the point is that—*[Crosstalk and laughter]* so you see, I did not pursue it because of

that. So I thought, if the policy was that you had to have a rooted connection and an understanding of the culture of the society to be able to function as a juror, they would not have put that requirement which has been there for a century.

Sen. Prescott SC: The person who was born here and had not been ordinarily resident here will not qualify, you see—(b) says, “ordinarily resident”. So I think you should stay with me as you had planned and let us say five.

Sen. Ramlogan SC: Well it is “or”. Was born in Trinidad and Tobago “or” not being so born has resided in Trinidad and Tobago for two years or more.

Sen. Prescott SC: The person who is 85, who was born here, must be ordinarily resident here in order to qualify.

Sen. Ramlogan SC: No.

Sen. Prescott SC: That is what I am reading.

Sen. Ramlogan SC: No, if he was born here or—

Sen. Prescott SC: Each of these persons—pardon me crossing you—each of these persons must qualify under (a) and (b).

Sen. Ramlogan SC: Yes, yes.

Sen. Prescott SC: You must be ordinarily resident—it is very obvious throughout.

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: So do not be afraid to agree with me—

Sen. Ramlogan SC: “Oh!” You mean on (b). I now catch you. On (b). So you mean at the time he would have to be ordinarily—yeah.

Sen. Prescott SC: He must be ordinarily resident.

Sen. Ramlogan SC: I am with you, I am with you.

Sen. Prescott SC: The linkage with the society seems to be important to the Parliament.

Sen. Ramlogan SC: Well, I mean this has been with us for almost 92 years. It is not a reason to not change it. But the thing is, the higher you raise that ceiling the less people you have, the smaller the pool, you know. And then the other thing is this, “eh”, you increase that to five years and there are already problems in the law with respect to what constitutes residence. You have different concepts in

private international law and immigration law. You have “ordinarily resident” and different concepts about residence. The court itself may not be in a position to determine that and a man may come and say, I want exemption. What do you do? The court will now—hear me out—does it, for example, mean five years continuous residence? Does it mean five years prior continuous residence?—immediately prior, I mean. I mean, what does it mean?

You will run into all sorts of permutations where a man comes to apply for an exemption and the judge now has to subpoena the immigration department to see, you know, go back in the old passport, check it out, et cetera, and see what is the case. This has not, it has not given us any trouble because it is two years and it has been settled. And I did not take in the Note to Cabinet, I did not take for a policy decision from the Cabinet any issue on this, and I would be reluctant in the absence of Cabinet approval to change that without a policy direction from the Cabinet.

Sen. Prescott SC: May I just ask you to consider section 10 of the Act—

Sen. Ramlogan SC: Yes.

Sen. Prescott SC:—determines how your name gets on the list.

Sen. Ramlogan SC: Yes.

Sen. Prescott SC: You read through the—the judge does not have to do any work. The fact that your name appears on the list means that the registration officer or the chief election officer has satisfied himself on points one to four.

Sen. Ramlogan SC: “Ahh”, but no. You see that is not definitive, “eh”. That is not definite. That is another point. In fact—[*Interruption*]

Sen. Al-Rawi: They revised that.

Sen. Ramlogan SC: Yes, that is right.

Sen. Prescott SC: It does not seem to have that function.

Sen. Ramlogan SC: That is right, Faris is correct on that.

Sen. Prescott SC: I have placed it on one plan. I am saying, connection with the country seems to be essential to your potential—

Sen. Ramlogan SC: Yeah, and I am saying two years connection with a country in this global fast-paced environment, where you have things like aeroplane and things are good.

Sen. Prescott SC: It seems evanescent to me.

Sen. Ramlogan SC: It seems a little tenuous. I would have probably, myself, agreed with you, but in as much as I did not take a policy direction from the Cabinet, I feel duty-bound to rest where it is and let us agree to agree but disagree.

Sen. Al-Rawi: May I raise, please, the provision of exception, because, Mr. President, sorry, in clause 4, we were really just dealing with everything to go. So AG if you could look at page 22 of the Bill—

Sen. Ramlogan SC: Yeah, sure.

Sen. Al-Rawi: In 7(A), we are amending section 7 of the parent Act and we are deleting that objectionable clause which says that spouses of a whole range of people can just be excluded per se.

Sen. Ramlogan SC: Sure, sure.

Sen. Al-Rawi: What we have done is to say that it is up to them if they wish to serve.

8.15 p.m.

So in 7A:

“A person qualified to be a juror shall be entitled, if he so wishes, to be excused from jury service if he is—

- (a) more than sixty-five...; or
- (b) the spouse of—
 - (i) a Judge?—magistrate—
 - (ii) a Justice...
 - (iii) an Attorney-at-law...”

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: The original list included, beyond judge, magistrate, justice, attorney-at-law—it included Members of Parliament, it also included officers of the court and members of the police service, and I was wondering, particularly because we are such a small country, and because of the intimidation that sometimes happens to witnesses or other points, did we really want to throw away, as quickly as that, the members of the police service, the officers of the court of justice and the Members of Parliament?

Sen. Ramlogan SC: Well, what happened is this, eh, it was a policy decision to widen the pool of potential jurors. You are right, we live in a small society and it is precisely because we live in a small society we need to widen that potential pool because, as you know, on any given day you are confronted with a lot of exemption applications. People do not like to offer themselves to serve on juries, which is why we have increased the age and so on. It was also felt that it was a bit elitist to have the net of exemptions cast as wide as it was, and that we should restrict the exemptions to those at the core that we have now, and allow, in the normal common sense exercise of judicial discretion, to grant exemptions as and where appropriate. So that if, for example—I think someone made the point and used the example of a pilot during the debate—Elton, was it you?

Sen. Prescott SC: I raised it and some others.

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: Stuart and Sen. Vieira.

Sen. Ramlogan SC: All right, fine. You see, even though I am not in the Chamber, I listen to the debate and follow it upstairs.

Sen. Al-Rawi: Good notes. Thank those on your side.

Sen. Ramlogan SC: The point is, in the example of the pilot, the reason I would not accede to putting a pilot there is because—you will get a deferral if you have a flight or whatever, but also, a man who stops flying a plane, he remains a pilot, but he “eh ha nutton tuh do”. He could come and serve as a juror. So why, by virtue of the status of him being a pilot for life, he must be exempted?

Sen. Al-Rawi: AG, I catch the logic, it is laudable, but my concern was particularly in respect of the police who are prosecuting the whole run on crime.

Sen. Ramlogan SC: Yes, I hear you, but in a case like that one would expect, no doubt, that the conflict of interest, if any, will be brought to the attention of the court.

Sen. Al-Rawi: Okay.

Sen. Ramlogan SC: But the police service is a large catchment area, you know, so we are okay with that.

Sen. Al-Rawi: Okay. I just wanted to flag it from the prosecutorial point of view.

Sen. Ramlogan SC: No, no, very valid and I am happy that we have put it on the record. You are right.

Sen. Lalla: Especially where, Senator, now before a trial is started, the judge will call the names of the witnesses while the potential jury pool is there and ask the jurors if they know any of these witnesses or related to them, et cetera, and the opportunity is provided to come forward and give a reason why you should not be required to serve.

Sen. Al-Rawi: I accept that. I know the due process will flow. It is the other factors that relate prior to that. So I accept the positions that you have said. May I invite your attention, please, to paragraph (f) on page 22?

Sen. Ramlogan SC: Elton has something to say.

Sen. Al-Rawi: Sorry, Senior, go ahead.

Sen. Prescott SC: Thank you very much, Chairman. Hon. Attorney General, I need to enquire, what justifies us retaining, on the list of exceptions, druggists—
[*Interruption*]

Sen. Ramlogan SC: “Well yuh could drug de jury?” [*Laughter*]

Sen. Prescott SC:—school teachers, postal workers and customs officers?

Sen. Al-Rawi: Oh, yes, I had the same question.

Sen. Ramlogan SC: The idea there, druggists, customs officers and who?—postal workers.

Sen. Prescott SC: School teachers.

Sen. Ramlogan SC: I had originally included them. The school teachers, the problem was with respect to, obviously, their term. Their holiday periods coincide with when the court goes on vacation, so that it seemed to be a bit impractical. So that was the school teachers. The postal workers, it is one of those services where you are really—it is like an essential service, and you really “doh want tuh pull a postman out because yuh not likely tuh get somebody tuh replace him and perform his duties easily or readily. De dog don get accustom tuh dah postman comin an droppin ting dey, you senin ah nex man tuh geh dog bite, dai real problem. Yuh understand?” And the last one was the druggists. You know, right now—

Sen. Prescott SC: The customs.

Sen. Ramlogan SC: Oh, the customs, yeah. The customs had said that, look, they are already a little undermanned, as it were.

Sen. Al-Rawi: There is a serious manpower shortage.

Sen. Ramlogan SC: Serious manpower shortages, that is right, Faris, and that they felt—[*Interruption*—and they really, you know, did not want to—

Sen. Prescott SC: This has been law since 1970-something?

Sen. Ramlogan SC: “Yeah, well, yuh know, since den to now it still remain short.” [*Laughter*]

Sen. Al-Rawi: They are actually close to 1,000 people short.

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: It required a stronger justification, actually.

Sen. Ramlogan SC: “Yuh eh” buy it fully, but, you know.

Sen. Prescott SC: But I see you call them back as special jurors; the teachers also.

Sen. Ramlogan SC: Yeah. Well, that was the compromise I struck with them. I said, “look, if you all want the exemption, and so on, there are custom cases, for example, that have issues relative to your expertise, for example, you might be required.” So that was the compromise. It is not a total exemption. “Yuh see how happy yuh is dey, man?”

Sen. Al-Rawi: May I raise, on page 22, for the qualifications of special jurors, (f)?

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: I was concerned that:

“A person referred to in section 3 is qualified to serve as a special juror where he is qualified or experienced in...”

And then we have set out things which deal essentially with banking and finance; corporate law issues. I was concerned whether we would need—

Sen. Ramlogan SC: The qualification?

Sen. Al-Rawi: Yeah. The qualified, I have no problem with. There are two issues I have here. One is in skewing this list only towards the current complex fraud issue scenario. There is serious medical negligence scenario. There is serious engineering issue scenarios.

Sen. Young: Criminal charges.

Sen. Al-Rawi: So my question was whether we were unnecessarily skewing this into one area only. And then when we look to the schedule which has to actually populate this up, the schedule moves from a statement of what the qualifications are, just to names, and I wondered why we would want to leave out the statement of experience. How do you assess from that list who is a special juror or not, if you have not stated what the experience actually is?

Sen. Ramlogan SC: I am being advised that the countries that may have a special jury, the listing is similar. It is canted and skewed towards the white collar crime complex fraud matters. To use the example—I mean, any case, one may argue, could require a specialist expertise. That is why in some countries they have lay magistrates and all kind of different things, to get a blend of expertise. But a medical negligence case will not, per se, reach the criminal court. There is no criminal charge of medical negligence, per se, you know. It will be something else.

Sen. Lalla: Gross negligence.

Sen. Ramlogan SC: Yeah, and it would be a criminal—and the ingredients for the criminal offence will remain the same and the judge and the jury would be the system that we operate. But the long and complex fraud cases, that is where, worldwide, that seems to be the trend, and we have accepted international best practice guidance in this regard.

Sen. Al-Rawi: Thank you for that. May I invite you to consider, just associated with this, on page 26?

Sen. Ramlogan SC: Sure.

Sen. Prescott SC: AG, maybe the CPC could determine whether he wishes to use “licensed druggists” and “licensed pharmacists” as being two different kinds of professions.

Sen. Ramlogan SC: You mean in (2)?

Sen. Prescott SC: In section 7 he is a “Licensed Druggist”—

Sen. Al-Rawi: The original law says “druggist”, and now we say “pharmacist”.

Sen. Prescott SC: And in 8(2) we are saying “Licensed Pharmacists”.

Sen. Al-Rawi: I wondered if “Pharmacists” came about because we amended the concept from “druggist” to “pharmacist” in the parent law.

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: I did not get a chance to check it, though.

Sen. Ramlogan SC: There is a Pharmacy Board Act, I am told. That is why.

Sen. Prescott SC: We do not have “druggist” anymore?

Hon. Senator: We have druggists, but “dey” in jail. [*Laughter*]

Sen. Ramlogan SC: Well, “yuh” know, we have a lot of druggists around the place, but the anti-gang law was passed to deal with that.

Sen. Al-Rawi: AG, if you could look at 26, associated to special jurors.

Sen. Ramlogan SC: Yeah. 26, right?

Sen. Al-Rawi: Page 26. So this is the list by “A.B. Registration Officer for registration...” We have only specified that you must include:

“First name;...

Surname

Whether qualified as Special Juror”—and—“Gender”.

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: The original schedule which operated, stated why you were actually a special juror. So I was wondering how the person using this is going to determine your position.

Sen. Ramlogan SC: You see, what happened, the policy decision, really, was to give as least possible information about the jurors because of the concerns that have been raised by the Judiciary and other stakeholders about what—you know, intimidation, the fear factor, et cetera. So we really kept it to the barest minimum. You will know who is the juror; you know their name, but you “doh” know anything much about them, and we want to leave it that way. The less you know, the better for you. I mean, what value would it be to you to know all of that? You have a peremptory challenge—you know.

Sen. Al-Rawi: Just to point out, AG, the Schedule A that we are removing, just had “Business or Occupation”—

Sen. Ramlogan SC: Ah, you see, exactly. That is the point.

Sen. Al-Rawi: But no. We have removed that. We “doh” have that at all.

Sen. Ramlogan SC: Yeah, that is what I am saying.

Sen. Al-Rawi: And “Qualifications for a Juror” in Form D, when we have that down, we actually state “Nature of qualification under section 4(1)(e)”, which we have left as it is.

Sen. Ramlogan SC: Yeah.

Sen. Al-Rawi: Now, the parent Act itself makes it an offence for the returning officer to disclose certain information, et cetera. So there is a legislative filter which has been operating for a while. All that I was wondering, if we are going to populate special jurors, how does this one list, by the time we get to the point of pulling special jurors—because we have now gone from beyond qualifications. It is not that they have a BSc or MSc in engineering, you are saying that the person can have experience in it. How do you find out? Where is the submission of information?

Sen. Ramlogan SC: I understand.

Sen. Al-Rawi: The architecture by which this operates is that the Elections and Boundaries tells you these are the people who qualify, and it is based on something.

Mr. Chairman: My experience in terms of the practical element is, what happens is, they write to all the companies. So in this sense, you would write to the accounting firms, you would write to the engineering, and ask them for a pool. They do not only rely on the—that is my personal experience.

Sen. Ramlogan SC: Can I tell you this? When I was researching—when I was doing this, there is so much that we do not know and take for granted, in terms of the legwork that goes on with these things, but I had to speak to the Elections and Boundaries Commission. There is an entire, very complicated process to prepare this juror list. You see the minimum property qualifications and income qualifications, they follow it because it is the law, you know. And what the Chair says is correct. They write to companies, they ask for your pay slip, basically, to ask how much money you are earning, property, et cetera. They actually go through all that for every single citizen, and then when they get all of that, then they do whatever, as the case may be.

Now, in this case, what I was told is that they will ask for the information about the nature of the job you are doing, so your qualifications and experience, they will have it, but it is just that they will not necessarily publish it for the public consumption, such that they will have an administrative arrangement, if necessary, that you have to pool a special jury, they will then send the list and the judge can—you know, we can take it from there. But that is the arrangement that they have.

Now, one of the hidden benefits of eliminating these things, really, is to free up administrative resources at the Elections and Boundaries Commission like never before. Because we have had these poor, suffering souls complying with this law by doing what the Chairman says, writing, and the employers have to spend a lot of time as well.

Sen. Al-Rawi: AG, I do not want to detain you. I accept that. That is actually the requirement for Form D in the Act under a different section.

Sen. Ramlogan SC: Sure.

Sen. Al-Rawi: All that I am saying is that the amendment of this section, in removing the statement of experience or qualification from the list of special jurors, I think you are missing an essential element. The Form D which is the existing law, which we are not affecting, has that requirement where you write to employers, et cetera, and that is how that is dealt with. So I am just flagging that.

Sen. Ramlogan SC: We will treat with that when we arrive at Form D. The CPC has come up with a brilliant solution.

Sen. Al-Rawi: I am just raising it for usefulness, as Sen. Young often says.

Sen. Lalla: Anything else on that clause?

Sen. Prescott SC: Hon. AG, may I make a recommendation for the future? If you look at—it is not amended, but in section 41 of the Act—

Sen. Ramlogan SC: Just for the record, I am advised that in the Pharmacy Act, the term “druggist” has gone, basically. They refer to them as “pharmacists” now.

Sen. Prescott SC: I was merely bringing to your attention that section 41(c) seems to be a bit antiquated now.

Sen. Ramlogan SC: What page are you on?

Sen. Prescott SC: I am actually looking at the parent Act, 41(c). It is not covered in the repeal, but when you get around to the regulations, you might want to stop using certain—

Sen. Ramlogan SC: Sure, certainly.

Sen. Prescott SC: It exempts women for medical reasons.

Sen. Ramlogan SC: “Yuh wah meh take out dat?”

Sen. Prescott SC: Yeah.

Sen. Ramlogan SC: Because it is discriminatory against men?

Sen. Prescott SC: Yeah.

Sen. Ramlogan SC: Yeah. 41(c). Yeah, I hear you.

Sen. Prescott SC: We tend to get sick too.

Sen. Ramlogan SC: Yeah. “All ah we does get sick.”

Sen. Al-Rawi: And just to assist you to move on, if you could also, when you are thinking about future points, look at section 37 of the parent Act, the fine for non-attendance, of \$400—

Sen. Ramlogan SC: Yes, sure. I flagged that already.

Sen. Al-Rawi:—is something you may want to consider in the future.

Sen. Ramlogan SC: Indeed.

Sen. Al-Rawi: And there are a few other archaic provisions in here, where they use the word “imbecile” and things like that. So if I could just flag that and I would not detain you further.

Sen. Ramlogan SC: Sure, certainly, Sir.

8.30 p.m.

Mr. Chairman: So, the question is that clause 4—

Sen. Ramlogan SC: Yes, we have an amendment to clause 4, and if I may take you to page 27. It is just Form D.

Mr. Chairman: Form A we have there.

Sen. Ramlogan SC: Sorry. On page 27 of the Bill, we will be inserting a (t) after (s).

Sen. Robinson-Regis: Page 26?

Sen. Ramlogan SC: Page 26, yes. We will be inserting after (s)—

Mr. Chairman: A (t).

Sen. Al-Rawi: A new (t). It is really on 27.

Sen. Ramlogan SC: No, no, it is coming after the Form. It is on page 27. It is after the Form. So it is on page 27.

Mr. Chairman: Before Part III.

Sen. Ramlogan SC: Yes. So it will be a (t) and it says:

In the Schedule, in Form D—

(a) by deleting the word “Christian” and substituting the words “first name”;—
“Christian” and his “first name”.

Mr. Chairman: And replacing or substituting, what is the term—[*Interruption*]

Sen. Al-Rawi: Deleting the word “Christian”.

Sen. Ramlogan SC: Deleting the word “Christian” and substituting the words “first name”.

That is really (i) and (ii). That is (t)(i). (t)(ii), we put:

“and first name; and—

(ii) by deleting the words “section 4(1)(e)” and substituting the words “section 8(1)”.

That, Sen. Al-Rawi, will take care of the concern you have raised because we have amended the Form in the parent Act. It will now have “nature of the qualification” under 8(1).

Sen. Al-Rawi: Perfect.

Sen. Ramlogan SC: Right. So that solves it.

Mr. Chairman: So if I may just read the amendment to make sure we have it right? There will be a new (t) above Part III and just below the Form A which will read:

In the Schedule Form D—

(i) by deleting the word “Christian” and substituting the words “first name”;

(ii) by deleting the words “section 4”—[*Interruption*]

Sen. Ramlogan SC: And. And too.

Mr. Chairman: And?

(ii) by deleting the words “section 4(1)(e)” and substituting the words “section 8(1)”.

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5.

Question proposed: That clause 5 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, if I could just grab the Criminal Offences Act.

Sen. Prescott SC: I do want to go to the proposal that section 31A, page 30, the repeal of section 31A of the Sexual Offences Act.

Sen. Al-Rawi: And section 11 of the Kidnapping Act. I had the same point.

Sen. Ramlogan SC: “the following written laws are amended by repealing” those sections.

Sen. Prescott SC: I am happy to go along with repealing the section 11 of the Kidnapping Act. But section 31A of the Sexual Offences Act, AG, it needs to be preserved. Is it says:

“Where a person prevents a minor from—

(a) giving a statement to the police;...”

And that is an event that is not covered by what is now being proposed. You see, a parent may simply—*[Interruption]*

Sen. Ramlogan SC: Why are you all removing 31A?

Sen. Prescott SC: They must have been thinking, AG, that they all are covered by the intimidation provisions now being proposed.

Sen. Ramlogan SC: Sorry, they what?

Sen. Prescott SC: The CPC may have been thinking that the intimidation provisions now proposed would cover all these instances, but a child could be prevented by his parent, by simply a wink or a frown.

Sen. Al-Rawi: AG, we had raised this in the debate. There is a subtle difference between section 11 of the Kidnapping Act and 31A. And in 31A if you wanted, you could amend 31A to up the ante by harmonizing the jail term. You could put the same jail term in 31A. But because it was a broader approach than this actual amendment proposed, we felt—at least our perspective was; perhaps Sen. Prescott shares it as well—that 31A was something to be looked at very carefully.

Sen. Prescott SC: And retained.

Sen. Al-Rawi: And retained.

Sen. Ramlogan SC: I take the point that even if it is covered by the generic offence now, because it relates to children, perhaps we should keep it. So I think we can delete (b)(ii) and we will retain 31A. I agree with you, Sen. Prescott.

Sen. Young: But not Al-Rawi?

Sen. Prescott SC: Al-Rawi—[*Interruption*]

Sen. Ramlogan SC: No, I am not agreeing with Al-Rawi because he is on the kidnapping one.

Sen. Al-Rawi: No, no, no, I am not. I am on the children.

Sen. Ramlogan SC: I agree with both of you.

Mr. Chairman: That means you will delete, of course (i) to just read:

(b) the following written laws are amended by repealing:

(i) section 11 of the Kidnapping Act, Chap. 11:26.

Sen. Ramlogan SC: Written law instead of laws. We can just say section 11 is repealed, you know. Section 11 of the Kidnapping Act, Chap. 11:26 is hereby repealed.

Mr. Chairman: So that will be (b)?

Sen. Ramlogan SC: Yeah. “Jus now, all ah we drafting and the CPC here.” The CPC says that it should be a 5A. How will it be 5A when we reach 7? It will be 8 then?

Sen. Al-Rawi: Just amend (b). [*Crosstalk*]

Sen. Prescott SC: It is 5B that is being changed.

Sen. Ramlogan SC: It will be 5A—[*Interruption*]

Sen. Prescott SC: No.

Sen. Al-Rawi: It is just 5(b). It is rewording 5(b).

Sen. Prescott SC: Clause 5(b) is being changed.

Sen. Ramlogan SC: Paragraph (b) does not follow from the chapeau.

Sen. Prescott SC: Where is the (b) to that A in clause 5?

Sen. Al-Rawi: So there is 5A inserting after subclause (10).

Sen. Prescott SC: Clause 5 reads—[*Interruption*]

Mr. Chairman: So this has become a 5A? Is that what you are saying?

Sen. Ramlogan SC: 5A, yes.

Sen. Al-Rawi: AG, just through you, to the CPC, if you turn back to page 27, 27 starts:

“5. The Criminal Offences Act is amended by—

(a) inserting after section 10”—and then we go on to that.

We turn page 28, turn page 29, then we get down to (b). So if we put a 5A, then it does not make sense.

Sen. Prescott SC: It is 5(b) that is being amended.

Mr. Macintyre SC: No, 5A.

Sen. Prescott SC: No, 5(b).

Sen. Al-Rawi: It is 5(b).

Mr. Macintyre SC: No, we are not amending the Criminal Offences Act.

Mr. Chairman: The chapeau does not lead in.

Sen. Al-Rawi: Sorry.

Mr. Chairman: The chapeau does not lead in.

Sen. Lalla: We are not amending the Criminal Offences Act.

Mr. Chairman: It is a whole new clause.

Sen. Ramlogan SC: You see, 5(a) says:

“The Criminal Offences Act is amended by”—[*Interruption*]

Sen. Al-Rawi: Understood.

Sen. Ramlogan SC: You follow?

Sen. Al-Rawi: Understood.

Sen. Ramlogan SC: So for the record, the Chief Parliamentary Counsel is correct and you are both wrong.

Sen. Prescott SC: And I applaud the CPC on that one.

Sen. Al-Rawi: Because he wanted to move an amendment that the Bill was wrong to start with. Sorry, Mr. Chairman, just to point out: AG, my only concern on the Kidnapping Act, because this new prescription in subclause (8) for intimidation is on indictment, I am happy with keeping the sexual offences, 31A, because that was on summary conviction making it easier. The Kidnapping Act, I just wanted CPC if he could be sure that we are not moving from summary to indictable. In repealing the kidnapping section 11, are we moving from summary to indictable? I am not sure.

Sen. Ramlogan SC: We are comfortable with this, you know.

Sen. Prescott SC: But the answer is, yes?

Sen. Ramlogan SC: Yes. Okay, Chair.

Mr. Chairman: So the question is, clause 5 be amended by deleting at page 30 what would have been 5(b) and introducing a new clause 5A which will read:

“Section 11 of the Kidnapping Act, Chap. 11:26 is repealed.”

Sen. Al-Rawi: Sure, and could I, ask you when you are revising; next time we come across to look at the Criminal Offences Act, if you could have a look at the provision in section 6 which makes it an offence for selling unwholesome provisions. Perhaps we could have a look at the usefulness of the particular piece of law.

Sen. Ramlogan SC: I think I will delete the “un” and just make it “wholesome”.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

Question proposed: That clause 6 stand part of the Bill.

Sen. Ramlogan SC: I think I explained this one in the course of the debate why it is necessary. Chair we are okay with this.

Clause 6 ordered to stand part of the Bill.

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Sen. Al-Rawi: Just one moment.

Sen. Ramlogan SC: That is an easy one, Faris.

Sen. Al-Rawi: Just to flag the point that it eliminates this amendment. This repeal and replace, eliminates the certification by the witness and the magistrate so that we are diluting it. I just wanted to mark that spot there. I was a little uncomfortable about that. I do not know what your policy view is on that point.

Sen. Ramlogan SC: All right. Fair enough.

Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Young: With clause 8, Mr. Chairman, through you, we had raised during the debate stage that we believe it will be more prudent for the Minister to retain some sort of discretion here and we are just marking that point.

Sen. Ramlogan SC: Well, we rest on the separation of powers point.

Sen. Lalla: You see, the point is that—I mean since this—[*Interruption*]

Sen. Young: We read it on the separation, so we could move on.

Sen. Lalla: Good.

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Sen. Al-Rawi: AG—could we just, Mr. Chairman, for clause 9 just note our entire objection to the concept here—[*Interruption*]

Sen. Ramlogan SC: Of course.

Sen. Al-Rawi:—and to the particulars provided. So we are just noting it for the record.

Sen. Al-Rawi: We are grateful. Thanks.

Sen. Le Gall: Mr. Chairman, if I may, through you, recommend to the Attorney General. With respect to clause 9(c), the—[*Interruption*]

Mr. Chairman: The circulated amendment?

Sen. Le Gall: Yes, the circulated amendments. What I am recommending, Mr. Chairman, through you, is that sections 50F, 50G and 50H exclude any applicability to section 50C(1)(b). That category of person under section 50C(1)(b) refers to any individual who is not a citizen of Trinidad and Tobago entering Trinidad and Tobago, and that individual is subject to a mandatory fingerprinting process as a condition of entry. Now, I am suggesting that failure to comply with that condition of entry should be refusal of entry and deportation.

8.45 p.m.

However, section 50F subjects someone in that category to being subjected to reasonable force in terms of securing their fingerprints; 50G would subject that person, if they refuse to submit to the fingerprinting process, on summary conviction to a fine of \$10,000 and imprisonment for two years. Or, if they resist, again, subject on summary conviction to a fine of \$10,000 and to imprisonment.

I think this may be a bit harsh and under the circumstances of persons who are non-citizens attempting to enter the country, failing to comply with our conditions of entry, the penalty really should be, respectfully, refusal of entry and deportation.

Sen. Ramlogan SC: Chair, I want to firstly thank Sen. Dr. Le Gall for sharing her thoughts in advance with me on this matter because I was able to give it some consideration. She is correct that one ought properly to have a differentiation between citizens and non-citizens, and the law as currently drafted does admit to the theoretical possibility that the police can submit using reasonable force, a non-citizen who lands in our country to, you know, fingerprint as the case may be.

Now, I gave careful consideration and, in fact, we had an exchange of views. I pointed out to the hon. Senator that the reason here is not simply to deter people from coming into the country, it is about some other issues pertaining to border security, but also, it is about international crime.

At the central authority, we oftentimes receive requests about persons who are going to be passing in transit to Trinidad and Tobago that are wanted by Interpol or by a foreign state. I mean, I had recently to extradite the President of Suriname—the Hasidic Jewish group who was in transit to Guatemala with children in their custody escaping a court order from the Court of Appeal in Quebec. Then, we had the Suriname President’s son, Bouterse.

Now, sometimes, foreign governments do contact us and say, “Listen, we have reason to believe that person ‘X’ is going to be passing through Trinidad and we would like you to nab them and hold them”. Now, when they tell us that, because of the international nature of crime, the person who is coming, they obviously would not come with their real passport and real identity. So that if you want to take their fingerprint and they refuse, if you simply deny them entry, then the Interpol loses an international kingpin.

So that for that reason—but also, Senator, I think it is a very legitimate point so I also consulted with the police service, and they have given an even different reason that I think is even more compelling. They have explained that, look, the way the law is meant to operate is not that—nine out of 10 times, the person will be refused entry and they go about their way. The only time they would want to subject the person by reasonable force is if they have a request from a state, and this really, the majority of times that they have in mind really, this is to deal with things like human trafficking. We have many unexplained disappearances in Trinidad and Tobago of young and old alike and there are people who are saying that Trinidad and Tobago is a hotspot for—ends of sorts for human trafficking.

And in those kinds of situations, if somebody is coming in with a young girl, and you say, “Well, give me your fingerprint”, and the fella say, “Well, you know, I know she is not my daughter so I would not give it”, but the passport they have is father and daughter, so then you just deny them entry. I mean, you lose the opportunity there, and the international nature of the investigations surrounding these kinds of crime, whether it is international drug trafficking, the arms trade, human trafficking and so on, is such that we need to have that power in appropriate cases so that the police can use reasonable force, if necessary, and they would like to have that and I see their point of view, but I hear you.

Sen. Le Gall: Yes.

Mr. Chairman: So what you are saying is a certain exercise of discretion is made?

Sen. Ramlogan SC: Indeed.

Sen. Le Gall: If I may, Attorney General? The clause casts a very wide net.

Sen. Ramlogan SC: It does.

Sen. Le Gall: And I know we are attempting to strike a balance here. Is there any way that the circumstances that you have outlined that are extremely valid circumstances, is there any way that we can provide otherwise than casting such a wide net?

Sen. Ramlogan SC: The answer is yes, but the safeguard there lies in the exercise of the discretion of the police and the immigration, and I would want to trust them with my fingers crossed. All right, thank you very much.

Sen. Young: Sorry, Mr. Chairman, just before we move on, I just picked up one, I think, if we go to page 39, and you have subparagraph (4) in bold at the top.

Sen. Ramlogan SC: Sorry, what page are you on, Stuart?

Sen. Young: Page 39.

“Notwithstanding the destruction of a fingerprint...”

And go down to the fifth line where we have subsection (4), I think it should be subsection (3), 20-year period. Right?

Sen. Ramlogan SC: Yeah, that is correct. So we will change that (4) to (3). I am accepting Sen. Young’s amendment because he is sitting in the seat of Sen. Dr. Lester Henry.

Mr. Chairman: So the question is that clause 9 be amended at page 39, subclause (4), by deleting the cross-reference to subsection (4) and substituting subsection (3).

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clauses 10 and 11 ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Sen. Cudjoe: Division.

Mr. President: This Bill requires a special majority and therefore the Clerk will conduct the division.

The Senate divided: Ayes 20 Noes 6

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Howai, Hon. L.

Griffith, Hon. G.

Hadeed, Hon. G.

George, Hon. E.

Karim, Hon. F.

Bharath, Hon. V.

Moheni, Hon. E.

Lambert, J.

Maharaj, Hon. D.

Ahmed, Hon. R.

Ramnarine, Hon. K.

Lalla, L.

Balgobin, Dr. R.

Wheeler, Dr. V.

Prescott SC, E.

Mahabir, Dr. D.

Small, D.

NOES

Robinson-Regis, Mrs. C.

Al-Rawi, F.

Henry, Dr. L.

Cudjoe, Miss S.

Singh, A.

Young, S.

Miss S. Le Gall abstained.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, July 22 at 1.30 p.m. when we will deal with the following pieces of legislation: an Act to amend the Prisons Act, Chap. 13:01, the Criminal Offences Act, Chap. 11:01 and the Mental Health Act, Chap. 28:02, and we will also deal with an Act to amend the Land Tenants (Security of Tenure) Act, Chap. 59:54.

I also want to give notice to Members that we will also sit on Wednesday, July 23, preferably from 10.30 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.59 p.m.