

SENATE*Tuesday, June 08, 2015*

The Senate met at 10.30 a.m.

PRAYERS[MADAM PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Madam President: Hon. Members, I have granted leave of absence to Sen. Dr. Victor Wheeler, who is ill. I also wish to advise that we need to defer further, matters under Item 3, while we await documents relevant to Item 3. We will proceed accordingly.

STATE LAND (REGULARISATION OF TENURE)**(MISCELLANEOUS AMDTS.) BILL, 2015**

Bill to make provisions for State Land (Regularization of Tenure) (Miscellaneous Amendments) Bill, 2015, brought from the House of Representatives [*The Minister of Land and Marine Resources*]; read the first time.

Motion made: That the next stage be taken at a next sitting of the Senate to be held on Tuesday, June 09, 2015. [*Hon. G. Singh*]

Sen. Al-Rawi: Sorry, Madam President, if I may, just for your guidance? The hon. Leader just begged to move that that Bill which was just announced be taken tomorrow, is it? If so, may I register strong objections to that position, and ask for it to be put to the vote.

Sen. The Hon. G. Singh: Madam President, I begged to move, so that the vote has to be taken.

*Question put.***Hon. Senators:** Division!*The Senate divided:* Ayes 12 Noes 7**UNREVISED**

AYES

Singh, Hon. G.

Coudray, Hon. M.

Nicholas, Hon. G.

Howai, Hon. L.

Alfonso, Hon. Brig. C.

Hadeed, Hon. G.

Newallo-Hosein, Hon. C.

Karim, Hon. F.

Bharath, Hon. V.

Maharaj, Hon. D.

Mutema, Hon. K.

Ramnarine, Hon. K.

NOES

Al-Rawi, F.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Drayton, Mrs. H.

Vieira, A.

Small, D.

Question agreed to.

FINANCE (VARIATION OF APPROPRIATION)**(FINANCIAL YEAR 2015) BILL, 2015**

Bill to make provisions for the Finance (Variation of Appropriation)
(Financial Year 2015) Bill, 2015, brought from the House of Representatives [*The*

UNREVISED

Minister of Finance and the Economy]; read the first time.

Motion made: That the next stage be taken at a sitting of the Senate to be held on Wednesday, June 10, 2015. [*Hon. L. Howai*]

Sen. Drayton: Madam President, I wish to register my objection to Wednesday. I have a—[*Inaudible*]—on Wednesday. I ask for a division.

Question put.

Hon. Senators: Division!

The Senate divided: Ayes 12 Noes 7

AYES

Singh, Hon. G.

Coudray, Hon. M.

Nicholas, Hon. G.

Howai, Hon. L.

Alfonso, Hon. Brig. C.

Hadeed, Hon. G.

Newallo-Hosein, Hon. C.

Karim, Hon. F.

Bharath, Hon. V.

Maharaj, Hon. D.

Mutema, Hon. K.

Ramnarine, Hon. K.

NOES

Al-Rawi, F.

Baldeo-Chadeesingh, Mrs. D.

Cudjoe, Miss S.

Singh, A.

Drayton, Mrs. H.

Vieira, A.

Small, D.

Question agreed to.

PAPERS LAID

- 1 Annual Report of the Strategic Services Agency for the year 2009. [*The Minister of National Security (Sen. The Hon. Brig. Carlton Alfonso)*]
- 2 Annual Report of the Strategic Services Agency for the year 2010. [*Sen. The Hon. Brig. C. Alfonso*]
- 3 Annual Report of the Strategic Services Agency for the year 2011. [*Sen. The Hon. Brig. C. Alfonso*]
- 4 Annual Report of the Strategic Services Agency for the year 2012. [*Sen. The Hon. Brig. C. Alfonso*]
- 5 Annual Report of the Strategic Services Agency for the year 2013. [*Sen. The Hon. Brig. C. Alfonso*]
- 6 Annual Report and Audited Financial Statements of the Central Bank of Trinidad and Tobago for the year ended September 30, 2014. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

JOINT SELECT COMMITTEE REPORTS

(Presentation)

Ministries, Statutory Authorities and State Enterprises (Group 2)

Sen. David Small: Madam President, I beg to present the following reports:

Evolving TecKnologies and Enterprise Development Company Limited

Twenty-Second Report of the Joint Select Committee appointed to enquire into and report on Ministries, Statutory Authorities and State Enterprises

(Group 2) on the Administration and Operations of the Evolving TecKnologies and Enterprise Development Company Limited (eTecK).

Telecommunications Services of Trinidad and Tobago

Twenty-Third Report of the Joint Select Committee appointed to enquire into and report on Ministries, Statutory Authorities and State Enterprises (Group 2) on the Administration and Operations of the Telecommunications Services of Trinidad and Tobago (TSTT)

Ministries, Statutory Authorities and State Enterprises (Group 1)

Estate Management and Business Development Company Limited

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, I have the honour to present the following report:

Fifteenth Report of the Joint Select Committee appointed to enquire into and report on Ministries, Statutory Authorities and State Enterprises (Group I) on the Administration and Operations of the Estate Management and Business Development Company Limited (EMBD).

Municipal Corporations and Service Commissions

Sen. Anthony Vieira: Thank you, Madam President. I have the honour to present following reports:

Mayaro/Rio Claro Regional Corporation

Nineteenth Report of the Joint Select Committee appointed to enquire into and report to Parliament on Municipal Corporations and Service Commissions on the Administration and Operations of the Mayaro/Rio Claro Regional Corporation.

Couva/Tabaquite/Talparo Regional Corporation

Twentieth Report of the Joint Select Committee appointed to enquire into and report to Parliament on Municipal Corporations and Service

Commissions on the Administration and Operations of the Couva/Tabaquite/Talparo Regional Corporation.

Siparia Regional Corporation

Twenty-First Report of the Joint Select Committee appointed to enquire into and report to Parliament on Municipal Corporations and Service Commissions on the Administration and Operations of the Siparia Regional Corporation.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

[Fourth Day]

The committee of the whole Senate resumed its deliberations on the Bill.

[Chairman: Sen. Ahmed]

Clause 60.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Madam Chair, we have just received a document with over 200 amendments, with a Bill that contains 272 clauses and appendices. We have not had a chance to study these amendments. I wish to register my strongest objection to this abuse that is taking place.

Sen. G. Singh: Madam Chair, this Bill has been in committee stage for an extensive period. There has been no amendments circulated by anyone. The Attorney General undertook, because of the kind of poor drafting that was taking place, undertook the responsibility of going through this Bill extensively, in the light of the recommendations made by the Independent Senators. Therefore, it is as a result of that intensive exercise, you have this being circulated today.

Sen. Drayton: Madam Chairman, we have not had an opportunity to review these amendments. As I said, it is over 200 amendments. I do not know which amendments are amendments which were moved by the Independent Bench, or

amendments that the Government would have decided to have made.

The Government itself had proposed that this is a very important piece of legislation that affects every single citizen, and we are now being asked at the last minute, to look at over 200 amendments to a Bill that contains 272 clauses. This cannot be all right, and it cannot be in the interest of good legislation or the people of Trinidad and Tobago.

Sen. Nicholas: Madam Chair, to begin with, there are not over 200 amendments.

Sen. Al-Rawi: 136.

Sen. Nicholas: 136 is much less than over 200 amendments, Sen. Al-Rawi.

Sen. Al-Rawi: Yeah, well, I counted them.

Sen. Nicholas: Secondly, Madam Chair, these circulated amendments, many of them actually just deal with spelling corrections and punctuation and the lot. Many of them are not substantive amendments.

Third, the amendments circulated are there to assist in the debate on the floor, as we go through clause by clause. So that Members can follow what we intend to amend, based on what has been discussed, whether in the Senate or outside of the Senate, and also with regards to what we would have picked up in going through the Bill.

There is no oppression meant, in fact, the idea of circulating the amendments is actually to assist, rather than to oppress. We worked on this Bill up to late last night and, as such, we could not get the amendments circulated prior to this morning.

Sen. Vieira: Thank you, Chair. I would like to support Sen. Drayton. I very much appreciate the hard work being done by the hon. Attorney General. I understand the pressures he is under, but this is very important legislation. It will affect the average citizen on a day-to-day basis. The legislation contains over 200 clauses. It

should not be rushed. This legislation seeks to set up an authority. It establishes criminal offences. It is true the Attorney General has asked for our comments and suggestions, but the heavy legislative agenda we are coping with every day, two Bills going back for weeks. It is impossible to do justice to this legislation in the manner in which we are being asked to deal with it.

So, I too, very much support Sen. Drayton, and I am concerned that we put something on the books that we may be embarrassed about in time to come.

Sen. Robinson-Regis: Thank you very much. Madam Chair, on a previous occasion, I think on the last occasion when we broke, we indicated that we had some very serious concerns about trying to do this legislation in the piecemeal way that we were attempting to do it. The hon. Attorney General did indicate that he would bring further amendments, but I asked the question even on that occasion.

We had been going through amendments that had been brought, and even whilst we were doing the clauses, clause by clause, we were seeing issues that needed to be amended at that time. We have been at this legislation for quite a long time, and we have only done just about 50 clauses out of over 200 clauses.

Even though the Attorney General is indicating that it is just commas and spelling errors, those commas—a comma can make a difference in how a piece of legislation is interpreted, how a clause is interpreted, and they have only come this morning when we have to look at all these amendments. Could I indicate, Madam, that the Opposition had also given suggestions, not written suggestions, but we have made suggestions. So it is not just the Independents who have been participating in this exercise.

It is not that anybody wants to keep back the Government's legislative agenda, but this is heavy legislation that as my colleague, Sen. Vieira, said, it is going to affect nearly everybody in Trinidad and Tobago. We cannot sit here and

allow the Government to apparently ride roughshod over us, when we feel that it needs to be done properly. It is not that we are trying to stymie the Government. The Government knows quite well, that we sit here and we make every effort to work with them, but in circumstances where we have a difficulty, I think we should be understood.

I really ask the Leader of Government Business, the Attorney General and the Minister who has brought this legislation to give the opportunity for us to look at it carefully, because that is what needs to be done. We are not here to just pass legislation willy-nilly. Thank you.

Sen. Drayton: Madam Chair, just to confirm, when you take all the subclauses into consideration, it is over 200 amendments.

Madam Chairman: Thank you, Senator. Hon. Senators, this being committee stage, the debate having been completed. It is very feasible that we have already become intimately familiar with the Bill as debated. Committee stage—the reason and the rationale, the *raison d'être*, for committee stage, is really a clause by clause examination to accommodate changes that we would have already contemplated for several weeks.

So from my position, and I not seeing a difficulty since the Bill has been before the Senate, has been thoroughly debated, ventilated and amendments should have risen in the minds of those persons who, in my mind, felt that certain amendments were due. There will be no rush through the committee stage. As Chair of the committee stage, I anticipate that the clause by clause will allow us all an opportunity to further ventilate, and that is the way I see that we can go forward. Do we have—Sen. Small?

Sen. Small: Thank you very much, Madam Chairman. I have listened closely to what everyone has said. I want to put on the record my concerns also. I have

looked at this Bill several times, and every time I have looked at this Bill, I have seen things that jump out at me, and that tells me that there are some things in here that are fundamentally—I have a couple of things that I am not actually going to move on, if we actually go on to committee stage. I am not going to move on them because they are fundamentally, fundamental flaws.

I think that, Madam Chairman, with the greatest of respect, I have no plan to stymie the Government's agenda, but the Government has to also be cognizant of the fact that we have several bits of heavy legislation that are currently on our plate. If this was the only thing, you know, in front of me over the weekend, I may have been able to get in a place where I am very comfortable, but I could not say that.

So, I want to register my concern with the fact that this legislation has come, in particular, I have not even looked at the—I do not care about the number, it just looks like a lot. I am not going to argue about the number of—it just looks like a lot, and it means that we are going to be going through amendments, that I am now seeing today, this morning, five minutes ago. That places us in an invidious position, in a disadvantageous position to be able to understand, if we make an amendment here, what does it mean in any subsequent clauses? We will be doing it in a way in which in a vacuum, and that is how you make errors. That is how mistakes are made.

So, I understand the positions taken, but I want to put on the record, Madam Chairman, with greatest respect, my concerns about what is happening this morning, and that I think that these concerns are legitimate, and that just the sheer volume of amendments, and the fact that we have had no time, zero time to look at it, is of large concern. Thank you very much, Madam Chairman.

Sen. Robinson-Regis: Madam Chair, may I just add to what I said?

Madam Chairman: I recognize Sen. Singh.

Sen. G. Singh: Chair, I have heard the concerns. We have been at this, as you indicated, for several hours at committee stage after a lengthy debate. We have amendments which the Attorney General has worked upon. It is the duty of the committee to deal with the Bill, clause by clause, and the Government is suggesting certain amendments.

Every Senator will be given the opportunity to comment, clause by clause. It is part of our duty, not to anticipate further legislation, which—and we are aware, that there is a heavy burden upon us this week, but we will try to adjust as we see fit, but we have today, as all Members knew, that today is committee stage for this particular Bill, and that this Bill has been at committee stage on several occasions before. We are proceeded to where we are today, and we intend to continue from that point.

Sen. Robinson-Regis: Thank you very much, Madam. I agree with the Leader of Government Business that we were well aware that we were coming back to do committee stage. The Government was also well aware that they were coming back to committee stage, and consequently, in circumstances where previously, we had indicated that we had some concerns about proceeding with this legislation, where we are doing it clause by clause, and making major amendments without having a full ventilation of Government's policy.

Any decent Parliament, Madam Chair, would have sent these amendments beforehand for us to examine, and that is the concern that we have. We are not saying that we are not aware that we were coming to do committee stage. When we broke, that was what was said, but to present this volume of amendments at this point, for us to go through clause by clause, is really a difficulty for those of us on this Bench, certainly.

We had said even previously that we felt that this legislation, because of the volume, the size of this piece of legislation, and the complexity, all that it portends for the citizens, the driving public and even those who are not driving, is that it should have gone to a committee, a select committee, or a joint select committee. We need to register our concerns about that; that is necessary. The rules of the Parliament allow us to go to a select committee if it is necessary. We do not want to interfere with the Government's legislation, but we need to be fair in our determination of this piece of legislation.

11.00 a.m.

Sen. Nicholas: Madam Chair, I have heard the concerns. I believe that in circulating our suggested amendments, we are actually assisting the Parliament. We have absolutely no intention of ambushing anyone. Many of these issues have been addressed whether it be in the debate or elsewhere, and it is because of those concerns addressed by Members both on the Opposition and Independent Benches that we have actually put these amendments forward. These amendments can be accepted or rejected.

I want to make the point as well, Madam Chair, when the Government sits here in committee stage, having presented a Bill, the Opposition and the Independents bring their proposed amendments on the day. Many times the Opposition has an issue with every single clause and we have to deal with it on the floor without any prior assistance, without any prior notification, and we deal with it because that is our job.

In the same way the Opposition and the Independents have the opportunity—having gone through this Bill on several occasions—for them to identify clauses which they have concerns with, and we would try to deal with them as we see fit based on the Government's policy and based on even some of

the suggested amendments. At this time, Madam Chair, I beg that we move forward.

Sen. Robinson-Regis: You all think this is a fete? [*Crosstalk*]

Sen. Nicholas: We certainly do not think this is a fete.

Sen. Vieira: Thank you, Chair, and I am just saying one thing. Hon. Attorney General, I very much appreciate what you have said. I know you are doing your best, but I just want to remind you that you are the chief law officer of the State. You have an obligation that goes beyond that of a political Minister. You have a judicial-like role to play; you are the guardian of the public interest. You, yourself, have said that you picked up on many, many different problems in the legislation; that is why you have gone through line-by-line painstakingly to cure it. I just want to say hon. Attorney General that this Bill will rest with you. We will do our best to support it and to make it work but, at the end of the day, you are the one with the unique responsibility, in my humble submission, and I leave it at that. Thank you.

Sen. G. Singh: Having heard all the arguments, Madam Chair, let us proceed.

Madam Chairman: Hon. Senators, I believe that we have a reasonable position in that this is, in fact, committee stage of an examination clause by clause, and we have been at this exercise, and this is the third session at committee stage and therefore I rule that we proceed and endeavour to make good of the time that we have.

Question proposed: That clause 60 stand part of the Bill.

Madam Chairman: Hon. Senators, there were some amendments proposed to clause 60, they stand as amended.

Sen. Robinson-Regis: Who proposed those amendments, Madam Chairman?

Sen. Drayton: We need a chance to read the amendment.

Madam Chairman: We are talking about clause 60, the amendments that were

proposed on the last occasion when we sat on May 25.

Sen. Robinson-Regis: So, they have not come back?

Sen. Al-Rawi: May I enquire, Madam Chair, who proposed the amendments?

Sen. Robinson-Regis: Who proposed them?

Sen. Al-Rawi: Which amendments are they and how do they read? [*Crosstalk*]

Sen. Robinson-Regis: The only persons who seem to remember them is the Parliament staff. [*Crosstalk*] I know, but even the Government does not remember that amendments were proposed.

Madam Chairman: It was basically a renumbering of the subclauses and the deletion of certain words and the insertion of certain other words where subclause (2) became subclause (1).

Sen. Al-Rawi: Madam Chair, could you read them in for the record, please, just out of clarification? Perhaps, the Attorney General could assist.

Madam Chairman: Okay, what we would do, we would defer clause 60 and return to it later in the proceedings.

Sen. Robinson-Regis: This is exactly what we have been saying, Madam Chair. This makes no sense.

Sen. Nicholas: Madam Chair, whatever proposals would have been made with regards to clause 60, the House, at that time, did not accept those amendments and, therefore, we are moving on with clause 60 as is.

Madam Chairman: As is? Okay.

Sen. Prescott SC: Madam Chair, may I seek to persuade you to permit us to hear the new languaging of clause 60 please, notwithstanding that it is fairly lengthy?

Madam Chairman: The AG has just indicated that there was no argument with respect to the new language and, therefore, the original clause 60 obtains.

Sen. Prescott SC: In which case, I have substantial suggestions for amendment.

Madam Chairman: Well, we are willing to take your suggestions.

Sen. Prescott SC: To take them now?

Madam Chairman: Yes.

Sen. Prescott SC: Very well. So I had proposed—I thought it was accepted that we would restructure clause 60 commencing with the third line in clause 60(2) as new 60(1). That is to say from the words “...the Minister may prescribe” in line three. Does anybody have that?

Madam Chairman: Yes, I have it, Sen. Prescott.

Sen. Prescott SC: So, it is that that I was hoping to hear being read into the record. I am wondering if that is what the Attorney General is saying has not been accepted.

Madam Chairman: No, well we had started to do some changes. The end result had not yet be presented, because there was several back and forth. We can take it from the top starting again with your proposal to make subclause (1) begin from the words:

“...the Minister may prescribe by Regulations, a system of imposing penalty points on persons convicted of an offence under this Act including offences specified in regulations.”

That would be subclause (1).

Sen. Prescott SC: Yes, and then subclause (3) will become (2).

Madam Chairman: Subclause (3) will become (2) which reads:

“Regulations made under subsection (1) shall specify—”

And the original (1) becomes (3).

Sen. Prescott SC: Yes. May I just point out that in the new subclause (2) the words “awarded against” and wherever they appear have been substituted by “imposed on”?

Madam Chairman: Yes, okay.

Sen. Prescott SC: Under subclause (3). Or yes, it would reappear, yes. So the new (3) is “A driver’s licence...”

Madam Chairman: A driver’s licence issued under section 49 shall be suspended for a period not exceeding six months where the maximum number of penalty points has been imposed—have been imposed—

Sen. Prescott SC: No Ma’am, “has”.

Madam Chairman:—has been imposed on a person.

Sen. Prescott SC: Is it “has” or “have”? The maximum number has?

Madam Chairman:—the maximum number has.—

Sen. Prescott SC: I like “has”, yes.

Madam Chairman: —been imposed on a person” and that was the end of that subclause (3).

Sen. Prescott SC: Indeed, yes.

Madam Chairman: So everything after “licence” would have been deleted.

Sen. Prescott SC: And, therefore, subclauses (4), (5), (6) and (7) remain unchanged save for “awarded against” being changed and the subsection numbers being altered.

Madam Chairman: So, the first one being in subclause (4) “subsection (1)” and in subclause (5) “subsection (2)”. That is as far as we got.

Sen. Prescott SC: That is it, yes. So I am prepared to support that 60. Is that what the Attorney General is saying has not been agreed, generally?

Sen. Nicholas: We are not saying it is not agreed, we were saying that it was not agreed.

Sen. Prescott SC: We meant at this stage or is it outside of my—

Sen. Nicholas: No, we can seek agreement now. Madam Chair, now is the

appropriate time.

Sen. Al-Rawi: If I could just enquire so that we could identify the mischief which is tickling the Attorney General's mind. Why it was not agreed? What was the policy consideration behind the refusal of the proposed amendments to clause 60?

Sen. Nicholas: There was no mischief tickling my mind simply that the Senate did not move on with it on the day. So, I think we are now dealing with it.

Sen. Al-Rawi: So that is why it was rejected.

Sen. Nicholas: It was not rejected. It might not have been voted on.

Sen. Al-Rawi: Or I see. That sounds very different from what you have put on the record earlier.

Sen. Nicholas: No, it does not.

Sen. Al-Rawi: I see.

Madam Chairman: Hon Senators, any more concerns? The question is that clause 60 be amended as follows:

The renumbering of subclause (1) as subclause (3), subclause (2) as subclause (1); subclause (3) as subclause (2) and the new subclause (1) would read as follows:

Delete the words "for the purposes of establishing" to the word "motor vehicle" and beginning with the words "the Minister may prescribe" and delete the word "awarding" and substitute the word "imposing", deleting the word "against" and substituting the word "on". .

And the new subclause (2):

Delete after the word "subsection" the number in the bracket and inserting the new number "(1)".

In subclause (3):

In subparagraph (a) of the new subclause (2), delete the words "awarded

against” and insert the new words “imposed on”.

In the new subclause (3): Delete the words beginning from “record” to the end and substituting the new words after “the” maximum number of penalty points has been imposed on a person.

In subclause (4):

Delete the words “awarded against” and insert the words “imposed on” and after “subsection” delete “(2)” and put “(1)”.

In subclause (5):

After the word “subsection” delete “(3)” and insert the number “(2)”

In subclause (6):

Delete the words “awarded against” and insert the words “imposed on”.

In subclause (7):

Delete the words “awarded against” and insert the words “imposed on”.

Question put and agreed to.

Clause 60, as amended, ordered to stand part of the Bill.

11.15 a.m.

Clause 61.

Question proposed: That clause 61 stand part of the Bill.

Sen. Nicholas: I beg to move that clause 61 be amended as circulated, Madam Chairman.

“A. Delete subclause (1) and substitute the following subclause:

“(1) The Authority shall, before suspending or revoking the driver’s licence of a person under section 59 and 60, give that person notice in writing of its intention to suspend or revoke the licence and in doing so, shall specify a date of not less than fourteen days after the date of issue of the service, upon which such suspension or revocation shall be made and

require the person to give reasons why the driver's licence should not be suspended or revoked.”.

B. Delete subclause (2), and substitute the following subclause:

“(2) where a person fails to give reasons, within the period specified under subsection (1) or where the reasons given were not satisfactory and the Authority, after taking into consideration any fact in mitigation, decides to suspend or revoke as the case may be, the driver's licence of the person, the Authority shall in writing, notify the person of its decision.”.

C. In subclause (3), insert after the words “section 59”, the words “or 60”.

D. Delete subclause (4) and substitute the following subclause:

“(4) A person whose driver's licence has been suspended or revoked by the Authority under this section and sections 59 and 60 may, within fourteen days of the receipt of the notice referred to in subsection (2), appeal to the Appeals committee established under section 249.”.

E. In subclause (5), insert after the words “a driver's licence suspended” the words “or revoked”.

Sen. Prescott SC: Chairman, may I make an enquiry?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Through you to the Attorney General, I have three proposed amendments, three sets of, each of which purports to come from the hon. Ministry of Transport—the latest of them being the one that came today comprising 23 pages—if it was intended that the 23-page document should now replace the first two, I invite you to confirm that for me, and then, in any event, I would like to draw your attention to some aspects of it which are different from the prior documents. Are you with me? Thank you.

Sen. Nicholas: The new document is intended to replace.

Sen. Prescott SC: In the circumstance, Madam Chair, may I just draw attention to be—what appears to be differences they may not be substantive, and the only ones I have had the time to look at so far are on page 1, clause 4(B), there seems to be an insertion of a word. On page 1, reference to clause 4 of the new document, today's document.

Sen. Nicholas: Can I say that clause 4 will be revisited because we have not actually—

Sen. Prescott SC: Okay. So, it might be better if I do not go back prior to clause 60.

Sen. Nicholas: Yeah.

Sen. Prescott SC: Thank you very much, Chair.

Madam Chairman: Hon. Senators, just to remind you, the following clauses have to be revisited, clauses 4, 10, 18, 30, 31, 32, 34, 49, 51, 53, 58. So, continuing with clause 61 there are some amendments as circulated. Any concerns?

Sen. Drayton: Madam Chair, could we ask the Attorney General to please highlight for us the substantial changes to 61—reasons for them.

Sen. Nicholas: The intention is to give notice in writing for any intention to suspend or revoke a driver's licence. So it actually is being a lot more open and transparent in the dealings.

Sen. Al-Rawi: Due process.

Sen. Nicholas: Due process—indeed.

Sen. Prescott SC: Madam Chair, may I in relation to subclause (1), including the amended version, ask in line two from the end, to whom—

Madam Chairman: Which version are you looking at? The amendment?

Sen. Prescott SC: I am looking at today's amendments.

Madam Chairman: Yes.

Sen. Prescott SC: It says, line three to the end, “shall be made and require the person to give reasons why the driver’s licence should not be suspended or revoked”—

Madam Chairman: You want to add the word—

Sen. Prescott SC: I thought it might be necessary to identify to whom reasons should be given.

Sen. Nicholas: To whom?

Sen. Prescott SC: Yeah.

Sen. Nicholas: To the Authority.

Sen. Prescott SC: So it should say that? The Authority shall give notice of its intention to suspend and specify a date.

Sen. Nicholas: The beginning of the clause says that the Authority shall, so when read it actually carries that the Authority is the one making the demand for the notice. Oh, sorry, for the reasons.

Sen. Prescott SC: Yeah. The Authority gives the notice and says, if you wish to justify non-suspension give reasons to me.

Sen. Nicholas: That is correct.

Sen. Prescott SC: And I may be just being super cautious, should we say, “to give reasons to the Authority”?

Sen. Nicholas: I think it actually makes the language more complicated if we did that. I think it flows very nicely the way it is.

Sen. Prescott SC: And you think that it is implied—

Sen. Nicholas: Yes.

Sen. Prescott SC:—to whom the reason should be given?

Sen. Nicholas: Yeah.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Is it implied that the person must give the responses in writing?

Sen. Nicholas: Yes.

Madam Chairman: Sen. Robinson-Regis.

Sen. Robinson-Regis: On this one, the Attorney General indicated that the amendment was made in order for the Authority to give notice in writing? I think that is what the AG said, but that is what the original clause had indicated, and, really speaking, the only thing that this amendment does is to add clause 60 in line two, and add the words “or revocation” in the penultimate line. So, it—

Sen. Nicholas: Yes, that is because in clause 60 we did not have it included.

Sen. Robinson-Regis: I am fully aware, but I am just saying that the amendment—the clause did allow for it to be given in writing from its inception, so the amendment does not now request that it be given in writing. It just adds clause 60—

Sen. Nicholas: Yes. So clause 60 did not have it.

Sen. Robinson-Regis: Right. And it adds the words “or revocation”, because essentially it is the same clause, except for adding the word “60”—

Sen. Nicholas: So that clause 60 did not have the due process before—

Sen. Robinson-Regis:—and revocation. So, I am still—

Sen. Nicholas: But it is good to see you are following it so nicely.

Sen. Robinson-Regis: Oh, I always follow, Attorney General. I am sure your colleagues will tell you that.

Madam Chairman: AG, do you have a response to Sen. Drayton’s—

Sen. Nicholas: The writing is implied. Yes.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Madam Chairman, I am also on the same clause, I would ask

you to look at the line four from the end that speaks of a “date of issue of the service”, and enquire whether it was meant to be implied that that word means “notice”, or do you wish to change it to “notice”? Or the “issue of the service”—well, the “issue of the notice”. Yes.

Sen. Nicholas: Service was implied to be “notice”.

Sen. Prescott SC: Would you say that it might be more appropriate to say “issue of the notice”?

Sen. Nicholas: I think it makes it clearly, that is not a problem.

Sen. Prescott SC: Thank you. I would be happy if you changed it.

Madam Chairman: So we are changing the word “service” to “notice”?

Sen. Nicholas: Yes.

Madam Chairman: Any other concerns in clause 61? Hon. Senators, the question is that clause 61 be amended as circulated, and further amended in subclause (1)—

Sen. Prescott SC: Chair?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Chair, I am not satisfied that—although it may be implied in (1) that the response by the person giving reasons it should be in writing, I am not satisfied that when you look at subclause (2), you are going to be avoiding a great many mischiefs if you say, “where the reasons given were not satisfactory”. One can imagine that there is going to be a combat, there is going to be some issue, some dispute over whether—the reasons given orally are the reasons which are now being challenged as not being satisfactory. AG, if this were a case where the person gave reasons verbally and the Authority said, “I am not satisfied that those reasons you gave were satisfactory”, one would now have to repeat, verbatim, the reasons received by the Authority.

Sen. Nicholas: No. As we said in subclause (1), it is implied that the reasons given

will be in writing.

Sen. Prescott SC: Sorry. So what I am really doing—maybe I could cut to the chase in—

Sen. Nicholas: Yes, please.

Sen. Prescott SC:—saying, revisit that view you have because subclause (2) suggests, subclause (2) portends that there will be a fight over what this person says which is not in writing. If he puts it in writing we cannot have any doubt as to what the reasons were which the Authority now finds to be unsatisfactory. So, put the reasons in writing and when the Authority challenges you they will produce your reasons and say, “This is what we are saying is not satisfactory”.

Sen. Nicholas: We will put in writing to make it clear for you.

Sen. Prescott SC: I am much grateful to you.

Madam Chairman: So, what is the amendment?

Sen. Prescott SC: To give written reasons, Ma’am, in A.

Sen. Nicholas: We need, “require the person to give reasons in writing”.

Sen. Prescott SC: “in writing”—okay.

Madam Chairman: After the word “reasons” insert the words “in writing”?

Sen. Nicholas: Yes, please, Madam Chair.

Sen. Prescott SC: Thank you.

Madam Chairman: And we are not clarifying to whom?

Sen. Prescott SC: Well, no, I think I could accept that.

Sen. Nicholas: No, that is clear.

Madam Chairman: Very well. So the question is that clause 61 be amended as circulated and further amended in subclause (1) by deleting the word “service” and substituting the word “notice”, and inserting, after the word “reasons”, the words “in writing”.

Question put and agreed to.

Clause 61, as amended, ordered to stand part of the Bill.

Clause 62.

Question proposed: That clause 62 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 62 be amended as circulated.

“A. In subclause (1), insert after the words, “under section 59”, the words “or 60”.

B. Delete subclause (2) and substitute the following subclause:

“(2) Where a person is required to surrender his driver’s licence under subsection (1), that person shall on the date prescribed in writing by the Authority surrender the driver’s licence.”

Sen. Robinson-Regis: Madam Chairman, may I ask a question, please?

Madam Chairman: Sen. Robinson-Regis.

Sen. Robinson-Regis: In 62(2), in the previous incarnation it says the person “shall forthwith return the licence to the Authority”; in the amendment it does not indicate the same. Is there a need to put that in that amendment?—that it shall be returned to the Authority?

Sen. Nicholas: I think it can be clearly implied, please, Madam Chair.

Madam Chairman: Any other concerns with clause 62? Hon. Senators, the question is that clause 62 be amended as circulated.

Question put and agreed to.

Clause 62, as amended, ordered to stand part of the Bill.

Clause 63.

Question proposed: That clause 63 stand part of the Bill.

Sen. Al-Rawi: Madam Chair. May I enquire whether—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma'am. May I enquire whether clause 63 should be broadened to include that the holder of the licence may surrender their licence for circumstances more than just cancellation or endorsement, and perhaps for any other matter? Does endorsement, for instance, catch the position of suspension or some other factor? If so, then someone who wished to have it returned for the purposes of suspension could not do so under clause 63, so I wondered whether it was unnecessarily tight. Perhaps it is, and I am not sure. I would invite the attorney General's explanation of this, through you, Madam Chair—is it that the endorsements take care of that?

Madam Chairman: AG.

Sen. Nicholas: This is voluntary surrender and, therefore, in terms of the Government's policy, we can only see two significant reasons why the holder would wish to surrender his driver's licence, and, as such, we believe that we have covered what we would like covered, please.

Sen. Al-Rawi: Thank you.

Question put and agreed to.

Clause 63 ordered to stand part of the Bill.

11.30 a.m.

Clause 64.

Question proposed: That clause 64 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 64 be amended as follows:

Delete the words "three months" and substitute the words "six months".

Sen. Al-Rawi: May I enquire through you, Madam Chair, what other document was it contemplated that would be in need of extension?

Sen. Nicholas: The Authority has the option to issue many documents, and instead of keeping it tight, we ensured that we allowed for that flexibility and expansion.

Sen. Al-Rawi: Why I am asking is that identifying what could be a need of extension impacts upon the time frame that we may give.

Sen. Nicholas: Any of those other type documents, inspection certificates.

Sen. Al-Rawi: Thank you very much.

Sen. Prescott SC: To the Attorney General: What are we aiming at in 64—disasters, emergencies or unforeseen occurrences that are nationwide affecting a particular geographical location or a home? What would cause us to extend the certification, the licence, if there is an emergency in Port of Spain? In other words, what informs the new approach?

Hon. Cadiz: I think what we are looking at here is whether, as it says here:

“natural disaster, emergency or other unforeseen occurrence...”

For instance the database of the Authority might be compromised for some reason, fire or something like that, and therefore to have people not driving for instance, because they could not get their licence renewed when it was expiring. It is felt that because of the digitization and computerization of the entire system, that there could be an occurrence. It could be flood, it could be fire, it could be the collapse of the system for whatever reason and, therefore, the country would still have to operate and you would not want persons operating unlawfully. Therefore a statement would be made that you could actually extend—for instance in other documents that is also done.

Sen. Prescott SC: May I ask for clarification. So these are disasters et cetera affecting the Authority's capacity to do something, not the person's home or circumstances?

Hon. Cadiz: This would be where the Authority itself has been affected.

Sen. Prescott SC: Perhaps we need to say that. Something needs to be said, because I imagine that if I have an unforeseen occurrence home, like my parent passed away, or both, I may need a further three months to get myself out of my bereavement and come down to town. This could not mean to be extended to that?

Sen. Nicholas: This would not have contemplated that issue.

Sen. Prescott SC: Nor does it contemplate natural disaster or a disaster in Diego Martin, a flood in Diego Martin.

Sen. Nicholas: We speak to natural disasters.

Sen. Prescott SC: A natural disaster in Diego Martin, as occurred in October some months ago, might lead to some people not being able to find their licence for a few months while they do some other cleaning, and the time has expired. Is that person's limited circumstances what you intend to capture in 64, if that person has suffered from a loss?

Sen. Nicholas: In the case where someone has had their house flooded or destroyed by fire, and their documents lost in those circumstances, they would then report that their documents were lost or damaged or misplaced, and replacement documents could then be issued.

Sen. Prescott SC: So 64 is intended to deal with disasters or emergencies or unforeseen occurrences whomsoever is the victim, be it the Authority or driver? That is what I am after.

Sen. Nicholas: No, this deals more with the Authority's suffering from the effects of a disaster.

Sen. Prescott SC: So shall we say at the end "affecting the Authority", "impacting on the Authority", so that no subjective emergency becomes an issue?

Sen. Nicholas: We could put "affecting the Authority".

Sen. Prescott SC: It might hone our thinking.

Sen. Nicholas: Sure.

Madam Chairman: Any other concerns with clause 64?

Sen. Drayton: I want to seek clarification on 64. What we are saying here is that if there is a natural disaster or emergency, the Authority will extend the licence for three months? Extend what for three months?

Sen. Nicholas: The validity of the licence. So that your licence was supposed to expire tomorrow, your driver's permit was to expire tomorrow, there was a hurricane that affected the operation of the Authority and therefore we could not renew it tomorrow. Then we extend it for three months so that the Authority could get itself back up and running up, or six months so that the Authority could get itself back up and running and you would continue to drive without any issue.

Sen. Drayton: So if there is an emergency, a natural disaster, and my licence was about to expire or had just expired, you are saying that automatically I could now—

Sen. Nicholas: No, by order of the Minister. So that the Minister would then say that all driver's permits or other documents that would have expired over the next six months, would continue to run for a six-month period.

Sen. Drayton: So that would be captured in the regulations, that procedure you are speaking of?

Sen. Nicholas: No, it is by order of the Minister as clearly articulated in the clause.

Sen. Prescott SC: May I just take another shot at this, please, Madam Chairman. Attorney General, should this legislation not make provision for someone who, through a natural disaster, emergency or other unforeseen occurrence, is incapacitated or rendered unable to attend to the requirement to have his driver's licence renewed? Should this legislation not make provision for such a person?

In clause 67 it says if it is "mutilated, destroyed or becomes illegible"

something would be done. But what if I have it in my pocket, I just simply cannot get away at this time because the road to Pipiol “break down, ah cyar come out”. So should we not have some consideration—

Sen. Nicholas: I think that would be taking it a little far.

Sen. Prescott SC: I used extreme circumstances to make the point.

Sen. Nicholas: Then we would go into circumstances perhaps if someone’s car cannot start on the day, and that sort of thing.

Sen. Prescott SC: May I suggest something? If we looked at 64 from the point of view that we wish to permit extensions of time, and the Authority, not the Minister, is given the right to hear and deal with each limited circumstance that comes before it, be it from the citizen or the Authority itself, and make a determination, “This has happened, as a consequence we have extended the time.”

Sen. Nicholas: This particular government policy deals with emergencies that affect the Authority.

Sen. Prescott SC: Very well. So it will end with “affecting the Authority”?

Sen. Nicholas: Correct.

Sen. Prescott SC: Thank you very much, Sir.

Mr. Chairman: Hon. Senators, the question is that clause 64 be amended as circulated, and further amended by adding the words after “occurrence ” inserting a comma and adding the word “affecting the Authority”.

Question put and agreed to.

Clause 64, as amended, ordered to stand part of the Bill.

Clause 65.

Question proposed: That clause 65 stands part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 65 be amended as follows:

“A. In subclause (2)(a), insert after the word “or learner’s”, the word

“driver”.

- B. In subclause (2)(b), delete the words “or any other relevant documents in relation to the vehicle”.
- C. In subclause (3), delete the words “thousand dollars or six months imprisonment” and substitute the word “hundred dollars”.

Sen. Drayton: Could the Attorney General explain the reasons for the amendment?

Sen. Nicholas: The purpose of the amendment is to ensure that the learner driver’s licence is clearly articulated, as opposed to just learner’s licence, and to decrease the fine that was outlined as \$5,000 or six months’ imprisonment to a fine of \$500, because the Government thought that to be more appropriate.

Sen. Prescott SC: Through you, again to the Attorney General. Attorney General, what is recommended in (2)(a) is that we insert after the words “or learner’s” the word “driver”, so it would read—might be a typographical error— “that person’s driver’s licence or learner’s driver licence”.

Sen. Nicholas: It should be “learner driver’s licence”.

Sen. Prescott SC: The apostrophe on “learner’s” disappears and is now attached to “driver’s” licence—the learner driver’s licence.

Sen. Vieira: The section speaks about the driver having on his person the driver’s licence and not having it is an offence. Should there be some latitude for a person who for some reason thought he had it, but he did not have it and he produces it at the police station, say within 24 hours or 48 hours?

Sen. Nicholas: You have “without reasonable excuse” that gives some leeway there.

Sen. Vieira: That is when you are already before the court and you are explaining.

Sen. Nicholas: That is existing law, Sen. Vieira. Whilst there is nothing wrong

with amending existing law, the Government's policy is that it remains as is.

Sen. Vieira: I was just saying that this afforded us an opportunity to clarify, and to give a person an opportunity to produce that—because the requirement is that you should have it, that you are in fact driving with a valid driver's licence, and you could produce it to a police station and you have not committed an offence.

Sen. G. Singh: The practice is exactly that. If you are on a roadblock and you do not have your licence, they give you time to produce it. I think it is something that we may want to incorporate in the law; it is a practical approach.

Sen. Al-Rawi: May I point out that the exception in subclause (3) “without reasonable excuse” only applies to subsection (2), which is where you are called upon to have it in production. The attenuation of the animus for the offence in clause 65(1) does not have the benefit of the attenuation of the strict law as now prevails in the Magistrates' Court, as Sen. Singh has pointed out. It may be useful therefore to include the words “without reasonable excuse” into paragraph one.

May I say further, with respect to subclause (2), that subclause (2) has a chapeau, shall:

“produce for inspection—

(a) that person's driver's licence”—et cetera as amended—

“(b) the certificate of insurance of the vehicle”—at the word “or”— “or any other relevant document in relation to the vehicle.”

Should that perhaps be a subparagraph (c) as opposed to in (b)?

Sen. Nicholas: We have deleted that. We have deleted, “or any other relevant document in relation to the vehicle”.

Sen. Al-Rawi: Any reason why? I must confess, AG, I find it difficult to follow without a track change version, because I confess to be doing three Bills at the same time, literally. So forgive me for not picking up what you have seen or you

have circulated. So “or any other relevant document in relation to the vehicle” is deleted. If so, why? An officer who is not on a day of total policing, but instead on a day of an efficient roadblock and looking to catch something, would we not want to give him the authority to search for some other document, a disability permit, some other position that he ought to have at that point?

Sen. Nicholas: No, what is important in terms of a person driving a vehicle is that they have the requisite insurance and the requisite driver’s permit.

Sen. Al-Rawi: Insofar as driving includes parking, standing or stopping, once behind the wheel and the car is on, and insofar as someone may reasonably therefore run afoul of a disability intrusion prohibition, would we not want to allow the investigating officer standing to at least have the discretion to ask for something which he may have reasonable suspicion may not be there?

11.45 a.m.

Sen. Nicholas: Sen. Al-Rawi, it could not possibly. It could not possibly be the case that if someone is driving a vehicle and they are in a roadblock that they be forced to present a parking permit as part of documents.

Sen. Al-Rawi: I was not thinking about roadblock, Sir. That is why I referred you to parking, standing or stopping.

Sen. Nicholas: Any situation where a—if it is that we are dealing with the disability parking permit it is provided for in other parts of the legislation.

Sen. Al-Rawi: Are you sure?

Sen. Nicholas: But so far as the offence of driving without your driver’s permit and your licence is concerned, which are the documents that are necessary for driving your vehicle, that is what is being dealt with in this section and we believe that is—

Sen. Al-Rawi: One further indulgence, please and thank you for expressing that

point. May I ask insofar as this Bill came from the House of Representatives and was passed with the full support of the Government.

Sen. Nicholas: Yes.

Sen. Al-Rawi: What caused the reconsideration of this tail end of subclause (b)? Why is it that we are now deleting it? What was the thinking in the House in terms of the policy versus now?

Sen. Nicholas: Just as we debate things and we get different viewpoints, and we are allowed to revisit opinions, we have revisited—

Sen. Al-Rawi: I really was not being pejorative. I mean, if it is you thought of something, I am trying to find out what it is.

Sen. Nicholas: We realized that it was not necessary.

Sen. Al-Rawi: Thank you.

Sen. Vieira: AG, I was just suggesting that we could put as a defence if the person was to produce his driver's permit at a specified police station as soon as it is reasonably practicable or in any event within seven days.

Sen. Nicholas: Sen. Vieira.

Sen. Prescott SC: The Chair, the Chair.

Sen. Nicholas: Sorry. Madam Chair, through you, of course to Sen. Vieira, subclause (2) speaks to "may require" and, certainly based on the way the law that similarly applies today works, and also the fact that without reasonable excuse aspect of subclause 3 operates, it allows for someone who suggests to a police officer that they have the driver's permit but elsewhere, some leeway to produce that driver's permit. If it is that you are adamant that it should be articulated in the clause then certainly we have no real issue with it, because it does not change the intent of the clause.

Sen. Prescott SC: It appears that this may be read that in 65(2) as saying it will be

within the discretion of the officer to say, “you shall produce it at...”. He may say it on the fly, the person has said, look, I live in Carenage, I know you found me in Maracas, but if you allow me to get down to Carenage I could get to West End Police Station, I could deliver it at the West End Police Station, so he says deliver it at the West End Police Station. So, it does appear that the language that exists here allows for that.

Sen. Vieira: Indeed.

Madam Chairman: Any further concerns?

Sen. Vieira: I am just concerned about reports I have heard about people who have been told, “Oh, you do not have your driver’s permit on you, well you cannot drive, get out the car”.

Sen. Nicholas: You see, it really is important that—and the law is that you should walk with your driver’s permit and your licence. That is the law. Therefore, to start giving leeway for the law, we start running into difficulties as we start doing that. The law is this, there is a discretion for a police officer, but the law is that you are required to have your driver’s permit and your insurance with you. The minute we start putting in that you have 24 hours, then persons could actually start absconding, they do not have to necessarily report. They could say that they will report but not report, and all sorts of difficulties can arise as a result of that.

Sen. Vieira: Well, I think in the UK, if you have been asked to produce your driver’s licence and you have not done it and you continue driving, that in itself is an offence. So, what I am saying is that we can expand on this aspect, but I am guided by you, AG.

Sen. Nicholas: Thank you.

Madam Chairman: Any further concerns?

Hon. Senators, the question is that clause 65 be amended as circulated and

further amended in subclause (2) paragraph (a) by deleting the word “learner’s” and substituting the word “learner” and inserting the word “driver’s” before the word “licence”.

Question put and agreed to.

Clause 65, as amended, ordered to stand part of the Bill.

Clause 66.

Question proposed: That clause 66 stand part of the Bill.

Sen. Nicholas: I beg to move, Madam Chairman, that clause 66 be amended as circulated:

“A. In subclause (1), delete the word “returned” and substitute the word “surrendered”.

B. In subclause (2), delete the word “wilfully” and substitute the words “with fraudulent intent”.”

Question put and agreed to.

Clause 66, as amended, ordered to stand part of the Bill.

Clause 67.

Question proposed: That clause 67 stand part of the Bill.

Sen. Nicholas: I beg to move that clause 67 be amended as circulated:

“Delete subclause (1) and renumber subclauses (2), (3) and (4) as subclauses (1), (2) and (3), respectively.”

Sen. Prescott SC: It is a minor observation in the new subclause (1) the word “mutilated” should be included in line 3.

Sen. Nicholas: Sure, yes.

Sen. Prescott SC: Thank you very much.

Madam Chairman: Any other concerns with 67? AG, could you just repeat what is that change, please?

Sen. Nicholas: Line 3 in subclause 1 starts “Furnishing satisfactory proof to the Authority that the licence was in fact lost,” insert “mutilated,” and then it continues “stolen, destroyed”, et cetera. [*Interruption*] “Lost, stolen, mutilated”, sorry, yes. So it is actually in line 4 after “stolen,” we insert “mutilated,”.

Madam Chairman: You are talking about subclause (2)?

Sen. Nicholas: The new (1).

Madam Chairman: Hon. Senators, the question is that clause 67, be amended as circulated and further amended by inserting the word “mutilated” after the word “stolen” in the new subclause (1).

Sen. Robinson-Regis: May I ask one question, please? In the new subclause (2) where it says, “the Authority may issue”, should it be “shall”? I am just wondering if “shall” may be the better wording. AG, that is a simple amendment.

Sen. Nicholas: I know.

Sen. Robinson-Regis: You do not have to be so concerned about that, accepting an amendment from the Opposition.

Sen. Nicholas: We have no real issue, in fact we welcome Sen. Robinson-Regis.

Sen. Robinson-Regis: So simple.

Sen. Nicholas: “Shall” it is.

Sen. Vieira: AG, I do not know if it is in the Bill, but if it is not I was going to make a suggestion: in the UK there is an offence for a person to cause or permit another person to drive without holding a licence. Now, we have situations in Trinidad where people have fleets of maxi-taxis and vehicles and they have people driving for them or—it is in the Act.

Sen. Nicholas: It is, it is. There is a section on maxi-taxis.

Sen. Vieira: Well, not just maxi-taxis, but, I mean—

Sen. Nicholas: As listed offences.

Sen. Vieira: Thank you.

Madam Chairman: Hon. Senators, the question is that clause 67 be amended as circulated and further amended in subclause (2) by deleting the word “may” and inserting the word “shall”.

Question put and agreed to.

Clause 67, as amended, ordered to stand part of the Bill.

Clause 68.

Question proposed: That clause 68 stand part of the Bill.

Sen. Nicholas: I beg to move, Madam Chair, that clause 68 be amended as circulated:

“Delete the word “of”.

Sen. Prescott SC: May I point out that the word “licence” in line 2 of subclause (2) must be incorrect. In line 2 of subclause (2)—ok, let me just get it, could you say “licences” instead of “licence”. There are some people who think licence is a plural word but it is not. “The Authority shall keep a register of all valid international driver’s”—

Madam Chairman: “Licences”. Any other concerns with 68?

Sen. Al-Rawi: May I just enquire—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair. Clause 68 the circulated amendment says delete the word “of”; 68 when read says, “a citizen of Trinidad and Tobago who desires to obtain an international driver’s licence to drive”.

Sen. Nicholas: Sorry, that is the “of” in line 3, and that should be specified.

Sen. Al-Rawi: “Of” in line 3, coming after “in”.

Sen. Nicholas: So it is specified “in the Sixth Schedule”.

Sen. Al-Rawi: I see, in the second line, not third line.

Madam Chairman: The third line, before the Sixth Schedule.

Sen. Al-Rawi: Sorry, mine literally has it as the second line. So, just for clarity, it is to delete the word “of” as it appears after the words “specified in” and before the words, “in the Sixth Schedule”. Correct?

Sen. Nicholas: That is correct.

Sen. Al-Rawi: Thank you.

Madam Chairman: Any other concerns with clause 68?

Sen. Cudjoe: Clause 68, subclause (2), after the word “international”, if we are changing “licence” to “licences” should driver’s be drivers’?

Sen. Nicholas: Yes, because it is more than one driver.

Sen. Cudjoe: Because it is more than one driver.

Sen. Nicholas: Yes, you are absolutely correct.

Sen. Prescott SC: Are you going to pluralize it?

Sen. Nicholas: That is why we kept it singular in the first place.

Sen. Prescott SC: Yes, for a moment—I was trying to catch Sen. Cudjoe’s attention, because I think what we are saying is that the Authority shall keep a register of all valid licences.

Sen. Cudjoe: So, wait, we are excluding the word “driver’s”?

12.00 noon

Sen. Prescott SC: What you have is an international driver’s licence, that is with the ’s. Each person has one. The thing is a driver’s licence—so the thing to be pluralized is the number of licences—

Sen. Cudjoe: That each driver has.

Sen. Prescott SC:—that each driver has. So I am satisfied that it should be a register of all valid international driver’s licences, driver being spelt, d-r-i-v-e-r’s. You are not increasing the number of drivers. You are not registering the number

of drivers, but the number of licences.

Madam Chairman: It is an 's that is required.

Sen. Prescott SC: I think so.

Sen. Nicholas: Yeah, yeah.

Madam Chairman: Any other concerns. Hon. Senators, the question is that clause 68 be amended as circulated and further amended in subclause (2) by deleting the word "licence" and substituting the word "licences".

Sen. Prescott SC: Chair, if I may, since it is going on the record, the amendment said, delete the word "of", and does not specify. But in each of the lines there is the word "of". It is "of" in line two we are speaking about.

Madam Chairman: "of" in line three. Okay, let me do that over.

Sen. Prescott SC: So in line two. So if you say as circulated you will leave it unclear.

Madam Chairman: So the amendment is, hon. Senators, the question is that clause 68 be amended by deleting the word "of" appearing after the words "specified in" and before the words "the Sixth Schedule".

Sen. Prescott SC: Indeed, yes.

Madam Chairman: And further amended in subclause (2) by deleting the word "licence" and substituting the word "licences".

Question put and agreed to.

Clause 68, as amended, ordered to stand part of the Bill.

Clause 69.

Question proposed: That clause 69 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 69 be amended as circulated.

"A. In subclause (1)(a), insert after the words "be required to", the words

“drive or”.

B. Delete subclause (8) and substitute the following subclause:

‘(8) Notwithstanding sections 52(3)(c) and 54, a national of a CARICOM Member State shall be exempt from the requirement to undertake a knowledge and driving test for the purpose of obtaining a driver’s licence.’”

Actually, with a correction please. So, instead of inserting after the words “be required to”, the words “drive or”, we insert the words “drive or” after the words “a licence to”, in the third line. So, at the moment we are suggesting in the circulated amendment that “drive or” be inserted after the words “be required to” but it is actually supposed to be included after “a licence to”.

Sen. Prescott SC: Chair, forgive me.

Sen. Nicholas: You following? Clause 69(1)(a).

Sen. Prescott SC: Oh, (a).

Sen. Nicholas: Yes. So it will read, if we were to read from line two:

“...Schedule shall not, where the licence remains valid, be required to hold a licence to”—drive or—“operate a vehicle for ninety days...”

Madam Chairman: Any other concerns with 69?

Sen. Cudjoe: Clause 69(1)(a) refers to the Sixth Schedule. I do not see Caricom countries here. So what is the Government’s policy as it relates to all Caricom countries?

Sen. Nicholas: The new insertion of clause 69(8) deals with Caricom.

Sen. Robinson-Regis: It is in the amendment.

Sen. Nicholas: Yes, it is in the circulated amendment.

Sen. Cudjoe: Okay.

Sen. Nicholas: Thank you, Sen. Robinson-Regis.

Sen. Prescott SC: May I? Is the Attorney General to tell the national public that we are now saying that citizens of Caricom Member States may apply for a driver's licence in this country without having to produce, without having to take a knowledge and driver's test?

Sen. Nicholas: Once they are already holders of driver's permits.

Sen. Prescott SC: And that has been made clear?

Sen. Nicholas: Yes.

Sen. Prescott SC: "...a national of a CARICOM Member State shall be exempt from the requirement"—[*Interruption*]

Sen. Nicholas: In fact, the clause deals with international drivers who already holds driver's permits to convert to Trinidad and Tobago permits. But we are saying that if you are a Caricom member and you hold a driver's permit then you are not required to redo the test.

Sen. Prescott SC: Okay, and I was observing that those words, "and you hold a driver's permit" do not appear in the reference to Caricom Member States. It says:

"Notwithstanding section 52(3)(c) and 54, a national of a CARICOM Member State shall be exempt from the requirement"—presumably if he is the holder of—

Sen. Nicholas: No, well the clause deals with being a holder of a driver's permit already.

Sen. Prescott SC: Which clause is that? Which part of 69?

Sen. Nicholas: Clause 69(3).

Sen. Prescott SC: Clause 69(3), he:

"...shall be entitled to drive...a vehicle...for which he is authorised to drive..."—and does not require a test.

Forgive me, and I am totally at sea here. All drivers in this country,

wheresoever the driver's licence has been issued, if it is a valid licence in the country of issue, may drive in this country without a knowledge test or is it limited? The need for a knowledge test is limited to those who are not Caricom members.

Sen. Nicholas: Correct.

Sen. Prescott SC: International is provided in clause 69(1)(b).

Sen. Drayton: So that if they have an international licence, then of course they are not subjected to a test.

Mr. Cadiz: But not—the international licence is typically a maximum, I believe, of 12 months.

Sen. Prescott SC: And subclause (1)(b) provides for that?

Mr. Cadiz: Yeah. So if you have an international licence, if you are a foreigner coming to Trinidad with an international licence you will be allowed to drive for a maximum of 12 months.

Sen. Drayton: So if you are a Caricom national then you do have an international driver's licence?

Mr. Cadiz: I mean, it is up to you, really. This is really and truly for Caricom nationals who are either in Trinidad and Tobago on a very regular basis, whether they are doing business or what-have-you, or they are living here now, they would not be required to do the knowledge test nor the driving test, but you will have a valid driving permit from your home country that you would produce which basically says that you are the holder already of a driving permit.

Madam Chairman: And there is no time limit on the length of time that that will be valid for.

Mr. Cadiz: A valid driving permit from any country in the Sixth Schedule will allow you to drive in Trinidad and Tobago for 90 days. If you are a tourist and you

come here for, whatever period, you are allowed to drive. Just like what we do when we go to other jurisdictions. After the 90 days if you intend staying in Trinidad, legally, you intend to stay in Trinidad you can then apply for a Trinidad and Tobago driving permit. But for a non-Caricom national you would have to do the knowledge test. For a Caricom national that will not be required, but you will be required to produce your valid driving permit from your home country.

Madam Chairman: Hon. Senators, the question is—[*Interruption*]

Sen. Cudjoe: I do have another concern, please, Madam Chairman. What is the Government's policy as it relates to treating with members of the EU, the European Union?

Sen. Nicholas: They would be treated like other international drivers. The preferential treatment is for Caricom only.

Sen. Al-Rawi: Would we be in breach of any of our international obligations by way of reciprocity as it relates to facilitating agreements that we have, for instance, with Panama, either bilateral or multilateral, for instance, the EU. In particular, in light of concessions given as recently as the removal of the Schengen issues in the European—

Sen. Nicholas: Having been one of the people who successfully lobbied for our visa waiver—

Sen. Al-Rawi: Thank you.

Sen. Nicholas: —I can tell you that it has nothing to do with the driver's permit in the—

Sen. Al-Rawi: No, I am sure about—

Sen. Nicholas: In the reciprocity agreement it just deals with visas, and therefore we are not running, we will not run afoul of any of those international agreements.

Sen. Al-Rawi: So just to be clear, we are operating on the undertaking that the

Government's position is that there is no conflict for any other reciprocal arrangement with any other entity either bilateral or multilateral.

Sen. Nicholas: Correct.

Sen. Al-Rawi: Thank you.

Madam Chairman: Hon. Senators, the question is that clause 69 be amended as circulated.

Question put and agreed to.

Clause 69, as amended, ordered to stand part of the Bill.

Clause 70.

Question proposed: That clause 70 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 70 be amended as circulated:

"A. In subclause (1), insert after the words "shall have his driver's licence", the words "and travel documents".

B. In subclause (3), delete the words "thousand dollars or six months imprisonment" and substitute the words "hundred dollars".

Sen. Prescott SC: I do have a question. There is a reference in clause 70 to Part A of the Sixth Schedule and mine does not contain a Part A or at least certainly not identified as having a Part A. Can I be provided with the one that has that?

Sen. Nicholas: We can delete the "Part A". There is no Part A. There was an intention to separate it, to put Caricom in a different category, but that did not happen.

Sen. Prescott SC: Thank you.

Sen. Robinson-Regis: Thank you very much, Madam Chairman. Madam Chairman, I have a concern, I would like to enquire whether the licensing officers can take someone's travel documents. Someone's travel documents are the

property of another Government.

Sen. Nicholas: We do not take it, we examine it. Even now if you drive with an international driver's licence you are required to show your passport to verify that you have been in the country for a specific period of time. That is the law. That is the only way you can verify.

Sen. Robinson-Regis: To take their travel document is to examine. It goes—for examination when so required. Okay, thank you.

Madam Chairman: Hon. Senators, the question is that clause 70 be amended as circulated and further amended:

In subclause (1), by deleting the words after “listed in”, the words
“Part A of”.

Sen. Robinson-Regis: Sorry about that. We have inserted the words “travel documents” in subclause (1), are we also going to do it in subclause (2)? Is there an intention to include it in subclause 2?

12.15 p.m.

Sen. Nicholas: Yes.

Sen. Robinson-Regis: It is to be included. Okay.

Sen. Nicholas: Thank you very much, Sen. Robinson-Regis.

Madam Chairman: Any other concerns? Sen. Vieira.

Sen. Vieira: Coming back to the same point about the failing to produce or not having it on your person. In the United Kingdom they have it as a defence if you produce it at a police station within a certain time. Right? We do not have it as a defence. What we are hearing is that, you know, we have a little kind of a practice and they could ease you up and that kind of thing. I really feel that there should be a defence that, if you have been asked to produce it and you do not have it on your person but you produce it at a police station within a certain time, you have not

committed an offence. I do not think we should leave it to the whims and discretions of police officers.

Sen. Al-Rawi: Agreed, particularly as its subsequent legislation which would come to modify the common law by specific intent of Parliament.

Madam Chairman: Sen. Vieira, how would you want to—

Sen. Vieira: That is a different matter. I will put my hand at drafting something. In fact, I have had some things photocopied right now that I was doing some drafts—

Sen. Nicholas: We will accept it and we will deal with it after lunch.

Sen. Vieira: Thank you, AG.

Sen. Nicholas: And I suppose we will deal with it in the previous clause as well so that there will be consistency.

Sen. Vieira: Yes, thank you.

Madam Chairman: Hon. Senators, we will revisit clause 70 later in the proceedings.

Sen. Nicholas: And Madam Chair, if I may suggest, clause 65, I think, deals with the other one.

Madam Chairman: Hon. Senators, we seek your indulgence to revisit clause 65 which has been passed—and 70.

Question put and agreed to.

Clause 70 deferred.

Clause 71.

Question proposed: That clause 71 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 71 be amended as circulated.

Madam Chairman: You did not circulate.

Sen. Nicholas: No, sorry. I am reading clause 71 with 72. Pardon me, Madam

Chair.

Madam Chairman: Any concerns with clause 71? Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma'am. May I enquire whether we should be including after the word "keep" in 71(1) that the Authority should not only "keep a register of all persons" but "keep and maintain", putting a positive obligation to ensure its accuracy and updating. It is something which we use in other legislation as well. I am not quite sure as to what is intended.

Sen. Nicholas: No harm will be done in inserting "and maintain".

Sen. Al-Rawi: Thank you.

Madam Chairman: Any other concerns?

Madam Chairman: Hon. Senators, the question is that clause 71 be amended by inserting after the word "keep" in subclause (1), the words "and maintain".

Question put and agreed to.

Clause 71, as amended, ordered to stand part of the Bill.

Clause 72.

Question proposed: That clause 72 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 72 be amended as circulated.

"Delete the word 'mitilated' and substitute the word 'mutilated'"

Madam Chairman: Sen. Drayton.

Sen. Drayton: Chair, under 72(b):

"a person issued with a driver's permit under the former Act at the discretion of the Authority, may be required to replace his driver's permit with a driver's licence issued in accordance with the requirements of this Act."

Now (a) says that:

"All driving permits including provisional permits issued under the former

Act prior to the coming into force of this Act, shall remain valid until the date of its expiration;”

So I just needed an explanation for (b). You know, we say here “at the discretion of the Authority”, however, the person may be required to replace the permit. And I am trying to understand or come to grips with the circumstances arising from this.

Sen. Nicholas: Madam Chair, through you to Sen. Drayton, this clause is meant to deal with persons who continue to hold the old driver’s permit but have committed an offence that requires endorsement, and in those circumstances the driver’s permit would be changed over so that the endorsement could be affixed. In other circumstances where the person does not run afoul of the law and requires an endorsement, then their driver’s permit will remain in force until it is expired. So it is really for the purpose of effecting an endorsement.

Sen. Drayton: But that is not clear anywhere.

Sen. Nicholas: That is why it is a matter of “may” and it is the discretion of the Authority in those circumstances or any other circumstances that would require them to do so.

Sen. Prescott SC: Chair, may I enquire for further clarification from the AG? So that, hon. Attorney General, we are saying if you are the holder of a driving permit, or a provisional permit, and it remains valid until the date of its expiration, or where it is required to be endorsed? Does it cease to be valid if an endorsement is necessary? Or can you continue to use it—

Sen. Nicholas: No. You see, you would not be able to endorse the old permit.

Sen. Prescott SC: So it ceases to be valid?

Sen. Nicholas: So for the purpose of endorsement you will transition on to the new permit, so that the endorsement could be effected.

Sen. Prescott SC: I am really trying to be helpful.

Sen. Nicholas: Yes. I know you are.

Sen. Prescott SC: It therefore ceases to be valid once you have to produce it for endorsement because, thereafter, you will not be permitted to either have it endorsed or to use it.

Sen. Nicholas: Correct.

Sen. Prescott SC: Well, should we not, in the break, think of a form of words that says that? I am reading from 72(1)(a):

“On the coming into force of this Act—

(a) all driving permits, including provisional permits issued under the former Act prior to the coming into force of this Act, shall remain valid until the date of its expiration; or”—earlier requirement for production or endorsement or something.

Because it is the validity that goes, unless it is required earlier for—this is just random languaging. Because (b) does not address what you have explained so clearly.

Sen. Drayton: (b) seems very arbitrary, as if it is almost redundant. But if you are saying it is if a person has committed an offence, nowhere does it explain this or say this. It just seems quite open-ended with no relationship to the main clause.

Sen. Prescott SC: So if I may again, so where we say it “shall remain valid until” we want to say “or earlier endorsement” or something of the sort, or “earlier production for endorsement”.

Madam Chairman: So after “Authority” you want to put “where an endorsement is required”—

Sen. Prescott SC: “until the date of its expiration” or “earlier requirement to be produced for endorsement” or something like that. I will have to get some—

Sen. Nicholas: I want to suggest that it is much wider than just the endorsement

principle, so it may actually, in addition, occur where someone has been upgraded in their class that they are able to drive—

Sen. Prescott SC: And will such a person be required to produce the pre-upgrade document?

Sen. Nicholas: Yes.

Sen. Prescott SC: And that will cease to be valid?

Sen. Nicholas: That is correct.

Sen. Prescott SC: Okay. So we are saying it remains valid until the date of its expiration or some earlier circumstance. All we need is language to capture that and then delete (b), because (b), Sir, does not speak to anything that you have now explained to us.

Sen. Drayton: Nor does it explain anything.

Sen. Prescott SC: So it becomes redundant, really.

Sen. Nicholas: Well, what it says—and if we read it with the understanding of what has been explained, it says:

“or

(b) a person issued with a driver’s permit under the former Act at the discretion of the Authority, may be required to replace his driver’s permit with a driver’s licence issued in accordance with the requirements of this Act.”

So it just really sets out a discretionary position where it “may be required”, and there are a number of circumstances where it may be required.

Sen. Prescott SC: But the citizens, Chair—the citizen needs to know in what circumstances the Authority may simply call upon me to hand over my old permit. It is still valid, according to 72(1)(a), but he is telling me pass it over. Replace it, and I am saying, “Well, what gives you this power to tell me to hand it over”? And

then he starts the long explanation about endorsements and—I forgot the other one—and your vision, you now require glasses and that sort of thing. So all of these things are new circumstances.

Sen. Nicholas: Not glasses. I said classes, so as we move up—

Sen. Prescott SC: No, Sir. I am just thinking quickly.

Madam Chairman: Glasses will also work.

Sen. Prescott SC: It was not a malaprop, anyway. So I am just thinking that what we need to do is to delete (b) and make it clear in (a) that it is not only the date of expiration that will render it invalid, it may be another circumstance, and we just need assistance from the—

Sen. Nicholas: Okay. So let me hear your suggested amendment.

Sen. Prescott SC: If you just allow me just one more sentence. And we may need the assistance of the drafting technicians to provide us with wording that suits the circumstance.

Sen. Nicholas: You do not have a suggestion?

Sen. Prescott SC: I loosely said “or earlier requirement of production for endorsement”. But you did introduce another—you say it is not limited to endorsement. So I thought that given lunch, when we may all be fortified, we might come back with something very brilliant.

Sen. Nicholas: Very well.

Sen. Prescott SC: It is only 12.28. I “doh” know if you get the point.

Hon. Senator: Yes, we got the point.

Madam Chairman: Are we now going to—

Sen. Prescott SC: The hon. Attorney General is about to ask you to adjourn.

Madam Chairman: So what is the decision on 72?

Sen. Nicholas: The Attorney General cannot ask for an adjournment.

Sen. Prescott SC: And we would come back—[*Laughter*]

Sen. Nicholas: The Attorney General knows what he can ask for and cannot ask for.

Sen. Prescott SC: We will come back to it.

Madam Chairman: So hon. Senators, the question is that we defer clause 72. Clause 72 will be the deferred for consideration later.

Clause 72 deferred.

Madam Chairman: Hon. Senators, at this point, being 12.29, I wish to suspend the committee stage for the purpose of lunch and in consideration of some of the concerns of the Independent Bench and the Opposition Bench, we will have a lunch break that will be one and a half hours. So we will resume at 2.00p.m. The committee stage is now suspended.

12.30 p.m.: *Committee suspended.*

2.00 p.m.: *Committee resumed.*

Madam Chairman: Hon. Senators, it is now necessary to suspend the committee stage and to resume the Senate so that we can revert to item three on the Order Paper. So the committee stage is now suspended.

Senate resumed.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS
AQUINAS CARMONA, O.R.T.T., S.C.,

UNREVISED

President and Commander-in-Chief of the
Armed Forces of the Republic of Trinidad and
Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.

President.

TO: MS. CINDY GIBBS-MOHAMMED

WHEREAS Senator James Lambert is incapable of performing his
duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA,
President as aforesaid, in exercise of the power vested in me by section
44(1)(a) and section 44(4)(a) of the Constitution of the Republic of
Trinidad and Tobago, do hereby appoint you, CINDY GIBBS-
MOHAMMED, to be temporarily a member of the Senate with effect from
8th June, 2015 and continuing during the absence from Trinidad and Tobago
of the said Senator James Lambert.

Given under my Hand and the Seal of
the President of the Republic of
Trinidad and Tobago at the Office of
the President, St. Ann's, this 8th day
of June, 2015.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND
TOBAGO

By His Excellency ANTHONY THOMAS
AQUINAS CARMONA, O.R.T.T., S.C.,
President and Commander-in-Chief of the

Armed Forces of the Republic of Trinidad
and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
President.

TO: MS. MELISSA VIKKI RAMKISSOON

WHEREAS Senator Victor Wheeler is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago.

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MELISSA VIKKI RAMKISSOON, to be temporarily a member of the Senate, with effect from 8th June, 2015 and continuing during the absence from Trinidad and Tobago of the said Senator Victor Wheeler.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 8th day of
June, 2015."

OATH OF ALLEGIANCE

Senators Cindy Gibbs-Mohammed and Melissa Vikki Ramkissoon took and subscribed the Oath of Allegiance as required by law.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

Madam President: Hon. Senators, the committee stage will now be resumed.

Senate in Committee.

Clause 65 recommitted.

Question again proposed: That clause 65 stand part of the Bill.

Sen. Nicholas: Madam Chair, it is proposed that the following amendment be inserted as new 65(3):

“Where a person after being required to produce a driver’s licence or certificate under subsection (2) and fails to comply with the request, the constable, motor vehicles enforcement officer or traffic warden shall require the person to produce the licence or certificate as the case may be within 24 hours at a specified police station.”

Madam Chairman: Could you repeat it please, hon. AG?

Sen. Nicholas: Sure.

“Where a person after being required to produce a driver’s licence or certificate”—

Let me start again.

“Where a person after being required to produce a driver’s licence or certificate under subsection (2) and fails to comply with the request, the constable, motor vehicles enforcement officer or traffic warden shall require the person to produce the licence or certificate as the case may be...”

Madam Chairman: AG, “shall be required”?

Sen. Nicholas: “shall require”, sorry.

“...the person to produce the licence or certificate as the case may be within 24 hours at a specified police station.”

And clause 65(3) becomes clause 65(4).

Hon. Senator: It is a new subclause.

Sen. Nicholas: Yes.

Madam Chairman: Hon. Senator.

Sen. Vieira: Thank you, Chair. Thank you, AG. I like that. So the new clause

65(4) will be a person who fails to comply with a request under subsections (2) or (3), because it will be not just (1), it will be (2) or (3).

Sen. Nicholas: Sure. Yes.

Sen. Prescott SC: AG, the words “in uniform” have been omitted.

2.15 p.m.

Sen. Nicholas: We considered “in uniform”, but we are also cognizant that sometimes there are roadblocks with officers not in uniform, but with proper identification produced, a police officer does not necessarily have to be in uniform.

Sen. Prescott SC: Pardon me, Madam Chairman, through you. I am referring to the use of the term “Traffic Warden” which has always had attached to it “in uniform” as though it was meant that you are not a Traffic Warden and you have no power unless you are in uniform. So far, wherever we have used “Traffic Warden”, you have said “in uniform”.

Sen. Nicholas: So we are speaking specifically to the Traffic Warden. We would have no difficulty with that.

Sen. Prescott SC: There is an omission there.

Sen. Nicholas: Sure.

Madam Chairman: Where is that?

Sen. Prescott SC: In the amended version.

Sen. Nicholas: So after “Traffic Warden” we should put “in uniform”.

Madam Chairman: Are there any other concerns with clause 65?

Sen. Robinson-Regis: May I ask whether we needed to include the “learner driver” in that subclause? [*Crosstalk*]

Sen. Nicholas: Yes, “driver’s licence” or “learner driver’s licence”. Sure, thank you.

Madam Chairman: Are there any other concerns with clause 65? Hon. Senators,

the question is that clause 65 be amended by renumbering the existing subclause (3) to make a subclause (4) with amendment and inserting a new subclause (2)—sorry, a new subclause (3) which states:

Where a person after being required to produce a driver's licence or a certificate under subsection (2) and fails to comply with the request a constable, a Motor Vehicles Enforcement Officer or a Traffic Warden in uniform shall require the person to produce the licence or certificate as the case may be within twenty-four hours at a specified police station.

Sen. Nicholas: Madam Chair, just to include after "licence" there as well "or learner driver's licence", please. So that:

...shall require the person to produce a driver's licence or a learner driver's licence or certificate as the case may be."

Madam Chairman: So the amendment for the new subclause (3) shall read in whole:

Where a person after being required to produce a driver's licence or a certificate under subsection (2) and fails—or that is where the insertion is?—...after being required to produce a driver's licence or, a learner driver's licence or certificate and fails to comply with the request of a constable, a Motor Vehicle Enforcement Officer or a Traffic Warden in uniform shall require the person to produce the driver's licence, learners driver's licence or certificate as the case may be within twenty-four hours at a specified police station.

Sen. Robinson-Regis: Sorry, Madam Chairman, two questions please. In the definition section it says "learner driver's licence", could I be told which one it is we will be using, because when you repeated the amendment you said "learners driver's licence", so I just wanted to know which one we would be using. In the

definition it says “learner driver’s licence”.

Sen. Nicholas: Yes, it is “learner driver’s licence”.

Sen. Robinson-Regis: Okay, thank you.

Madam Chairman: So wherever “learner’s” exist, we will delete and insert the new word “learner”. Right.

Sen. Robinson-Regis: And also, when you read your amendment you said “a constable, Motor Vehicle Enforcement Officer”, but it says “Motor Vehicles Enforcement Officer”. So, which one are we going to use, please?

Sen. Nicholas: It might have sounded like vehicles.

Sen. Robinson-Regis: No, not you AG, when the Chairman—

Sen. Nicholas: It is “Vehicles”.

Sen. Robinson-Regis: It is plural. Okay, thank you.

Madam Chairman: And in new subclause (4) insert after “subsection (2)” the words “or (3)”.

Question put and agreed to.

Clause 65, as amended, again ordered to stand part of the Bill.

Clause 70 reintroduced.

Sen. Nicholas: Madam Chair, again, I beg to move that clause 70 be amended as follows, that a new subclause (3) be inserted after subclause (2) to read as follows:

Where a person after being required to produce a driver’s licence or travel documents under subsection (2) and fails to comply with the request, the constable, a Motor Vehicles Enforcement Officer or a Traffic Warden in uniform shall require the person to produce the licence or travel documents as the case may be within twenty-four hours at a specified police station.

Madam Chairman: Are there any other concerns with clause 70?

Sen. Robinson-Regis: Yes, Madam Chairman. Clause 70(1), “Motor Vehicle”

again. It is in the singular and from what was said previously it should be in the plural. That is the penultimate line of 70(1).

Sen. Nicholas: Motor Vehicles Enforcement Officer. Yes.

Sen. Robinson-Regis: Does it mean that wherever this term appears it should be taken out also?

Sen. Nicholas: No, no, no.

Sen. Robinson-Regis: It stays.

Sen. Nicholas: Yes.

Madam Chairman:—a constable, a Motor Vehicles Enforcement Officer. **Sen. Nicholas:** The term is “Motor Vehicles Enforcement Officer”, whether it be one or two.

Sen. Robinson-Regis: Right, I understand that. In some parts of the amendments we are saying “a constable” then we say, “Motor Vehicles Enforcement Officer and Traffic Warden”, so I am just asking.

Sen. Nicholas: In those cases it should be “a”.

Sen. Robinson-Regis: Okay, thank you.

Sen. Nicholas: And, Madam Chair, subclause (3) will now be renumbered subclause (4), please.

Madam Chairman: Are there any other concerns with clause 70?

Sen. Nicholas: Madam Chair, the new subclause (4), in the first line, after “comply with” we remove “this section” and insert “subsections (2) and (3)”.

Madam Chairman: The penalty remains.

Sen. Nicholas: The penalty remains the same, five hundred dollars.

Madam Chairman: Five hundred dollars.

Sen. Nicholas: Yes, please.

Madam Chairman: Hon. Senators, the question is that clause 70 be amended in

subclause (1) by deleting the words “Part A of” and in the last line of subclause (1), delete the word “Vehicle” and substitute the word “Vehicles”.

In subclause (2) by inserting after the words “his driver’s licence”, the words “and travel documents”.

By inserting a new subclause (3) which reads:

Where a person after being required to produce a driver’s licence or travel documents under subsection (2), and fails to comply with the request a constable, a Motor Vehicles Enforcement Officer or a Traffic Warden in uniform shall require the person to produce the licence or travel documents as the case may be within twenty-four hours at a specified police station.

To renumber the existing subclause (3) as subclause (4) and to delete the words “this section” after the word “with” and substitute instead “subsections (2) and (3)”.

Delete the word “thousand” after the word “five” and substitute the word “hundred” and delete everything after “dollars” and to insert a “.” after “dollars”.

Question put and agreed to

Clause 70, as amended, now stand part of the Bill.

Sen. Ramkissoon: Madam Chair, just for clarification, I heard before about the 24 hours you have a chance to submit your documents. Was that agreed upon?

Sen. Nicholas: Yes.

Sen. Ramkissoon: Okay, I am just making sure.

2.30 p.m.

Clause 72 reintroduced.

Sen. Nicholas: Madam Chairman, I beg to move that clause 72 be amended as circulated.

“Delete the word ‘mitigated’ and substitute the word ‘mutilated’”

Madam President: Sen. Drayton.

Sen. Drayton: Did we not agree there was another amendment to that, to delete (b)?

Sen. Nicholas: Madam Chair, whilst it is felt that clause 72(1)(b) does meet the requirement of the Government, in light of what Sen. Prescott had indicated, it will be revisited, so we would ask for it to be deferred, please.

Madam President: Clause 72 will be revisited.

Clause 72 deferred.

Clause 73.

Question proposed: That clause 73 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 73 be amended as circulated.

“Delete the words ‘from, certificate and’”.

Madam President: Sen. Vieira.

Sen. Vieira: Thank you, Chair. Thank you, AG. I was looking at the original Act, the Motor Vehicles and Road Traffic Act, Part II, which deals with registration of motor vehicles, and I thought, stylistically, it made better sense to start this part by saying that “The Licensing Authority shall cause to be kept, a register of vehicles”, as you have at clause 101, and then everything follows down making sense. But what we have done is that clause comes way down after we do all the different requirements to register. So, it was just a suggestion in terms of style, but I thought that the original Act flowed better and made more logical sense.

Sen. Nicholas: Noted.

Madam President: Hon. Senators, the question is that clause 73 be amended as circulated.

Question put and agreed to.

Clause 73, as amended, ordered to stand part of the Bill.

Clause 74.

Question proposed: That clause 74 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg move that clause 74 be amended as circulated.

“A. Delete subclause (1) and substitute the following subclause:

‘(1) Every owner of a vehicle intended to be driven or operated on a road shall before the vehicle is driven or operated apply to the Authority for and obtain the registration for the vehicle except as provided in section 76.’

B. Delete subclause (3) and renumber subclause (4) as subclause (3).

C. In subclause (3) as renumbered, delete the words ‘and rear’.”

Sen. Prescott SC: Chair, may I?

Madam President: Sen. Prescott.

Sen. Prescott SC: To the Attorney General, I find that clause 74(1) in its present form captures the offence, or prepares the grounds for the offence that really is what we should be after; that is to say, that you have a vehicle that is unregistered and you are keeping it for use. What is now being suggested seems far removed from that, and I am not hearing a justification for that shift. Can you assist us?

Sen. Nicholas: Yes. Sure.

Madam President: Sen. Mahabir.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. Madam Chair, I do not wish to be at cross purposes with my colleague, Sen. Prescott, but rather I prefer the amendment that has been submitted by the Hon. Attorney General that what is in place in clause 74 as currently stands, because my concern initially with clause 74, which I see corrected in the amendment circulated by the AG, is that a vehicle

which is being kept for use has been a concern of mine because someone may keep a vehicle for use sometime in the future, particularly for restoration. And, in that regard, I do not wish, someone who is simply keeping a vehicle, which may be restored five years hence, to be committing an offence, and so what I have seen in the amendment is that this particular concern of mine has been corrected. So, I want to support the hon. Attorney General with respect to how he has rephrased subsection (1).

Madam President: Minister.

Mr. Cadiz: And just to add to that, Senator, there are instances where people will have on private property, for instance, a wheel tractor. A wheel tractor does not have to be licensed unless you are going to be crossing a road. So, if you have an estate and you have the wheel tractor it does not have to be registered.

Sen. Prescott SC: Well, I return to my original request. I am truly not seeing what we are after. Perhaps I could elaborate. The way I read the original 74(1), we are saying if you have a vehicle which you intend to use, you are keeping for use, you must let us know and we will register it. In the proposed amendment it says, every owner of a vehicle intended to be driven or operated on a road shall, before it is operated, obtain registration. There is an offence naturally logged in the language of 74(1) as it stands. If you went with the amendment, what now stands as 74(2) says, you would be contravening subsection (1) presumably, if you do not seek to register the vehicle. In the Motor Vehicles and Road Traffic Act at section 12, the following language is used:

“No person shall, in any place, use or keep for use or, being the owner, permit any other person to use or keep for use any motor vehicle—

not being a vehicle exempted”

not being a “tractor” — et cetera.

This language we have grown up with—perhaps I am just resistant to change. What, however, is the justification for the change? That is what I need to be told.

Sen. Nicholas: Justification for the change was actually what was articulated by Sen. Mahabir, that certain persons may have on their premises vehicles that they do not necessarily intend to use on the road in the near future or ever at all, and, as such, they should not be forced to register the vehicle as if it were to be used on the road.

Sen. Prescott SC: May I, again? So that if the original 74(1) said instead, “a person shall not in any place use or keep for use on a road”, would that have captured the same sense that I think that you are after?

Sen. Nicholas: I think the revised captures it in the way that—

Sen. Prescott SC: If I could just expand your thinking then, having said it that way, that is to say, if you are the owner of a vehicle which is intended to be used on a road applied for registration, then the offence in (2) is the failure to apply.

Sen. Nicholas: Yes.

Sen. Prescott SC: Not the failure to register. Having applied you may proceed to use it on the road. [*Crosstalk*]

Sen. Nicholas: The offence is applying and obtaining the registration, or failing to do so.

Sen. Prescott SC: If you contravene subclause (1) you would have failed to apply and obtain.

Sen. Nicholas: Yes.

Sen. Prescott SC: Yes, I follow you. Thank you.

Sen. Nicholas: You are most welcome.

Sen. Prescott SC: So, now the next— you know there is always a third limb. In subsection (3) you say:

“A person shall not be liable for a contravention...if the vehicle is being driven on a road for the purpose of being registered.”

I am struggling with the term “liable for a contravention” when there is—well, I have not heard it before. How does a person become liable for a contravention?

Sen. Nicholas: That is to be deleted.

Sen. Prescott SC: Subclause (3) is to be deleted?

Sen. Nicholas: Yes.

Sen. Prescott SC: Oh, thank you.

Sen. Vieira: And, in any event, I thought that the language in the original Act was better, “no person shall be liable to a penalty for a breach of this section if”.

Sen. Prescott SC: Okay, but he is deleting it. Thank you very much.

Madam President: Any other concerns with clause 74? Hon. Senators, the question is that clause 74 be amended as circulated.

Question put and agreed to.

Clause 74, as amended, ordered to stand part of the Bill.

Clause 75.

Question proposed: That clause 75 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 75 be amended as circulated.

“A. Subclause (2), delete the words ‘on the vehicle’ and substitute the words ‘a provided under section 79’.

B. In subclause (3)(d) delete the words ‘section 100’ and substitute the words ‘section 101’.

C. In subclause (7), delete the word ‘seventeen’ and substitute the word ‘eighteen’.

D. Delete subclause (9) and renumber subclause (10) as subclause (9).”

Madam President: Sen. Vieira.

Sen. Vieira: Yes, Chair, just a typo, clause 75(3), the last number there, “register of motor vehicles established under section”, it should be “101”.

Sen. Nicholas: Yes, that is correct, and it is provided for in the amendment circulated.

Sen. Prescott SC: May I?

Madam President: Sen. Prescott.

Sen. Prescott SC: Thank you. Now, hon. Attorney General, this is directly the use of language. In clause 75(2) we say:

“On receipt of an application for registration...”

—the—“Motor Vehicles Enforcement Officer shall check...for the electronic identification tag”

If we were not using colloquialism we will find a better word than “check”, would we not? What does “check” refer to? Counting? Or do you mean “check for” as “check to see if you have any beers in the fridge”? Could it be that he should satisfy himself that there is one? I do not like the word “check”. [*Crosstalk*] All he has to do is satisfy himself that it is there. [*Crosstalk*]

Sen. Dr. Mahabir: Would it make sense—

Madam President: Sen. Mahabir.

Sen. Dr. Mahabir:—Thank you very much, Madam Chair,—that the Motor Vehicles Enforcement Officer shall ascertain where applicable, the electronic identification tag on the vehicle? Does that capture it?—“shall ascertain, where applicable, the electronic identification tag on the vehicle”.

Sen. Prescott SC: Chair, may I?

Madam President: Sen. Prescott.

Sen. Prescott SC: “Ascertain” is as good as “satisfy”, but what bolsters my

confidence is that in subclause (3) we then say, “where the Authority is satisfied”. So it does seem to me that somebody started off thinking “satisfy” would do, and he was not satisfied so he put “check”.

Sen. Vieira: “Satisfy” is satisfactory.

Sen. Prescott SC: Yeah it is “satisfy”. So “ascertain” is not satisfactory, and “check” is worse.

Sen. Dr. Mahabir: But I do not know if this is a combat between the lawyers and those who use English, but for me, I mean, I feel the lawyers are just splitting a very tiny hair here. [*Laughter*] Madam Chair, I would just say, I mean, it is reading rather clear to me, it is just a use of word that is at issue. If we can say, I mean, if “check” seems to be inelegant we can say “ascertain, where applicable, the electronic identification tag” and no Senior Counsel will dispute that he does not understand what it means. [*Laughter*]

2.45 p.m.

Madam Chairman: Is that acceptable, Sen. Prescott? It is fine to me. AG?

Sen. Drayton: So what are we saying? [*Crosstalk*]

Sen. Nicholas: It would read:

“shall satisfy himself where applicable that the electronic identification tag is on the vehicle as provided under section 79.”

Madam Chairman: What is the language after “himself”?

Sen. Nicholas: “where applicable that the electronic identification tag is on the vehicle as provided under section 79.”

Madam Chairman: Any other concerns with clause 75?

Sen. Prescott SC: May I make an enquiry? Attorney General, do we continue to require vehicles to have registration details on the body of the vehicle as, for example, “registered for four passengers”?

Sen. Nicholas: No.

Sen. Prescott SC: We do not require that any further?

Hon. Cadiz: For instance on “T” vehicles, on trucks, you have this tare weight and MGW and what have you. The purpose of use of the vehicle will determine what that vehicle is supposed to carry, and the same thing—with a hired vehicle, it would be licensed for “X” amount of passengers.

Sen. Prescott SC: So that the Motor Vehicles Enforcement Officer, or whomsoever, will not see on the vehicle—from looking at the vehicle whether you are overloaded.

Hon. Cadiz: We did not think it was necessary to do that. For instance all passengers have to be belted, so if the vehicle is designed for five passengers with belts, that would be the amount of passengers the vehicle should be taking.

Sen. Prescott SC: This is the modern way I suppose?

Hon. Cadiz: Really and truly, when we looked on the “T” vehicles—to look at a “T” vehicle and to know whether or not it is 7,551 kilos, you are just pulling a figure out of the sky.

Sen. Prescott SC: Not to make too fine a point, but I know from looking at a taxi whether there should be four or five passengers or seven. You are saying take it off, so I do not know if when I am invited into the taxi I am now contributing to the wrongdoing—that is to say being overloaded in terms of the number of passengers.

Hon. Cadiz: Again, the issue of belts, where you are going to get your belt from. If you are sitting in a car that is licensed for five persons total, including the driver, and there is a sixth person, where is the sixth person going to sit with a belt on?

Sen. Drayton: So the offence in that case would not be that you are carrying more passengers than safety would allow, but the fact that you do not have a seat belt.

Hon. Cadiz: Safety obviously, because the vehicle would be designed to carry safely “X” amount of passengers. But the purpose of use—for instance right now you have four-passenger vehicles, you have seven-passenger vehicles, you have maxis of 12, maxis of 25. So the purpose of use and the certificate of the purpose of use will identify how many passengers would be required. Again, a Motor Vehicles Enforcement Officer would be a trained, experienced person.

Sen. Prescott SC: Just one more comment. There seems to be an industry or trade down at the old licensing office, where people have spent all their lives painting these little things on cars, are we going to provide for them?

Hon. Cadiz: There may be some fine artists down in the licensing office.

Sen. Prescott SC: They write these little nice registered—they lose a job.

Madam Chairman: The question is that clause 75 be amended as circulated, except that amendment (a) in 75 is deleted and the new subclause (2) is amended to read:

To delete the word “check” after shall and insert the new word “ascertain”—

Sen. Nicholas: No, “satisfy himself”, Madam Chair.

Madam Chairman: “shall satisfy himself where applicable that”— delete the word “for” and substitute the word “that”; and after the word “tag” insert the word “is”; and after the word “vehicle” delete the full stop and insert a comma and the words “as provided under section 79”.

Sen. Nicholas: Yes, Madam Chair.

Question put and agreed to.

Clause 75, as amended, ordered to stand part of the Bill.

Clause 76.

Question proposed: That clause 76 stand part of the Bill.

Sen. Nicholas: I beg to move that clause 76 be amended as follows:

- A. In subclause (1)—
- (i) Delete the words “section 75” and substitute the words “section 75”
 - (ii) insert after paragraph (b), the following paragraph:
“(c) vehicles to be used for sporting or promotional purposes;”
 - (iii) renumber paragraphs (c) and (d) as paragraphs (d) and (e) respectively.
- B. In subclause (2), delete the words “from registration under this Act, on a temporary basis, a vehicle being used by visiting dignitaries” and substitute the words “any vehicle from registration under this Act, on a temporary basis”.
- C. In subclause (3)(b), delete the words “philanthropic or other public purpose” and substitute the words “or philanthropic”.

Madam Chairman: Any concerns?

Sen. Prescott SC: The new proposal, B, just needs a little explaining. It seems that originally we had intended to limit the Minister’s capacity to exempt to facilitate visiting dignitaries, but what is now being proposed is that he may do so on a whim. He may exempt anybody he chooses. Is it not the business of parliamentarians to limit the Minister to some extent or at least put him on notice that he must give reasons for what he is doing?

Sen. Nicholas: It is intended that it only be special circumstances. Those words are there.

Sen. Prescott SC: They are? Madam Chairman, what circumstances would qualify? Is it not a whim we are talking about? Whimsically he says, “This is a special circumstance”.

Sen. Vieira: We had the Pope Mobile and we had President Obama.

Sen. Dr. Mahabir: And President Obama coming with his own mobile, so I could imagine those special circumstances. The Queen of England coming with her own particular—

Hon. Cadiz: Senator, for instance, recently the visit by the Venezuelan President also required an immediate—and that visit was done in hours and, therefore the exemption would have been required.

Sen. Prescott SC: I thank all of those contributors, but they are all speaking of what the thing said originally, visiting dignitaries, the Pope, Obama, et cetera, are all visiting dignitaries. We are now deleting visiting dignitaries and saying, “Elton Prescott can get one because he chose to ask for it”.

Hon. Cadiz: Senator, it was felt—if you look under 76C, “vehicles to be used for sporting and promotional purposes”. We put that in and then it was felt that would cover sporting and promotional purposes, but then is there going to be another instance of some other type of vehicle not being used for sporting or promotional purposes that the Minister may want to issue an exemption for that particular?—hence the reason we felt that by limiting again under (2) to visiting dignitaries, that might just narrow the field.

We do not mind putting back in the visiting dignitaries, but it was felt the Minister may at some stage require an exemption where, if we did not have it where any vehicle from registration under this Act, that it would create a problem, because we do not know what will happen tomorrow.

Sen. Prescott SC: Madam Chair, I do prefer what we have said. If there is a visitor whom we regard as a dignitary, and if he has some peculiar kind of vehicle or carriage, we may say to him, “You do not need to be registered”. I cannot think of any other circumstance, save for a future Minister whose friend has created a

vehicle and he says, “Well, take a touche in town this week”. It needs a firm criterion for it.

Hon. Cadiz: We have instances, and I will give you an instance. An entertainer required a particular vehicle over the Carnival period for a show, and this is a vehicle. It is not a standard vehicle. Again the process by which we had to go through to get this vehicle—he was not driving it on the road even, but in a public place—and therefore they required permission for it. These are instances that will come up every now and again. Other than what happened this Carnival, for instance, there may be other instances and we just felt that we did not want it where the law was so tight that you could not at any time, unless you came back to the Parliament, to be able to have this particular vehicle, whether it is Santa’s sleigh, I do not know, it could be anything, to be used on the roadway.

I do not think the Minister—where it says there special circumstances, I do not think any Minister is going to be willy-nilly about this and allow all kinds of crazy vehicles on the roads of Trinidad and Tobago that might very well pose a serious safety threat to the other travelling public. So if the Members feel that we want to go back to visiting dignitaries, it is a non-issue.

Sen. Prescott SC: Only if you wish to, Minister.

Sen. Dr. Mahabir: I wish to support the amendment, and I see instances where a Minister may be called upon to grant permission for a peculiar vehicle. What I have in mind is what I have seen abroad. Engineering students making what are called “go carts” and they are simply using the roadway for demonstration purposes, their engineering skill. It looks like a car, but it looks like a very stripped-down kind of car, but you do need to drive it, and I could see if students as a project would like to display the product of their experimentation, they should not be precluded from so doing. Therefore, a ministerial permit would allow that,

without taking that particular contraption through the process of full registration. So it is used simply for display purposes, and if that is what the Minister has in mind, then I think we need to give future Ministers the opportunity to give that kind of permission.

Sen. Vieira: I too support Sen. Mahabir. I saw recently a video clip of a flying car and, who knows, maybe that might be doing a round-the-world tour and wants to visit in Trinidad and Tobago, and this order could apply.

Hon. Cadiz: Senators, I will give you one other real instance. We have a request from a steel band who wanted to change the way in which the racks are moved on the road, where using a wheel tractor or somebody else to pull them, to use more like what is used in the Macy's parade where it is a self-propelled pan rack. So again, these are instances for special permits to be used only for the Carnival days or any other parade. We would ask that we can use this.

Sen. Al-Rawi: Thank you, Madam Chair. I have been very quiet for this session. It is quite an enjoyable experience, but thank you for acknowledging me.

Madam Chairman: Yes, I agree.

Sen. Al-Rawi: May I just enquire through you to the hon. Minister, how are we treating with the amendments that we made to the old legislation, as a Parliament, this Parliament sitting, as we related to diplomatic cars in general. May I also ask that Members of Parliament were never included in the list in subclause 3A, as a subcategory of exemption? So we have the Government municipal corporations, the Judiciary. Corporation established under—I was just wondering in terms of the exemptions provided to parliamentarians, insofar as there is a concession that is granted. I was not sure if that was usually included or not.

Sen. Nicholas: The issue of diplomatic vehicles is dealt with later on. The issue with regard to this and government vehicles, as members of Parliament you are

still required to register your vehicle.

Sen. Al-Rawi: I really do not know what the procedure is; I am just asking. I did not know if the law had it and this one does not. So it is keeping the status quo? If it is, I have no problems with that.

Hon. AG, I was actually asking more so about the Consular Corp which had some difficulties as to whether they were actually included in the special provisions of the Diplomatic Corp or not. In particular, this issue came of the honorary consuls, when we had the debate the last time when Minister Sharma piloted.

Sen. Nicholas: I will let Minister Cadiz answer.

3.00 p.m.

Hon. Cadiz: That in fact has been done. I think, since 1962 that was supposed to have been done, and we do in fact have where the Diplomatic Corp will be receiving their diplomatic plates because that is sort of through the Ministry of Foreign Affairs to identify which officers or which vehicles from the Diplomatic Corp would be given diplomatic plates. So, that is being done as we speak and we hope to issue those within the next couple of days.

Sen. Al-Rawi: Final question on this point, hon. Minister, thank you. Through you, Madam Chair, do they in fact include the honorary Consular Corp?

Hon. Senator: That is correct, yes.

Hon. Cadiz: The honorary Consular Corp? I would get back to you.

Sen. Al-Rawi: Thank you hon. Minister.

Sen. Nicholas: Once foreign affairs recommends it, it will be included.

Madam Chairman: May I ask AG if the word is exempted or exempt throughout the clause? Is it exempted or exempt?

Sen. Nicholas: Exempt.

Sen. Al-Rawi: I think we can use exempt.

Madam Chairman: Which is the better word?

Sen. Al-Rawi: Exempt.

Madam Chairman: Exempt?

Sen. Al-Rawi: Yes.

Sen. Nicholas: Just a couple corrections to the circulated amendments for clause 76(a)(1) where we have “delete the words ‘section 75’ and substitute the words ‘section 75’”, it should be “75”, and “(c)”—

Sen. Drayton: Is that the amendment—

Sen. Nicholas: I am just correcting the amendment.

Sen. Drayton: Okay.

Madam Chairman: Just a typo it looks like.

Sen. Nicholas: And in (c) which reads, “in subclause (3)(b) delete the words ‘philanthropic or other public purpose’”. That is it, Madam Chair.

So, it is really just to amend the second section 75 to 74, please.

Madam Chairman: Which is a typo?

Sen. Nicholas: Yes.

Sen. Drayton: Chair, could I ask to go back to the (b) in what Sen. Prescott said. We are seeing here that the Minister can waive requirements for any vehicle from registration under this Act on a temporary basis. Now, when we say temporary, what do we mean by temporary? Because, the way I am reading it now, in effect, we might as well not have the clause, because there is absolutely no check, no balance, it is just total discretion of the Minister to waive requirements for any vehicle from registration on a temporary basis. Now, what is a temporary basis? Ninety day? Ten days?

Hon. Senator: The normal practice.

Sen. Drayton: What is the normal practice, temporary basis? Five years? Because, as I am reading it we really do not have a law, because what we are saying is that a Minister could get up tomorrow and say well, okay, once this law is in effect he is waiving requirement for this vehicle from registration on a temporary basis.

Sen. Nicholas: Madam Chair, in these circumstances we believe that temporary in its ordinary meaning would suggest certain things and certainly would not go on and on.

Sen. Al-Rawi: “Temporary”, technically, AG, in this country has been held to be anything other than permanent. One need only look so far as the acting positions that many people use, just to give you—[*Crosstalk*]

Sen. Nicholas: I think that is different.

Sen. Al-Rawi: Yeah, that is different—a Bailey Bridge.

Sen. Prescott SC: May I now in an effort to bring some closure— what if we were to introduce a limit of 90 days or some such thing? I will not continue to resist what I call the whimsy, but if you said such an exemption would last for a period of “X”.

Sen. Nicholas: No more than 90 days?

Sen. Prescott SC: That is a number I pulled out of the hat, there may be others who think it should be shorter, but we have used 90 for people who come here with—

Sen. Nicholas: With a driver’s permit.

Sen. Prescott SC: Yes. Ninety?

Sen. Nicholas: Ninety would be consistent with the thinking throughout the—

Sen. Prescott SC: Very well, I will hold my tongue thereafter.

Sen. Al-Rawi: With the option to extend?

Madam Chairman: For a period not exceeding 90 days?

Sen. Prescott SC: You would have to make a second order.

Madam Chairman: Any further concerns, clause 76?

Hon. Senators, the question is that clause 76 be amended as circulated, and further amended by deleting the word “exempted” where it exists and substituting the word “exempt”, and in subclause (2) by deleting the words “on a temporary basis” and substituting the words “for a period not exceeding ninety days”.

Question put.

Sen. Nicholas: Madam Chair, just to double-check, we did take into consideration the amendments circulated, yes?

Madam Chairman: Yes.

Sen. Prescott SC: I have not got quite clear what was the reference to philanthropic, in the circulated amendment it says in subclause (3)(b) delete the words “philanthropic or other public purpose” and substitute the words “or philanthropic”, so it should read:

“Any vehicle specially exempt by order of the Minister on account of the vehicle being owned by a public body or the vehicle is being used for any charitable or philanthropic.”

Sen. Nicholas: “or philanthropic purpose”.

Sen. Prescott SC: Thank you very much, Chair.

Madam Chairman: No, “purpose” was in the original—

Sen. Prescott SC: Yes, it seems as though—

Madam Chairman: It was there?

Sen. Prescott SC: It might have been included here accidentally.

Madam Chairman: Purpose was there still.

Hon. Senators, the question is that clause 76, as amended, now stands part of the Bill.

Agreed to.

Clause 76, as amended, ordered to stand part of the Bill.

Clause 77.

Question proposed: That clause 77 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, may I?

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: I am much obliged. With respect to 77(4), we are prescribing that a person issued with a temporary permit shall affix the permit in the lower corner of the windshield of the vehicle opposite the driver. Is it not that this may be something better regulated by prescriptions which the Minister may give from time to time? There may be different techniques that could indicate compliance, there may be certain kinds of vehicles that cannot actually have this affixation in this manner. Should this not be something which we should leave flexibility for and say that “a temporary permit shall be affixed in such place as may be prescribed”?

Sen. Prescott SC: Madam Chair, may I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: I cannot quite grasp what it means to affix a permit in the lower corner of the windshield of the vehicle opposite the driver. What is opposite to a driver in a car?

Sen. Nicholas: As prescribed.

Sen. Prescott SC: Hmm.

Sen. Nicholas: We are happy to go with “as prescribed”.

Sen. Prescott SC: So, “affix the permit in the lower corner of the windshield as prescribed”.

Sen. Nicholas: No, affix the permit.

Sen. Prescott SC: In the vehicle.

Sen. Nicholas: As prescribed.

Sen. Prescott SC: In the place prescribed?

Madam Chairman: “Shall affix the permit in the vehicle as prescribed”?

Sen. Nicholas: I do not think we even need to put “in the vehicle”. “A person issued with a temporary permit shall affix the permit as prescribed”.

Madam Chairman: No, you have to put “in the vehicle”.

Sen. Nicholas: Well, we can prescribe it be in the vehicle.

Sen. Al-Rawi: Or on. It may be outside, it may be in, it may be on a sticker, it may be on the bonnet.

Madam Chairman: “Affix the permit as prescribed”.

Sen. Vieira: AG, coming back to—

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you. Coming back to what Sen. Prescott said earlier, I am bothered by this philanthropic thing, because philanthropic is a narrow word, it means assistance to the poor. Now, public purpose to my mind was a better classification, it would have included philanthropic but it could have been wider than just benevolence or beneficence to the poor. And we did not really get an explanation as to why we made the change to begin with.

Sen. Al-Rawi: Sen. Prescott is reminding that there is actually case law on that in wills cases.

Sen. Nicholas: Yes, so we can leave it as it was, “philanthropic or other public purpose”.

Sen. Prescott SC: Yes, I would have gone with all three.

Sen. Nicholas: If Madam Chair would allow us to revisit.

Sen. Prescott SC: To go back.

Sen. Nicholas: We would not be so bold as to suggest otherwise.

Clause 77 deferred.

Clause 76 recommitted.

Question again proposed: That clause 76 stand part of the Bill.

Madam Chairman: It is proposed that the amendments shall include, that the original (b) of subclause (3) be returned to the Bill.

Sen. Al-Rawi: I like the language, Madam Chair. Smooth.

Question put and agreed to.

Clause 76, as amended, again ordered to stand part of the Bill.

Clause 77 reintroduced.

Sen. Prescott SC: May I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Please, slight reference. We said a person who contravenes subsections (1) and (4) commits an offence. But one wonders if he has contravened subsection (1) only whether he has committed an offence? In short, the use of the term “and” might be too strictured. It is conjunctive. So, one has to do both before one is found guilty and required to pay a fine of \$5,000. You could say “any contravention of this section”.

Sen. Nicholas: It is suggested that (1) and (4) form the offence, so that you must apply and you must affix.

Sen. Prescott SC: Hmm, if that is your opinion.

Sen. Al-Rawi: Thank you, Madam Chair. Is it not quite permissible that they could be disjunctive as well, and in such case it really ought to read, “a person who contravenes either subsections (1) or (4)”. And/or, well, and would include or. But, I do not think that having them conjunctively associated in this manner contemplates every circumstance, in particular insofar as (1) and (4) may be separate offences.

Sen. Prescott SC: Applied and—[*Inaudible*—]—try not to affix it.

3.15 p.m.

Sen. Al-Rawi: And it is usual that you will make sure that you charge, as charges are often done without any duplication of charge. In fact, the law is that, in fact, you must lay them separately.

Sen. Prescott SC: So either (1) or (4).

Sen. Al-Rawi: Yeah, (1) or (4).

Madam Chairman: Could we use the word “or”?

Sen. Nicholas: We will use the word “or” We have succumbed to Sen. Al-Rawi’s position.

Sen. Al-Rawi: I did not finish reading the other Bill I was looking at. I am now with my head in this one.

Madam Chairman: Hon. Senators, the question is that clause 77 be amended in subclause (4) by deleting after the word “permit” all of the words from “in” to “driver”.

Sen. Nicholas: Yes. Yes. That is correct.

Madam Chairman:—and substituting the words “as prescribed”. And in subsection (6) by deleting the word “and” between (1) and (4) and substituting the word “or”

Sen. Prescott SC: Would you entertain deleting the “s” in “subsections”.

Madam Chairman: “A person who contravenes in subsections”—

Sen. Prescott SC: (1) or (4)

Sen. Nicholas: Yes, with the rewording it would have to be subsection.

Madam Chairman: Okay. Well that should be in subsection (6) by deleting the words “subsections” and inserting the word “subsection” and deleting the word “and” between (1) and (4) and substituting the word “or”

Question put and agreed to.

Clause 77, as amended, ordered to stand part of the Bill.

Clause 78.

Question proposed: That clause 78 now stands part of the Bill

Madam Chairman: AG?

Sen. Nicholas: Madam Chair, I beg to move that clause 78 be amended as circulated:

A. In subclause (1) –

- (i) Delete the word “prescribed” and substitute the word “specified”;
- (ii) Delete the words “In-transit Permit” and substitute the word “in-transit permit”

B. In subclause (2), delete the words “In-transit Permit” and substitute the words “in-transit permit”.

Madam Chairman: Sen. Ramkissoo.

Sen. Ramkissoo: Madam Chair, I am looking at clause 77 to revisit Part I because there is a mention of a form, a specified form. I am not sure it was referenced anywhere.

Madam Chairman: In subsection (1)?

Sen. Ramkissoo: Of 77.

Sen. Nicholas: Yes. The prescribed forms will be in the regulations.

Sen. Ramkissoo: Can we change the word “prescribed” to specified in the amendment.

Sen. Nicholas: In 78 it is a specified fee.

Sen. Ramkissoo: And in 77 (1).

Sen. Nicholas: 77(1) in a prescribed form—

Sen. Ramkissoon: Delete the word “prescribed” and substitute the word “specified”.

Sen. Nicholas: No. That is the—

Sen. Prescott SC: That is 78.

Sen. Al-Rawi: That is 78.

Sen. Nicholas: That is for 78.

Madam Chairman: She is talking about 78?

Sen. Al-Rawi: Yes. [*Crosstalk*]

Sen. Nicholas: I think she was just mixing it up.

Sen. Al-Rawi: If I may? Perhaps—if I got it right—she may be looking at whether we are now leaning towards the use of the word “specified” or “prescribed” as it relates to forms. She is saying, I think, insofar as we are now specifying in 78(1) that we will no longer be saying a “prescribed form” but instead a “specified form”, whether one needs to claw back to 77 and look at that as well. Is that correct?

Sen. Nicholas: Ah. I see what is happening. There are two “prescribed” in 78(1), and we are actually referring to the one after “fee”. So we need to clarify.

Sen. Prescott SC: Oh.

Sen. Nicholas: That is it. Thank you very much, Senator.

Sen. Ramkissoon: Thank you.

Sen. Nicholas: So it is the “prescribed” that comes after “paid the fee” in the last line of 78(1) that we are changing.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Yes. Hon. AG, could you explain 78? What do you mean “without load for a single trip from one place to another”? If it is not registered, what if it is registered? Could you just clarify that?

Sen. Nicholas: If it is registered, then there will be no need for the permit. **Sen. Drayton:** That is not registered—let us substitute the word “without” for the word “with”—“that is not registered with load”. I am trying to get some clarity there. So, you are saying here that—

Sen. Nicholas: “Where a person wishes to operate or move a vehicle that is not registered or for which no permit has been issued on a road”—and may need to remove—“a highway”—“without load for a single trip from one place to another, that person shall apply to the Authority in the prescribed form for an In-transit Permit and shall upon application pay the fee specified in the Fifth Schedule.” What is the concern?

Sen. Drayton: Yes.

Sen. Prescott SC: May I—

Madam Chairman: Sen. Prescott.

Sen. Prescott SC:—make a contribution like that? This may well be an issue of punctuation. I do not know. The hon. Attorney General read it with punctuation at three places which gave it some kind of sense. I think it means more than it reads. Read as it is, it says:

“Where a person wishes to operate or move a vehicle that is not registered or for which no permit has been issued on a road...without load for a single trip”

It cannot make sense. Let us focus on this he—“wishes to operate a vehicle that has been registered or for which no permit has been issued”—Yes?

Sen. Nicholas: Yes.

Sen. Prescott SC: What comes after that? That person shall apply? “Where a person wishes to operate or move a vehicle that is not registered or for which no permit has been issued...”—that person shall apply?

So, on a road or highway is really governed by or operated by whom. “Where a person who wishes to operate or move a vehicle...on a road or highway...” Is that what you mean?

Sen. Nicholas: Uh-hmm.

Sen. Prescott SC: “Where a person wishes to operate or move a vehicle...on a road without load, for a single trip...”—

Sen. Nicholas: You see, we still have to deal with it not being registered. **Sen.**

Prescott SC: Then we will say—such a person must have the vehicle registered—new sentence—such a “...person shall apply to the Authority in a prescribed form for an In-transit Permit...”—et cetera, et cetera.

Sen. Nicholas: I think, we can achieve the meaning if we were to include—insert after—and I will read it so that we will get it.

“Where a person wishes to operate or move a vehicle that is not registered or for which no permit has been issued,”—

Sen. Prescott SC: Yes.

Sen. Nicholas:—“...on a road,...”—

Sen. Prescott SC: And may I pause you there? What verb controls “on a road”? Is it “operate” or “move” or is it “registered” or issued?

Sen. Nicholas: “Operate” or “move”.

Sen. Prescott SC: “Where a person wishes to operate or move a vehicle that is not registered or for which no permit has been issued...”—but we are saying operate or move a vehicle on a road?

Sen. Nicholas: Yes.

Sen. Prescott SC: Can you not bring it a little closer to those words?

Sen. Nicholas: Then it does not capture the “registered”.

Sen. Prescott SC: Okay. “An unregistered vehicle”? “Where a person wishes to operate or move—an unregistered—vehicle on a road...”?

Madam Chairman: Well, you still need to include the permit part of it.

Sen. Prescott SC:—“or one for which no permit has been issued...”?

Sen. Nicholas: Okay. “Where a person wishes to operate or move”—an unregistered...”—

Madam Chairman: No. I think go straight to “...on a road or highway without load for a single trip...—at which a vehicle is not registered or for which no permit has been issued, that person shall apply to the Authority...”.

Sen. Prescott SC: After “move”?—wishes to operate or move on a road, a vehicle that is not registered or for which no permit has been issued...”?

Madam Chairman: Yes.

Sen. Prescott SC: If we put the words “on a road” after the word “move”?

Madam Chairman: Yes.

Sen. Nicholas: May I suggest:

“Where a person wishes to operate or move an unregistered vehicle on a road...”—

Sen. Prescott SC: “Or for which

Madam Chairman: I think, you have to keep “registered” and “no permit” together—“unregistered” and “no permit” together.

Sen. Prescott SC: Here is another version. “Where a person wishes to operate or move a vehicle on a road...” “Nah.” You cannot say that is not registered.

Sen. Nicholas: Madam Chair, you—may I have your suggestion?

Madam Chairman: Where a person who wishes to operate or move a vehicle on a road of highway without load for a single trip from one place to another and

where that vehicle is not registered or for which a permit—or for which no permit has been issued, that person shall apply.

Sen. Nicholas: That works, except that we remove “or highway”.

Sen. Prescott SC: What language you have, Ma’am?

Madam Chairman: So, you simply take that phrase or that clause out of there and put it behind. Put it at the end of “one place to another”. All I did was remove the phrase or the clause “on a road...without load for a single trip from one place to another...” and put it in front, after “move”.

Sen. Prescott SC: The entire clause “on a road...without load for a single trip from one place to another...”

Madam Chairman: Up to another, yeah, and put it after “move”. Sorry—after “vehicle”—just rearrange the clauses. [*Crosstalk*]

Sen. Drayton: Just to create a—I am still a bit confused.

Sen. Prescott SC: Come a little bit closer to road.

Sen. Drayton: Yes.

Sen. Prescott SC: “Where a person who wishes to operate or move on a road...”—

Sen. Nicholas: Actually, Sen. Prescott, the Chair’s version was—

Sen. Prescott SC: More palatable to you?

Sen. Nicholas: Was quite palatable.

Sen. Drayton: Could you read it again?

Sen. Prescott SC: Yeah, maybe we should hear it again.

Madam Chairman: “Where a person wishes to operate or move a vehicle on a road without load for a single trip from one place to another and where that vehicle is not registered or for which no permit has been issued that person shall apply...”

Sen. Prescott SC: Okay. I will only make one suggestion and instead of saying “and where”, we say “and such vehicle”—

Madam Chairman: “and such vehicle”—

Sen. Prescott SC: “and not registered”. Yeah. I do agree, it is more palatable.

Madam Chairman: And such vehicle is not registered or for which no permit has been issued. Any other concerns with 78?

Sen. Al-Rawi: Yes, Ma’am.

Sen. Drayton: So you drop the word “highway”.

Sen. Prescott SC: Yes.

Madam Chairman: “or highway” was removed. Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair. I take it, and thanks to Senator—

Madam Chairman: Ramkissoo.

Sen. Al-Rawi:—Ramkissoo—her name is hard to see from here—for pointing out the second prescribed in 78(1). AG, I took the opportunity to have a look at page 115 which is the Fifth Schedule. Is it 115? Sorry, it is the Fifth Schedule itself which is 151, correct. That refers to several sections for fees and duties. I just wanted to point out that whilst we are fixing the second prescribed to use the preferred word which is now specified, that clause 53, for example, still uses the word prescribed. That clause 56 uses neither prescribed nor specified. It instead uses the phrase “set out”. So I would recommend that clauses 49, 50, 52, 53 54, 55, 56, 57, 67, 72, 75, 77, 78, 83, et cetera, up to 267, that the phraseology there is double-checked so that we keep to one expression because there are several versions of it right through the Bill.

Sen. Nicholas: Sure.

Sen. Al-Rawi: Okay.

And may I ask in relation to subclause (6) of clause 78. Where:

“A person who fails to observe or comply with this section or condition specified in an in-transit permit, commits an offence and is liable on summary conviction to a fine of five thousand dollars.”

How do we now judicially interpret the difference between observe and comply? Why is there a distinction?

Madam Chairman: It should be just comply?

3.30 p.m.

Sen. Al-Rawi: Perhaps.

Sen. Nicholas: It is one and the same.

Sen. Prescott SC: Well, in that case we could use the formula we used in 77(6), “A person who contravenes”.

Sen. Nicholas: Yes.

Madam Chairman: “A person who contravenes this section”?

Sen. Nicholas: Yes, Ma’am.

Sen. Al-Rawi: “or any conditions specified” as opposed to “or condition”?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you, Madam Chair.

Madam Chairman: Hon. Senators, the question is that clause 78 be amended as circulated, except that in subclause (1), paragraph one, delete the word “prescribed” after the words “pay the fee” and substitute the word “specified”.

Sen. Nicholas: Yes, Ma’am.

Madam Chairman: And further amended in subclause (1) by deleting subclause (1) actually and substituting a new subclause (1) to read as follows:

Where a person wishes to operate or move a vehicle on a road without load for a single trip from one place to another and such vehicle is not registered or for which no permit has been issued, that person shall apply to the

Authority in the prescribed form for an in-transit permit and shall upon application pay the fee specified in the Fifth Schedule.

And in subclause (6), by deleting the words after “A person” deleting the words “who fails to observe or comply with”.

Sen. Nicholas: Ma’am, we should leave “who”, so that we delete from “fails”.

Madam Chairman: Sorry. Okay. In subsection (6), by deleting the words after “who”, the words “fails to observe or comply with” and substituting the word “contravenes”, and inserting after the word “or”, the word “any”.

Sen. Al-Rawi: Sorry, Madam Chair, just one question, and I do not know the answer to this, through you—forgive me for coming in this late on it. I was wondering about the animus attached to the offence, and whether one needed to include an attenuation of that to move it away from a strict liability offence as it is now cast. Do we want to say “wilfully”? Because when we tie the offence to the section or any condition specified, a “condition specified” is a very broad phrase, should the judicial officer not at least have the discretion to consider the mental intention of the person charged with the offence?

Sen. Nicholas: No, I do not think it is necessary in this.

Sen. Prescott SC: Chair, may I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: And I am thankful to Sen. Al-Rawi for granting me this one more opportunity. I think clause 78(4), insofar as it contains the suggestion that the permit should be affixed “in the lower corner of the windshield” could be looked at again in the same way that we looked at it in 77(4), and introduced—yes, a recommendation as we say “shall affix...as prescribed”—

Sen. Nicholas: Yes.

Sen. Prescott SC:—instead of the words, “in the lower corner of the windshield of

the vehicle opposite the driver”.

Sen. Al-Rawi: Thank you, Sen. Prescott.

Sen. Prescott SC: No, I thank you.

Sen. Al-Rawi: And that makes it all the much more important now to consider the animus of the offence. Say it falls off, it turns out not to be there, the magistrate says, “Well, I am sorry, Parliament in its wisdom intended that this is a crime of strict liability, I must charge you”—“But, officer, there it is behind me, it fell off”—“well, it still is not on”.

Hon. Cadiz: I just want to say that—maybe not directly related to this, but there are instances, for instance, where fleet owners would actually switch plates. They would have 10 trucks in their fleet and they would license five trucks, okay? And whichever trucks are being serviced they would take the licence plates off of those trucks and put them on other trucks and—yeah—and things like that happen. So, I think to drive a vehicle, knowing fully well that this vehicle is not being—you have no permit to drive this vehicle on the road—if the permit falls off you would have the application where you paid, you have your receipt, and what have you, where you did in fact have a permit.

Sen. Al-Rawi: That is an offence, “eh”. You see, it is any condition.

Hon. Cadiz: Well, the thing is that then you start to open it up to where people then start taking advantage of the situation, and we have to crack down on people who are just hell-bent on just breaking the law. When we talk about vehicles— The AG has an answer for this. [*Crosstalk*]

Sen. Al-Rawi: Sure.

Sen. Nicholas: We are prepared to adopt the “wilfully”.

Sen. Al-Rawi: Thank you.

Madam Chairman: So what is the amendment, please?

Sen. Nicholas: Madam Chair, before I go there, I think Sen. Vieira wanted to say something, so we could probably complete it.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you. I just wanted to echo what the Minister was saying on what goes on in Trinidad with people doing all of these false manoeuvres and behaviour, and that is why I had proposed substantively that we deal with fraud as one of my proposals, because I think we do need to curtail that, and I do not think that it was really going to be sufficient just dealing with it in this section. So later on we could look at that proposal.

Sen. Nicholas: We have adopted the proposal and we will be introducing it later on in the Bill.

Sen. Vieira: Oh, thank you, AG.

Sen. Nicholas: And for the purposes of this section, Madam Chair, “A person who wilfully contravenes” is acceptable to the Government.

Sen. Al-Rawi: Madam Chair, in subclause (6), the wording currently is, as proposed to be amended, “A person who contravenes”, so it would be to insert after the word “who” the word “wilfully”.

Madam Chairman: Got it, Senator.

Sen. Al-Rawi: Oh, sorry.

Sen. Nicholas: Yeah, that is what I just suggested.

Madam Chairman: Thanks for the repetition.

Sen. Al-Rawi: I apologize. I am scratching up on my note.

Madam Chairman: Hon. Senators, the question is that clause 78 be amended in subclause (4), by deleting after the word “permit”, the words “in the lower corner of the windshield of the vehicle opposite the driver” and substituting the words “as prescribed”. In subclause (6), by deleting after the word “who”, the words “fails to

observe or comply with” and substituting the words “wilfully contravenes”, and after the word “or” insert the word “any”.

Question put and agreed to.

Clause 78, as amended, ordered to stand part of the Bill.

Clause 79.

Question proposed: That clause 79 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 79 be amended as circulated.

“Delete subclause (3)”

Sen. Prescott SC: Madam Chair, I do have a question, please.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: In clause 79(1)(a), I cannot wrap my mind around what other purpose a vehicle has.

Sen. Al-Rawi: I have the same question.

Sen. Prescott SC: Did you mean to say “purpose” or “usage”, or “classification”?

Sen. Al-Rawi: AG, you may want to look at the (3) which is being deleted, the use “to determine the use of vehicle”. In subclause (3) that is being deleting, there is an interesting mix of the words there:

“Where, after examination of a vehicle under subsection (1), the Authority is unable to determine the use of the vehicle, the Authority shall not place an electronic identification tag on the vehicle until the purpose of the vehicle is determined.”

One could satisfy a purpose of a vehicle by saying it is a vehicle.

Sen. Prescott SC: A conveyance.

Sen. Al-Rawi: Which is a conveyance. [*Crosstalk*]

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Madam Chair, in case it is helpful, there is a reference to classifying vehicles in clause 75(4). In the event that you do not get committed to whatever word you were about to use, to suggest, is “classification” another word you may use? [*Crosstalk*]

Sen. Nicholas: I think in this regard it is “purpose of use”.

Sen. Prescott SC: “purpose of use”?

Sen. Nicholas: Yes.

Sen. Prescott SC: “purpose of use”.

Madam Chairman: And that would be “for the vehicle” or “of the vehicle”.

Sen. Nicholas: I would imagine the proper language would be “for the vehicle”.

Sen. Prescott SC: “Nah man, AG. Nah man, AG. I cyah walk out ah dis one.”

Sen. Nicholas: “the purpose of use of the vehicle”. It is “of the vehicle”.

Sen. Al-Rawi: It sounds a little bloated, AG, “purpose of use”. I was also wondering, while we are looking at phraseology, in the chapeau of 79(1), “Where a vehicle enters Trinidad and Tobago as part of a shipment”, what if it is not part of the shipment? Why do we even need to say it is in a ship as opposed to air?

Sen. Nicholas: You are right.

Madam Chairman: If it comes by air it is still a shipment.

Sen. Dr. Mahabir: You can import it to Trinidad and Tobago, regardless of means it would be a freight. Where the vehicle is imported, imported covers anywhere.

Sen. Al-Rawi: I guess it would be “imported”.

Madam Chairman: Enters.

Sen. Dr. Mahabir: Yeah, “imported”.

Madam Chairman: “Enters” is the better word.

Sen. Dr. Mahabir: Madam Chair, where a vehicle is imported by whatever means, air, ship, whatever it is—imported—

Madam Chairman: Suppose it was not imported?

Sen. Dr. Mahabir: But, you see, it has to come in from some point. It is not assembled here. It is not manufactured here.

Sen. Prescott SC: Or smuggled in.

Sen. Dr. Mahabir: Yeah, and we are not dealing with the smuggling of vehicles, it has to be imported through due process.

Sen. Al-Rawi: But you may want to deal with smuggling of vehicles as well.

Sen. Dr. Mahabir: In another section, smuggling will have its own criminal offences associated with it, in addition to whatever violations on the road.

Sen. Nicholas: Madam Chair, we would like to suggest the following, in the chapeau 79(1), delete “as part of a shipment” so that it reads “Where a vehicle enters Trinidad and Tobago, the Authority shall”. In 79(1)(a), to read, “examine the vehicle at the point of entry to determine the purpose for which the vehicle is to be used”.

Sen. Prescott SC: Oh, lovely.

Sen. Al-Rawi: Nice, man. [*Crosstalk*]

Sen. Ramkissoon: Madam Chair?

Madam Chairman: Sen. Ramkissoon.

Sen. Ramkissoon: In relation to 79(b) with “record”, and this will probably help with the smuggling comment, I would like to be advised if there exists a database in which the Authority needs to feed this information into.

Sen. Nicholas: There shall be such a registry. There shall. [*Crosstalk*]

Hon. Cadiz: Just to let the Senator know that all vehicles entering the country now will be tagged at the point of entry where, what we call the DNA of the vehicle, the chassis number, engine number, et cetera, will be put into the system, so when that vehicle eventually works its way, finds its way down to the Licensing Authority,

we will know that vehicle was actually imported and it was not some sort of made-up vehicle from somewhere.

Sen. Ramkissoon: And that is an electronic—

Hon. Cadiz: That is electronic, yeah.

Sen. Ramkissoon:—data system.

Hon. Cadiz: And there will be an electronic tag that would be given to that vehicle on the import.

Sen. Ramkissoon: Is there a special software that we are looking at?

Hon. Cadiz: We are using the Single Electronic Window, in the first instance, which is already established by the Ministry of Trade, Industry, Investment and Communications.

Sen. Ramkissoon: Okay. Thank you.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: On clause 79(2), I will read it and then ask what is meant by it:

“The placement of an electronic identification tag on a vehicle shall not be taken as meeting the requirement for the registration of a vehicle under this Act.”

That is what is intended?—that the mere fact that you have an electronic identification tag does not mean that you have satisfied the registration requirements.

Sen. Nicholas: Correct.

Mr. Cadiz: What we are doing there is as the vehicle is being cleared we will tag that—because the information off of these vehicles could be a 20-digit number, and therefore it means right now you have to constantly be transcribing that number. So, as soon as we take that number, that number goes into the system and it is used throughout the registration process. But the electronic tagging is not a

registration, the vehicle still has to go to the licensing office to be registered.

Sen. Prescott SC: Thank you very much.

Sen. Al-Rawi: May I?

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair. So our officers attached to the Motor Vehicles Authority would be presumably the persons conducting this, and the hon. Minister mentioned the Single Electronic Window, and, in fact, what we have is a bifurcated system right now. We have Customs having one unique identification mark on the ASYCUDA system, and we also have the Ministry of Trade, Industry, Investment and Communications having a different system ID because the two are not harmonized; they operate in silos. Is this third entity intended to operate alongside that? And, if so, do we need to provide for the legislative mixing of that?—because we came to Parliament earlier in this term and we dealt with an amendment to the ASYCUDA system, which specifically legislated the operability of the Ministry of Trade, Industry, Investment and Communications' Single Electronic Window in its bifurcated system. So does this need to be added in as a third limb now?

Hon. Cadiz: Not that I am aware of, because I think that particular Act that you speak of allows for the SEW to be part and parcel of the system. Customs uses the ASYCUDA for their own purposes, and then the SEW then takes it from there for other purposes, but Customs wanted to retain ownership of their particular—

Sen. Al-Rawi: Right. So this can feed in through that second limb?

Hon. Cadiz: Yeah.

Sen. Al-Rawi: Thank you, hon. Minister.

Hon. Cadiz: And the beauty about this is once the information is received in the SEW it can be used very easily, I mean, you know, to check to see what the taxes

were paid at the point of entry, et cetera.

Sen. Al-Rawi: Why I am asking is, insofar as you are establishing and maintaining a database that this Authority would have management purpose for. So it seems to me that what we are doing is that we are putting three silos into effect, which may be fine. I am just not sure about how it articulates, because you definitely have a Customs silo, you definitely have a Ministry of Trade, Industry, Investment and Communications silo, and then you have this other one.

Hon. Cadiz: Yeah. The SEW, in this particular case, would be for information, because the purpose of Customs at the Port with the ASYCUDA—right now, for instance, you have to walk with your Customs documents where you have paid the duties and taxes on the vehicle and take that physically down to the licensing office right now. What would happen is that on the database it would show that that has already been done. So for the new car registration, you do not have to walk with a stack of documents to go down to the licensing office. The licensing officers, the registrar, for instance, would be able to see where those payments were made to Customs by using the SEW.

Sen. Al-Rawi: Thank you. Could I ask the AG what is the rationale behind the deletion of subclause (3)?

Sen. Nicholas: Yes. We came to the point where every vehicle's purpose must be identified, so that this is obsolete.

Hon. Cadiz: Yeah. It would be difficult to have a vehicle arrive in Trinidad without being able to determine what this thing is to be used for. So whether it was a two-wheel, three-wheel, five-wheel vehicle, the manufacturers would have obviously built it for a particular purpose and we will be able to take it from that.

Sen. Al-Rawi: Okay. Thank you.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: It is just one of those therefore that—under clause 76(2), “The Minister may in special circumstances...exempt from registration...”?

Sen. Nicholas: No.

Sen. Prescott SC: Why not?

Hon. Cadiz: The Minister would not get involved in that.

Sen. Prescott SC: I cannot determine what the use is, “he say I exempted”.

Sen. Nicholas: No, that is not the purpose of that clause.

Madam Chairman: That is not the purpose of clause 79?

Sen. Nicholas: That is right.

Sen. Prescott SC: But it is captured by it. I would find great pleasure in trying to represent to a court that that is what it means.

Sen. Nicholas: Good luck.

Sen. Prescott SC: Good luck. [*Laughter*] Thank you.

Madam Chairman: Hon.Senators, the question is that clause 79 be amended as circulated, and further amended in subclause (1)(a) by deleting after the word “purpose”, the words “of the vehicle” and substituting the words “for which the vehicle is to be used”. Also, may I include in the chapeau, 79(1), after the word “Tobago”, delete the words “as part of a shipment”.

Question put and agreed to.

Clause 79, as amended, ordered to stand part of the Bill.

Madam Chairman: Sen. Drayton.

Sen. Drayton: You said delete “as part of a shipment, the Authority shall” or just—

Sen. Nicholas: Just “as part of a shipment”

Sen. Drayton: Okay. All right.

Clause 80.

Question proposed: That clause 80 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, may I point out the usage of the words “as part of a shipment,” in the chapeau to clause 80 and suggest that we seek to amend it in line with the chapeau of 79(1), as just done. May I, secondly, enquire—“the importer of the vehicle shall, prior to the arrival”—insofar as we specifically amended the Advanced Cargo/Passenger Information ASYCUDA system in the Customs laws, specifically, making it a requirement that we do the entries for both Ministry of Trade, Industry, Investment and Communications and other subdivisions and Customs, and, insofar as every vehicle that comes in may come in pursuant to a Customs entry, do we need to make a consequential amendment to the Customs law as it relates to the ASYCUDA system, tying in with this Advanced Cargo Information System?—because that is what we are doing. So the question is usually the timing.

Sen. Nicholas: Harmonizing.

Sen. Al-Rawi: Harmonizing. Yes.

Sen. Nicholas: All we are doing is harmonizing.

Sen. Al-Rawi: No, but this does not—

Sen. Nicholas: The requirements are the same.

Sen. Al-Rawi: But the amendments that we made to the Customs legislation specifically contemplated when that trigger occurs. So, I am wondering whether this amendment now—

Sen. Nicholas: When does the trigger occur?

Sen. Al-Rawi: There is a formula of words used, and it uses the Single Electronic Window and the ASYCUDA World Plus System, and then it goes down to the nitty-gritty as to how it is to be done. So I was wondering if this Bill needs to contemplate a consequential amendment to that advanced cargo information.

Sen. Nicholas: Is it not all advanced?

Sen. Al-Rawi: I do not know. You see, what I am asking here—you see, this information now goes—

Sen. Nicholas: The advanced passenger information—

Sen. Al-Rawi: Or advanced cargo.

Sen. Nicholas: Or advanced cargo.

Sen. Al-Rawi: Right.

Sen. Nicholas: Is information that is provided in advance whether the timelines are specified or not—

Sen. Al-Rawi: They are for a different reason. They are done to avoid a breach of section 213 of the Customs Act, or section 223 of the Customs Act, so that the time frame within which you can say you made a mistake is narrowed down so that you can then be held for a breach of the Customs laws for false declarations. So, I was wondering about this, because here we have the name and address of the importer or dealer, the bill of lading in respect of the vehicle, and it is going to the third silo, which is now you are providing it to the Authority. So, I am wondering about now the policy decision behind the Government's amendments of the Customs Act, specifically, on a previous occasion to deal with advanced cargo information to only include certain aspects, and, now this, obviously, is perfectly in line with that. So I was wondering why we are not harmonizing this by way of a consequential amendment included in a schedule to this Bill. [*Crosstalk*]

Sen. Nicholas: We hear you, Sen. Al-Rawi, but at this time we prefer to leave it as is.

Sen. Al-Rawi: Sure, AG, I would be happy once you had a look at it to see if it needs to be effected because it will be in a consequential amendment to another piece of legislation. The opportunity would have—

Sen. Nicholas: For the time being we will leave it as is with the commitment to have a look at it.

Sen. Al-Rawi: Sure. I do not know if it is necessary, I am just asking you to have a look at it.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you.

Sen. Dr. Mahabir: Madam Chair, may I come in here?

Madam Chairman: Sen. Mahabir.

Sen. Dr. Mahabir: Thank you, Madam Chair. I do have a concern with the words “as part of a shipment”, because “as part of a shipment” reads to me that there is an importer who is importing some 20 vehicles and we are identifying one, which was part of that shipment, and indicating that you need to provide all the information—

Madam Chairman: Senator, I think we agreed to take it off.

Sen. Nicholas: We have dealt with that, Sen. Mahabir, and we have removed it.

Sen. Dr. Mahabir: Right. Okay. But the second point is this, under (b) we did say that the documents required would be a bill of lading in respect of the vehicle. Now, it refers to my first point. A bill of lading normally refers to documents involved in goods which have been shipped as sea cargo. When we have goods which are exported on aircrafts, we have something known as an airway bill, so that if we are talking about a vehicle which has been imported by an individual, a bill of lading is not going to be the relevant document. So we do need the airway bill as well for a single car, a Rolls-Royce from the UK.

Hon. Cadiz: There is an ocean bill of lading for sea freight and then there is an airway bill of lading for airfreight, so the term bill of lading would be the document, whether it would be ocean bill of lading or airway bill of lading. The bill of lading is the document that the shipper would use.

Sen. Dr. Mahabir: They would cover the aircraft shipment very well.

Hon. Cadiz: Yes, it covers either one.

Sen. Dr. Mahabir: Thank you very much.

Sen. Nicholas: We will cover your Rolls-Royce—your Rolls-Royce will be secured. [*Laughter*]

Sen. Dr. Mahabir: AG, your Rolls-Royce not mine.

Madam Chairman: Your fleet. [*Laughter*] Is that it for clause 80? Sen. Ramkissoon.

Sen. Ramkissoon: In relation to subsection (c) of clause 80, “any other documents that the Authority may require”, I think that statement is very vague as in anything that the Authority requires you, and it is not very clear as to what may require.

4.00 p.m.

Hon. Cadiz: Documents will—the requirement will change over a period of time. For instance, when the foreign-used vehicles started to come into the country, eventually they initiated a document where you had to show where the vehicles were, in fact, de-registered in the host country, and therefore it was only as and when that issue came up with foreign-used vehicles, that we needed that de-registration certificate. So I think we wanted it open here where that would fall under “other documents” then because, depending on the nature of the business, you might, in fact, require another document.

Sen. Ramkissoon: The reason for the point is, you do not want it too open where it is not clear what the Authority can ask you for and you have a very open-ended list where you have to go back and forth, back and forth.

Hon. Cadiz: We could do it under the regulations as to what the documentation for today would be required and then we can just amend the legislation after, as and when.

Madam Chairman: Any other concerns? Hon. Senators, the question is that clause 80 be amended in subclause (1) by deleting after “Tobago” the words in the chapeau—sorry, by deleting in the chapeau after the word “Tobago” the words “as part of a shipment”.

Question put and agreed to.

Clause 80, as amended, ordered to stand part of the Bill.

Clause 81.

Question proposed: That clause 81 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 81 be amended as circulated. It reads as follows:

Insert after the words “amend the” the words “Fifth or”.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma’am. If we could begin at 81(1):

“There shall be payable to the relevant Tax Authority...”

The definition of “Tax Authority” to be found at page 7 of my Bill is:

“‘Tax Authority’ means the Board of Inland Revenue established under the Income Tax Act.”

So I was wondering why the word “relevant” is necessary there because it is only one entity. So that is the first observation.

The second observation is in subclause (3):

“Where a vehicle in respect of which motor vehicle tax is payable is registered without the motor vehicle tax having been paid pursuant to this section, the registration of that vehicle shall be void.”

Should it be “voidable” insofar as it can be cured? The determination of “void” versus “voidable”—voidable would allow for the discretion of the relevant officers to prevail, particularly if there is a mental intention which attenuates the strict—

what would otherwise be a strict liability position. We are adding in subclause (4) the words “Fifth or”, so that:

“The Minister to whom responsibility for finance is assigned may, by Order, amend the Seventh Schedule.”

My enquiry now arises really from a practical purpose with respect to specificity of law, how subclause (5) and (6) operate.

“An Order”—in subclause (5)—“made by the Minister under subsection (4) shall be published in the *Gazette* and shall, after four days and within twenty-one days from the date of such publication, be submitted”—if you could hold on to that word, “submitted”—“to Parliament, and Parliament may by resolution, amend or revoke that Order.

Where an Order is not submitted to Parliament within the period of twenty-one days as mentioned in subsection (5), that Order, shall on termination of that period expire and be of no further force or effect.”

As I understand it, Madam Chairman, one can submit something to Parliament and it could not qualify for debate, for resolution. In this case here, “Parliament may, by resolution”, I do not know what kind of resolution. Is it going to go for positive, affirmative or negative resolution? Because there is a different prescriptive method by which you approach the two. You must move the Motion. For instance, Parliament goes on holidays at certain periods of time. I may submit something and 21 days does not actually mean 21 actual days of parliamentary time. It could cross as far as 45 days or 50 days, depending upon the mechanisms in the Parliament.

So I am concerned to understand what the intention behind this is in terms of the certainty of taxes. If we were to borrow the expression used in tax law, that there is certainty in both death and taxes, I am wondering about the certainty of

taxes as we deal with a prescriptive formula in subclauses (5) and (6) that may not achieve the purpose that we think it does.

Sen. Nicholas: Madam Chair, this particular wording was actually taken directly from the current Motor Vehicles and Road Traffic Act and, as such, we believe that it has worked well over the years and it could continue to work well.

Sen. Al-Rawi: May I, hon. AG, point out that since that Act was passed, that we have since amended our Standing Orders in the Parliament in both Houses and that, therefore, the prescriptive mechanism for calculation of time which feeds into the certainty of taxes issue therefore becomes an issue. So if I were to submit this to Parliament just before the Parliament goes on automatic recess for the vacation period of August and September, then 21 days runs into issue.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Prior to this, we never had our Standing Orders in that state. So I am concerned that the law may have been certain in its original construct, but we have since amended our Parliament Standing Orders and operationality and a 21-day certainty period is what concerns me. You see, taxes must be certain to be upheld, and it is the obligation in subclause (6) that we must repay the tax if something is not done. Further, what do we mean “by resolution, amend or revoke”? What type of resolution so that the certainty is known? I think it is an opportunity to be very clear and we should certainly consider it that way.

Sen. Nicholas: Madam Chair, having looked at the provision in a little more detail and having heard Sen. Al-Rawi, I think it is for the Parliament—or the Government of the day—really, to regulate how it brings such resolutions to the Parliament and, therefore, they would have to be mindful of the Parliamentary Practice and Procedure in doing so. We can set out the rules and the law and it is up to the Government, in those circumstances, to follow it as the practice and

Standing Orders allow.

Sen. Al-Rawi: May I ask you to consider, hon. AG, that the Parliament, under the Constitution, the legislative arm of it, must specify what the law says. Parliament itself cannot intervene by way of processing its Standing Orders, how things are dealt with. We must set the law. It is my view, respectfully, that we should set the law as to what it is. My own belief is that taxes are usually done subject to negative resolution, so that one must be motivated to go and deal with the thing. I am not quite sure. May I, just out of an abundance of caution, suggest that perhaps we should seek the view of the Clerk—the Clerk of the House—who has by far more experience than all of us and, perhaps, have her view on it? She would probably have dealt with this. Particularly if the old law provided for this, she may have well have easily at reach the answer to this suggestion so that we are sure we get it right.

Sen. Nicholas: Sure. Let us proceed with it as is with the undertaking that the Clerk will be consulted and if we are to revisit, we will so do.

Sen. Al-Rawi: Much obliged.

Madam Chairman: Are there any other concerns? Sen. Al-Rawi.

Sen. Al-Rawi: Just for the answer on, AG—

Sen. Nicholas: I am being advised that all resolutions that touch on taxes are by affirmative.

Sen. Al-Rawi: Affirmative. Thank you. I was entirely on the wrong path then. So thank you so much. I was looking at water schedule rates and other events. May I ask for your—just to close off, on the issue of subclause (3), the issue of “void” versus “voidable”.

Sen. Nicholas: Yes, we are prepared to go with “voidable”.

Sen. Al-Rawi: With “voidable”?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Much obliged.

Madam Chairman: Hon. Senators, the question is that clause 81 be amended as circulated and further amended in subclause (3) by deleting the word “void” and inserting the word “voidable”.

Sen. Nicholas: Madam Chair, may I beg your indulgence? With regards to 81(1), where it was proposed the removal of “relevant”, seeing that the tax authority was clearly defined, we can remove “relevant”.

Madam Chairman: Sen. Drayton.

Sen. Drayton: I was just about to make a suggestion. To me, that clause seems very cumbersome. Why not simply say:

“There shall be payable to the Tax Authority, a motor vehicle tax computed in accordance with the provisions of the Seventh Schedule.”?

Hon. Senator: That is very elegant.

Sen. Al-Rawi: But you would have to have subclause (2), that it must be done before—

Sen. Drayton: Because the Seventh Schedule identifies the classes of vehicles and it must be vehicles entering Trinidad and Tobago.

Sen. Nicholas: Sen. Drayton, through the Chair, unless you consider it terribly important to do so, we would prefer to have it in the present language.

Sen. Drayton: Okay.

Question put and agreed to.

Clause 81, as amended, ordered to stand part of the Bill.

Madam Chairman: Hon. Senators, it being 4.15 p.m., I propose that we take the tea break now and resume at 5.00 p.m. The committee is now suspended until 5.00 p.m.

4.15 p.m.: *Committee suspended.*

5.00 p.m.: *Committee resumed.*

Clause 82 ordered to stand part of the Bill.

Clause 83.

Question proposed: That clause 83 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 83 be amended as circulated:

Delete the words “five thousand” and substitute the words “one thousand”.

Sen. Al-Rawi: Madam Chair, sorry. Just to get the rationale behind the shift—sorry to jump in this late.

Madam Chairman: Sen. Al-Rawi, you are accommodated.

Sen. Al-Rawi: Thank you, Ma’am. May I just enquire as to the rationale for the shift down from \$5,000 to \$1,000?

Sen. Nicholas: Generally thought that for such an offence \$1,000 was the more appropriate fine.

Sen. Al-Rawi: Insofar as we have this very useful feature in the Bill of a schedule of fines or rather a schedule of payments, AG you are still of the view that it would not be useful to schedule out offences.

Sen. Nicholas: Yes, we still— that still is the view of it.

Sen. Al-Rawi: Okay. Much obliged. Thank you. Thank you, Madam Chair.

Question put and agreed to.

Clause 83, as amended, ordered to stand part of the Bill.

Clause 84.

Question proposed: That clause 84 stand part of the Bill.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Yes. I was just wondering the fine here of \$25,000 and

imprisonment for five years, and I think previously it might have been under 65 or 66 where there was a similar clause in terms of defacing, I think, the licence.

Sen. Al-Rawi: Yes.

Sen. Drayton: Yes? So I am just wondering—

Sen. Nicholas: 64 you said? Was it 64 just for reference?

Sen. Drayton: I think it is—

Sen. Al-Rawi: 66.

Sen. Nicholas: 66.

Sen. Drayton: Yes, 66. So I am just comparing the penalties there where the penalty is \$10,000 and imprisonment for one year with fraudulent intent, and here of course is the same thing because it is wilful. But we have \$25,000 and imprisonment for five years, is that proportionate? Could you explain?

Hon. Cadiz: Yes. This clause speaks to the vehicle certificate of registration and we need to curb vehicle theft and tampering with vehicle documentation.

Sen. Al-Rawi: The question is not that. It is 10 to one, 25 to five. The matrix seems to be a little bit off.

Hon. Cadiz: You mean the fine as against the jail term?

Sen. Al-Rawi: Yes.

Sen. Drayton: Is it proportionate when you compare the two offences? One is the licence that you are deliberately defacing, and this one, of course, is the vehicle certificate.

Sen. Nicholas: Yes it tended to be that every 10,000 per is equivalent to one year. This has been the matrix so far, and you are right, this one is a little off in that if we were using the same it would be two and half years. Is that what you are saying?

Sen. Drayton: Well, yes. It seems to me very harsh. I understand the implications

of the particular crime, but in making the comparison, is it proportionate?—and the five years does not seem proportionate.

Sen. Nicholas: Will three years be more acceptable to you?

Sen. Drayton: In criminal law, what would be the norm for defacing an important document?

Sen. Al-Rawi: May we ask what the current law is?

Sen. Nicholas: Once it was not law we thought that it was important to increase it, but I still want to get the proportionality with the fine and it would be between two and a half to three years. So, Minister what would you prefer?

Hon. Cadiz: Round it off at three years. This is a serious issue, so we will take three years.

Sen. Nicholas: So the policy decision is three years.

Sen. Drayton: Okay.

Madam Chairman: Hon. Senators, the question is that clause 84 be amended by deleting the word “five” and substituting the word “three” after “four” at the end of the sentence.

Question put and agreed to.

Clause 84, as amended, ordered to stand part of the Bill.

Clause 85.

Question proposed: That clause 85 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 85 be amended as circulated:

- A. In subclause (1), delete the words “sections 75 and 92” and substitute the words “sections 75 and 99”.
- B. In subclause (2), delete the words “section 94(2) and

substitute the words “section 96(1)(e)”.

Sen. Al-Rawi: Just to be sure—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma’am. AG, the proposal to remove 92 and substitute it with 93, is that correct? It is the plate as opposed to the assignment of the letters for the plate?

Madam Chairman: That is 96(1)(e), subclause (2)?

Sen. Al-Rawi: 92 and 93. Sorry, Madam Chair, I am looking—forgive me. I jumped right in—at the reference to the clause itself which is up for amendment. 85(1) subject to sections 75 and 92. It is proposed that that read instead according to the circulated amendment 75 and 93. So I am wondering if 93 is the correct adjustment because 92 deals with the assignment of letters or numbers which shall become one of their registered marks, and then 93 is a person shall not drive unless you have a licence plate.

Clause 85 deals with the application and obtaining by diplomats or diplomatic organizations or Consular Corp of plates, but I am wonder if it is the assignment that they need to have.

Sen. Nicholas: We are referencing 93(3).

Sen. Al-Rawi: 93(3)?

Sen. Nicholas: Yes.

Sen. Al-Rawi: So the circulated amendment should say that instead? Because right now it just says 93.

Sen. Nicholas: 93(3) would be the proper reference.

Sen. Al-Rawi: Thank you.

Sen. Prescott SC: Chair, may I just enquire to the Attorney General—

Madam Chairman: Sen. Prescott.

Sen. Prescott SC:—how does he associate 93(3) with 85?

Sen. Al-Rawi: With the language of 93(3).

Sen. Prescott SC: Subject to what? The issue of licence plates?

Sen. Al-Rawi: Well, 75 is the registration of vehicles itself.

Sen. Nicholas: Yes, and 93(3) speaks to;

“Where licence plates have been issued under this section or section 85, the licence plates shall remain on the vehicle until such time...”

With references back to 85.

Sen. Prescott SC: So you are saying subject to the Authority’s power to issue and cancel licence plates, the diplomat shall register the vehicle? It does not seem to follow. When you use “subject to” you are making the provision subservient to the 93.

Sen. Nicholas: Okay. I am actually being advised that it is the entire 93 because 93 deals with the entire process of the registration.

Sen. Prescott SC: Of licence plates?

Sen. Al-Rawi: Well 75 deals with the process of registrations and 93 deals with the issuance of the plate?

Sen. Nicholas: Yes.

Sen. Prescott SC: So subject to the plate being issued they are saying? Minor question. With reference to registration plates in 85(1), last line, for registration plates, re licence plates.

Sen. Nicholas: Yes.

Sen. Prescott SC: You are going to change it? Should we change it or not? That is the correct term? It seems that it should be registration plates, and reserve the word “licence” for the former driving permit.

5.15 p.m.

Sen. Al-Rawi: The issuance of marks as well for plates is done pursuant to clause 92 of the Bill, as opposed to clause 93. Then there is the use of this phrase “diplomatic vehicle” when we define diplomat and diplomatic organization. So you have a term which does not appear.

Sen. Nicholas: So, it is all licence plates.

Sen. Prescott SC: So that we will change “registration plates” to “licence plates”?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Clause 92 refers to licence plates as well. So the next issue is whether you need a definition for diplomatic vehicle or a different frame of usage of word.

Sen. Nicholas: Where?

Sen. Al-Rawi: It is clause 85(1) after (a) and (b)

“Subject to sections 75 and 92, the Authority shall—

...register the motor vehicle as a diplomatic vehicle and forthwith enter particulars of the vehicle in the register and shall assign to the vehicle special identification marks to be carried on the”—license plate as opposed to—“registration plates of the vehicle.”

That would be done pursuant to clause 92; I do not know if it needs to be done because then it creates a different form of assignment of mark. So I am wondering whether the reference in clause 92 is required. Then I am asking insofar as in this section we have defined “diplomat” and “diplomatic organization”, does one need to go further to say “and diplomatic shall mean” in reference to the diplomat?—because we use the term “diplomatic vehicle”. You shall,

“...register the motor vehicle as a diplomatic vehicle...”

Hon. Cadiz: There is no harm in leaving it like that.

Sen. Al-Rawi: When we did the amendment for the consular corps, for the

diplomatic corps amendment, we used a different form of definition. Maybe that may assist us in getting the right terminology.

Madam Chairman: Do you want to say “for the use of a diplomat”?

Sen. Al-Rawi: So insofar as it may have been a cut and paste from the amendment which we took, my only question is whether there was a definitional tie back to diplomatic vehicles, that is the only thing I am asking, apart from the amendment of registration plates to licence plates.

Madam Chairman: Register the vehicle for diplomatic use and forthwith enter particulars.

Sen. Al-Rawi: Say for use of a diplomatic or diplomatic organization.

Madam Chairman: Oh, you want to use the word “diplomat” instead of “matic”?

Sen. G. Singh: Madam Chair, when you look at clause 85(1)(a):

“on the application by a diplomat or diplomatic organization for the registration of a motor vehicle in his or its name; and”

—so on. So, therefore, it follows that when you read register that particular vehicle, and whether it is from an organization or a person, it becomes a diplomatic vehicle on the basis of the accreditation of that particular diplomat.

Sen. Al-Rawi: I think that that sounds—

Sen. G. Singh: So, therefore, there is no need to go into the realm of a definition which might preclude or might not include.

Sen. Al-Rawi: I appreciate the connection. Thank you, Sen. Singh.

Sen. Nicholas: Just to further clarify, we can actually remove “after register the motor vehicle”, remove “as a diplomatic vehicle”, if the term “diplomatic vehicle”, concerns, because we go on—

Sen. Al-Rawi: I think, Sen. Singh may have cured that.

Sen. Nicholas: If you are happy with Sen. Singh’s—

Sen. Al-Rawi: Yeah. Well, it will become I guess a term of art there. I think it flows from the manner in which Sen. Singh connected the dots. I thank him for it.

Sen. Nicholas: Very well.

Sen. Vieira: It does matter because when you have diplomatic vehicles involved in accidents, you have the question of diplomatic immunities arising. So is there—there is reference to a register, so there is a special register for vehicles belonging to missions and diplomatic organizations. I suppose if they gave a certificate that this is a diplomatic vehicle as expressed, that would be conclusive.

Sen. Al-Rawi: Well, I looked at the issue of register, there is one register, but there will be different marks in this instance, and I guess the vehicle certification—“vehicle certificate” is the phrase we used—that would have what the certificate is for, the use of, which is where we tie back to use. So there is not a subset registry as far as I understand it.

Sen. Nicholas: No there is not.

Sen. Al-Rawi: I assume so, which is where Sen. Vieira was—

Sen. Vieira: Well, I see so many references to registrar and registry that I was beginning to think that you had different registries for different classifications of vehicles and usages, and certainly for diplomatic vehicles, I could see the benefit.

Sen. Nicholas: I am reminded that the immunities, et cetera, that are prescribed, are prescribed with the Ministry of Foreign Affairs, and as such, even if the vehicle as it stands now, does not have specific diplomatic marks, it is characterized as a diplomatic vehicle, and it comes with all the immunities that are attached.

Question put and agreed to.

Clause 85 be amended as circulated:

A. In subclause (1), delete the words “sections 75 and 92” and substitute the words “sections 75 and 93”.

B. In subclause (2), delete the words “sections 94(2)” and substitute the words “section 96(1)(e).

—and further amended:

After subclause (b) at the end of the last sentence, by deleting the word “registration” and inserting the word “licences”.

Clause 85, as amended, ordered to stand part of the Bill.

Clause 86.

Question proposed: That clause 86 stand part of the Bill.

Sen. Al-Rawi: Thank you, Madam Chair. Clause 86 which is again a special type of licence plate. Clause 85 dealt with diplomatic plates. Clause 86 now deals with disability plates. We have made clause 86 subject to section 75, whereas clause 85 is subject to sections 75 and 93. So the first question is, whether insofar as this is a special plate, in slightly familiar circumstances, one ought to have a reference to section 93 as well.

The second issue is the use of this phrase “issue with special licence plates”. If we look to the language of clause 85 which we have just completed, we would see:

“...vehicle in the register and shall assign to the vehicle special identification marks to be carried on the licence plates of the vehicle.”

So, I was wondering why we were moving away from the terminology which was very usefully set out in clause 85.

The next question which arose was, the certification that the person is “permanently disabled”. I was wondering about the use of that word, “permanent”. I am borrowing now from another realm, which is the law, in the practice of law, and we usually speak about “permanent partial disabilities”, because permanent disabilities carry a different connotation in law. So I was wondering about the

adjective “permanently disabled” in this particular clause 86.

Sen. Rev. Abdul-Mohan: Madam Chair, just to perhaps add to Sen. Al-Rawi’s comment in terms of permanent and partial. The State of Maryland has provision for what you call “temporary disability”. So that, you know, a licence will be issued to someone with a temporary disability for a certain period, and could always be resubmitted or extended as the case may be. So they provide for that. I am not too sure how this will fit in this particular legislation.

Secondly, I have a question concerning, in terms of the licence, if the individual, the physically challenged, is travelling in another vehicle, how do you transfer, you know, the point of being disabled, and driving in another vehicle, so that there can still be parking facilities for that individual? Thank you.

Hon. Cadiz: All right. A couple things here. It says in clause 86 (1) “...may apply to the Authority...”. Right now persons who drive specially fitted vehicles, you will see a sign at the back of it saying “No hand signals”, okay? The community said that they would not accept that, all right? So you can if you are a person with a disability or permanent disability, you can, in fact, apply for plates which will identify that. You do not have to drive a vehicle with those specially identifiable plates.

The parking hangers that would be issued also, will, in fact, play that role. So if you use another vehicle, because the parking hangers, which is further down, are issued to the person not to the vehicle. So really and truly, the person has a choice—you can either have your vehicle identified by your licence plate, and with special markings, or you can have a standard licence plate with no special markings, but you use your parking hanger for preferred access for parking, et cetera.

5.30 p.m.

Mr. G. Singh: But I think the point, Madam Chair, about incorporating both permanent and partial as part of the lack of capacity of persons who fall within this term, is something that we ought to take into consideration on and ought to provide for, and that therefore it ought not to be confined to permanent.

Hon. Cadiz: There is provision, for instance, with the parking permits that if you have suffered a temporary disability in an auto accident or something like that, you can apply and will be issued for a period, based on a doctor's recommendation, et cetera, you will be issued a temporary disabled parking hanger.

Sen. Drayton: If I may Chair? Yes, I actually had the same thing underlined. I want an explanation as to why only permanent. I hear what Sen. Ganga Singh has said, but I do not think it addresses the issue where in the law we are saying that you want a medical practitioner certifying that disability or immobility is permanent.

Sen. Nicholas: For the purpose of registering a vehicle as a disability vehicle to get the special plates and the marks—and I take the two amendments proposed by Sen. Al-Rawi with regards to clause 93 as well as the definition of the identification plate.

With respect to the registration of the vehicle, that is for persons with permanent disability only. For those who may have temporary disability—well, you can have permanent/partial, and that would allow you to register the vehicle in a particular way, but for those with temporary disability, they can apply for the hanger and, therefore, it is not the vehicle that would be specially modified for a permanent disability.

Sen. Al-Rawi: So “permanently disabled” includes “permanently partially disabled”.

Sen. Nicholas: Yes.

Sen. Al-Rawi: To be clear.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Yes? Okay, thank you very much.

Hon. Cadiz: The thing is where you have a vehicle that is specially fitted, because a vehicle that is fitted for persons with disabilities is very different to a standard motor car. They have levers instead of gears and a whole different make-up. For wheelchair access you have vehicles where you can actually sit in a wheelchair and operate a vehicle. So, these are specially-fitted vehicles.

So, when you go to get this vehicle registered at the Motor Vehicles Authority it will indicate that this vehicle is a special vehicle. From that you can either have a standard licence plate so the person driving behind you does not know that this vehicle is a special vehicle.

Or, in the case of a temporary disability, you are not going to go and buy—for instance, if you are going to be temporarily disabled for three months, you are not going to buy and outfit a car, probably not, for a disabled person, a person with disability, just for a three-month period. So, that is where you would go and you could apply for a temporary hanger which would give you the preferred parking space, et cetera.

Sen. Al-Rawi: And just very importantly—and thank you for raising the issue—I just want to be abundantly cautious that there is a discretion to apply for this so that somebody who is disabled does not have to have a disability plate. That person can elect not to have one and instead rely upon the hanger. So a permanent disability can be treated with in one of two ways—just to be clear for the record—one, by way of the issuance of a hanger or some form of hanging position or the plate if one chooses, or both. Correct?

Hon. Cadiz: Yes.

Sen. Al-Rawi: Thank you.

Sen. Prescott SC: May I, Chair? What is likely to be indicated on a special licence plate?

Hon. Cadiz: They would use a particular numbering. For instance, like diplomatic plates would probably begin with a “D”; and the person with a disability plate would have some sort of either insignia or it would start with a particular number. The idea behind the MVA is that all vehicles would have random numbers unless there is a specific or special licence that is being issued and, therefore, that would be determined in the regulations.

Sen. Prescott SC: I heard you speak of consultation with some organization or people who—

Hon. Cadiz: We have had a lot of consultations with persons with close associations.

Sen. Prescott SC: Such persons prefer to have the option of displaying on a plate that there is some disability?

Hon. Cadiz: Yes. In other words, the plate would not have like what the writing is now “No hand signals”. As soon as you see that, you know that is a car outfitted for a person with disabilities, and they feel there is some discrimination and people take advantage sometimes once they see that.

Sen. Prescott SC: So, then back to my original question, the special licence plate would not disclose that you have suffered a disability?

Hon. Cadiz: The special licence plate would have it whereby the authorities would know what this means.

Sen. Prescott SC: Only the authorities?

Hon. Cadiz: Yes. I think eventually in time people would get to recognize the vehicle.

Sen. Prescott SC: I was wondering. And the community does not mind people beginning to find out.

Hon. Cadiz: Senator, the choice is the individual. You could have just a random number like everybody else and that is entirely up to you.

Sen. Prescott SC: I think you have satisfied me, thanks.

Madam Chairman: Hon. Senators, the question is that clause 86 be amended in subclause (1) by deleting the word “section” and inserting the word “sections” and inserting after “75” the words “and 93”. Towards the end of subclause (1), delete the word “special” and insert after the word “plates”, “bearing special identification marks”.

Sen. Al-Rawi: Madam Chair, could I suggest that if we look right up to 85(1), if we said—the language there is particularly useful:

“...and shall assign to the vehicle special identification marks to be carried on the registration plates”—in this case—the licence plates of the vehicle.

If we were to use that terminology, just suggesting, maybe we could keep in harmony with the previous language and the elegance of it.

Madam Chairman: So this shall read:

A person who is permanent disabled may apply to the Authority to have a vehicle in the register...

What is the language that you—

Sen. Al-Rawi: Madam Chair, after the word “issued” as it appears there, we could say—

Madam Chairman:—issued with.

Sen. Al-Rawi: Well, the language above says:

“The Motor Vehicles Authority shall assign to the vehicle special identification marks...”

Madam Chairman: So after the words “to have a vehicle registered...”

Sen. Al-Rawi: I am thinking that we can, perhaps, introduce it here.

Madam Chairman: And the Authority shall assign to the vehicle special identification marks to be carried on the licence plates of the vehicle.

Sen. Al-Rawi: That I think does it, Madam Chair.

Madam Chairman: So subject to sections 75 and 93 a person who is permanently disabled may apply to the Authority to have a vehicle registered and the Authority shall assign to the vehicle—

Do I have to repeat the words “The Authority”?

Sen. Al-Rawi: No, Ma’am, “and the Authority shall”.

Madam Chairman:—may apply to the Authority to have a vehicle registered. So a person is applying and then the Authority may issue.

Sen. Al-Rawi: May, yes. Well, the first thing is, Madam Chair, forgive me. The reason I am hesitating in assisting is that I am looking at the discretion which the Authority ought to have in saying yes or no to a particular application. I want to preserve that. So, in 85 we used “shall” where it satisfies—

Sen. Nicholas: May I make a suggestion?

Sen. Al-Rawi: Yes, Sir.

Sen. Nicholas: ... disabled may apply to the Authority to have a vehicle registered and assigned special identification marks to be carried on the licence plate of the vehicle.

Sen. Al-Rawi: That is lovely.

Madam Chairman: ... may apply to the Authority to have a vehicle registered and assigned—

Sen. Nicholas: Special identification marks.

Madam Chairman: Registered and assigned? So the application is for a

registration and an assignment.

Sen. Nicholas: Yes.

Madam Chairman: Yeah?

Sen. Nicholas: Yes. Special identification marks to be carried on the licence plates of the vehicle.

Sen. Al-Rawi: Thank you, AG.

Sen. Prescott SC: So that we are moving away from special licence plates.

Madam Chairman: Yeah. We are using special identification marks.

Sen. Prescott SC: On any ordinary plate?

Madam Chairman: To be carried on the licence plates of the vehicle, yeah.

Sen. Prescott SC: So that in (2), what does the Authority do?—issues licence plates with special identification marks?—in line three.

Madam Chairman: Well, we would have to change it again with the phraseology as determined in 86(1).

Sen. Prescott SC: Once you have paid, the Authority it seems is bound to register you and issue a licence plate with special identification marks.

Sen. Nicholas: That is correct.

Sen. Al-Rawi: So, it is at that point.

Sen. Prescott SC: Assign, pardon me.

Sen. Al-Rawi: The other language that (2) could read would be: that it shall not happen unless the fee is paid which is the simpler version of (2). [*Crosstalk*]

Sen. Nicholas: So, shall we then adopt a similar wording for 86(2) as we have for 86(1)?

Sen. Al-Rawi: The only question is whether we would be duplicating the language unnecessarily, because insofar as (2) brings to life the rubric in (1), the only thing that would be offensive under (1) would be the use of special licence plates as

opposed to just a licence plate.

Sen. Nicholas: Well, 86(1) deals with the application and 86 (2) deals with—

Sen. Al-Rawi: And issuance of the plate.

Sen. Nicholas: Yes. So once you make the payment, then the plates are issued.

Madam Chairman: So that becomes:

The Authority may register the vehicle and assign to the vehicle special identification marks to be carried.

Sen. Nicholas: Yes, please.

Sen. Al-Rawi: Yes, Ma'am.

Madam Chairman: And continues—where the applicant provides a certificate from a registered medical practitioner.

Sen. Al-Rawi: Yes.

Madam Chairman: Any other concerns with clause 86?

Sen. Prescott SC: If you could just tell me in 86(3) whether the term is person with a disability or as in line three it could be flexibly—

Sen. Nicholas: A person with disability.

Sen. Prescott SC: Either would do?

Sen. Al-Rawi: Immobility is used in line two.

Sen. Prescott SC: Sorry, I am in line three, where it speaks of a person with a disability and then the parking permit is called “person with disability”. So I just wonder whether you were seeking to distinguish between those two.

Sen. Nicholas: No.

Sen. Prescott SC: The letter “a” is missing.

Sen. Nicholas: No, no, no. The parking permit is called “persons with disability parking permit”.

Sen. Prescott SC: No “a”.

Sen. Nicholas: No “a”.

Sen. Prescott SC: Thanks.

Sen. Al-Rawi: And then the issue of a special licence plate in (3) arises, and 3(a). It would be solved by the overt definition of “person with disability parking permit” but (3) could be solved by:

Notwithstanding any other provision of this Act where a licence plate is issued pursuant to this section to a person with a disability.

Sen. Prescott SC: The plate shall be.

5.45 p.m.

Sen. Al-Rawi: You could delete the word “special” in (a) entirely, “to whom the licence plates are issued”.

Sen. Prescott SC: You could delete the word “special” in line two and in (a) in line one.

Sen. Nicholas: So 86(3) should read:

Notwithstanding any other provision of this Act, where a licence plate is issued to a person with a disability and affixed to a vehicle, the licence plate shall be deemed to be a person with disability parking permit to the extent that—

- (a) the person with a disability to whom the licence plate is issued may stop, leave standing or park the vehicle in the parking zone designated for a person with a disability.

Madam Chairman: Any other concerns with 86?

Hon. Senators, the question is that clause 86 be amended in subsection (1) by deleting the word “section” and inserting the word “sections” and inserting after the number 75, the words “and 93”; and at the end of subsection (1) by deleting all the words after “registered” and inserting the new words “after registered and

assigned special identification marks to be carried on the licence plates of the vehicle”. And in subsection (2) by deleting after the words “register the vehicle and”, deleting the words “issue special licence plates in respect of that vehicle” and inserting the words after “and” “shall assign to the vehicle special identification marks to be carried on the licence plates of the vehicle”. And in subsection (3) by deleting the word “special” and inserting the word “a”, deleting the word “plates” and inserting the word “plate”, deleting the word “are” and inserting the word “is”

Sen. Nicholas: Madam Chair, before we go to “aye”, we need to also delete the word “special” and we continue along the second line of subclause (3), “person with a disability and affixed to a vehicle, the”, we remove “special” there. “Licence plates” become “plate”, and further “shall be deemed to be”, instead of a person with “disability parking permit”, we remove “person with” and it is just “disability parking permit”.

Madam Chairman: In (3)(a), do you delete “special”?

Sen. Nicholas: Yes, Ma’am.

Madam Chairman: “person with a disability to whom a licence plate is issued”.

Sen. Nicholas: To whom “the licence plate”—so in subclause (3)(a), “the person with a disability to whom the licence plate is issued”.

Madam Chairman: So in subclause (3), to delete the word “special” where it occurs in the first sentence and insert the word “a”; to delete the words “plates are” and insert the words “plate is”. Delete the word “special” after the words “to a vehicle the”; delete the word “plates” and substitute the word “plate”; and in (3)(a)—

Sen. Nicholas: Before we get to (3)(a), Ma’am, after “deemed to be “a”, we delete “person with”—

Madam Chairman: “deemed to be a parking permit”?

Sen. Nicholas: “deemed to be a disability parking permit”.

Madam Chairman: So after the words “deemed to be a” delete the words “person with”; and in subclause (3)(a) delete the word “special” before “licence”; delete the words “plates are” and substitute the words “plate is”;

Question put and agreed to.

Clause 86, as amended, ordered to stand part of the Bill.

Clause 87.

Question proposed: That clause 87 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 87 be amended as follows:

- A. Renumber clause 87 as clause 87(1)
- B. Insert after clause 87(1) as renumbered, the following subclause:
“(2) Notwithstanding section (1)(a), where an antique vehicle does not meet the requirement of a safety test due to manufacturer’s specifications at the time that the vehicle was manufactured and the Authority is otherwise satisfied that the vehicle meets the originality test, the Authority may, if it sees fit, certify the vehicle as an antique vehicle.”.

Sen. Drayton: Just explain to me the word “originality”. I am wondering here if you referring to whether the model is authentic. The word “originality” seems a bit ambiguous.

Hon. Cadiz: To certify it as an antique vehicle you will have to have some greater portion of the vehicle that has retained its original state, to be able to qualify for an antique vehicle. In fact in other jurisdictions I believe that this is the description that is used to describe, for licensing purposes, an antique vehicle.

Sen. Vieira: I see in the amendments, “antique vehicle” means a vehicle that is not

less than 25 years old. How do you tell the age? When do you start counting, is it when it is registered, the year of manufacture, the year of purchase?

Hon. Cadiz: The year of manufacture.

Sen. Prescott SC: Maybe the Minister could, now that he has explained the originality test, to my satisfaction, perhaps he could consider including in 87(1) or the new 87(2) the words “as prescribed”, so that there would be a prescribed test for originality. It might be based on a percentage of—

Sen. Nicholas: Yes, okay.

Sen. Al-Rawi: May I make an enquiry with respect to the new section 2, subclause 2? Madam Chair, if we read the proposed insertion for a new 87(2):

“Notwithstanding section (1)(a), where an antique vehicle does not meet the requirement of a safety test due to manufacturer’s specification at the time that the vehicle was manufactured and the Authority is otherwise satisfied that the vehicle meets the originality test, the Authority may, if it sees fit, certify...”

It took me a couple of readings to understand what that meant. Is it that because at the time the vehicle was made it may not, for instance, have been built for seat belts or for ABS? Is it that it is intended to capture?

Hon. Cadiz: For instance, like the lighting system on a vehicle, right now all new vehicles are LED lights, and the illumination is far better than the original-type lamps on a vehicle. Therefore we would not want to refuse an antique vehicle to be registered and licensed because, for instance, the lighting system might not be where we would want it to be today. Antique vehicles obviously would not have airbags, because I do not think they had airbags 25 years ago, and other safety features like the indicators and what have you. Some older vehicles use a lever-type indicator, do not have indicators in certain parts of the vehicle that you would

have now. So it is there to be able to assess the vehicle at that time.

Sen. Al-Rawi: Thank you.

Madam Chairman: AG, where are we inserting the words “as prescribed”?

Sen. Nicholas: 87(1)(a), Madam Chair:

The vehicle has been tested for originality and safety as prescribed.

Madam Chairman: Any other concerns with 87? The new subclause (2) remains as is?

Sen. Nicholas: Yes, please.

Madam Chairman: Hon. Senators, the question is that clause 87 be amended as circulated and further amended in paragraph (a)—

Sen. Prescott SC: Forgive me, Chair.

Madam Chairman: Sorry, that will become subclause (1). Sen. Prescott, I heard you; let me just get this. That would be 87(1)(a), so we are going to insert the number—numbering (1).

Sen. Prescott SC: May I go to subclause (8) of 88.

Madam Chairman: We are not there yet. Thank you for jumping ahead; I would like to get there.

Sen. Prescott SC: Do forgive me.

Madam Chairman: The question is that clause 87 be amended as circulated and further amended in paragraph (a) by inserting after the word “safety”, the words “as prescribed”.

Question put and agreed to.

Clause 87, as amended, ordered to stand part of the Bill.

Clause 88.

Question proposed: That clause 88 stand part of the Bill.

Sen. Prescott SC: In 88(8)—

Madam Chairman: Sorry, let me acknowledge the AG's amendment. Forgive me.

Sen. Nicholas: Madam Chair, I beg to move that clause 88 be amended as follows:

In subclause (1), insert after the words "the Authority shall not", the words "except with the approval of the Minister with responsibility for transport".

6.00 p.m.

Sen. Prescott SC: Thank you very much. In 88(8), may I suggest that in line 3 we should be speaking about damage—well first thing, maybe I should enquire, is it that the person is liable for damage occasioned to some person or property, or for damages awarded by a court? Clause 88(8).

Madam Chairman: What page?

Sen. Prescott SC: Page 49.

Sen. Nicholas: Damage to property such as roads—

Sen. Prescott SC: Is a reference to damage to, so it should be singular.

Sen. Nicholas: Yes, it should be singular.

Sen. Al-Rawi: But do we need to specify on this that it is inclusive of damage to public property? Is that what is intended? Yes? Does one need to specify that insofar as this Act also binds the State it means that all state entities also have liability now for public property damage as well, and that can be somewhat problematic. Or do we just leave it to judicial discretion which would be fine enough as it is?

Sen. Nicholas: We agree that it should be left to judicial discretion.

Sen. Al-Rawi: Thank you AG.

Sen. Vieira: I understand 88 is talking about you cannot register certain vehicles and then at 88(2) you are talking about certain vehicles cannot be used on any road or highway. Am I to take it that we can expect in due course regulations that will deal with things like the transporting of hazardous waste, dangerous substances,

because, you know, we have had three containers fall down in Port of Spain, we have all of these monster trucks on the road, and I was looking to see where in the legislation we were going to deal with the protection of the public and to really regulate this type of activity?

Hon. Cadiz: The issue of where these vehicles can go, for instance, the recent situation with the containers, that is being looked at now. It would not be in the substantive law but it would be in the regulations as to what would be allowed to go where. We are looking at that. And, obviously the much larger vehicles on the roads, there are heavier trucks on the road, but our bridges basically determine what can and what cannot go on the roads. So, that is being looked at in a more holistic manner to control and manage that situation.

Sen. Vieira: Thank you very much.

Sen. Drayton: We are both along the same lines and I thought Sen. Vieira was clarifying it. Okay, so 88(1) says: “The Authority shall not register—” for use on the roads the following vehicles exceeding 15 tonnes, eight tonnes and, of course the length, not more than nine metres. And then in 88(2) it says:

“Except as otherwise provided in this section, the following vehicles shall not be used on any road or highway.”

And it repeats the weight and the size provisions, but if the vehicle cannot be registered, then it stands to reason that they cannot be on the roads.

Sen. Nicholas: There is an amendment to 88(1) that says “except with the approval of the Minister with responsibility for transport”.

Sen. Drayton: Okay, so that is an amendment to (1)?

Sen. Nicholas: Yes.

Sen. Drayton: Okay.

Sen. Al-Rawi: May I hon. Attorney General, point out—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair, through you. Forgive me, Ma'am, I did not mean to be ungracious. The amendment as proposed is to include the words "except with the approval of the Minister with responsibility for transport", just to point out that Minister is a defined term which means "the Minister with responsibility for transport", so perhaps it could be without "except with the approval of the Minister" as appears later on in this very clause here in subclause (3), "the Minister may, by Order,".

Sen. Nicholas: Sure.

Madam Chairman: Sen. Dr. Mahabir.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. Again on clause 88 I would like, through you, Madam Chair, to enquire of the Minister whether in the regulations which are coming that Minister is giving consideration to restricting vehicles of a particular weight from operating on a minor road such as the roads which are under the control of local government bodies, given the fact that vehicles do damage roads, overweight vehicles do damage roads and pipelines, and whether in fact in regulation we also have a weight restriction on minor roads in the country?

Hon. Cadiz: The answer to that is, yes.

Sen. Dr. Mahabir: For this particular Bill?

Hon. Cadiz: Yes.

Sen. Nicholas: Madam Chair, just before we conclude this clause, in 88(2) where we have "road or highway", "or highway" should be deleted.

Sen. Prescott SC: Chair, may I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: May I enquire whether there is an offence of contravening

clause 88(2)? In (5) we have just limited it to tints. Is it intended that it should be an offence or is it covered somewhere else that the use of a vehicle on a road—

Sen. Al-Rawi: Is it under (8), Sen. Prescott?

Sen. Prescott SC: Eh mmm?

Sen. Al-Rawi: Is it under subclause (8)?

Sen. Prescott SC: No, no, (8) is for failure to observe conditions specified in the permit. I am saying if you are in breach of (2), that is to say you have used a vehicle on a road, a vehicle which exceeds the maximum gross weight of 15 tonnes, have you committed an offence? Or rather is the breach of that (2) punishable?

Sen. Nicholas: Is that not in (5)?

Sen. Prescott SC: No, (5) seems to limit itself to tints.

Sen. Al-Rawi: Specifically, 2(d), tints.

Sen. Prescott SC: May I suggest that (8) can be expanded to include contravention of (2)? Clause 88(8); (4) says we can cancel a registration if it does not comply with subsection (1). If you do not register you cannot cancel it. [*Interruption*] Clause 88(1) says you are not registering it.

Sen. Nicholas: I think you heard me. Madam Chair, it is being suggested that the conditions outlined in the permit will give you directions as to weight that can be used on a particular road, et cetera.

Sen. Prescott SC: And may I ask which permit? The only reference to permit seems to be in (7) for moving a conveyance—how you call it? A machine up and down, am I not right?

Sen. Nicholas: In (6) as well:

“Notwithstanding subsection (1) the Authority may on the application of a person seeking to register a vehicle referred to in subsection (1) determine the conditions in respect of the use of that vehicle on the road and register

the vehicle subject to those conditions.”

So (8) deals with—

Sen. Prescott SC: Subsection (8) says if you do not observe those conditions, something will happen, but it says conditions specify that the permit issued, and permit is only issued under (7), that is to move a machine. Nothing to do with (6).

Sen. Nicholas: “...to observe any other conditions specified from under this section.”

Sen. Vieira: You cannot cancel something you do not have.

Sen. Drayton: Okay, we go back to 88(1), the Authority shall not register under three conditions, and then (4) it says:

“The Authority may cancel the registration of a vehicle or trailer which does not comply with the requirements of subsection (1).”

But if you cannot register those vehicles, what registration is there to cancel? Maybe I am confusing it a bit, but it is explained here.

Sen. Nicholas: Sen. Drayton, through you, Madam Chair, we dealt with that with the amendment as I said earlier. We are giving the Minister the approval, so that 88(1) should read:

“The Authority shall not except with the approval of the Minister register—”

So that it can be registered.

Sen. Drayton: So, the Authority gives the Minister permission to register. Rather the Minister gives the authority to register.

Sen. Nicholas: Correct.

Sen. Drayton: But then Authority could turn around and cancel the registration if the registration does not comply with the very requirements.

Sen. Nicholas: Correct.

Sen. Prescott SC: But I am afraid, Chair—

Madam Chairman: Let me recognize Sen. Dr. Mahabir.

Sen. Dr. Mahabir: No comment yet. No comment yet.

Madam Chairman: Sen. Prescott SC.

Sen. Prescott SC: Thank you. On that very matter 88(1) and 88(4), assuming that the Authority has registered with the Minister's approval, a vehicle, a trailer, a vehicle of a certain length, the Authority may cancel the registration for failure to comply with certain requirements, but they are not set out in (1), what those requirements are. He has granted you approval because you have 18 tonnes and the Minister likes you, in what circumstances—sorry Minister. The Minister has given his approval, forgive me for using loose language. Then you say the Authority may cancel the registration if you do not comply with the requirements of subsection (1) and there are no requirements articulated in 88(1).

Sen. G. Singh: But these are the requirements, 15 tonnes, a trailer exceeding eight tonnes.

Sen. Prescott SC: Pardon me Sen. G. Singh, how can you not comply with it? He says—ah, you have a vehicle that is exceeding 15 tons, here is your registration. No requirements. He did not say, and you must only drive on the left-hand side of the road or at 6.00 p.m., that would have been a requirement. He said that I am pleased to know that you came to me with your eight-tonne vehicle, here is your card, but he has not imposed any requirements. You see what I mean?

Madam Chairman: Hon. Senators, at this point we need to suspend the committee stage in order to do a Procedural Motion, so committee stage is now suspended.

Senate resumed.

6.15 p.m.

Madam President: The Leader of Government Business.

PROCEDURAL MOTION

The Minister of The Environment and Water Resources (Sen. the Hon. Ganga Singh): Thank you, Madam President. Madam 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 or alternatively until further progress has been made with the business at hand.

Sen. Robinson-Regis: Madam, sorry. Before you take the vote, could I find out what is meant by until further progress? Is there a time envisaged?

Sen. The Hon. G. Singh: Well, we have always been reasonable, and we have been proceeding at a pace, so we hope to take matters to completion. And if not, then we will report to the Senate that we are in committee stage, but we would like to complete.

Sen. Mahabir: No later than midnight.

Question put.

Hon. Senator: Division.

Madam President: Hon. Senators, the question is that we take a division on the proposal that the Senate continues to sit until the completion of the business at hand, until further progress can be reported to the Senate.

Sen. Robinson-Regis: Division.

The Senate divided: Ayes 22 Noes 7

AYES

Singh, Hon. G.

Coudray, Hon. M.

Nicholas, Hon. G.

Howai, Hon. L.

Alfonso, Hon. Brig. C.

Hadeed, Hon. G.

Newallo-Hosein, Hon. C

Karim, Hon. F.

Sancho, Hon. B.

Tewarie, Hon. Dr. B.

Bharath, Hon. V.

Maharaj, Hon. D.

Mutema, Hon. K.

Ramnarine, Hon. K.

Gibbs-Mohammed, Mrs. M.

Balgobin, Dr. R.

Prescott SC, E.

Mahabir, Dr. D.

Vieira, A.

Small, D.

Abdul-Mohan, Rev. J.

Ramkissoon, Ms. M.

NOES

Robinson-Regis, Mrs. C.

Al-Rawi, F.

Henry, Dr. L.

Baldeo-Chadeesingh, Mrs. D.

Singh, A.

Drayton, Mrs. H.

Roach, HRI

Question agreed to.

MOTOR VEHICLES AND ROAD TRAFFIC BILL, 2014

Committee stage resumed.

Madam Chairman: Hon. Senators, let us continue with clause 88 amendments. Clause 88be amended as circulated, except that, the words “with responsibility for transport” be deleted in subclause (1).

Sen. Prescott SC: Chair, enquiring, whether subclause (4) adequately represents the thinking of the draftsman or the Minister or the Attorney General. Primarily because the reference to requirements of subclause (1) is not supported by anything in subclause (1).

Sen. Nicholas: It should be requirements of subclause (6).

Sen. Prescott SC: (6)?

Sen. Nicholas: Because subclause (6) deals with the conditions.

Sen. Prescott SC: Ohhh! Okay, so proper architecture would suggest that (4) should be reduced to a lower number. But anyway, thank you very much.

Sen. Nicholas: But it is where it is.

Sen. Prescott SC: Mr. Attorney General. And so we had made an enquiry about the special permit. Oh no, it will all make sense. Thank you very much, it will all now make sense.

Sen. Vieira: AG, I was just wondering—

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you, Chair. Clause 88(2):

“Except as otherwise provided in this section, the following vehicles shall not be used on any road or highway:”

And we are talking about weight, not having tires or tinted glass. Now, the Minister said that in time regulations may come to deal with other things. But I am wondering whether or not in this clause we should have an (e) saying, “such other

vehicles or trailers as may be prescribed from time to time”, to capture those things to come down the line. [*Crosstalk*]

Sen. Nicholas: We have no difficulty with that.

Sen. Prescott SC: Madam Chair, may I find out in case I, and I hope I did not miss it—[*Interruption*]

Madam Chairman: Before you proceed, could I get the new proposed (e)? “And such other vehicles as may be prescribed from time to time”.

Sen. Vieira: So there will be a semicolon after (d), “; or” would move after (d), or “(e) such other vehicles or trailers as may be prescribed from time to time.”

Sen. Prescott SC: Same 88(2).

Madam Chairman: Or “such other vehicles or trailers as may be prescribed from time to time.”

Sen. Nicholas: We just need to put vehicles. It would not be necessary to put any trailers, et cetera.

Sen. Prescott SC: Really.

Sen. Nicholas: Yeah.

Sen. Vieira: Well, I already have in my mind containers and these other attachments, thinking like overhang, overall length, things of that nature.

Madam Chairman: “Vehicles as may be prescribed”.

Sen. Nicholas: Yes, please.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Just as an aside, maybe the Attorney General could explain 88(2)(c), but my major concern is, have we created an offence of breach or contravention of clause 88(2)? And if it is, is there a penalty that goes with it.

Sen. Nicholas: Yes, and just to go back to (8), the amendment proposed is, after “conditions specified” to delete “in a permit issued”. And therefore all of those

offences are covered.

Madam Chairman: And with respect to the word “damages”. What was the amendment?

Sen. Nicholas: Damage.

Sen. Prescott SC: I am sorry, I am not sure I understood the AG’s comment on (8).

Sen. Nicholas: So that (8) will now read:

“A person who fails to observe any of the conditions specified under this section commits an offence and is liable on summary conviction to a fine of twenty-five thousand dollars...”

Sen. Prescott SC: Attorney General, in order to avoid the difficulty of translation later on, could we not simply make a breach of 88(2) an offence? A person who contravenes 88(2)? As for example, by changing, mending if you like, the words in (5):

“...a person who contravenes subsection (2)...”

We may just say, who contravenes subsection (2).

Sen. Nicholas: Well it is 88(2)(a), (b), (c) and (d).

Sen. Prescott SC: So if we are saying—

Sen. Nicholas: Actually (a), (b), (c)—

Sen. Prescott SC: And (d). If you contravene (2) at all, it is an offence.

Sen. Nicholas: We have prescribed a different fine for (2)(d).

Sen. Prescott SC: Oh, yeah. It would be greater for the other three, you mean.

Sen. Nicholas: Yeah.

Sen. Prescott SC: Very well. Well, we can adjust it there, can we not?

Sen. Nicholas: Yes.

Sen. Prescott SC: What is the current law on such a breach? What is the current

provision in the Ordinance, for driving a vehicle on a road without the appropriate permission I guess, registration?

Sen. Nicholas: Okay, Madam Chair, the proposed amendment for (8): To delete after “a person who”, we delete “fails to observe any of the conditions specified in a permit issued under this section”, and we insert “breaches”, subsection (2) who contravenes subsections (2) or (7)—

Sen. Prescott SC: 207?

Sen. Nicholas: “(2) or (7), commits an offence...”—and it continues as is, up to “damages” which becomes “damage”.

Madam Chairman: Any other concerns?

Sen. Prescott SC: I think, together AG we should be looking at this again. How do you contravene subclause (7)?

Sen. Nicholas: Subclause (7) deals with issuing of a special permit to the owner of a machinery—*[Interruption]*

Sen. Prescott SC: Subject to condition. So there must be a failure to observe condition. In other words, we probably should not have deleted “failure to observe conditions”. All of 88 contains either contraventions of the registration requirements or failure to observe the conditions of permits issued. So there are two things that you can do wrong, and therefore subsuming it into the one you just proposed might leave out breaches of conditions. So a person who contravenes subsection (2) or (7) or fails to observe any of the conditions shall.

Sen. Nicholas: Sure.

Sen. Prescott SC: Yes, thanks.

Sen. Nicholas: Shall commit an offence.

Sen. Prescott SC: Yeah.

Sen. Nicholas: Madam Chair, do you have it?

Madam Chairman: Yeah. Any other concerns, hon. Senators. The question is that clause 88 be amended as circulated except that, in subclause (1) the amendment circulated, we will delete the words after “the Minister” and insert a full stop. In subclause (2)—

Sen. Nicholas: Madam Chair, we retain “register”. So 88(1) will read:

“The Authority shall not except with the approval of the Minister, register...”.

6.30 p.m.

Madam Chairman: Okay. The amendment shall read: “The Authority shall not, except with the approval of the Minister, register...”

Sen. Nicholas: Yes, please.

Madam Chairman: Subclause (2)—

Sen. Prescott SC: I am sorry. There is a change in—pardon me. There is an amendment in (a) as well. The words “as prescribed” were introduced after the word “safety”.

Madam Chairman: No, that is 87 you are looking at.

Sen. Prescott SC: Forgive me. Is it not past bedtime? Forgive me.

Madam Chairman: Not for you.

Sen. Nicholas: Not for humans.

Madam Chairman: Not for you.

Sen. Nicholas: Not for Senior Counsels. [*Laughter*]

Madam Chairman: Not for you, Sir. Proceeding: amendment to subsection (2), to delete after the word “road”, the words, “or highway”.

In subclause (2), paragraph (c), delete the word “or” after “tyres”. After paragraph (d), include a new paragraph (e)—sorry. In paragraph (d), delete the “.” after regulations. Insert a “;” and the word “or” insert a new paragraph (e) which

shall read:

“Such other vehicles as may be prescribed.”

And in subclause (8) delete after the word “who”, “fails to observe any of the conditions specified in a permit issued under this section” and substitute the words “contravenes subsections (2) or (7) or fails to observe any of the conditions specified”. And at the end of subclause (8), almost to the end of subclause (8), delete the word “damages” and insert the word “damage”.

Sen. Al-Rawi: Madam Chair, forgive me. Did you catch subclause (4), deleting “subsection (1)” and inserting (6) instead?

Madam Chairman: And in subclause (4), after the word “subsection” delete the number “(1)” in brackets and insert the number “(6)”.

Sen. Nicholas: Madam Chair, before we say “aye”, just to go back to subclause (2)(c) where it says: “a vehicle or trailer”, we can delete “or trailer”. And just to confirm the subclause (8), I would just like to read it to confirm that we have it exactly, please:

“Notwithstanding subsection (5)...”

Madam Chairman: No, no, no. That is not (8).

Sen. Prescott SC: Past your bedtime?

Sen. Nicholas: Yes, we should have started (8) with “Notwithstanding subsection (5) a person who contravenes subsections (2) or (7) or fails to observe any of the conditions specified in a permit issued under this section, shall commit...”

Madam Chairman: You are keeping the words “specified in a permit”?

Sen. Nicholas: Yes, please.

Madam Chairman: “shall commit...”

Sen. HRI Roach: Madam, through you, may I raise a question please, with the Minister?

Madam Chairman: Sen. Roach.

Sen. HRI Roach: Yes, thank you. Just for clarification, Minister. Why is it in 88(2)(c) you just deleted “trailer”: “vehicle not fitted with pneumatic tyres”—why is it not an offence to drive a vehicle with defective tyres?

Hon. Cadiz: That would be different. This here would speak to, for instance, an excavator or some other tract vehicle that would basically damage the roadway if you drove it on the road—on the surface. It would damage the surface. The issue of defective tyres and what have you, would come under the regulations as to the mechanical condition of the vehicle. So this speaks to tract—more of less to tract vehicles.

Sen. Nicholas: Just one more observation, Madam Chair. In subclause (4): “The Authority may cancel the registration of a vehicle...” After “vehicle” we delete “or trailer” please.

Madam Chairman: Okay. The question is that clause 88 be amended as follows:

In subclause (1) to delete the words as circulated except that the words “responsibility for transport” shall be removed.

In subclause (2) delete the words “or highway” after “road”. In (c), delete the words “or trailer” after “vehicle”. Delete the word “or” in subclause (d); insert “;” after “regulations” and insert the word “or”; to add a new subclause (e) which shall read: “such other vehicle as may be prescribed”.

In subclause (4), delete the words “or trailer” after “vehicle” and delete after “subsection” number “(1)” in brackets and insert the number “(6)” in brackets.

And in subclause (8) to insert before “a person”, the words “Notwithstanding subsection (5)”. To delete the words after “who fails to observe any of the conditions specified in a permit issued under this

section”, and insert the words “contravenes subsections (2) or (7) or fails to observe any of the conditions specified in a permit issued under this section shall commit..”, and to delete the word “damages” and insert the word “damage”.

Question put.

Sen. HRI Roach: Madam Chairman, can I just—I have a concern, please, through you again. I will just go back again to 88(2)(c) again. The Minister gave the explanation that it is tract vehicles he is speaking about, right?—as opposed to vehicles generally. Okay. But you also have fitted with specific type of tyres, pneumatic tyres, which just means tyres with air. But there are different types of tyres that carry different types of—you have tyres with gas, helium, nitrogen and so forth. So are you saying here that if your tyres carry a different—something other than air, that you would be in contravention of this? This is what we want to say? There are tyres driven on the streets of Trinidad and Tobago now that are not filled with air. I have driven a car with tyres with nitrogen in it.

Sen. Nicholas: I am told that the pneumatic tyre is any tyre made out of rubber, so it does not matter what it is inflated with. The fabric or the material is rubber.

Sen. Vieira: Hon. AG, I just checked my dictionary. It says: “pneumatic—adjective of or relating to, or using air or a similar gas—pneumatic drill; pneumatic tyre, from the Latin pneumaticus: of the wind; belong to the air.”

Sen. Nicholas: Or similar gas.

Sen. Vieira: “or similar gas” would cover—

Sen. Nicholas: But the engineer up there—

Sen. Ramkissoon: I support that as a gas—a pneumatic.

Sen. Nicholas: So that “any other gas” would do?

Sen. Ramkissoon: It does not define that, no, and it does not have anything to do

with the rubber part of it. But if the Minister is saying that it is a special type of vehicle, it needs to state that because if you look at the definition for a vehicle, there is a list of vehicles. So if you are just going to say if it is tract vehicles, you need to actually state that here.

Sen. Nicholas: The definition here is that “containing or operated by air or gas under pressure”. So any one of your gases—

Sen. HRI Roach: Can suffice.

Sen. Nicholas: Would suffice.

Sen. HRI Roach: But what the Minister said, it being a tract vehicle and not all the vehicles? It is a specific type of vehicle he is referring to in this section.

Hon. Cadiz: No. What we are trying to get away from is, for instance, literally, people driving down the road with a tract vehicle, a bulldozer, an excavator. There are excavators, for instance, that have pneumatic tyres— okay?—but this is to prevent any contractor, for instance, using the roadway as a means of getting from one place to the other without fitting the equipment on a suitable trailer that he can trail it on.

Sen. HRI Roach: But should we specify that then?

Hon. Cadiz: No, because it might be a tract vehicle today; it might be a vehicle with train rims or something like that, and that is what we are trying to get away from. The purpose of this is not to have any vehicle operating on the roadway that will damage the surface, and therefore, for today’s technology the only way you can really do that is through the use of pneumatic tyres.

Question put and agreed to.

Clause 88, as amended, ordered to stand part of the Bill.

Clause 89.

Question proposed: That clause 89 stand part of the Bill.

Sen. Robinson-Regis: Madam Chair.

Madam Chairman: Sen. Robinson-Regis.

Sen. Robinson-Regis: Thank you. Could I find out if this is also supposed to deal with the issue of PH cars, “change of use”? No?

Sen. Al-Rawi: Clause 89(4).

Sen. Robinson-Regis: Do you have a policy on PH cars and drivers?

Hon. Cadiz: In the next term of this Government we will develop that policy.

Sen. Robinson-Regis: Oh, that is not our intention. [*Laughter*]

Hon. Cadiz: It was a good answer, though.

Madam Chairman: Senators, the question is that clause 89 now stand part of the Bill.

Sen. Al-Rawi: Madam Chair—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma'am. In 89, which deals with registration change of use, and whilst the question caused a little tickle from my learned colleague, if we look at 89(4):

“A person who contravenes this section is liable on summary conviction to a fine of three thousand dollars.”

I was wondering, in all seriousness, in light of the fact that the taxi driver/ private taxi driver dichotomy exists in Trinidad and Tobago. I was wondering what informed the Government's policy decision for the \$3,000 fine as this would take care of the continuation of the law which prohibits PH drivers, just by way of example.

Hon. Cadiz: There is no answer to that. It is what it is.

Sen. Al-Rawi: I mean, is it the current law? Is this the current fine? How does it tie in with the—

Hon. Cadiz: For instance, I think driving on the bus route, I think is a \$3,000 fine, without authorization.

6.45 p.m.

Sen. Robinson-Regis: Could I get an example of what this may include where you do a change of use of your vehicle and it may not be PH drivers?

Hon. Cadiz: A rental? You could be renting and all of a sudden you decided the two motor vehicles you have in your yard you will leave them as a P or P registration and you start renting them out. In fact that is done right now. People rent their vehicles out now, and that will be a change of use to move it from a private car to a rental. We have the chartered vehicles in here. You could use your private car and open a limousine service without the change of use.

Sen. Robinson-Regis: According to the definition it needs to fit certain criteria, more than 10 and so on.

Hon. Cadiz: Yes.

Sen. Robinson-Regis: So you may have a private car—

Hon. Cadiz: No, you could us a regular sedan and say it is a limo and you could fool up people. Well I mean—

Sen. Robinson-Regis: Who you fooling up?

Question put and agreed to.

Clause 89 ordered to stand part of the Bill.

Clause 90.

Question proposed: That clause 90 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move an amendment as circulated:

In paragraph (a) insert after the words “there is a constructive”, the word “total”.

Sen. Al-Rawi: Madam Chair, may I?

Madam Chairman: Yes.

Sen. Al-Rawi: Thank you. I was wondering if the AG would, for the benefit of the record, explain the move from “constructive” to “constructive total loss” as the two have different meanings in running down claims in the High Court, particularly when juxtaposed against total loss in subclause (b).

Sen. Nicholas: A constructive total loss is essentially when the damage is so significant that the insurance company will—

Sen. Al-Rawi: Write it off.

Sen. Nicholas:—write it off without it having been written off simply for economics because it cost more to repair than it does to write it off. And secondly, the total loss is the ordinary meaning, there is a total loss. So we covered both scenarios.

Sen. Al-Rawi: Madam Chair, perhaps you could guide me. Clauses 90 and 91 share a lot of similarities but we have not gotten yet to 91, but some questions arise in terms of how we select them out. If I may, with your permission, just make the reference this way.

Madam Chairman: Certainly.

Sen. Al-Rawi: Much obliged, Ma'am. Clause 90(3) refers to:

“An insurer who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars.”

And 91(3) provides for a deviation away from summary offences having a prescription of six months to act upon and instead goes for two years. I was wondering whether one wanted to keep a similar standard for the insurer who is, for want of a better expression, better heeled than an owner may be in some circumstances for that offence which is prescribed at 90(3) to be for that longer period of time, institution of proceedings within two years from commission of

offence. I was also wondering whether the—

Sen. Nicholas: Shall we deal with 90 first and then we could get to 91?

Sen. Al-Rawi: Sure. Thanks.

Sen. Prescott SC: Pardon me? May I?

Madam Chairman: Yes, Sen. Prescott.

Sen. Prescott SC: Attorney General, I am not clear on what is the objective of clause 90. In 90(2) what is being recorded by the Authority are the details of the damage to the vehicle. I felt instinctively that what we were setting out to do in 90 is to ensure that the register reflects clearly that this vehicle has become unregistrable or capable of being deregistered or ready for deregistration. It is not that you want to know what damage has been done, but you want to remove this vehicle from your register. Am I on a wholly wrong track?

Sen. Nicholas: No. What would happen is that the extent of the damage would be reflected in the record. So that it will be deemed a constructive loss or a total loss, and therefore, kept on the record just in case someone tries to re-register the vehicle.

Sen. Prescott SC: But it has not been deregistered. Under 98 it is not deregistered, so you cannot re-register it. Hence my question: are we setting out in 90 to bring about deregistration?

Sen. Al-Rawi: But it is also perhaps a flag for fraud to make sure that someone does not borrow the plate onto something else.

Sen. Prescott SC: So place something on the register that either shows it has been deregistered or an alert.

Sen. Nicholas: So the vehicle itself is not deregistered. So that the Authority will keep the record of the vehicle as registered.

Sen. Al-Rawi: Why?

Sen. Prescott SC: Therefore it is not really a concern to what extent it has been damaged.

Sen. Nicholas: Yes. There is the other limb of the validation certification and the validation certificate can be deregistered. So that the Authority having knowledge that the vehicle is essentially not being roadworthy can deregister the validation certificate.

Sen. Prescott SC: But not the vehicle?

Sen. Nicholas: Not the vehicle.

Sen. Prescott SC: The details of the damage are recorded so that others will know that this vehicle has been damaged to that extent? Is that it?

Sen. Nicholas: So that the Authority will know that vehicle has been damaged to that extent.

Madam Chairman: Sen. Dr. Mahabir.

Sen. Dr. Mahabir: Madam Chair, I see merit in clause 90 in relation to the Authority now having a record of damage to the vehicles. If this is going to be available to prospective buyers of vehicles, it certainly adds a measure of disclosure to prospective buyers: not having only the word of the owner because the word of the owner may, of course, not be acceptable, but you should be able to get the record of the vehicle as well from the Authority. If that is the intention of the current piece of legislation, I think there is much merit in recording whenever these instances occur; recording it so that a prospective buyer can have access to the records for a fee, of course, to see exactly when in fact the accident occurred and what was the extent of it.

Hon. Cadiz: Without a doubt, Senator, that is the intent and also for the issue of vehicle theft, where people will lift the plates off the total loss and fit them onto, in some cases, a similar vehicle. So it is described as a white whatever sedan make,

whatever, and therefore, once the Motor Vehicles Authority sees this vehicle coming back in for whatever reason and they go up on their system and they say this cannot be because this vehicle was in fact considered a total loss, and therefore, this cannot be the same vehicle. So there are a number of reasons why we would want it done that way.

Sen. Dr. Mahabir: Through you, Madam Chair, in regulations is it that you are contemplating that a prospective individual buyer of a vehicle, someone with an interest in it, can with a fee apply to see the record of this particular vehicle?

Hon. Cadiz: Yes. With the new system you can trace the ownership from the time the vehicle came on the port, to the time you are looking to buy the vehicle. You could be able to trace your ownership.

Madam Chairman: Sen. Drayton.

Sen. Drayton: I am just trying to get a sense of this here from a very practical point of view. You are saying every time a motor vehicle is involved in an accident, it now will be reported to the insurance company, the police and the Authority?

Hon. Cadiz: It will be whether or not there is the constructive total loss or a total loss. If it is just a fender bender, it is not really of interest to us.

Sen. Drayton: So the accident occurs, the constructive loss you will only determine this when you have been to the insurance company and the insurance company does an assessment. So at what point are you notifying the Authority? Because if it is not any major, just a fender you say, are you reporting this to the Authority? Who determines the extent to say that it is constructive loss?

Hon. Cadiz: The adjuster. The insurance adjuster will determine whether or not this is repairable at a reasonable cost. What happens in Trinidad now is that the insurance company will come to the insured and say, we are not prepared to fix

this. It is an old car. It is going to cost us \$200,000 to fix, we are going to offer you \$50k and give you back the car. So that is one way that they do it.

Sen. Drayton: Okay. So at what point is it reported to the Authority and who is reporting it to the Authority, the owner of the car, the insurer?

Hon. Cadiz: The obligation will be on the insurer and that will be determined by the adjuster.

Sen. Drayton: I am looking at the practicality of a person has to get their car fixed and use their car, is it foreseen that will cause some sort of a delay in having to go and report to the Authority? And I would imagine the Authority has to give you something to say that I have seen this car and, yes, this car is a constructive loss or it is a total—

Madam Chairman: Could I recognize Sen. Hadeed?

Sen. Hadeed: Every certificate that is issued by an insurance company, on a monthly basis, copies of the certificates are sent to the Licensing Authority. Likewise, on a monthly basis, same thing occurs for write offs and stolen vehicles.

Sen. Drayton: So it happens now?

Sen. Hadeed: Yes.

Sen. Drayton: Okay. So this should not cause any undue delay in this new—

Sen. Hadeed: No.

Sen. Nicholas: And just to point out the existing law if I may? It says in section 21 of the Motor Vehicles Insurance Act that:

“Where a company carrying on motor vehicle insurance business—

- (a) accepts a vehicle which was involved in an accident as a total loss;
- or

- (b) agrees to pay the insured for the loss of the vehicle,

the company shall, within seven days of the acceptance or agreement, notify

the Licensing Authority of its decision and when so doing specify in detail the extent of the damage to the vehicle.”

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair. If I may, firstly to Sen. Dr. Mahabir. The searching for purposes of their record would only be for vehicles that are effectively written off, unsalvageable, not necessarily to put back on to the road. Secondly, I was going to refer us to the existing law not in the legislation which is of equal measure, but to the insurance legislation which provides the obligation for the insurer to report within seven days, and I was going to point out and ask for an explanation as to why it is we are not putting a time frame for reporting, particularly insofar as we ought to be harmonizing the insurance aspects of the motor vehicle legislation together with this law, and particularly insofar as clause 91 provides a time frame of one month, whereas clause 90 does not.

The details of damage to vehicle is—you see, when one compares 90 and 91, I accept that the hon. Minister is perfectly correct. We would be looking to close the gap for mischief particularly with respect to fraud or using a car as a getaway car and switching plates, et cetera—very important aspect—but not providing a time frame in clause 90 as we do in clause 91. Even though there is a time frame in the insurance aspects of the existing law, we leave a big loophole now to say, well hold on, there was no time frame for me to report this thing and six months later I can do it—that is the insurer.

Sen. Nicholas: Actually, we do specify that the insurer of the vehicle shall notify the Authority in accordance with the Motor Vehicles Insurance Act, and the Motor Vehicles Insurance Act does specify the time frame.

Sen. Al-Rawi: So is it put that way to allow for amendment of that latter legislation and therefore keeping a chain in gear? In other words then, would it be

inappropriate to specify the time frame here?

Sen. Nicholas: We thought it would be good, as you have actually suggested, that it remains consistent and hence the wording.

7.00 p.m.

Sen. Prescott SC: Thank you Chair, forgive me not knowing, but is a declaration that the vehicle is a constructive total loss or total loss, the equivalent of it has been destroyed or rendered unserviceable?

Sen. Al-Rawi: Look at the language of clause 91.

Sen. Prescott SC: It is the same thing?

Sen. Al-Rawi: Yes.

Madam Chairman: Well, clause 91 places an obligation on the owner.

Sen. Prescott SC: Yes, so my question is, if the insurer declares it to be a constructive total loss or a total loss, does that mean that it is destroyed or rendered unserviceable and that, therefore, an obligation is now placed on the owner as well? Should I address my remarks to Sen. Hadeed? A vehicle that is declared to be a constructive total loss or a total loss, can it be said of that vehicle it has been destroyed or rendered unserviceable?

Sen. Hadeed: A constructive total loss is a vehicle that is unserviceable. But you can repair a constructive total loss. A constructive total loss in the eyes of an insurance company is that it is better to pay off the owner and let him do whatever he wants to do with it. The insurance company does not consider it to be worth the time in repairing the vehicle.

Sen. Prescott SC: So, Chair, there are two persons who must report a constructive total loss, the insurer and the owner. Am I reading 90 and 91 correct?

Sen. Al-Rawi: Yes, Sir, that is correct.

Sen. Prescott SC: And if the insurer fails to do it within seven days he is fined

\$10,000. If the owner fails, he is charged \$5,000.

Sen. Al-Rawi: One has six months and the other one has two years to be prosecuted.

Sen. Prescott SC: Six months or seven days?

Sen. Al-Rawi: No, well, you see, in default of putting the specific provision in 91(3), as is lettered in 90, the six-month rule for prosecution and summary offences kicks in. So if you do not prosecute within six months under the summary route then it is time barred. So the insurer, if he does it six months and one day after, gets off, but the owner does not.

Sen. Prescott SC: Did the Attorney General not suggest to us that 90(1) says seven days, because he says he must do it in accordance with the motor vehicles—
[*Interruption*]

Sen. Al-Rawi: Yes, but the time frame for prosecution is what I am dealing with.

Sen. Hadeed: In the event of a total loss, a constructive total loss, immediately the insurance company advises, by way of a letter, to the Licensing Authority that this car is written off. For it to come back on the road, the person who repairs it has to go into the licensing office and re-register again that this car is now back on the road. So you have the checks and balances there.

Sen. Al-Rawi: But, Madam Chair, just so I can understand because Sen. Hadeed has by far more experience in this area—[*Interruption*]

Sen. Nicholas: Can I bring this matter to—I think I can bring this matter to a close with an explanation.

Sen. Al-Rawi: Sure.

Sen. Nicholas: We have dealt with 90. Clause 90, I think, is pretty clear. We are now into 91—[*Interruption*]

Sen. Prescott SC: No, I am afraid not.

Sen. Nicholas:—and you are asking about destroyed.

Sen. Al-Rawi: We were comparing 90 with what we have allowed ourselves to see in 91.

Sen. Nicholas: So 90 deals with when an insurance company is involved and the insurance company has written off the vehicle, either constructively or because of a total loss, and the clauses flow from that and the obligations thereof.

Clause 91 deals with other circumstances, where one vehicle could be destroyed. So that, you have third-party insurance, your house, your car is parked next to a wall that falls on the car, the car is destroyed, you now have that month to notify the authority. The obligations are not the same as the insurance company because, of course, there are different liabilities flowing from the differences in the loss and how they occurred.

Sen. Prescott SC: Chair, I am now at a higher level, unable to understand. Let me point out what I am saying. I learnt from Sen. Hadeed's remarks that where a vehicle is involved in an accident and has been rendered unserviceable, the insurer must notify the authority, because he says constructive total loss means unserviceable.

Clause 91 says that very vehicle in that very accident requires reporting to the authority by the owner. But the hon. Attorney General suggested to us a moment ago that it is not accident between two vehicles—*[Interruption]*

Sen. Nicholas: It is not accident only.

Sen. Prescott SC: It is not accident on the road.

Sen. Nicholas: Only.

Sen. Prescott SC: So clause 91(1), therefore, according to the Attorney General's explanation, refers to a vehicle that has been involved in an accident and is rendered unserviceable or has been involved in some other kind of accident and

has been rendered unserviceable. Both men must now report, both insurer and owner must report.

Madam Chairman: Sen. Vieira. Sorry, Sen. Prescott.

Sen. Prescott SC: Forgive me, the pauses are necessary. Both the insurer and the owner have committed offences if they fail. One is liable to a fine that is twice what is attributable to the other. That is how it must be?

Sen. Nicholas: Yes.

Sen. Prescott SC: Thank you very much, Chair.

Sen. Vieira: Thank you, Chair. AG, I understand how you would separate 90 and 91 and I entirely agree with you. I think it might be easier if I just read what the Motor Vehicles Insurance (Third-Party Risks) Act says at section 21:

“Where a company carrying on motor vehicle insurance business—

- (a) accepts a vehicle which was involved in an accident as a total loss; or
- (b) agrees to pay the insured for the loss of the vehicle,

the company shall, within seven days of the acceptance or agreement notify the Licensing Authority of its decision and when so doing specify in detail the extent of the damage to the vehicle.”

So, 90 makes sense to me. I understand it. My concern is with 91, because here the owner of the vehicle may not be in an accident at all, the vehicle may just have rotted away and become unserviceable over time, or it may have been removed from Trinidad and Tobago. The owner has to notify the authority in writing within one month from the occurrence of the event. And it is strict. If he fails to do so, he has committed an offence liable to fine and imprisonment.

Now, supposing the owner was actually in an accident where the vehicle was destroyed. He cannot report to the authority. He would be still guilty of the

offence. I was thinking, because of that, maybe we should not put it as one month but report as soon as reasonably practicable. Now, there is a host of case law on “as soon as possible” and “as soon as reasonably practicable”. As soon as possible could be, not even a month, one day, a week. It depends on the circumstances. But I find this is too strict for an owner.

Sen. Nicholas: As soon as possible could be adopted.

Sen. Vieira: As soon as is reasonably practicable.

Sen. Nicholas: Reasonably practicable.

Sen. Dr. Mahabir: The comment of Sen. Vieira is what I myself wanted to pursue; that we do need to be reasonable, with respect to the time of occurrence because of a range of circumstances. So I fully endorse Sen. Vieira’s position.

Clause 91, for me, Madam Chair, is really a matter of technical capacity of the vehicle. Clause 90 is for economic purposes, we may cause the vehicle to be rendered constructive total loss.

With respect to clause 91, I was simply asking the hon. Attorney General whether he would not consider using the word “unusable” as opposed to “unserviceable”. Because if we say the owner of a vehicle that is destroyed—
[*Interruption*]

Madam Chairman: Senator, forgive me, but I think we are going into clause 91 in too much detail.

Sen. Dr. Mahabir: Okay, and we are still on clause 90.

Madam Chairman: Let us take the question on clause 90.

Sen. Al-Rawi: Madam Chair, I had proposed to deal with 91 in similar terms, but when we get there. I wish to thank Sen. Vieira for reading the current law. What concerns me with 90 is that the current mode that we adopt is far less specific than, I think it is section 21. Section 21 actually, of the existing law, prescribes time

markers. It says when the agreement is executed. It gives a date from which the event unfolds, that seven days.

This one is a little bit different. It ties in a formula. Where a vehicle is involved in an accident and there is X and Y, the insurer of the vehicle shall notify. But it does not start a clock ticking the same way that section 21 did, which said when an agreement is executed or it has been accepted as constructive loss, because there is a process by which that occurs. Sometimes an adjustor may not arrive for a one month or two and the person is languishing and then we end up now with a clause which is by far less specific than section 21 of the old law to be repealed is. So I am concerned that this needs some retooling and, perhaps, the Attorney General could assist us.

Sen. Nicholas: There is a process for determining constructive total loss or loss by the insurance company and, therefore, the insurance company must go through that process and once that is determined, the insurance company then has the obligation within seven days to notify.

Sen. Al-Rawi: So we are relying on the implied knowledge that there is a constructive loss.

Sen. Nicholas: Implied agreement.

Sen. Al-Rawi: You see, the fact that there is an agreement—remember constructive loss, a total constructive loss and a total loss are terms to be agreed between the parties.

Sen. Nicholas: So there is an implied agreement.

Sen. Al-Rawi: Yes, but is that good enough AG?

Sen. Nicholas: We believe it is.

Sen. Al-Rawi: It is by far less specific than—[*Interruption*]

Sen. Nicholas: We have consulted and we believe that it is good enough.

Sen. Al-Rawi: May I ask, just out of an abundance of caution now, from a litigation point of view, has this clause come from any other law that, perhaps, your team may know about, or you hon. Attorney General, where there has been litigation on this clause? Because there would be no doubt a plethora of litigation on the old motor vehicle law that prevailed here, which had specific triggers of agreement, acceptance, time frame. Where does this come from? Has there been litigation on this type of wording, an invitation to the court to construe the clause and what the time markers are? Because otherwise we are going to be resetting the litigation formula in Trinidad and that is what is concerning me right now.

Sen. Prescott SC: Chair, before the Attorney General commits himself to answering. Attorney General, are we in 90, attempting to take ourselves to the point where the insurer should observe the same strictures in the case of an accident as are applied in section 21 of the Motor Vehicles Insurance (Third-Party Risks) Act? The same strictures?

Sen. Nicholas: The answer is yes.

Sen. Prescott SC: So would it help if we say then: He shall notify the authority in accordance with section 21? So we know that all of 21 applies: agreement, deadlines, et cetera?

Sen. Nicholas: We can be that specific.

Sen. Prescott SC: We then would not have the difficulty we seem to be experiencing. I do have one other question.

Sen. Nicholas: But you see, the other thing is—well I suppose if the Motor Vehicles Insurance (Third-Party Risks) Act is amended, there can be.

Sen. Prescott SC: If and when you mean, it may be in the future?

Sen. Nicholas: You never know.

Sen. Prescott SC: I suppose then one would have to come back to this. May I ask

the second question, Chair?

Madam Chairman: Certainly.

Sen. Prescott SC: A vehicle that is damaged accidentally, to the point where it is a constructive total loss, that accidental damage must be reported to an insurer?

Sen. Nicholas: I am not sure of the obligation for third-party.

Sen. Prescott SC: You are standing on Maracas Beach. Regrettably you are under a tree which falls, or let us say something more substantial. However, you have suffered a constructive total loss by accident, not natural disaster, are you committed to 90(1)? Is there any commitment to 90(1) of an insurer doing anything?

Sen. Nicholas: It would depend on your insurance policy, I would imagine. Sen. Hadeed might be able to assist us here.

Sen. Prescott SC: But did we mean in 90(1), who is involved in a collision?

Sen. Nicholas: No, if it is that your car is fully comprehensive, for instance, a tree falls on it—[*Interruption*]

Sen. Prescott SC: Third-party risk.

Sen. Nicholas: No, third-party risk is just the insurance Act.

Sen. Al-Rawi: No, but he is saying that because that is where the kick-in obligation for the insurer comes in, de minimis.

Madam Chairman: Your policy requires that you report a damage to your vehicle.

Sen. Prescott SC: Even if it were fully comprehensive.

7.15 p.m.

Sen. Nicholas: That this particular Act deals with fully comprehensive and third party.

Sen. Prescott SC: I see.

Sen. Nicholas: So my point is if it is that you are fully comprehensive, then you would be able to make a claim. If you are just third party, you may not have a claim, then you may not even need to inform the insurance company, but I am not sure if you are obliged to.

Madam Chairman: You have to.

Sen. Prescott SC: So, constructive total loss occurring as a consequence—

Sen. Nicholas: I am being told that you are obliged to.

Sen. Prescott SC:—of something other than a coalition, constructive total loss occurring other than in a collision, must be reported by the insurer, according to clause 91, whether he knows about it or not.

Sen. Hadeed: In the event of a vehicle—if a vehicle is involved, let us say in an accident, you say a tree falls on it or something like that. Although it is third party, the insurance company still has an obligation or they ought to continue to have the obligation to claim from the person who owns the tree, and “yuh doh pay de claim”, but subrogate on behalf of the person. The insurance company still has the jurisdiction to report that to the authority. Any vehicle that goes off the road, whether it is for an accident or not, must be reported by way of a letter to the authority, as it stands presently under the Motor Vehicles Act.

Sen. Prescott SC: That, Chair, provides me with the bright light. We are not really concerned with whether this vehicle is involved in an accident, it is if it is damaged by any means, to the point where it has to come off the road. It is rendered unserviceable. Is that not it? So the word “accident” need not appear in clause 91. It says, where a vehicle is damaged and there is a constructive total loss or a total loss, and it is brought to the attention of the insurer, because it might be my wall that fell on my car.

Madam Chairman: It is still an accident.

Sen. Prescott SC: Well, I would have never thought of going and tell my insurance “meh wall fall on meh car. Is my wall, is my car”; damaged. Okay, I am pleased to note, Chair, that I can claim.

Sen. Nicholas: Of course, if it is deliberate, it is different. [*Laughter*] So, it has to be an accident.

Sen. Prescott SC: So I am saying, if we remove the reference to accident. We now incorporate any kind of calamity that results in the vehicle being damaged, and it is that we are concerned about. Does the damage to that vehicle—has the damage to that vehicle rendered it unserviceable? If so, the insurer should be notified, and he should notify the authorities.

Madam Chairman: The insurer is only concerned with accidental loss.

Sen. Prescott SC: Caused by a collision?

Madam Chairman: Accidental loss caused by any means.

Sen. Prescott SC: Caused by any means? A calamity has occurred and your vehicle is damaged, accidentally, you must report it to the insurer. Does the law require that?

Madam Chairman: Yes.

Sen. Prescott SC: Okay, and the insurer must report it to the authority, if it is a constructive total loss? Yes?

Sen. Nicholas: Where a vehicle is accidentally damaged.

Sen. Prescott SC: Daylight has shone. Thank you, or suffers accident.

Madam Chairman: Same thing.

Sen. Prescott SC: Same thing? No. So where a vehicle sustains damage.

Sen. Nicholas: It is like accidental death.

Sen. Prescott SC: I did not have a problem with that, but I was—

Sen. Dr. Mahabir: Accident does not have to be collision on the road, accident

could be plenty things.

Sen. Prescott SC: So, what if we said sustains damage, and there is a constructive total loss? Will that—

Sen. Nicholas: It is accidentally damaged.

Sen. Prescott SC: I think the word “accidental” needs to be introduced.

Sen. Nicholas: That is where you get the insurance involved in this way.

Sen. Prescott SC: Because Tiger Woods would not have collected any—would not have to go to the insurer.

Madam Chairman: His was an accident.

Sen. Prescott SC: It was? Well, I am sorry. I read differently. [*Laughter*]

Sen. Dr. Mahabir: Deliberate damage is illegal, you know.

Sen. Nicholas: Exactly.

Sen. Vieira: I am looking at the mischief, the intention behind clause 90, and what strikes me is, this is really a duty to report to the authority. The authority wants to know whether a car is no longer on the road. So one of the ways in which it can get that information is if an insurance company has paid off, because it was unserviceable; a constructive loss. It is not so much about the insurance, but it is about being kept abreast of vehicles that—because, you know, people have been using old cars for robberies and they are changing it—chassis numbers and this kind of thing. I think that is really what this is about. I do not know if I like “accidentally damaged”.

Hon. Cadiz: Rendered unserviceable at any time rightly means—

Sen. Prescott SC: Precisely, the combined effect of clauses 90 and 91, is the vehicle has been rendered unserviceable, both parties must now report it to the authorities.

Sen. Hadeed: Chair, as long as the vehicle is rendered unserviceable, the word is

“unserviceable”, be it by an accident, it can just disintegrate, the radiator falls off, “de dis, de that”, and that is the end of that. As long as it is not “road worthy”, it must be “reported”.

Sen. Prescott SC: Great. So put on your drafting hat, please, Sen. Hadeed, and look at clauses 90 and 91, and let us just simply say, “so long as the vehicle is rendered unserviceable, the licencing authority and the owner must report it”. Sen. Vieira is saying separate them, fine. Subclause (a), the insurer, subclause (b), the owner, but each is under an obligation to report.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. This is not a legal matter at all. This is an economist matter. [*Laughter*] Clause 90 is separate from clause 91. In clause 90, it is clear to me. I do not know why the lawyers are making an issue of the thing. Clause 90 means that the insurance company has made a decision, and once they have made a decision, the car can be on the road at some time.

In clause 91, the reading is very clear, this car cannot and should not and must not be on the road. It is totally annihilated. It is destroyed. It is junk in clause 91.

So look, separate them, clauses 90 and 91. Clause 90, the vehicle has a chance of coming back on the road. Therefore, the authority must know. Clause 91, the vehicle is not coming back on the road, and the authority must also know.

Sen. Al-Rawi: Madam Chair, the conclusion—

Sen. Vieira: I agree with Sen. Dr. Mahabir.

Sen. Al-Rawi:—is right, but the method getting there. Because if we had—

Madam Chairman: One at a time, Senators.

Sen. Al-Rawi: Madam Chair, if we had unserviceable alone—

Madam Chairman: I want to recognize Sen. Prescott, who caught my eye before

you.

Sen. Prescott SC: Thank you very much. I did say that Sen. Dr. Mahabir's conclusion is correct, but the arithmetic is wrong.

Madam Chairman: "De maths."

Sen. Dr. Mahabir: Lawyers know very little of mathematics. [*Laughter*]

Sen. Prescott SC: "I talking 'bout sums, Ma'am."

Sen. Al-Rawi: Madam Chair, much obliged. Sen. Dr. Mahabir's argument falls flat on its face, when one considers "rendered unserviceable", because it may subsequently become serviceable, and that is not destroyed. Destroyed and unserviceable are two different terms.

Madam Chair, just to finish, what I am looking at, as a Senator, not as a lawyer Senator or an economist Senator, is simple. What is the mischief? The mischief is to make sure that fraud does not happen in respect of these vehicles, and that notification of damage or movement out of the car happens, both take it from two ends. One, from the insurer's purpose of identifying, insofar as there is a rubric that no car shall drive without insurance; and two, from the owner's perspective.

So the mischief here, that I am attracted to, by Sen. Prescott's argument, is the use of the word "unserviceable", as an apparent feature of clause 90, in addition to clause 91. Because a car may be rendered unserviceable, from an economic perspective, and from a mechanical perspective, and they have different outcomes. So it is that within mind that I that I join Sen. Prescott in asking hon. Attorney General, through you, to put his drafting hat on, to see if there is need to tweak this a bit.

Sen. Dr. Mahabir: Since my name and profession was called into disrepute, here it is. As I said, let us make a distinction between the intent of clause 90 and the

intent of clause 91. We are not yet at clause 91, but the intent of clause 90 is really to facilitate insurance procedure. It is left entirely up to the insurance company to determine whether they are going to pay off the owner for whatever he has, and the owner can take it upon himself to reconstruct the vehicle. It has happened on a number of occasions.

In clause 91, since clause 91 has been raised, the intent of clause 91 to me, is very clear. This vehicle is no longer going to be on the road, and if the word “unserviceable” is unacceptable, then I would prefer to see if the vehicle is rendered unusable. It means this thing is forever junk. It is forever scrap. It is not going to be on the road anymore. Therefore, in this regard, if we can separate in this way then, of course, we would see that there is really little or no contention.

Sen. Nicholas: May I, please?

Madam Chairman: I recognize the Minister of Transport, sorry.

Sen. Hadeed: Oh, I am sorry.

Madam Chairman: You were saying?

Hon. Cadiz: No, I was waiting to hear.

Sen. Hadeed: What I am saying, clause 91 as far as insurance is concerned, is clear and it is saying to you, that the vehicle no longer is on the road. So, therefore, they have notified the authority about it. Let us say the insurer was insurer A, he notifies that this vehicle is no longer on the road. The authority has a letter to the effect. If it goes back on the road, it has to have an insurance. So here is where you go to insurer B. Insurer B has to now notify the authority it is back on the road. So really this is—what we are doing here is semantics, you know. The insurance company “doh see” any problem with it, because this went to the insurance company. This is clear as ever as far as I am concerned. Clause 90 is clear. Clause 91 is clear.

Sen. Nicholas: Madam Chair, we would like to proceed as is. Except with one amendment, and that is:

To make reference to section 21 of the Motor Vehicles Act. In clause (90)(1), and the circulated amendment. So that in clause 90—

Madam Chairman: Where?

Sen. Al-Rawi: After (b).

Sen. Nicholas: After (b):

“the insurer of the vehicle shall notify the Authority in accordance with section 21 of the Motor Vehicles Insurance (Third-Party Risks) Act.”

Sen. Al-Rawi: And you are sure there are no other provisions on section 21, right?

Madam Chairman: Hon. Senators, the question is that clause 90 be amended as circulated and further amended by inserting after subsection (b) after word “with”, the words “subsection (21)”.

Question put and agreed to.

Clause 90, as amended, ordered to stand part of the Bill.

Madam Chairman: Hon. Senators, it is now 7.27, we shall take a 10-minute break. The committee stage is now suspended for 10 minutes. We shall resume at 7.37, promptly.

7.28p.m.: *Committee suspended.*

7.38 p.m.: *Committee resumed.*

Clause 91.

Question proposed: That clause 91 stand part of the Bill.

Madam Chairman: Hon. Senators, order.

Sen. Nicholas: Madam Chair, I beg to move that clause 91 be amended as circulated:

Delete the words “rendered unserviceable”.

And further amended as follows:

That in the second line after “shall”, “as is reasonably practicable” be inserted in 91(1), the second line.

Sen. Prescott SC: Madam Chairman, after the word “shall”—

Sen. Nicholas:—“as is reasonably practicable”.

Madam Chairman:—“shall notify the Authority in writing...”

Sen. Prescott SC: Madam Chairman, I hate to go on record and say, splitting the infinitive is not the way to do things.

Sen. Nicholas: It reads:

Sen. Prescott SC:—“shall notify the Authority in writing, as soon as is reasonably practicable, or within...”

Sen. Nicholas: Very well.

Madam Chairman: Say that again, Sen. Prescott.

Sen. Prescott SC: Or as soon—sorry—“within one month of the occurrence of such event or as soon as it is reasonably practicable thereafter”.

Madam Chairman: Or?

Sen. Prescott SC:—“as soon as it is reasonably practicable thereafter” or you wanted the month. Within the month?

Sen. Nicholas: Yes. **Sen. Prescott SC:** Okay, so “as soon as is reasonably practicable”.

Madam Chairman: We are leaving the “one month”?

Hon. Senator: Yeah.

Sen. Nicholas: The proposal by Sen. Prescott was to retain the one month. Was it not?

Sen. Prescott SC: If you wish, not that there is a certain reluctance. So, we would settle for “as soon as is reasonably practicable”.

Madam Chairman: Could I ask for some clarification? AG, what if the owner of the vehicle is now the subject of an estate settlement, probate, letters of administration? What if the owner died in an accident that destroyed the vehicle? Probate could take two years.

Sen. Prescott SC: He would report it as soon as it is reasonably practicable.

Sen. Al-Rawi: Madam Chair, on that very point.

Madam Chairman: Maybe we should say “or his representative”. The owner could die with the destruction of a vehicle.

Sen. Al-Rawi: Well, the representative stands in the shoe of the person.

Sen. Nicholas: Yes, yes.

Sen. Al-Rawi: So that would apply in those circumstances, but it was importing a mental intention which I wondered, to migrate subparagraph (2), 91(2), away from a crime of strict liability and to one of intention. I wondered whether the AG wanted to consider that.

Sen. Nicholas: The amendment that we are prepared to go with, Madam Chair, is as suggested “within one month from the occurrence of such event or as soon as is reasonably practicable”.

Madam Chairman: You are going with both?

Sen. Nicholas: Yes.

Madam Chairman: Any other concerns?

Sen. Prescott SC: Yes, please. In (3), the reading of it, something seems to be lacking. It says:

“An offence...may be instituted...”

Could it possibly be that you meant the proceedings for an offence?

Sen. Al-Rawi: Because an offence is committed.

Sen. Prescott SC: It is the proceedings for the offence may be instituted?

Sen. Nicholas: Yes, proceedings for the offence under subsection (1).

Madam Chairman: How is that going to read now?

Sen. Al-Rawi: It would have to be “(2)”.

Madam Chairman: Under subsection (2)—

Sen. Prescott SC:—the proceedings for an offence under subsection (2) may be instituted. The offence is under (2).

Sen. Nicholas: Are you happy with “may be instituted”?

Sen. Prescott SC: “May be instituted” yeah.

Sen. Nicholas: At any time it is only two years of the commission of the offence.

Sen. Al-Rawi: Why is it necessary, hon. AG, to extend this time frame to two years for the individual and not to bear commensurate term for the insurer?

Sen. Prescott SC: Remember it is the proceedings. The person who is benefiting here is the police officer or the motor vehicle officer.

Sen. Al-Rawi: Correct. But the failure on either part is equally sincere, be it the insurer or be it the individual. We are moving specifically away from the six-month period of limitation for summary offences. We are taking it all the way to two years. We are taking someone who has by far less corporate clothing and healing, and we are giving him the benefit of extending the time frame for the officer to bring charges against him. Could you tell us what the current law is perhaps?

Sen. Nicholas: The current law, I am informed, is two years.

Sen. Al-Rawi: For both the insurer and the individual. Could you refer me to the provision in the law? Is it the Motor Vehicles and Road Traffic Act? What section, 100?

Sen. Nicholas: It is almost a replica of what we have here. So that 15(2)—

Sen. Al-Rawi:—15(2) of the Motor Vehicles and Road Traffic.

Sen. Nicholas: Yes, it speaks to:

“The owner of a motor vehicle which has been destroyed, rendered permanently unserviceable or has been permanently removed from Trinidad and Tobago shall notify the Licensing Authority, in writing, within one month of such event and an owner who fails to notify the Authority commits an offence.

(3) Prosecution of an offence under subsection (2), may be instituted at any time within two years of the commission of the offence.”

Madam Chairman: So prosecution.

Sen. Nicholas: Prosecution.

Madam Chairman: That is the word that we are going with?

Sen. Nicholas: Yes. Any other concerns with clause 91?

Sen. Al-Rawi: Well, in looking at section 15(4) and (5) of the existing law:

“(4) Where the Licensing Authority cancels a registration...the Authority shall notify the owner in writing.

(5) Where the owner of a motor vehicle is aggrieved by the decision of the Licensing Authority to cancel...he may appeal...”

Is it that those two are picked up in other clauses under this Bill?

Sen. Nicholas: Yes, they are.

Sen. Al-Rawi: And insofar as we are using the Motor Vehicles Insurance (Third Party Risks) Act, is this an appropriate opportunity to balance the scales to allow for prosecution for a breach of clause 90 of the new law to be commenced in similar circumstances within two years of the commission of the offence against the insurer? Why is the insurer in clause 90 being treated so generously versus the individual in clause 91?

Sen. Nicholas: How is the insurer being treated?

Sen. Al-Rawi: Well it is six months in the time barred in 90, because it is a summary offence. If you do not commence prosecution within six months, you are gone. We have changed that to keep the existing law repeating section 15 of the Motor Vehicles and Road Traffic Act pouring it into clause 91 here and we give them two years.

Sen. Prescott SC: Could it be Attorney General that we were thinking that the owner has it within his capacity to bring the vehicle back onto the road, and it may take him as many as two years, so we will continue to have him under the radar for that period?

Sen. Nicholas: Having taken the legislation almost verbatim from the original one, you would have to go back to the thinking of the original, which I can tell you the Government has adopted as the way forward.

7.50 p.m.

Sen. Prescott SC: As Sen. Al-Rawi said, why not the same for the insurer. I wondered if there was difference between those two. The insurer has lost interest because he has settled his financial issues. The owner has not lost interest, he has the vehicle and he may bring it back on.

Sen. Dr. Mahabir: Is that really the case, Madam Chair? You see, I have read 91 to mean that this vehicle is not coming back on the streets of Trinidad and Tobago at all. This is junk.

Sen. Nicholas: There is no intention to bring it back on.

Sen. Dr. Mahabir: There is no intention; this is unusable. This vehicle is now a rust bucket, this is junk. It is going to be used as scrap, so that the issue of bringing it and restoring it does not arise. Really my concern, and shared by Sen. Vieira who, of course, would say it is, that the owner of this vehicle may be an elderly person, and if the vehicle has been junked or scrapped, according to what was

indicated before, he has to do that within a month, but he may not be able to do it within a month. I would really want the hon. Attorney General to give consideration again to “as soon as it is reasonable” for the person to do that.

Sen. Nicholas: We have inserted—

Madam Chairman: That is taken.

Sen. Dr. Mahabir: But you have still insisted on the month though, that within a month—

Sen. Nicholas: Or as soon as is reasonable—

Sen. Dr. Mahabir: But I was advised by my legal advisor that the month is still the operative factor here.

Sen. Vieira: There are cases to say that you can read it as in any case within a month, and that is the dangerous thing, because you may be away and your child has taken up the car and wrecked it.

Sen. Nicholas: We can deal with “as soon as is reasonably practicable”.

Madam Chairman: So we delete “within one month”?

Sen. Nicholas: Yes. That is the amendment proposed, Madam Chair. May we move forward?

Madam Chairman: So where are we putting “occurrence of such event”?

Sen. Nicholas: Writing, “as soon as reasonably practicable from the occurrence of such events”.

Madam Chairman: Any further concerns?

Hon. Senators, the question is that clause 91 be amended as circulated and further amended in subclause (1) by deleting the words “within one month” and substituting the words “as soon as reasonably practicable”, and in subclause (3) by inserting the words “prosecution for” before the words “an offence”—

Sen. Nicholas: It should be “prosecution of”.

Madam Chairman: By inserting the words “prosecution of” before the words “an offence” and after the word “subsection” deleting the number “(1)” in brackets and inserting the number “(2)” in brackets.

Question put and agreed to.

Clause 91, as amended, ordered to stand part of the Bill.

Clause 92.

Question proposed: That clause 92 stand part of the Bill.

Sen. Dr. Mahabir: Thank you very much, Madam Chairman. Clause 92 refers to the assignment of numbers and these new number plates to the vehicles. I would like to recommend that antique vehicles be exempt from this. The reason is that the number plate of an antique vehicle, take a number like PC4493, for example, that is part of the antique nature of the vehicle.

I would want to recommend to the Government that we give special consideration to certified antiques to keep their original number plates.

Hon. Cadiz: Senator, the licence plates will also include vanity plates, and that could fall under the vanity plates.

Sen. Dr. Mahabir: I want to be absolutely sure for the record that the original number plates, such as PC4493, will be considered a vanity plate and will be kept in an antique vehicle.

Hon. Cadiz: Yes, because you would have an instance where you would bring in an antique vehicle that will not have a local plate, so you will get a vanity plate for it.

Sen. Dr. Mahabir: Hon. Minister, through you, Madam Chair, I am not interested in any other number plate except the original.

Hon. Cadiz: Is that the Cortina?

Sen. Dr. Mahabir: No, it is the Austin. In the United Kingdom, for those who are

in the business, the original number plates themselves have more value than the automobile, and I would like really for the law to permit the original number plates of the automobiles to be kept on these cars.

I would recommend this, "Where the Authority issues a vehicle certificate of registration, the Authority shall assign to the vehicle, other than antique vehicles", and we continue "letters" or "letters and numbers" and we continue. So I do want the exception to be made there specifically for certified antiques.

Madam Chairman: Hon. Senators, the question is that clause 92 be amended by inserting the words "other than certified antique vehicles" after the word "vehicle" and before the word "letters".

Sen. Robinson-Regis: May I just ask a question? So now you can have vehicle registration numbers with just letters alone?

Hon. Cadiz: The vanity plates will take care of that. The numbering system in 92 will be a random system. So you will no longer have P, D, G or whatever it is. You just have a random number; a mix of alpha numeric.

Sen. Robinson-Regis: And some will just be letters alone?

Hon. Cadiz: Your vanity plate could be "Senator".

Sen. Robinson-Regis: Sexy or whatever?

Hon. Cadiz: Sexy will not be allowed. Senator would be allowed.

Sen. Robinson-Regis: Sexy would not be allowed?

Hon. Cadiz: The vanity plates that would be allowed will have certain conditions. Sexist remarks, obscene language, racist remarks, the authority will not give you a vanity plate with anything like that.

Sen. Al-Rawi: Just before we factor the amendment proposed by Sen. Dr. Mahabir, I understood that by the hon. Minister's undertaking that the vanity plates could include the original numbers.

Hon. Cadiz: Yes, for a vanity plate you apply for what you want on the vanity plate.

Sen. Al-Rawi: Understood. So then why include the exception that we are putting in now?

Hon. Cadiz: The Senator asked in particular because of the value of a number plate with an antique vehicle to ensure that that would be allowed.

Sen. Dr. Mahabir: Hon. Chair, I want to make it absolutely clear. What is being requested is not a new plate with the number PC4493 on it. We want the original that came from the factory in England with that car. That must remain because that is the definition and the identification mark of the antique nature of the vehicle. Just to be clear.

Madam Chairman: Hon. Senators, the question is that clause 92 be amended by inserting after that word “vehicle” in the second line, a “,” and the words “other than a certified antique vehicle,”.

Question put and agreed to.

Clause 92, as amended, ordered to stand part of the Bill.

Clause 93.

Question proposed: That clause 93 stand part of the Bill.

Sen. Nicholas: Chairman, I beg to move that clause 93 be amended as follows:

Delete the words “subsection (6)” and substitute the words “subsection (7)”.

Sen. Al-Rawi: That actually takes care of the concern I had there; I am now seeing it. So (6) is substituted for subclause (7)?

Sen. Nicholas: Yes.

Sen. Prescott SC: If we could look at clause 93(2), please, and try to restructure it so that it makes easier reading. It says:

“Where a vehicle has been registered and a Validation Certificate has been

issued under this Act, the Authority shall once the applicable fee for licence plates as specified in the Fifth Schedule is paid, issue to the owner of the vehicle, a front and rear licence plate in respect of the vehicle.”

Did we not change that?

Sen. Vieira: “shall upon payment of the applicable licence fee”.

Sen. Prescott SC: Yes:

Upon payment of the applicable fee for licence plates, the Authority shall issue—

Madam Chairman: Sen. Prescott SC, could you speak up a little bit, please.

Sen. Prescott SC: Yes, forgive me. I was recommending that there be a change to 93(2) so it should say instead:

Where a vehicle has been registered and a Validation Certificate has been issued under this Act and the applicable fee for licence plates as specified in the Fifth Schedule has been paid, the Authority shall issue...”

All of this is to avoid splitting the—What did you say?

Sen. Nicholas: Madam Chair, that is acceptable.

Madam Chairman: Any other concerns?

Sen. Prescott SC: Is it a front and rear licence plates or front and rear licence—?
Is it more than one plate?

Sen. Nicholas: Front and rear licence plates? Remove the “a”.

Madam Chairman: So basically you are just changing the “is” after “Fifth Schedule” to read “has”?

Sen. Prescott SC: No, may I just repeat it:

“Where a vehicle has been registered and Validation Certificate has been issued under this Act and the applicable fee for licence plates as specified in the Fifth Schedule has been paid, the Authority shall issue to the owner of

the vehicle front and rear licence plates”—in respect of the vehicle.

Madam Chairman: So after the word “Act” you are deleting what?

Sen. Prescott SC: “...the Authority shall once” and inserting the word “and”. Delete from “,” to “once” and substitute the word “and”.

Madam Chairman: So after “Act” substitute the words “the Authority shall once”?

Sen. Prescott SC: No, after the word “Act”, delete the “,” to the word “once” and substitute the word “and”.

Hon. Cadiz: And the applicable fee for licence plates.

Madam Chairman: “and the applicable fee for licence plates”—“is paid”—

Sen. Prescott SC: “has been paid.”

Sen. Nicholas: “as specified in the Fifth Schedule has been paid.”

Sen. Prescott SC: Sen. Coudray had a good approach, “upon payment of”—however “the Authority shall issue” and you continue from there.

Madam Chairman: Any other concerns?

Sen. Nicholas: Madam Chair, in 93(1), the line beginning, “drive or operate a vehicle on any road or highway”, we delete “or highway”.

Madam Chairman: Hon. Senators, the question is that clause 93 be amended as circulated and further amended in 93(1) by deleting the words “or highway” after “road” in line two, and in subclause (2) by deleting the words “the Authority shall,”—there is no comma after “shall”.

8.05 p.m.

Sen. Prescott SC: Sorry delete from “,” after the word “Act” to “once” in line 2.

Madam Chairman: By deleting after the word “Act” the “,” and the words “the Authority once” and substituting the word “and”, and in line 3 after Fifth Schedule deleting the word “is” and substituting the words “has been”, and deleting after the

word “vehicle”, the word “a”—

Sen. Prescott SC: After the word “paid”, you now insert “the Authority shall”.

Madam Chairman: After the word “paid”, insert the words “the Authority shall”; after the word “vehicle” delete the word “a” and delete the word “plate” and substitute the word “plates”.

Question put and agreed to.

Clause 93, as amended, ordered to stand part of the Bill.

Clause 94.

Question proposed: That clause 94 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 94 be amended as circulated:

- | | |
|-----------|--|
| Clause 94 | <p>A. In subclause (1), delete paragraphs (a) and (b) and substitute the following paragraphs:</p> <p>“(a) sixty months from the date of registration where the vehicle is a new private motor vehicle;</p> <p>(b) thirty-six months from the date of registration where the vehicle is a used private motor vehicle imported into Trinidad and Tobago;</p> <p>(c) twelve months from the date of registration where the vehicle is a—</p> <p style="padding-left: 20px;">(i) commercial vehicle;</p> <p style="padding-left: 20px;">(ii) public service vehicle;</p> <p style="padding-left: 20px;">(iii) rented vehicle;</p> <p style="padding-left: 20px;">(iv) tractor; or</p> <p style="padding-left: 20px;">(v) trailer.”</p> <p>B. In subclause (2), delete the word “appropriate”.</p> |
|-----------|--|

C. In subclause (3), delete paragraphs (a) and (b) and substitute the following paragraphs:

“(a) in the case of a private motor vehicle with a Tare weight of 2700 kilogrammes or less and a motor cycle, produce the vehicle to any vehicle inspection centre for inspection and shall pay the fee specified in the Fifth Schedule; or

(b) in the case of—

(i) commercial vehicle or a private motor vehicle with a Tare weight in excess of 2700 kilogrammes;

(ii) public service vehicle;

(iii) rented vehicle;

(iv) tractor; or

(v) trailer,

produce the vehicle to the Authority for inspection and shall pay the fee specified in the Fifth Schedule.

D. In subclause (4), insert after the words “comes into possession of the previously lost or stolen Validation Certificate”, the words “or validation sticker”.

E. In subclause (5), delete paragraphs (a) and (b) and substitute the following paragraphs:

“(a) in the case of a private motor vehicle with a Tare weight of 2700 kilogrammes or less and

a motor cycle five years or more from the date of manufacture, be accompanied by an inspection certificate issued under subsection (4) and proof of a valid insurance policy for the vehicle as required under the Motor Vehicles Insurance (Third Party Risks) Act; or

(b) in the case of—

(i) commercial vehicle or a private motor vehicle with a Tare weight in excess of 2700 kilogrammes;

(ii) public service vehicle;

(iii) rented vehicle;

(iv) tractor; or

(v) trailer,

be accompanied by an inspection certificate issued by the Authority for the particular class of vehicle and proof of a valid insurance policy for the vehicle as required under the Motor Vehicles Insurance (Third Party Risks) Act.

F. In subclause (6), insert after the words “the Authority shall” the words “whether directly or by delegated authority”.

G. Delete clause (7) and substitute the following clause:

“(7) A Motor Vehicles Enforcement Officer or a vehicle inspection centre shall not issue an inspection certificate under subsection (4) if the vehicle is defective or does not meet the requirements of the Act.”

H. Delete subclause (8) and substitute the following subclause:

“(8) A Motor Vehicles Enforcement Officer or an officer at a vehicle inspection who contravenes subsection (7), commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and imprisonment for five (5) years.”

J. In subclause (10), delete the words “this section” and substitute the words “subsection (9)”.

Sen. Al-Rawi: Madam Chair, could I please invite the hon. Attorney General, through you, to explain the policy behind the proposed amendments in subclause (1)?

Sen. Nicholas: Sure. At the moment a new vehicle when registered does not have to be inspected for five years, and seeing that we tied that to the validation certificate. Same thing for a foreign used for three years and commercial vehicles for one year.

Sen. Prescott SC: May I enquire what is a validation certificate? What is the legal status of it? What does it do?

Sen. Nicholas: The validation certificate—Minister.

Hon. Cadiz: The validation certificate would be periodically—well, it is stated here, 60 months, 36 months and 12 months, that you would go and you would carry your vehicle to get inspected and you will be given a certificate and a sticker

which will go on to your licence plate.

Sen. Prescott SC: What does it certify?

Hon. Cadiz: It certifies that the vehicle has been inspected.

Sen. Prescott SC: So, should we put it on page 7 before the word “vehicle” in the definition section?

Sen. Robinson-Regis: I would like to agree with that.

Sen. Al-Rawi: In other words then it is a defined term.

Sen. Robinson-Regis: Yes, I think that would make sense.

Hon. Cadiz: Okay.

Sen. Prescott SC: Validation certificate certifies something.

Hon. Cadiz: Yes.

Sen. Al-Rawi: May I ask—

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma'am—why we are doing something as risky as putting a sticker onto a number plate?

Hon. Cadiz: These stickers that are used now they are very small decal, about the size of a crown cork. It would go onto a section of the plate, it would have an insert. The sticker would go onto that, and it is used all over now. It is internationally accepted.

Sen. Al-Rawi: So, the technology is durable enough.

Hon. Cadiz: Very much so.

Sen. Al-Rawi: Thank you, hon. Minister.

Hon. Cadiz: If you try to remove it, it will destroy itself.

Sen. Al-Rawi: I am sorry, Madam Chair, I am just trying to factor the amendments. Hon. Attorney General, would you please assist us if you could, through you, Madam Chair, with the rationale behind subclause (3) in the proposed

amendments?

Sen. Nicholas: May I ask what the issue is?

Sen. Al-Rawi: The change, I am trying to understand the change in the context of what is and what is proposed.

Hon. Cadiz: Anything specific?

Sen. Al-Rawi: Why are we changing it?

Sen. Nicholas: So that it reads clearer.

Hon. Cadiz: This is subclause (3)?

Sen. Al-Rawi: Yes.

Hon. Cadiz: We have increased the weight.

Sen. Al-Rawi: I see, so tare weight up from 2500 to 2700.

Hon. Cadiz: The simple reason for that is, the new vehicles that are coming out now, the 2700 kilos will fit a lot better than the lower weight. The lower weight means that the number of vehicles fall out of that and vehicles that should be used as a light T actually have to go as a heavy T now.

Sen. Al-Rawi: Right. I am also asking this in the context of the proposed shift to CNG which is a noticeably heavier type of equipment, so does that take care of them?

Hon. Cadiz: The 2700 kilos takes, I think, all the current stock of vehicles that are being sold now or manufactured now. In fact, strangely enough Senator, there are some P vehicles that are a lot heavier than some of the T vehicles, and those same T vehicles have to be licenced as a heavy T as against the P vehicles just staying P, like the large SUVs that are licenced as P, are heavier than some of the T vehicles that have to be, because of the weight restriction, classified as a heavy T.

Sen. Al-Rawi: So, for heavy SUVs, they now fall into the bracket of subclause (3)?

Hon. Cadiz: Well, the SUVs are licenced as a P vehicle, eh.

Sen. Al-Rawi: Yes.

Hon. Cadiz: So, really and truly this 2700 kilogrammes would be for T vehicles. What we have done is that would take in nearly—well, the current stock of SUVs and four-door pickups, et cetera, will fall under the 2700 kilo margin.

Sen. Al-Rawi: And is this a significant deviation away from what prevails at present?

Hon. Cadiz: What was it at present? It was 2270 kilos.

Sen. Al-Rawi: So, it is in fact a more relaxed approach?

Hon. Cadiz: Well, yes. The models that are coming out now even though they are heavier they are still classed as a light T, I mean, like a four-door pickup. Some of the four-door pickups actually you have to go for a heavy T driving permit, it is not built for that purpose.

Sen. Al-Rawi: Okay, it says here in subclause (4) in letter D of the proposed amendment, insert after the words “comes into possession of the previously lost, stolen validation certificate”. In my subclause (4) this is—let me make sure I am on the right clause.

Madam Chairman: No.

Sen. Al-Rawi: It is not in the body of this, could you assist me with how this track clause is supposed to work? I am not seeing the words “comes into possession of the previously lost or stolen”. Subclause (4) reads:

“Where a vehicle is inspected under subsection (3) and the Authority or the vehicle inspection centre is satisfied that the vehicle is roadworthy...”

Sen. Prescott SC: Chair, I think I could assist.

Sen. Al-Rawi: Sure.

Sen. Prescott SC: I think that it is really 95(4) that we were referring to.

Sen. Al-Rawi: So, the reference in the amendments as circulated, D should be out from the as circulated? That should refer to clause 95 instead? Does that flow for subclause (5) as well?

Hon. Cadiz: You are talking about 94(4)?

Sen. Al-Rawi: Yes, the circulated amendments under clause 94, paragraph A refers to amendments to subclause (1); paragraph B to subclause (2); C to subclause (3); D to subclause (4). When you read the circulated amendments to subclause (4) they could not possibly relate to what is put out there, because this does not exist. This wording does not exist in subclause (4). Sen. Prescott has pointed out that that may perhaps be in reference to clause 95 and not clause 94 as is set out in the circulated amendments. And if so then we would need to note that in the circulated amendments. Then I am on now in subclause (5). [*Interruption*] Is it that the amendments in E, in deleting paragraphs (a) and (b) of subclause (5) is the essential amendment simply to put in the tare weight of 2700 kilogrammes? In Part A, and perhaps—so, it is to keep in format with that which we changed in subclause (3) is it? Yes?

Madam Chairman: Hon. Senators, the question is—

Sen. Al-Rawi: Sorry, Madam Chair, not just yet, sorry. May I ask why it is necessary to include the delegation of authority in subclause (6) as proposed by letter “F”?

Sen. Nicholas: Because of the fact that there may be garages doing the inspection and issuing the validation certificate as well.

Sen. Al-Rawi: But, there is a power generally inserted into this Act that you may delegate functions, is it necessary where there is a right or power of delegation to then specify in the subtext of the law that power of delegation? And why I raise it is, does it therefore mean that any other area of the Bill to become an Act which

does not specify that a delegatee may perform a function would be viewed to be ultra vires because Parliament in its “wisdom” had not specified that the delegatee could exercise that function? Because that is the effect it would have.

Hon. Cadiz: In clause 8, “Powers of the Authority”, it speaks that:

“The Authority may, in carrying out its functions—

(a) delegate in accordance with this Act any of its functions for the efficient administration of the Act;”

Sen. Al-Rawi: Sure. I am aware of that hon. Minister, if I may tell you what the mischief I am looking at is. When Parliament specifically writes into the law that a delegatee can act, and this Act falls for construction or interpretation, anywhere else where under the powers in clause 8 the Authority may have delegated this authority to somewhere else and we have not specified that the delegatee may act instead of the delegator, we are then going to be met with the argument that the actions of the delegatee are ultra vires the Act, because Parliament in its wisdom in—this clause that we are dealing with—chose to specifically identify the circumstances when a delegatee can act.

8.20 p.m.

So if the delegatee power was removed it would be in keeping with the fact that once delegated the delegatee may act nonetheless. So it is to avoid a construction problem, meaning an interpretation problem in law. You all could help me out.

Sen. Prescott SC: So the power contained in (8) applies throughout.

Sen. Al-Rawi: Correct.

Sen. Nicholas: Yes. No, we understood that, eh. It is just that we wanted to, for this specific clause, make it explicit, because then we go on to deal with offences that relate directly to the Validation Certificate, and we just wanted to be clear. But if it is that Sen. Prescott and Sen. Vieira, for instance, agree that we would run

foul, we are happy to reconsider. But I do not think we would run foul.

Sen. Prescott SC: Well, what will be the impact of saying without prejudice, subclause (8)? I am not sure how that is used. Attorney General.

Sen. Nicholas: Sorry.

Sen. Prescott SC: Could I just ask you, what would be the effect of saying, “without prejudice” to subclause (8)?

Sen. Nicholas: I would prefer to be explicit, so that “without exception” would work.

Sen. Al-Rawi: Just so long as whoever is construing the law after, for any other section did not say, well hold on, they put the tie-back there so that we do not stymie the interpretation of the legislation.

Sen. Prescott SC: Without prejudice for the generality of subclause (8).

Sen. Nicholas: Without prejudice for the generality—

Sen. Prescott SC:—of subclause (8). Faris?

Sen. Al-Rawi: Well, if I use the Planning and Facilitation of Development Bill which we did and the procurement Bill, both of which have built architecturally on the power to delegate and work. If you look at the WASA Act, if you look at the RHA Act, all of which operate on delegatee functions, nowhere in those laws do we ever say, delegatee. It is the first time I have actually seen this, and I have been reading the laws of Trinidad now for the last five years in detail. So I am sort of concerned about it. I do not have the answer. I am looking for assistance in the view.

Sen. Prescott SC: I heard the Attorney General saying that they wanted to highlight this particular delegation of authority. And therefore to avoid the—
[*Interruption*]

Sen. Al-Rawi: But I caught him—forgive me—saying that it dealt with the

offences. And if we look to letter “H” of the amendments, where we delete subclause (8) and insert another one. This is a good clause:

“A Motor Vehicles Enforcement Officer or an officer at a vehicle inspection”—centre—is missing there, right.

That is the delegatee. I do not think that erodes from not having the delegatee in subclause (7) itself.

Sen. Nicholas: Okay, for clarity we are prepared to remove, “whether directly or by delegated authority.”

Sen. Prescott SC: Yeah.

Sen. Nicholas: So that would be subclause (6)—

Sen. Al-Rawi: In the circulated amendment letter “F”.

Sen. Prescott SC: Chair, may I now—

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Yes. Hon. Attorney General, there is a—something, we have created a vehicle inspection centre and treated it as something with a power to do things. Have you seen it?

Sen. Nicholas: Yes.

Sen. Prescott SC: We seem to need to do more, we need to establish by this Act, that there is such a thing, and say what—although the name implies readily what it should do. Is this a private commercial venture?

Hon. Cadiz: You see, there are private garages that exist now.

Sen. Prescott SC: Yeah. So it would be licensed or something?

Hon. Cadiz: Yeah, they will be certified to carry out—*[Interruption]*

Sen. Prescott SC: Is it referenced in clause 94? Vehicle inspection centres shall be licensed by the authority to do certain things? It just seemed to pop up in 94. Should this clause say there shall be validation, there shall be vehicle inspection

centres certified by the authority?

Hon. Senator: Look in clause 153.

Sen. Prescott SC: Clause 153? [*Crosstalk*] And it says that here?

Hon. Senator: Yeah.

Sen. Prescott SC: I am looking at the functions of the authority, very quickly, so if I missed it, do not laugh. But I am not seeing that function and it may not be a function. You say 153?

Hon. Senator: Yeah.

Sen. Al-Rawi: The problem is that it uses common v, i, c, vehicle inspection centres.

Sen. Prescott SC: Which is probably what it—[*Interruption*]

Sen. Al-Rawi: We treat with it specifically as a term created under Part XIII clause 153. So why not put in the definition section, capital V, capital I, capital C, a Vehicle Inspection Centre means a Vehicle Inspection Centre certified in accordance with Part XIII or clause 153 and then capitalize that term so you know that you are dealing with something which is licensed by way of prescription or otherwise, specifically as opposed to just an undefined term.

Sen. Prescott SC: Absolutely.

Sen. Nicholas: I have absolutely no difficulty with that.

Madam Chairman: Hon. Senators, the question is that clause 94 be amended as circulated except that amendment D does not apply. Amendment F is removed and amendment H—(8), delete the words “vehicle inspection” and substitute the words “Vehicle Inspection Centre”. Is that it?

Sen. Al-Rawi: Yes, Ma'am. Madam Chair, sorry. In subclause (9), which is not treated by way, we need to delete the words “or highway” just in keeping as it appears in line one.

Madam Chairman: In subclause (9), Sen. Al-Rawi?

Sen. Al-Rawi: Sorry, Ma'am. Yes, I was saying, I was listening to Sen. Coudray sorry. I thought she was speaking to me.

“A person shall not drive or operate a motor vehicle on any road or highway...”

Perhaps we should consider deleting “or highway”.

Hon. Cadiz: Well, throughout the Bill we will do that.

Sen. Al-Rawi: I see.

Madam Chairman: Sen. Ramkissoon, please.

Sen. Ramkissoon: In amendment H, I just want a clarification, the conviction is “a fine of fifty thousand dollars and imprisonment for five years”. Is it both things? [Crosstalk] All right, thank you, thank you.

Madam Chairman: And the last amendment is, hon. Senators, with respect to subclause (9), delete the words “or highway”.

Sen. Prescott SC: Before we close, Chair, may I?

Madam Chairman: Sen. Prescott SC.

Sen. Prescott SC: Could the Attorney General just clear up for me whether the suggestion that we refer in clause 94 to clause 153, capitalized “vehicle inspection centres” and say, “such as are certified under...in accordance with clause 153”?

Sen. Vieira: Yes. Yes.

Madam Chairman: Say that again, Sen. Prescott.

Sen. Prescott SC: I am inviting the Attorney General to say in clause 94, maybe perhaps in clause 94(4) that the vehicle inspection centre referred to there are such as are created or certified rather, pursuant to section (1), under Part XIII of this Act.

Madam Chairman: So after “Vehicle Inspection Centre” you want to insert

“certified”—[*Interruption*]

Sen. Prescott SC: Yes, pursuant to Part XIII of this Act. And then—

Madam Chairman: Pursuant to section—

Sen. Prescott SC: Part XIII, yes, roman XIII of this Act, and where the term appears in both second and third lines use capital letters, V, I, C.

Sen. Al-Rawi: Just one last question, Madam Chair.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Madam Chair. Subclause (10):

“A person who contravenes”—

I see the amendment is subclause (9). Just to be abundantly clear, it is only subclause (9) that we are looking to treat in subclause (10), correct? Because it was originally this clause.

Sen. Nicholas: Yes, it is subclause (9).

Sen. Al-Rawi: Thank you. And (8) has been amended, yes thanks, thank you.

Madam Chairman: So the final amendment is with respect of subclause (4), that the words “vehicle inspection centre” be deleted and the words “Vehicle Inspection Centre”, with capital “V”, capital “I”, capital “C” be inserted. And after the word “Centre” insert the words “certified pursuant to Part XIII of this Act”. And wherever the words “vehicle inspection centre” occurs throughout, that the words be capitalized, capital V, capital I, capital C.

Question put.

Sen. Nicholas: Madam, could I just confirm the—how subclause (6) would read?

Madam Chairman: Yes, AG.

Sen. Nicholas: Just want to confirm how subclause (6) would read please. **Madam**

Chairman: The new subclause (6), it goes back to the original form? **Sen.**

Nicholas: No, that was where my concern was. Because the original form deals

with “shall whether directly”, but we want to remove that. So that it now reads:

“Where the Authority receives an application under subsection (5) and the Authority is satisfied that the vehicle meets the requirements under this Act, the Authority shall issue a Validation Certificate for the vehicle.”

Sen. Al-Rawi: That is what is staying? That is the original.

Sen. Nicholas: My document has a couple of changes.

Hon. Cadiz: We had put in the “delegated authority”, which we have now gone back to the original.

Sen. Prescott SC: We back to square one.

Madam Chairman: So I am correct, AG.

Sen. Al-Rawi: Yeah.

Sen. Nicholas: Now, you see my original actually has the “directly”. So I just wanted to be sure that we were not—

Madam Chairman: Very well.

Question put and agreed to.

Clause 94, as amended, ordered to stand part of the Bill.

Clause 95.

Question proposed: That clause 95 stand part of the Bill.

Sen. Drayton: Chair—

Sen. Nicholas: I beg to move that clause 95 be amended as circulated.

- A. In subclause (1), delete the word “becomes”.
- B. In subclause (4), delete after the words “the holder of the certificate shall return the previously lost, stolen, mutilated or destroyed or has become illegible Validation Certificate or validation sticker to the Authority” and substitute the words “or validation sticker he shall return the previously lost or stolen Validation Certificate or validation

sticker to the Authority”.

Madam Chairman: Sen. Drayton.

Sen. Drayton: The third line, the words “or becomes illegible”, is that the amendment. It seems a bit out of place. It is not reading quite clearly. Delete “becomes” or—

Sen. Al-Rawi: Yes.

Madam Chairman: Yes, that is the circulated amendment.

Sen. Al-Rawi: AG, through you, Madam Chair, would you kindly factor the observation of Sen. Prescott SC—

Madam Chairman: Sen. Al-Rawi—

Sen. Al-Rawi: Oh, I am sorry.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Because in the second line it already has “or illegible”.

Sen. Nicholas: “illegible”.

Sen. Drayton: So you are not deleting “or becomes illegible”?

Sen. Al-Rawi: In the third line delete the word “becomes” after the word “or”.

Sen. Drayton: So then it reads:

“Where a Validation Certificate or validation sticker is lost, stolen, mutilated, destroyed or illegible, the holder shall report the lost, stolen, mutilated, destroyed or illegible Validation Certificate...”

Sen. Al-Rawi: Yes.

Sen. Drayton: Okay.

8.35 p.m.

Madam Chairman: Any other concerns with clause 95?

Sen. Al-Rawi: Yes, Ma’am.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: I am seeing in the circulated amendments a proposed amendment to subclause (4). Sen. Prescott had observed earlier in relation to clause 93 that there was something that perhaps related to subclause (4) of 95. Can the hon. Attorney General please harmonize these two recommendations; clarify, perhaps, which applies?

Sen. Nicholas: Could you repeat that?

Sen. Al-Rawi: Sen. Prescott had observed in relation to the previous clause that the circulated amendments at letter (d) in the previous clause, related perhaps to 95(4), and then the circulated amendments as it relates to 95 itself also deals with subclause (4). So I am wondering how to read the two together.

Sen. Prescott SC: May I, Chair?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: May I invite the hon. Attorney General to read 95(4) as it is proposed to be amended so that I can follow it?

Sen. Al-Rawi: Delete after the words and substitute.

Sen. Prescott SC: No, no, no, do not read the amendment, read the amended version of (4), please.

Sen. Al-Rawi: I see.

Sen. Nicholas: “Where after the issue of a replacement validation certificate or validation sticker under subsection (2), the holder comes into possession of the previously lost or stolen validation certificate or validation sticker, he shall return the previously lost or stolen validation certificate or validation sticker to the Authority.”

Sen. Prescott SC: Thank you. And in the proposed amendment we had said, “the holder of the certificate”. We do not need to say that?

Sen. Nicholas: So we are deleting “the holder of the certificate or sticker”.

Sen. Prescott SC: Thank you very much.

Madam Chairman: Where are we deleting it from?

Sen. Nicholas: In the third line of 95(4), and then we are deleting in the fourth line after “stolen, mutilated or destroyed or has become illegible”.

Sen. Prescott SC: No, we have to delete “or has become”.

Sen. Nicholas: Yes.

Madam Chairman: That is already in the amendment. So the only change is to delete the words which are already deleted in the amendment, “the holder of the certificate”. So the amendment as circulated is correct.

Sen. Nicholas: Yes.

Madam Chairman: It is already in there. It is in the circulated amendment.

Sen. Al-Rawi: Madam Chair, the one difficulty is this. In subclause (4)—I am reading from the circulated amendments at page 15(b) at the bottom of the page. It says:

“In subclause (4), delete after the words ‘the holder of the certificate shall return the previously lost, stolen, mutilated or destroyed or has become illegible Validation Certificate or validation sticker to the Authority...’”

Delete after the words—you mean delete all the words after? Is that what is intended to be said?

Sen. Nicholas: Yes.

Sen. Prescott SC: Delete all those words.

Sen. Nicholas: Read the amendment for me, please, through you, Madam Chair, hon. Attorney General, just to get it clear. The circulated amendment, read that paragraph.

Sen. Nicholas: You want me to read the paragraph or the—

Sen. Al-Rawi: So I know what is being deleted, because the circulated amendment

says, delete after the words—

Sen. Nicholas: Everything.

Sen. Al-Rawi: No, It cannot be. “delete after those words”—if you read where those words end, let us get to “Authority”—

Sen. Prescott SC: May I, hon. AG?

Madam Chairman: Sen. Prescott.

Sen. Nicholas: Let me tell you how it is proposed to be read.

Sen. Prescott SC: You are probably going to say the same thing I am going to say. Just delete the word “after” in the amendment in the first line and it begins to make sense.

Sen. Al-Rawi: So delete the words—

Sen. Prescott SC: We are deleting all of those words, “the holder” down to “Authority” and substituting the words “or validation certificate”.

Sen. Al-Rawi: Right. “or validation sticker he shall return the previously lost or stolen validation certificate...” Got you. That makes sense now.

Question put and agreed to.

Clause 95, as amended, ordered to stand part of the Bill.

Clause 96.

Question proposed: That clause 96 stand part of the Bill.

Sen. Nicholas: I beg to move that clause 96 be amended as circulated, Madam Chair. It reads as follows:

A. In subclause (1), delete paragraph (a) and substitute the following paragraph:

“(a) the motor vehicle was involved in an accident and had been deemed as being a—

(i) A constructive total loss; or

- (ii) A total loss,
Pursuant to the Motor Vehicles Insurance (Third Party risks) Act;
- B. In subclause (1), delete paragraph (b) and renumber paragraphs (c), (d), (e) and (f) as paragraphs (b), (c), (d) and (e) respectively.
- C. In subclause (1)(e) as renumbered, delete the words “section 86” substitute the words “section 85”
- D. In subclause (4), delete the words “is cancelled may within fourteen days from the date that the Validation Certificate was cancelled, appeal to the Committee” and substitute the words “has been cancelled, may within fourteen days from that date, appeal to the Committee”.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Yes, Ma'am. I am reading from 96(1), the chapeau:

“The Validation Certificate of a motor vehicle or a trailer”—or trailer could disappear—“shall only be cancelled where the Authority is satisfied that”—and it is “(a)” alone that is being deleted, “the motor vehicle or trailer”.

So substituting with what has been circulated:

“(b) the motor vehicle or trailer has been rendered permanently unserviceable”.

I have a question on “permanently”.

“(c) the motor vehicle or trailer has been permanently removed from Trinidad and Tobago.”

So, firstly, it would be to point out the deletions of the words “or trailer” as they appear in 96(1) chapeau, (b), (c). Secondly—

Hon. Senator: (a), (b)—

Sen. Al-Rawi: No, well (a) is being deleted and substituted.

Sen. Nicholas: Sen. Al-Rawi, through you, Chair, 96(1) will read as follows:

“The Validation Certificate of a”—we delete “motor”, it will just be “vehicle”. We delete “or trailer”—“shall only be cancelled where the Authority is satisfied that—

(a) the vehicle”—because we delete “motor”.

Sen. Al-Rawi: Right.

Sen. Nicholas: We delete “or trailer”—“was involved in an accident and has been deemed as being a—

(i) a constructive total loss; or

(ii) a total loss,

pursuant to section 21 of the Motor Vehicles Insurance...Act.”

We delete “(b)” as it is in its present form and substitute (b) as “the vehicle has been permanently removed from Trinidad and Tobago.” “(c)” becomes: “a transaction in respect of the motor vehicle or trailer”—and continuing downwards.

Sen. Al-Rawi: Right. So delete (b), (c), “vehicle”, (d) transaction renumbering in respect of the motor vehicle—(d) should be instead, not “the motor vehicle” but “the vehicle”. Delete “or trailer”—

Sen. Nicholas: That is right.

Sen. Al-Rawi:—“was effected under a misrepresentation of the information required for the purposes of the transaction”. I was concerned about the bare use of the term, “misrepresentation”. A bare misrepresentation versus fraud, versus wilful misrepresentation, each three having different qualification terms in terms of animus. I was wondering if something as low a bar as just bare misrepresentation was prudent or what the thinking behind it is, lest it is prudent, but I am not sure what it is.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you, Chair. I was just wondering why we needed to say:

“...the motor vehicle was involved in an accident and has been deemed as being—

- (1) a constructive total loss; or
- (2) a total loss.”

Why not, was involved in an accident and has been deemed a total loss? Total loss is actually a term of art. And then you could simply say, “pursuant to the Motor Vehicles Insurance Act...”

Sen. Al-Rawi: Is it not in keeping with the amendments made previously?

Sen. Nicholas: Yes, it is. And “constructive total loss” and “total loss” are different categories.

Sen. Vieira: I understand, but if you are talking about total loss pursuant to the Motor Vehicles Insurance Act, would they not both be taken care of under that Act?

Sen. Nicholas: We would want to maintain the two.

Sen. Al-Rawi: May I also point out in what is 1(e) present, that, again, delete the word “motor or trailer”, and similarly for what is currently (f), “motor or trailer”.

Sen. Nicholas: Yes, which now becomes (e). And delete 86 and insert 85.

Sen. Al-Rawi: Delete 85 and insert 86?

Sen. Nicholas: Delete 86 and insert 85.

Sen. Al-Rawi: I see. In (1)(e).

Hon. Senator: (f).

Sen. Al-Rawi: Yes, got you. Thank you. And similarly for subclause (2):

“Notwithstanding subsection (1), where a Motor Vehicles Enforcement Officer certifies in writing that a vehicle or trailer...”

Sen. Nicholas: Yes, remove “trailer”.

Sen. Al-Rawi: Delete “or trailer is so constructed or as in such a condition”—

Madam Chairman: Okay, we will delete “or trailer” wherever it exists.

Sen. Al-Rawi: Got you—where it appears. Thank you, Madam Chair.

Madam Chairman: Any other concerns?

Sen. Al-Rawi: Yes, Ma'am. One moment. “Committee”, subclause (4).

Sen. Nicholas: Subclause (4) will now read:

“An owner of a vehicle in respect of which the Validation Certificate has been cancelled, may within fourteen days from that date, appeal to the Committee.”

Madam Chairman: And that was circulated.

Sen. Al-Rawi: Yes, Ma'am. I was just wondering about the term “Committee”. Is “Committee” defined?

Hon. Senator: The Appeals Committee.

Sen. Al-Rawi: I know, but where—

Hon. Cadiz: It says Appeals Committee in other clauses.

Sen. Al-Rawi: I just wanted to know whether it was a defined term or not.

Sen. Nicholas: The Appeals Committee.

Madam Chairman: “...appeal to the Appeals Committee”?

Sen. Nicholas: Yes, the “Committee” is the Appeals Committee.

Madam Chairman: So are we putting in the word “Appeals” before “Committee”?

Sen. Al-Rawi: Yes. It appears in 98(6) for instance—in other places.

Madam Chairman: Hon. Senators, the question is that clause 96, be amended as circulated and further amended by removing the words “or trailer” wherever they exist and removing the word “motor” before the word “vehicle” wherever it exists. And in subsection (1) paragraph (f), deleting “section 86” and substituting “section

85”. In subclause (4), by insert the word “Appeals” before the word “Committee” in the last line.

Sen. Al-Rawi: I am sorry. Have you said, Madam Chair, and deleting the words “or trailer” wherever they appear?

Madam Chairman: I did.

Sen. Al-Rawi: Thank you, Madam Chair.

Question put and agreed to.

Clause 96, as amended, order to stand part of the Bill.

8.50 p.m.

Clause 97.

Question proposed: That clause 97 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 97 be amended as circulated:

- A. In subclause (1), delete the word “shall” and substitute the word “may”.
- B. In subclause (3)(b), delete the words “goods vehicle” and substitute the words “commercial vehicle”.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Madam chair, may I enquire, through you, what is the rationale behind 97(3)(b) as it relates specifically to leased vehicles—well it is singular here.

“...a public service vehicle, leased vehicle...”

Insofar as private owners may well own, through a company, just one car by virtue of a lease, and insofar as that is a narrow category it is quite common to own cars that way and for them not to be commercial in the sense of going back to the leasing company. I was just wondering if this was not cumbersome to be included. That is the concept of leased vehicle.

Sen. Nicholas: We believe that it should be included.

Sen. Al-Rawi: Thank you, AG.

Question put and agreed to.

Clause 97, as amended, ordered to stand part of the Bill.

Clause 98.

Question proposed: That clause 98 stand part of the Bill.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Madam Chair, may I enquire, 98(2) as against 98(3). So revocation of a validation certificate is contemplated by 98. 98(2) says:

“Where a Motor Vehicles Enforcement Officer...”

Is that term correct?

Sen. Nicholas: Yes.

Sen. Al-Rawi: “recommends the revocation of a Validation Certificate under subsection (1), the Authority may revoke...and shall inform...”

Should we include “in this subclause in writing notwithstanding the fact the written notice is referred to in subclause (3)”?

Sen. Nicholas: No, it is covered.

Sen. Al-Rawi: Okay. So you are relying on (3) to cover it, yes?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you. There is a requirement in subclauses (3) and (4) that the person should—for want of a better expression, now my own expression—show cause, give reason it should not happen. Should there not be a requirement that the Authority also give reasons for its proposed revocation? How does one challenge the cause notice if one does not have reasons to challenge? So, whilst I can see that the Motor Vehicles Enforcement Officer may write you and say we are going to cancel your certificate, he would have satisfied the concerns. Then the person

receives that and has to show cause why that should not happen, but then he writes back and says, you need to tell me the reasons so that he can respond.

Sen. Nicholas: Sure. It was contemplated that it would be “notice with reasons”. So with that we will insert “with reasons”.

Hon. Cadiz: Transform the registered owner of the vehicle decision with cause or with reason, is that not under (2)?

Sen. Al-Rawi: It should be in (2) somewhere.

Madam Chairman: So after the word “decision”—

Hon. Cadiz: We could do it in 98(1), you know.

Sen. Nicholas: At the end of 98(2), “with reasons”.

Madam Chairman: After the word “vehicle”?

Sen. Al-Rawi: Well it could go in before the word “decision” in subclause (2).

“...the registered owner of the vehicle of its reasons and decision.”

Sen. Nicholas: Its decision with reasons.

Madam Chairman: What is it?

Sen. Al-Rawi: I am hearing somebody saying 98(1) opposite, but I am not sure what the thinking is behind that.

Sen. Prescott SC: Chair, may I suggest that we look at 98(3):

“...written notice of its intention to revoke...in giving the holder...a date...”

We can add there “stating the reasons.”

“prior to revoking a Validation Certificate, give the holder a written notice of its intention to do so stating the reasons and shall in the same notice, specify a date of not less than fourteen days upon which he should take steps.”

Madam Chairman: So that is where—it goes in subclause (3).

Sen. Prescott SC: I am recommending—yes, in (3) so it forms part of the notice.

Madam Chairman: Any further questions with 98, Senators? The question is that clause 98 be amended by inserting in subclause (3) after the word “certificate” the words “stating the reasons”.

Sen. Prescott SC: That is the first use of the word “certificate”?

Madam Chairman: Sorry, in the third line.

Sen. Prescott SC: The first use of the word “certificate” in the third line.

Madam Chairman: First use of the word “certificate” in the third line, yes.

Question put and agreed to.

Clause 98, as amended, ordered to stand part of Bill.

Clause 99.

Question proposed: That clause 99 stand part of the Bill.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you, Chair. My comment on clause 99 has to do with the ease of doing business in Trinidad and Tobago, and ownership of a vehicle is to be transferred, both parties to the transaction shall be present. I have had to do that for myself with vehicles, I have had to do that as trustee and executor of a client’s will and what should I tell you, the most horrendous experience. I would not like to do it ever again, and I do not see why I cannot delegate, I cannot give a power of attorney, but it is really unnecessary. It says, the Authority directs that one party can process the transaction, but there is no clue as to whether I have to go in person to have that application for the exception and what criteria are used.

So I just find that this is an opportunity to soften the law. I understand there used to be a lot of fraud and corruption, but surely if you are an elderly person to have to go down to the Licensing Office to do this transaction, or if you are living abroad, it is a nonsense.

Hon. Cadiz: Senator, the process again for the whole concept of the MVA is very

much a customer-oriented business, and therefore, even though you require the both parties to go down to change, the way it is going to be done will be totally different to what you experience now.

Sen. Nicholas: My fear, Sen. Vieira, is actually with that specific example of an old age person—

Sen. Al-Rawi: An aged.

Sen. Nicholas:—an aged person where that person could actually be taken advantage of and have their vehicle transferred without even their knowledge, as pertains with pension and other things.

Sen. Vieira: I know, but you see for the possibility of that weighed against every aged, infirmed person or owner living abroad having to go in person, I think it is really unreasonable, unfair and an unnecessary burden. I swore I was never going to be an executor for anybody's will again because of that, you know—that one experience.

Sen. Nicholas: Do you have a proposed wording?

Sen. Vieira: I think you do not have to have a requirement that both parties shall be present.

Sen. Prescott SC: Chair, may I? The Authority according to 99(2) can direct that one party can process. So presumably there is a method by which one may approach the Authority and say, "Can we do it through one party?" So maybe 99(2) could be expanded to make it clear that it is possible to have one person attend or make application for such a thing to happen.

Hon. Cadiz: You know, I would not think you will want to make it where it gets cumbersome now to get somebody else to do it, that we just identify and if it is its power of attorney is adequate then.

Sen. Vieira: But not everybody has a power of attorney. Sometimes a simple letter

of authority, a letter of delegation—

Sen. Nicholas: Now the present legislation at 19(1)(e) states that:

“where a person referred to in paragraph (c) is unable to be present due to illness or disability, the Licensing Authority or an officer appointed by him, upon payment of a fee of one hundred dollars to be paid by or on behalf of the ill or disabled person, shall be required to visit the person and the vehicle for the purpose of effecting the transfer of registration;”

It is actually a home visit prescribed in the present law. Next thing you did not even know that.

Sen. Vieira: So AG, if you are an executor, is he going to come and visit you in your office or you are going to have to take your time off from your busy schedule to go down there and transfer it?

Sen. Nicholas: I am not for a minute suggesting we adopt it, but I am just pointing out that is what exists in the present legislation.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Thank you. It may be that we should focus on whether—do we want to protect the Authority in the event that there is some defrauding?

Sen. G. Singh: Yes.

Sen. Prescott SC: So, we say that the ownership may be transferred if the Authority is satisfied that it has the appropriate letter of authority from an owner. Whatever language you may wish to use, yes, supported by an identification, whatever, whatever. But once he has satisfied himself reasonably that someone has presented a document on which he can rely, identifying the owner and manifesting the owner's consent to the transfer, the Authority ought to be protected.

Sen. G. Singh: What! Chair—

Madam Chairman: Sen. Singh.

Sen. G. Singh: Madam Chair, having both parties present will prevent a lot of fraud from taking place. While in the regulations where you deal with the second part of the clause, unless the Authority directs that one party can process the transaction. In your regulation area, you can then work out the procedure where one party can in fact effect the process. So that therefore you keep the sanity of the law where you have both parties to the contract of sale, but you allow your regulation and your process to deal with it.

Sen. Vieira: I agree with that once there is some flexibility and you—

Sen. Prescott SC: In that case it begs to me to another question. When we say in (2) that the person “shall be present”, would it have been clear to anybody where these people should be present? Shall be present at a certain place, is that not right?

“...both parties to the transaction shall be present...”

Sen. Nicholas: I think it could be reasonably presumed that it would be at the place of the application.

Hon. Cadiz: Well permit me to be unreasonable, it is nine o'clock. Let us say “shall be present at the Authority”, I do not know. Where does this thing happen?

Sen. Dr. Mahabir: I assume it is at the Authority.

Sen. Nicholas: At the point of making the application.

Sen. Prescott SC: Where ownership of a vehicle is to be transferred, both parties to the transaction shall—

Sen. Al-Rawi: At the point of making the application could be when you sign it in your office.

Sen. Prescott SC: So “shall appear before the Authority”?

Sen. Al-Rawi: I had an issue with the terminology “both parties”. There may be more than one party to a transaction.

Sen. Prescott SC: Yes, that is a fact.

Madam Chairman: Remove the word “both”?

Sen. Al-Rawi: Yes, it should be “the parties” because you could have an executor, a beneficiary, a trustee—

Sen. Prescott SC: Shall appear before the Authority?

9.05 p.m.

Sen. Nicholas: I think, if you read it, going from 99(1), flowing into 99(2), you speak to:

“...he shall apply to the Authority in the prescribed form and shall pay the fee...

And you go on. I think it is reasonably clear that it is at the Authority.

Sen. Prescott SC: Well, may I offer a practical situation? In 99(1), it is quite possible for a representative of the owner to present the form and pay the fee, because it is not required that the person shall himself turn up. Once he has submitted that form and fee, a transfer may take place. Presumably it cannot take place in his absence unless the Authority directs that one party can do it. My only question is: Where should these persons turn up?

Sen. Nicholas: I honestly do not see the need for it but we will—

Sen. Prescott SC: It would relieve me of my tension.

Sen. Dr. Mahabir: But it is clear to me that it will have to be at the Authority.

Sen. Nicholas: If it is that at 9.06 it is required, then so be it.

Sen. Prescott SC: You are very gracious.

Madam Chairman: Are you also saying that you need to specify where the fee is to be paid in 99(1)?

Sen. Prescott SC: I get the feeling that I can stay at home and send a document to the Authority, inclusive of a cheque and say here is my application. And then presumably he will fix a date and say meet me outside Kirpalani's.

Sen. Nicholas: So, at the Authority.

Sen. Prescott SC: Shall appear before the Authority.

Sen. Nicholas: What are we dealing with, something besides (2)?

Sen. Prescott SC: No, in (2)—[*Interruption*]

Sen. Nicholas: Transactions should be present at the Authority.

Sen. Prescott SC: The parties to the transactions shall appear before the Authority.

Madam Chairman: Sen. Prescott, you are clear where you are going to pay the fee?

Sen. Prescott SC: I am thinking that I can do it from home.

Sen. Nicholas: Should we put at the cashier?

Sen. Prescott SC: No.

Madam Chairman: No, you are not paying from home, you are sending a cheque from home.

Sen. Prescott SC: Yes, I can send a form—[*Interruption*]

Madam Chairman: You can send a form but you are not paying.

Sen. Prescott SC:—and a cheque to the Authority.

Madam Chairman: Sending a cheque does not constitute payment.

Sen. Prescott SC: It does not constitute payment?

Madam Chairman: No.

Sen. Small: Madam Chair, if you would permit me. I just have a question for the Minister. Regarding the process now that we have these validation certificates, is it still necessary if you want to transfer a vehicle, you still have to turn up at 5.00 a.m. to line up to go over the pit? Well I just want to be clear, because now I am assuming with the tag validation certificate all you need to do is turn up with that because that says that the vehicle is road-worthy. Having had to do this more than a couple of times, it is a pain. It is a painful process.

Hon. Cadiz: Really and truly, with the MVA it is going to be a totally different experience. We hope, at some stage that you will be able to stay at home and do the applications, et cetera, and do your payments, and what have you, online. At some stage that will happen. But tonight—we are not doing that tonight.

Sen. Small: I have no challenge with that, Minister. All I am saying is the current process, when they come, I just hope, with this wonderful validation certificate that you are paying for, that is enough to certify that the vehicle is road-worthy and we do not have to line up to pay a man a couple hundred dollars to get me ahead of the line in the pit, which is what happens every day.

Hon. Cadiz: We are dealing with that later down, about the touting and what have you.

Sen. Nicholas: Madam Chair, we are prepared for 99(2) to read as follows:

“Where ownership of a vehicle is to be transferred, both parties to the transaction shall”—appear before the Authority—“unless the Authority directs that one party can process the transaction.”

Sen. Al-Rawi: May I point out few other observations, please?

Sen. Nicholas: You may.

Sen. Al-Rawi: Subclause (5):

“The next of kin or the person having lawful possession of a vehicle referred to in subsection (4) shall notify the Authority of the death of the registered owner Within one month of the death of the registered owner as soon as is practicable.”

It was a formula we had used—

Sen. Nicholas: As soon as is practicable.

Madam Chairman: So we are deleting the words “owner within one month of the death of the registered owner” and substituting after “registered” “as soon as

reasonably practicable”.

Sen. Al-Rawi: After “the death of the registered owner”.

Madam Chairman: “...next of kin or person having lawful possession of a vehicle referred to in subsection (4) shall notify the Authority of the death of the registered owner as soon as reasonably practicable.”

Sen. Al-Rawi: May I further? In subclause (7):

“Where the Authority is satisfied that there has been a change of possession of a vehicle but that the registered owner has failed to transfer the vehicle under subsection (1) or has failed to surrender the Validation Certificate, the Authority may, without prejudice to any legal proceedings which may be taken”—et cetera—“transfer the registration of the vehicle in same manner as if the provisions of subsection (3) had been complied with.”

May I ask what the current law is, in relation to this?

Sen. Nicholas: The law at present is:

“If the Licensing Authority is satisfied that there has been a change of possession of a motor vehicle but that the registered owner has failed to make the application referred to in subsection (1)(b) or to surrender the certificate of registration, the Licensing Authority may, without prejudice to any proceedings which may be taken against the registered owner for such failure, transfer the registration of the motor vehicle in the same manner as if the provisions of the said subsection (1)(b) had been complied with.”

Sen. Al-Rawi: Thank you, hon. AG. May I ask why we are deviating from application, as opposed to transfer? Because later on we go to the defence available to a registered owner who attempted to have the ownership transferred? So the absence of the application and moving, instead, to making the transfer in subclause (7), is a material distinction. So the existing law speaks to you fail to apply to

transfer, not to transfer. We have gone further now. You must effect the transfer under this proposed law.

Sen. Nicholas: Yes.

Sen. Al-Rawi: And because you are dealing with an estate, for instance, in circumstances where subclause (4) could arise, I think an application is a safer approach than effecting the transfer itself.

Sen. Nicholas: Why?

Sen. Al-Rawi: Because somebody appointed ad litem for an estate, for instance, where the LPR has not been appointed yet, may have made an application but it may not have been effected, the transfer, because the production of the letters of administration or grant of probate have not yet happened, but the appointment ad litem has, say, for instance, in an application to deal with a wasting asset and for some minor's concern, a next of kin.

Sen. Nicholas: But would that be deemed a natural change of possession?

Sen. Al-Rawi: No, but you see, this is why I asked you to reflect upon the original law. The original law takes the obligation so far as making the application, not effecting the transfer. So I was wondering, perhaps—*[Interruption]*

Sen. Nicholas: Well, this speaks to a change of possession. But I am not the Chair but I am seeing Sen. Vieira.

Sen. Vieira: Well, I am on the same point. I have my previous car, I have an agreement with a colleague to have sold the car to him. I am deliberately not taking the last final payment because under this law—he is in possession of the car since last year—I would be in breach because I have failed to transfer. Now if you are in the Senate or you are in court and the person who is buying the car is equally busy, when are you going to do it? You are criminalizing people who just do not have the time because the process is cumbersome and hard.

Sen. Small: Madam Chair, I just have one other clarification.

Sen. Nicholas: If you are transferring your vehicle, you have to transfer your vehicle.

Sen. Small: I am just seeking one other clarification. I want to be clear that how it is worded here you can do this transfer now at any office of the Authority?

Sen. Nicholas: Yes.

Sen. Small: Any office, rather than how it is you are going to do a transfer, you must go to Wrightson Road, at least for us who live in the north. I just want to be clear that is the intent of the legislation here. Because that would allow now, it would ease the burden on—

Sen. Nicholas: It would not be in the inspection centres, but it would be any office of the Motor Vehicles Authority.

Sen. Small: That is what I am saying because with the validation certificate process, you have the validation certificate, the vehicle is road-worthy. You can go to St. James or Arima or wherever and transfer a vehicle. I just want to make sure that that is the intent, rather than having to go to Wrightson Road. Thank you very much.

Hon. Cadiz: The transfers would be made at any office of the Authority.

Sen. Small: Brilliant, Minister.

Sen. Dr. Mahabir: And for the record and in the public interest I would like to know if in regulations it will be that parties to a transaction can do so via making an appointment with the Authority, as opposed to being required now to simply present themselves and wait for hours for the transaction to be done. Can you put that in the regulations?

Hon. Cadiz: We could adopt that procedure.

Sen. Dr. Mahabir: Very well, thank you very much.

Sen. Al-Rawi: AG, look at the language of subclause (10), in the face of subclause (8). Subclause (10) deals with (8), which deals with an application to transfer the vehicle. That is where it is sold. Subclause (9) deals with an offence in the face of subclause (8). So subclause (8) has kept application, subclause (7) has lost application from the current law and gone effectively to only transfer. I am just trying to understand why we are moving away from the tested current law of an application for transfer.

Sen. Prescott SC: Madam Chair, I am sorry, I may be on the right track but in subclause (10), I am reading the following:

“...it shall be a defence for the registered owner or the purchaser of a vehicle, who attempted without success to prove that he attempted without success to have the ownership of the vehicle transferred.”

Am I reading that wrongly? He attempted without success to prove that he attempted without success to have the ownership transferred?

Sen. Nicholas: He attempted and he has to prove that he attempted.

Sen. Prescott SC: So it shall be a defence for the registered owner or the purchaser of the vehicle—[*Interruption*]

Madam Chairman: To prove.

Sen. Prescott SC:—to prove that he attempted without success to have the ownership of the vehicle transferred? So we are deleting the words “who attempted without success”? Is that it?

Madam Chairman: I think so.

Sen. Al-Rawi: Well, there is no amendment circulated so we are proposing it.

Sen. Nicholas: It was meant to be that.

“...it shall be a defence for the registered owner or the purchaser of a vehicle, who attempted without success to prove that he attempted without

success...”

Sen. Prescott SC: Who attempted without success to do what?

Sen. Nicholas: To have the ownership of the vehicle transferred.

Sen. Prescott SC: Let me insert those words “to have the ownership transferred to prove”.

Sen. Nicholas: Yes.

Sen. Prescott SC: After “transferred”?

Sen. Nicholas: Sure.

Sen. Prescott SC: Do you want to propose that amendment, Sir?

Sen. Nicholas: Well you have proposed it nicely. We will accept it.

Sen. Prescott SC: I am tired. It is 9.19.08.

Madam Chairman: “...it shall be a defence for the registered owner or the purchaser of a vehicle who attempted without success”—[*Interruption*]

Sen. Nicholas: To have the vehicle—[*Interruption*]

Sen. Prescott SC: To have the ownership of the vehicle transferred.

Madam Chairman: “to have the ownership of the vehicle transferred to prove his attempt...”

9.20 p.m.

Sen. Nicholas: To prove that such attempt was made.

Sen. Prescott SC: Maybe I could suggest something? That we delete the words “who attempted without success”, and say:

“...it shall be a defence for the registered owner or the purchaser of a vehicle to prove that he attempted without success to have the ownership transferred.”

Which owner? Well, the only person who will step forward to prove that he attempted with success is the person who did. So we could delete, from after

“vehicle”, the comma.

Sen. Nicholas: Who attempted without success.

Sen. Prescott SC: Yes, and say:

“...it shall be a defence for the registered owner or the purchaser of a vehicle to prove that he attempted without success to have the ownership of the vehicle transferred.”

Sen. Nicholas: Yes, we would accept both your recommendations, and the Chair’s recommendation of that amendment.

Sen. Prescott SC: Thank you.

Madam Chairman: Any other concerns?

Clause 99 be amended as follows:

In subclause (2), to delete the word “both”, and insert the word “the” before the word “parties”.

And by deleting the words “be present”, after the words “transaction shall”, and substituting the words “appear before the Authority”.

In subsection (5), by deleting the words after the word “owner”, and substituting after the word “owner”, the words “as soon as reasonably practicable”.

In subsection (10), by deleting after the word “vehicle”, the words “who attempted without”.

By deleting the words after “vehicle”, the word “,” and the words “who attempted without success”.

Question put and agreed to.

Clause 99, as amended, ordered to stand part of the Bill.

Clause 100.

Question proposed: That clause 100 stand part of the Bill.

Sen. Small: Madam Chair, through you, I have a question about subclause (3), where it states:

“The transfer tax shall be paid to the Board of Inland Revenue...”

I need to understand the mechanics of this. If we are going to the MVA office to do the transfer, how does this actually work?

Sen. Nicholas: The MVA collects the taxes on behalf of the BIR.

Sen. Small: Okay, that helps me.

Madam Chairman: Any other concerns with clause 100?

Sen. Al-Rawi: Madam Chair, I am just looking at clause 100(11);

“An unconditional gift of a vehicle to an organization approved by the President under section 6(1)(g) of the Corporation Tax Act is exempt from the transfer tax.”

I am sure that that is present law. I was wondering whether you wanted to include any other power for the exemption of the taxes, as may be prescribed by regulations or by negative resolution, because it will be a pity to have to come back and amend this law for other exceptions.

Sen. Nicholas: That would be for the purview of the Minister of Finance and the Economy. As far as this Bill is concerned, there is no need for it.

Sen. Al-Rawi: Okay, thank you.

Sen. Vieira: It might sound like a little thing, but when I was—Sen. Bharath and I were at St. Mary’s College, we actually studied Latin, and we used to say, “You know, Latin is a language as dead as dead can be. First, it killed the Romans and now it is killing me.”

I want to say, there is no need to have pig’s Latin, lawyer’s Latin in legislation today. I keep seeing *mutatis mutandis*, *bona fide*, there are English expressions that do just as well. I would like, as a matter of principle, to start

deleting all of these Latin phrases wherever we see them. So, we have bona fide, in good faith; prima facie, at first sight or on the face of it. The language works. There is no need to have the Latin.

Sen. Nicholas: I have absolutely no problem. When I was in bar school, they told me simple English.

Sen. Vieira: Yeah, at least all the legislative text—

Sen. Nicholas: And then I dare say it was at the Inner Temple.

Sen. Vieira: They have moved away from the Latin, and they tell you straight, there was a time when lawyers believed that that helped precision. We recognize that is no longer the case. Simple English is the formula.

Sen. Nicholas: Yes it is. It is usually the case when one is not confident of one's position. He has to use foreign languages to supplement.

Madam Chairman: Are we making an amendment to—

Sen. Nicholas: I have absolutely no problem with the simple language, Senator. So you are suggesting removal of “bona fide”, at (5)—

Madam Chairman: Wherever it exists.

Sen. Nicholas: Wherever it exists.

Sen. Al-Rawi: And replacement with?

Madam Chairman: Replacing with the words “in good faith”, after the word “trader”.

Sen. Prescott SC: “...shall register with the Authority that he is” a—

Madam Chairman: Vehicle trader in good faith.

Sen. Vieira: He is a good faith vehicle trader. Or he is a vehicle trader in good faith.

Madam Chairman: “Bona fide” is looking much better.

Sen. Vieira: You know, it is only because we are accustomed to it, but what does

“bona fide” mean? In good faith.

Sen. Prescott SC: Well, in this case “genuine” will be the right word.

Sen. Nicholas: Genuine or actual.

Sen. Prescott SC: Genuine if you like.

Sen. Al-Rawi: The syntax is affected as well, too.

Sen. Prescott SC: Do you want to say genuine?

Sen. Nicholas: Yes, genuine, authentic, actual, legitimate.

Sen. Dr. Mahabir: Legitimate is better.

Sen. Nicholas: He is legit.

Madam Chairman: Hon. Senators, the question is that clause 100 be amended by deleting the words “bona fide” wherever they exist and substituting the word “legitimate”.

Question put and agreed to.

Clause 100, as amended, ordered to stand part of the Bill.

Clause 101.

Question proposed: That clause 101 stand part of the Bill.

Sen. Nicholas: Madam Chairman, I beg to move that clause 101 be amended as circulated:

Insert after subclause (1), the following clause:

“(2A) The contents of the register under subsection (1) shall, for the purposes of all proceedings in a court be *prima facie* evidence of all information contained therein and extracts of the register purporting to be certified as such by the Registrar or his authorized officer, shall be admissible in evidence in court.”

Sen. Prescott SC: May I? In line 1, we use a formula suggested by Sen. Al-Rawi before, “shall cause to be kept and maintained a register”.

Madam Chairman: Any other concerns?

Sen. Vieira: I was just wondering about zombie companies, because you have—

Sen. Prescott SC: “Ah thought you only using English?” [*Laughter*]

Sen. Vieira: Well, zombie is an English word. [*Laughter*]

Sen. Al-Rawi: It is an Americanism as opposed to “jumbie”.

Madam Chairman: Use “jumbie”, then. [*Laughter*]

Sen. Vieira: That is actually a term or art, right now, eh. You are talking about companies that are on the books, but in truth and in fact they are dead and they are moribund. I am thinking of such companies that purport to be owners of vehicles, but they are no longer really, actually doing business or exist. So I was just wondering about, you know—

Hon. Cadiz: Yeah, but listen, they still have a right, although they might not be trading, they still have a right to own.

Sen. Al-Rawi: But we tightened that noose in the corporation legislation by cleaning up the register, and giving the amnesties, et cetera, but it is a very valid concern. May I, Madam Chair, request some attention to clause 101(2):

“The owner of a vehicle registered under this Act shall, within thirty days...”

This may be one of the occasions when we would want to keep a 30-day limit, but I was wondering about it in the context of “as soon as is practicable”, and then look at it in the context of the offence in subclause (4):

“Where a person contravenes this section he shall be liable on summary conviction to a fine of five thousand dollars.”

I mean that is—there is no animus there. There is no wilful attach to contravention in subclause (4). Therefore, the strict application of a 30-day limit is strict. So, it seems unduly harsh.

Hon. Cadiz: The thing is with—we do not—the data that the MVA is going to own and have, we have to be very, very careful about how we allow persons to not file and not change. Therefore, all of a sudden, the register becomes contaminated as it is now, okay. So, I think we need to be very, very careful about how much leeway we are giving people when they die, and what have you, you know.

Sen. Vieira: But that is exactly why I raised the point about the zombie companies, because every so often, I see companies struck out as defunct. Now, that may a company still on the register, as the owner of a vehicle or vehicles and, you know—

Hon. Cadiz: Well, in that case, if a vehicle is struck off the—if it comes off the companies register, they cannot own—they have to wind up the company. You cannot wind up a company with assets.

Sen. Al-Rawi: Yes, you can.

Sen. G. Singh: Stick to the reasonably practicable phrasing that we have used throughout. The question is from a policy perspective, what you suggest.

Sen. Al-Rawi: Or, if you attenuate subclause (4) by saying: where a person without reasonable excuse contravenes this section. So it is either you attenuate it in subclause (4) or your factor it in subclause (3), but I would welcome other Senators points of view.

Sen. Vieira: On this point about accuracy of entries in the register, there was a general point I had made earlier, about the authority having, as it is an administrator of a registry, the power to rectify mistakes when errors are detected. I think that is an important power that the authority should have. You could have miscalculation of points with the fixed penalties. You could have wrong data to put in. You could find documents going astray. So there should be provision in the Act for rectification of mistakes. I mean, you have it here, and you also have it for

replacement of validation certificates, but I think there should be a general power.

Mr. Cadiz: I think that is already in, where we have the authority to make the changes and rectify any errors that we find.

Madam Chairman: Hon. Senators, the question is that clause 101(1), be amended as circulated, and further amended in subclause (1) by:

Inserting after the word “kept” in the first line, the words “and maintained”.

Question put and agreed to.

Clause 101, as amended, ordered to stand part of the Bill.

Clause 102.

Question proposed: That clause 102 stand part of the Bill.

Madam Chairman: I recognize Sen. Al-Rawi.

Sen. Prescott SC: May I go after the Attorney General?

Sen. Al-Rawi: I defer to everyone.

Madam Chairman: Sen. Al-Rawi, I recognize you.

Sen. Al-Rawi: Madam Chair, I was going to ask in relation to clause 102, I appreciate that clause 102(1) is where you have something registered and not tagged. Then clause 101(1)(b) says where it is “registered and tagged”. Well, the first thing I wanted to know is, has that term “tagged” been defined at all? Do we mean to say “fitted with an electronic identification tag”? And is “tagged” meant to be that? Do we need to say that? That is the first question.

9.35 p.m.

The second thing is, if you look to (b), and you come down after (i), (ii) and (iii):

“the Authority may issue a new chassis number to the vehicle and record that new number on the Vehicle Certificate of Registration, a Validation Certificate and electronic an identification tag.”

So this clearly is some typographical error there or insertion by mistake there. Then in subclause (2):

“Notwithstanding subsection (1), the Authority may issue a chassis number to a trailer which was built by a local manufacturer.”

I am not quite sure if this should be accepted out from vehicle. I also wonder whether the language in clause 102(1)(b) ought to be “issue a new chassis number”. Do we mean to refer to that chassis number as opposed to a new chassis number? Because the chassis number is the chassis number. So, you are really amending the registration particulars. So I was not quite sure if the language of 102(1)(b) captured the correct terminology.

Madam Chairman: Sen. Ramkissoon, you had a comment?

Sen. Prescott SC: Chair, may I firstly enquire in line one: how does “previously” add to the sense of what we have set out to do?

Sen. Al-Rawi: How could you be registered without being fitted with an ID tag? The registration requirements under 75 do not allow for that.

Madam Chairman: That is an old vehicle.

Sen. Prescott SC: Okay, so that is my first one. Secondly, in (a), the vehicle “now displays a chassis number”. Is that usually the effect of someone tampering with or changing the thing or does it happen by osmosis?

Sen. Al-Rawi: Or by repair.

Sen. Prescott SC: In what circumstances would a vehicle “now display a chassis number” which it did not have before or as the draftsman put it:

“...which varies from the chassis number specified in the Vehicle Certification of Registration...”

Madam Chairman: It could have been registered with the wrong number.

Hon. Cadiz: There have been errors, legitimate errors made in the transcribing of

the chassis numbers.

Sen. Prescott SC: So it says that it now displays as though something has transformed it. To say it “now displays a chassis number which varies” is to suggest that something has happened and has caused it to change. All we are doing is saying that the correct number is now being detected.

Hon. Cadiz: The thing is that the number is on the register as we speak. It might differ from the stamp number on the chassis.

Sen. Prescott SC: Because something has happened or because something has—

Hon. Cadiz: No, because of a legitimate error.

Sen. Prescott SC: Okay, so to say “now displays”.

Hon. Cadiz: Or something could have happened also.

Sen. Nicholas: So, for instance, there has been an accident and you have changed the parts.

Sen. Prescott SC: And somebody has changed the number. So, it is not this impassive it has happened that the thing has now become to display a different chassis number. Someone has changed the number. Is that not it?

Madam Chairman: Or maybe the initial record was wrong.

Hon. Cadiz: There are areas where it does not—

Sen. Al-Rawi: Or the chassis itself may have changed.

Sen. Prescott SC: So, 102 does not capture:

- (a) that there may be an error; or
- (b) that someone has whether—

Hon. Cadiz: Well, it does not identify why there might be a change, but it says that there is a change.

Sen. Prescott SC: What I was reading in 102 is that it “now displays a chassis number”, somebody had changed it, maybe fraudulently.

Hon. Cadiz: Or it was recorded incorrectly.

Sen. Prescott SC: And, therefore, we need to communicate in 102 that we are talking about circumstances where there has been:

- (a) an error in the registration, or
- (b) some circumstance has led to the number being changed.

I do not think that (a) nor (b) captures it.

Madam Chairman: Is it that you want to say that that vehicle has been found to have a different chassis number or has been found to have a chassis number which varies from the registration?

Sen. Prescott SC: I am more inclined to saying, if one of the following circumstances have occurred:

- (a) an error in the registration has been discovered; and
- (b) the number has been changed.

Madam Chairman: Do you want to specify why there is a difference in the registration number and the factual number on the chassis?

Sen. Prescott SC: I think that is why I am doing it. I am saying where a vehicle was registered with a particular chassis number—I do not know like with reference to—and either:

- (a) an error has been detected in the register; or (b) the number has been changed,
the Authority may issue.

Sen. Nicholas: Why do we want to just restrict to those particular circumstances? There may be other circumstances so why not just give the Authority the leeway? I mean, we are not—by inserting this, we are not restricting the Authority from actually carrying out the change, so why prescribe in such detail when?

Sen. Prescott SC: Does this hide the criminality of somebody who changes the

number? Or to put it another way, does it permit a criminal activity to go unpunished because it “now displays a chassis number”?

Madam Chairman: Clause 102 speaks to repaired vehicles.

Sen. Dr. Mahabir: Look, Madam Chair, a vehicle can have its engine changed, so there would be a new engine number but, occasional, you can also restore a vehicle on a completely new chassis. If you have a vehicle that has been damaged and the chassis is bent or really mechanically unsound, you can repair your vehicle around a completely new chassis, you know. That is not impossible. So that I think one ought to give the client and the Authority the option to recognize that it is legitimate activity to use a different engine and also a different chassis. So you can have a problem with an error on the registration, but you can also use a completely new chassis with good parts from your previous vehicle. So I do not see too much by way of illicit activity.

Sen. Prescott SC: We now have three circumstances, Madam Chair, either there is an error in the record, the chassis has been changed or the chassis number has been changed, because somebody tampered with it whether falsely, fraudulently or innocently.

Madam Chairman: But there could be other reasons.

Sen. Prescott SC: Well then we put a catch-all phrase that says—I beg your pardon?

Madam Chairman: If you go the way of a list you may limit yourself.

Sen. Prescott SC: I am hearing it, and I am not persuaded.

Sen. Nicholas: I think it was done in this way so that you do not have the restrictions. Now, certainly, with regard to, I think it was Sen. Al-Rawi who suggested in clause 102(1)(b) where we refer to as “tagged” certainly, the definition of “placed an electronic ID tag” could be adopted in place of “tagged”

for clarification, and we are willing to do that.

If you, Sen. Prescott, have an issue with the “now displays” again, we are prepared to remove the “now”, so it just has that “ the vehicle displays a chassis number”, and I think with those amendments we can go forward.

Madam Chairman: Do you want to use another word instead of “displays”.

Sen. Prescott SC: I beg your pardon?

Madam Chairman: Do you want to use another word instead of “displays”, like “bears”?

Sen. Prescott SC: I was thinking “is found to have”.

Madam Chairman: I think the word “displays” is kind of—

Sen. Nicholas: That is what he actually does. He displays a chassis number.

Sen. Prescott SC: Chair, may I ask, in what circumstances can we punish an act of criminality, that is to say, changing the chassis number deliberately to fool somebody?

Hon. Cadiz: Well, that is fraud.

Sen. Prescott SC: Is that covered anywhere here?

Hon. Cadiz: That will be under vehicle theft.

Sen. Prescott SC: Which I may find where? You see, you are not stealing the vehicle, you know. All you are doing is change the chassis number for whatever reason to fool up a potential buyer or something. So it is not impassively changed.

Hon. Cadiz: If you fraudulently change a chassis number in here.

Sen. Prescott SC: Which section punishes that? [*Crosstalk*]

Hon. Cadiz: That same general provision of where either you do it as purporting to be the owner or an officer of the MVA assist you in doing that.

Sen. Prescott SC: So, we have dealt with it already.

Hon. Cadiz: No, that is in the general provision. We are putting that in the general

provision.

Sen. Prescott SC: Section what?

Hon. Cadiz: I would give it to you, but that is down, way down.

Madam Chairman: The question is that clause 102 stand part of the Bill. We cannot wait forever for these amendments.

Sen. Prescott SC: Chair, I am sorry.

Sen. Nicholas: Madam Chair, actually, in consulting with the Nova Scotia legislation which a lot of this legislation comes from, there is actually an offence that we can fairly adopt which is:

Except as provided in—well, of course, the relevant section—any person who defaces, destroys or alters the serial number of a vehicle or places or stamps a serial number upon a vehicle shall be guilty of an offence.

I see no reason why we could not—

Sen. Prescott SC: May I because it has been packed. The author is Sen. Vieira. [*Crosstalk*] I beg your pardon? It is clause 273. Well, Sen. Vieira uses some other verbs that may not have been covered by Nova Scotia. I take no responsibility for it. He has—“falsifies, alters, destroys, erases, obliterates”.

Madam Chairman: Could we take that under clause 73 when we get there?

Sen. Prescott SC: Under 273?

Madam Chairman: Yeah.

Sen. Prescott SC: Okay, so it is proposed that we shall have a new 273. Thank you, and I would pass it back to Sen. Vieira and insist that he godfathers his own amendment. Thank you very much.

Sen. Prescott SC: Yes, please.

Sen. Nicholas: To delete after “that vehicle” in clause 102(1)(a) the word “now”; to delete after “registered and” in 102(1)(b) the word “tag” and replace with the

words “placed an electronic identification tag.”

Sen. Prescott SC: Where is this, down at the end?

Madam Chairman: Registered and—

Sen. Nicholas: “and placed an electronic identification tag”. So we are removing “tagged” after “registered and” and inserting “placed an electronic identification tag”.

Sen. Prescott SC: Madam Chairman, may I interrupt the Attorney General?

Madam Chairman: Certainly.

Sen. Prescott SC: So, it reads where a vehicle—chapeau, let us take off “previously”—was registered and previously—and what? And placed? How about “fitted with”?

Sen. Nicholas:—was registered and fitted with?

Sen. Prescott SC:—registered and fitted with an electronic tag.

9.50 p.m.

Sen. Vieira:—“identification tag.

Sen. Prescott SC: Yes.

Sen. Nicholas:—“an electronic identification tag”.

Sen. Prescott SC: And it goes on to say—

Sen. Nicholas:—“with reference to a particular chassis number”, et cetera.

Sen. Prescott SC: Yes. Do you agree that we should take off the word “previously”?

Sen. Nicholas: Yes.

Madam President: Yes.

Sen. Prescott SC:—“and now displays” in (b), take off the “now”?

Madam President: Any further changes to clause 102?

Sen. Prescott SC: Yes, I think down to the end we acknowledged that the

penultimate line in (b)—

Sen. Nicholas:—“a Validation Certificate and an electronic identification tag”.

Sen. Prescott SC: So we just shift around—

Madam President: Hon. Senators, the question is that clause 102 be amended as follows:

In subsection (1) to delete the word “previously” after the word “was”; in 1(a) to delete the word “now” after the words “that vehicle”;

In 1(b) to delete the word “tagged” after “and” and insert the new words “fitted with an electronic identification tag”; and

In paragraph 1(b)(iii), at the end, to insert the word “and” before “electronic identification tag” and delete the word “an” after the word “electronic”.

Sen. Al-Rawi: Madam Chair, sorry, just a question—forgive me—the side note reads “Repaired vehicles” and subclause (2) allows for the Authority to issue a chassis number to a trailer which was built by a local manufacturer, could you just identify, through you, Madam Chair, hon. Attorney General, how that is a repair for a trailer? And, secondly, even though the side note ought not to be part of the Bill, as we know, but the trailer itself does not fall within the circumstances of this section’s thought, and I was also wondering where is it elsewhere in the Bill that a chassis number for a car itself, built by a local manufacturer, is provided.

Sen. Nicholas: The Bill allows for the manufacture or the assembly of a trailer, and, as such, this clause would deal with the issuing of a chassis number.

Sen. Al-Rawi: The first thing that jumped out at me, AG, was whether “trailer” should be replaced with the word “vehicle”.

Sen. Nicholas: No, because it is specifically trailer.

Sen. Al-Rawi: I understand, and I was just going through what first jumped out at me. So that is the first thing, and then I understood, of course, that we are talking

about a trailer, but then the thought came to me, well, where do we deal with the assigning of a chassis number for something which a local manufacturer builds. Suppose somebody decides tomorrow morning they are going to build a car, not assemble but build a car, do we have the authority under this legislation to give a chassis number?

Hon. Cadiz: Well, it would have to have identifying marks. So if you produced a trailer or you produced a vehicle locally you would have to determine what the unique identifying number to this particular vehicle is. So, whether or not the Authority gave you a number or you came with a number—I mean, for instance, vehicle manufacturers, they determine the chassis number, so the vehicle comes with a predetermined number, and the same thing will apply here. If there is a local vehicle manufacturer that wants to get a vehicle licensed by the MVA, they can come with their own unique number to identify.

Sen. Al-Rawi: Thank you, hon. Minister. What I was—

Sen. Vieira: Maybe the marginal note should say chassis numbers.

Sen. Al-Rawi: What I was looking to do was to now put into the law the power to do that, because we have done it only for trailers and a trailer is distinct in definition from a vehicle.

Hon. Cadiz: If you use the word vehicle then it goes back to the definition of vehicle, so anything you want to build, you want to build a wheel tractor or you want to build—whatever it is.

Sen. Al-Rawi: Or anything.

Hon. Cadiz: Yeah. [*Crosstalk*]

Sen. Vieira: I agree with Sen. Al-Rawi that (2) should be, “the Authority may issue a chassis number to a vehicle which was built by a local manufacturer”, but I think the marginal note should really be about chassis numbers rather than about

repaired vehicles, because that is what really the section is about. [*Crosstalk*]

Sen. Nicholas: Madam Chair, clause 102(2) would be better dealt with in clause 103, so we will delete it from where it is here and we will deal with it at clause 103.

Madam President: Any further concerns with clause 102? Hon. Senators, the question is that clause 102 be amended as indicated previously and by deleting subsection (2).

Question put and agreed to.

Clause 102, as amended, ordered to stand part of the Bill.

Sen. Vieira: Chair, with your leave, before you go to clause 103, Sen. Ramkissoon had wanted to raise a point in respect of clause 101, and I support her, because she did not know what the meaning of “prima facie” was and, in as much as we had agreed in principle, I was just going to suggest that we change the words of “prima facie” to “at first sight” or “on the face of it”, and it would fit in very nicely. You did not see it because it was in the amendments.

Sen. Ramkissoon: In clause 130 as well.

Sen. Vieira: So it is the amended version of clause 101(2)(a). We kind of skipped that. [*Crosstalk*]

Sen. Nicholas: Sure.

Sen. Vieira: Thank you.

Clause 101 recommitted.

Question again proposed: That clause 101 stand part of the Bill.

Sen. Nicholas: Madam Chair, the amendment as proposed is that in the amended clause 101(2), wherever the words “prima facie” are mentioned, they be replaced with the words “on the face of it”.

Sen. Vieira: AG, if I may help, in (2A) it would read, “For the purposes of all

proceedings in a court be”—you would delete *prima facie*, it would read—“of all proceedings in a court be evidence on the face of it of all information contained therein.”

Madam President: Only in that instance?

Sen. Prescott SC: Clause 130 does, clause 159(a) does. [*Crosstalk*]

Madam President: But then the construction around it—

Sen. Prescott SC: Could change.

Madam President:—the context—

Sen. Dr. Mahabir: So when we come to it, Madam Chair, we will deal with it then.

Sen. Nicholas: But we are dealing with it now.

Sen. Dr. Mahabir: Yeah, but for all future reference, clauses in the future may have to fix.

Madam President: So what is your amendment, Sen. Vieira? What is your proposal in clause 101?

Sen. Vieira: Delete the expression “*prima facie*” and after the word “evidence” in the third line put “on the face of it”.

Madam President: Delete the word “*prima facie*” and after the word “evidence”—

Sen. Vieira: In the third line insert “on the face of it”.

Madam President: And after the word “evidence” insert the words—

Sen. Vieira: “on the face of it”.

Madam President: That is just as awkward—but nevertheless. So, hon. Senators, the question is that the new subclause (2A) be amended—clause 101(2A) be amended by deleting the words “*prima facie*” and inserting after the word “evidence” the words “on the face of it”.

Question put and agreed to.

Clause 101, as amended, again ordered to stand part of the Bill.

Clause 103.

Question proposed: That clause 103 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 103 be amended as circulated:

“Delete clause 103 and substitute the following clause:

“Vehicles 103. A person shall not assemble any vehicle assembled or restore any antique vehicle in Trinidad and in Tobago using-
Trinidad (a) new foreign parts:
and (b) used foreign parts; or
Tobago (c) a combination of new and used foreign parts without the approval of the Minister”

And further amended to insert a new subclause 103(3) to read:

Where a vehicle is assembled under this section the Authority may issue a chassis number to a vehicle which was built by a local manufacturer.

Madam President: It says, where a vehicle is assembled under this section the Authority may issue a chassis number to such vehicle—you come back and say, to a vehicle which was built by—

Sen. Nicholas:—“to such vehicle”.

Madam President:—“built by a local manufacturer”. Yeah? So we have vehicle occurring twice in the construction and it sounds kind of—you want to keep that word “vehicle” twice?

Where a vehicle is assembled under this section the Authority may issue a chassis number to such vehicle—

Sen. Nicholas:—“in respect of such vehicle”.

Madam President:—“in respect of such vehicle provided it was built by a local manufacturer”—

Sen. Nicholas:—“assembled by a local”—

Madam President:—“assembled” not “built”?

Mr. Cadiz: Same thing, assembled would be the correct thing.

Sen. Nicholas: It is really to be “assembled”.

Madam President:—“in respect of such vehicle assembled by a local manufacturer”.

Sen. Nicholas: Yes.

Sen. Dr. Mahabir: That cannot work, clause 103 will have to be changed—sorry.

Madam President: Sen. Dr. Mahabir.

Sen. Dr. Mahabir: Thank you very much, Madam Chair. Clause 103 really contravenes everything that I have stood for and, therefore, I would like to see a major change, because what in fact clause 103 does is that it says that someone who is restoring an antique vehicle has to seek the approval of the Minister, because you, in general, cannot restore one without using used foreign parts or new foreign parts, or a combination. I am sure this was made in error, so I would like to recommend the following:

A person shall not assemble any vehicle in Trinidad and Tobago using the new foreign parts without the approval of the Minister.

So we strike off “or restore any antique vehicle”. We strike that off from the amendment proposed by the hon. Attorney General and we simply use clause 103 to address certain mischiefs, which we know, occurred in the industry in the past. It is to address a mischief, but it is meant in no way to stymie or frustrate the restoration of vehicles.

10.05 p.m.

Sen. G. Singh: There is something fundamentally wrong with this section; it lacks an analysis of the market place. There is a whole used-car industry in which a plethora of businesses have emerged in communities throughout this country, utilizing foreign used parts, and therefore this is wrong. It cannot support something like this. It is wrong; it has to be eliminated.

Sen. Al-Rawi: I want to support everything said, but also too, the original concept of vehicle, unwittingly caught antique vehicles, even though described separately. I too own an antique vehicle and have been restoring it with new parts built to specifications of the other point. But I was coming exactly to the point raised by the Leader of Government Business. It is commonplace for most people in Trinidad and Tobago. The first time people hear the words “nose cut” or “back cut”, to take a whole half of a car and add it to another half of a car, and then drive off with it.

The concept of assembling or restoring a car has now become so commonplace. It means that every single person who goes to the Bamboo for a nose cut, has to now get permission of the Minister, and so it does not take into account the market realities of the current industry.

Sen. Vieira: I want to support Sen. G. Singh, because there is something called a “3D printer” and that is going to revolutionize everything in terms of manufacturing and the production, clothes, everything. They are making houses out of 3D printers now, cars, parts, everything. We have to take into account, as you say, the market place and the new realities.

Hon. Cadiz: The issue with this clause, really and truly, is to prevent people from making a car out of components and not paying the necessary vehicle taxes and duties. This has actually happened already here in Trinidad. They are very

enterprising individuals, but they are not paying the taxes. The taxes that you would pay on parts and duties that you pay on parts, would be miniscule compared to the taxes that you need to pay on your motor vehicle.

Sen. Al-Rawi: That is where roll on/roll off came from. The move for that phrase, roll on/roll off, came as people now, moving away from exactly what the hon. Minister is speaking about, and then once that application prohibition applied they began bringing roll on/roll off for an entire car, because they were cheating the system.

Sen. Rev. Abdul-Mohan: To throw in another part of the discussion, how does this clause apply to those who build cars for specific purposes of racing and rallying at Wallerfield? Is it completely different?

Hon. Cadiz: What we are trying to capture here is people who set out to assemble vehicles from components, take it down to the Licensing Office and get a vehicle licenced, where the vehicle taxes and duties have not been paid, or they would lift a registration from a crash vehicle and, again, they would assemble a vehicle locally and attach those registration/licence plates onto that vehicle.

Sen. G. Singh: You are trying to solve the problem at the wrong end.

Hon. Cadiz: I have no problem in changing it.

Sen. G. Singh: No, this has to be eliminated—it has to be. You are trying to solve the problem at the wrong end. The problem exists at the Licensing Office, not where you have entrepreneurs building something and putting something together. And you cannot solve a taxation problem at this point—you cannot.

Sen. Vieira: I absolutely agree, and the clause is too strong, “A person shall not assemble”. We have too much entrepreneurship, adapting, change of use, all kinds of things.

Sen. G. Singh: You have to find some other way to solve that, maybe in the

regulations but not at this stage.

Sen. Al-Rawi: The mischief would be captured with this kind of phraseology, but not here: A person shall not so assemble a car as to avoid the payment of motor vehicle taxes. That is the mischief you want to catch, but not at this place.

Sen. Small: Madam Chair, I have a concern. I understand what has been said, but my concern is simple. When someone constructs a car, whether it is from used or new parts, who is certifying the roadworthiness of a vehicle? You go to Neal & Massy and you buy a vehicle, you know that it has gone through the testing and the vehicle is able to perform to certain standards. When somebody takes parts, as entrepreneurial as they are, and I am sure they are, but who is going to certify the roadworthiness of that vehicle? That is my concern.

Sen. G. Singh: That is where it is done at that level, at the level of the Licensing Office. As you produce your chassis numbers and you establish the integrity of the vehicle. There is a whole industry where people only sell dashboards, only radiators, only doors, only the innards of vehicles, engines.

Sen. Vieira: We should be encouraging it; it is an opportunity.

Sen. Nicholas: Just by the way, the existing law and this is 17(a)(3) of the Motor Vehicles and Road Traffic Act:

“Notwithstanding subsection (1), with effect from 1st May 2003, no locally assembled motor vehicle using new or used foreign parts shall be registered for use under this Act.”

Sen. Al-Rawi: That is different, because that is the whole vehicle. This one says:

A person shall not assemble any motor vehicle...using—

...foreign parts”—sorry, worse yet—

“shall not assemble any vehicle or restore any antique vehicle in Trinidad and Tobago using—

new foreign parts;
used foreign parts;...”—et cetera.

Sen. Prescott SC: To the Attorney General. Hon. Attorney General, if we are inclined to permit the assemblage of motor vehicles in this country using foreign parts, and we want to impose a tax as part of the registration exercise, does that require much drafting? Do we have to go elsewhere to get that power?

Sen. Nicholas: No, we do not wish to change the law as far as local assembly of vehicles is concerned.

Sen. Prescott SC: You want to retain section 17 position that we shall not have cars that are assembled locally being registered?

Sen. Nicholas: Yes.

Sen. Prescott SC: There seems to be an outcry on all three fronts here.

Sen. Drayton: It just does not seem right that we are actually making a law because we do not have the ability, or we have not been able, to enforce existing laws. In other words, we are making a law to safeguard administrative weaknesses in the Licensing Office, and that is not the basis on which we should be making a law. How do you make a law to say that you are going to discourage the assembling of vehicles? Why do you want to stifle entrepreneurship? It is up to you to find a way and devise policies that will ensure that these people abide by the law in terms of the taxes that they have to pay, the safety issues, et cetera. But we do not make a law to prohibit enterprise.

Sen. Nicholas: With all due respect, we are not making a new law.

Sen. Dr. Mahabir: Madam Chair, my concern with 103 was really to ensure that when someone wishes to restore an antique vehicle, that individual does not have to go through the process of seeking the approval of the Minister because it will be cumbersome. However, I would like to support the hon. Minister of Transport

here.

You see, if we are to permit without the approval—I am proposing that we change the word “Minister” to “Authority”. I think anyone who wishes to assemble a car using two different parts and who would be welding that, should get the approval of the authority, who will register that characteristic. So they get the approval, they register the characteristic, so that when that car comes on to the second-hand market, a prospective buyer knows that that particular car is not a whole chassis there; that particular car was assembled. That kind of information ought to be—my concern is the public interest safety aspect of the thing. That once the buying public there—because we are dealing with entrepreneurship—is aware that this particular car has been assembled from components which were approved by the authority, then they would be in a better position with respect to pricing the car and they will not be duped. We allow the practice, but with the approval of the authority, and the authority will duly register these cars which have been assembled.

Hon. Cadiz: Could it be then that the authority would develop its own process, in other words, that you cannot take a chassis, cut it in half and weld it back?

Sen. Dr. Mahabir: We allow it but with the approval of the authority.

Hon. Cadiz: With the approval of the authority.

Sen. Vieira: In Australia they have design rules for re-engineering, subject to approval, and they would have standards. So these are things that we would have down.

Hon. Cadiz: I follow the thing. For instance in sports, for go-cart building, rally cars, all of that has to be modified. So there is the safety aspect and then there is the issue of paying the vehicle tax.

Sen. Dr. Mahabir: Once it is with the approval, Madam Chairman, of the

authority, we deal with the safety issue, we protect the future buyers and we also deal with the tax issues. So it is not as if we are forbidding the enterprise, it is just that this particular activity must go through the authority. The authority should not make it cumbersome, but it is simply that we have all the records in the authority with respect to this vehicle.

Sen. G. Singh: Madam Chair, I just want to add one more thing to this debate. You cannot say that you are preventing the use of foreign parts, whether it is new or used, depending on whether it was a restoration or a combination of new and used foreign parts. You cannot say that, because to do so will really be to Cubanize the vehicle industry in this country. People will have to go and machine every bit of parts for it to have that local content. I do not think this is proper. I like the idea that the procedure, the regulations or something will give the authority the power to act in clear criteria.

Sen. Vieira: People import parts all the time now. They bring them in. [*Crosstalk*]

Sen. G. Singh: No, the prohibition here is too strong.

Hon. Cadiz: Senators, I understand all of that. I am just trying to protect two issues here. One is the safety aspect; you have to protect John Public. John Public walking into a used-car lot, he has not a clue whether or not this is a welded up car from somewhere.

Sen. Drayton: Then let us develop the necessary clauses that would take care of that, and also use the regulations to further elaborate on the guidelines with respect to the safety issues and things like that. The regulations can deal with that.

Hon. Cadiz: Okay, so we will have the regulations then.

Sen. Drayton: A lot of the clauses in this Bill, as far as I am concerned, are things that should be in regulations and not even in primary law. But be that as it may, I think we need to address the issue rather than get around the issue by making a law

that, as we said earlier on, prohibits people from enterprising activities.

Hon. Cadiz: I recognize also the whole issue of restoration. We have no problem, we will take that out because restoration is part and parcel—

Madam Chairman: I just want to ask the hon. Minister if you want to say instead that: “a person who assembles a motor car in Trinidad and Tobago, using ‘A’ and ‘B’ shall register that vehicle with the Authority”, which would mean that it would have to pass a certain level of inspection. [*Crosstalk*]

Hon. Cadiz: But you are not prohibited from doing that.

Sen. Al-Rawi: Registered previously.

Madam Chairman: No, no, if you are assembling a vehicle using different parts.

Sen. Al-Rawi: So long as it fell without the sphere of repair, so I think it is a very sensible and very useful point, but to be sure that it is the whole vehicle that you are assembling and not just the repairs, because you may have an existing chassis number and pretty much change everything except the chassis.

Madam Chairman: 102 deals with repairs; 103 is about assembling a vehicle. It does not limit itself to effects.

10.20 p.m.

Sen. Al-Rawi: I see, in the original version, yes.

Hon. Cadiz: But I agree with the Chair.

Madam Chairman: “A person who assembles shall register”. [*Interruption*]

Hon. Cadiz: So, we remove the “shall not” and allow persons to assemble but register with the Authority, that you are a certified garage to assemble.

Sen. Ramkissoon: Madam Chair, I too have one comment on the repair aspect and it was raised before by Sen. Small in terms of the quality of diesel repairs. Now, if you are doing spot wells you need to test it and how you are going to test it, are you using ultrasonic testing. So, all these different aspects the Ministry will need to

look at because you are making sure that all road users are safe and this would be affected.

Sen. G. Singh: I do not know how many may recall, Madam Chair, but Robert Amar had started an assembly industry utilizing the chassis of the Corolla to build something similar to a Moke, a beach buggy or whatever it is called, so that therefore you cannot put a whole chassis.

Sen. Ramkissoon: Nothing is wrong with pieces or whole chassis, just test it and ensure that we test it, but I do not know if it is really tested because they can have defects as well.

Madam Chairman: Simply to say that “a person who assembles any motor vehicle in Trinidad and Tobago using (a), (b) and (c) shall register the vehicle with the Authority.”

Hon. Cadiz: Is it register the vehicle or register the business?

Madam Chairman: The vehicle. Every vehicle. It may not be a business, it might be an individual entrepreneur.

Sen. Dr. Mahabir: Every single vehicle will have to be registered because we do need to collect the taxes and test them as well.

Madam Chairman: “Shall register the vehicle with the Authority.”

Sen. Vieira: I was wondering whether the section could not read, “A person who satisfies the Authority as to road worthiness and as to the appropriate taxes having been paid may...” do these things.

Madam Chairman: Is that not what registration means? So, to register a vehicle means that it must pass certain tests.

Sen. Al-Rawi: Okay, the only thing that would be very useful and what Sen. Vieira—sorry, I do not mean it that way, but Sen. Vieira has made a very useful suggestion about certification of road worthiness, but it is probably arguable that

that is already included in the registration and certification aspects.

Madam Chairman: And the insurance would also be implied in mix.

Sen. Al-Rawi: Yes.

Madam Chairman: Okay. So, what are we doing about the subsection (2) that we deleted from 102?

Sen. Al-Rawi: That comes out?

Sen. Nicholas: We still need to be able to issue a chassis a number, so that becomes (2).

Madam Chairman: If you read the existing (2) in 103, the existing (2) says:

“Notwithstanding subsection (1), the Minister may grant approval for the assembling of trailers in Trinidad and Tobago.”

and then you would have to put in—

Sen. Nicholas: And put vehicles.

Madam Chairman: Vehicles, okay. So, that becomes vehicles and then you add what was (2) in 102.

Sen. Nicholas: But because of your new wording of 103(1), Madam Chair, there is no longer the prohibition, so there is no need for (2) as it is.

Madam Chairman: So, (2) comes off?

Sen. Nicholas: So, (2) can come out.

Madam Chairman: And what happens to (2) from 102?

Sen. Nicholas: Then that becomes (2). So, “where a vehicle is assembled under this section the Authority may issue a chassis number”.

Madam Chairman: “Where a vehicle is assembled under this section the Authority may issue a chassis number in respect of such vehicle assembled by a local manufacturer.”

So, there is no (3) as originally proposed in the amendment, so we delete the

existing (2) and substitute a new (2).

Hon. Senators, the question is that clause 103 be amended as circulated, and further amended—sorry, we cannot even take the circulated amendment. We have to do a whole new—so, you need to propose that Attorney General. Withdraw your circulated amendments and we would go with what we worked out on the floor.

Sen. Nicholas: I beg to move that the amendment circulated be withdrawn for 103, please.

Madam Chairman: So, hon. Senators, the question is that clause 103 be amended as follows:

“In subclause (1) delete the words ‘shall not’ and insert the word ‘who’”.

Deleting the words “shall not assemble” and substituting the words “who assembles”, and after (c) inserting the words “shall register the vehicle with the Authority”, and by deleting subsection (2) and substituting a new subsection (2) which reads:

“Where a vehicle is assembled under this section the Authority may issue a chassis number in respect of such vehicle assembled by a local manufacturer.”

Question put and agreed to.

Clause 103, as amended, ordered to stand part of Bill.

Clause 104.

Question proposed: That clause 104 stand part of the Bill.

Sen. Prescott SC: Could I, through you, enquire of the Leader of Government Business, if he has any plan in mind to report further progress to the whole Senate tonight?

Sen. G. Singh: Thank you, Madam Chair, I intend so to do within the next hour.

Sen. Prescott SC: Thank you. Thank you, Chair.

Sen. Al-Rawi: Madam Chair, clause 104, I was just wondering about 104(2) and the use of the word “shall”. I was wondering—“on the coming into force of this Act an owner of a motor vehicle registered under the former Act shall at the discretion of the Authority”. [*Interruption*] I am not sure, is it the solid intention that it must be mandatory to transition everybody over at some point?

Sen. Prescott SC: Yes.

Sen. Al-Rawi: That is it.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Okay, well then I understand. Is there to be prescribed an offence for failure to comply with this, and if so, is the general offence provision applied in this regard? Well, what is the offence for failing to comply?

Hon. Cadiz: We would want to determine the time frame by which we would be in a position to do this transfer. It is 800,000 vehicles that have to be re-registered, so once we set the time frame then your vehicle—

Sen. Al-Rawi: Sorry, hon. Minister, I am with you fully. “Shall” takes care of it, because you have established the policy. What I am looking at now is, what is the sanction to compel?

Hon. Cadiz: If, at the expiry of that period you have not transitioned and you have not transferred to the new registration then your vehicle will no longer be considered to be licenced to drive on a road.

Sen. Al-Rawi: So, the question in transitional provisions is whether that needs to be stated.

Hon. Cadiz: Well, I think if we give—or I would have thought that if we give you a time frame to get this thing done and you did not get it done, and you had all opportunity to do it, the day that the transition stops then you park up your car home.

Sen. Al-Rawi: Well, let us look at it this way, “on the coming into force of this Act”—104(1)—“the registration of a vehicle registered under the former Act shall remain valid until the vehicle is registered in accordance with the requirements of this Act.”

And then (2), it shall be at the discretion of the Authority to—“an owner of a vehicle registered under the former Act shall at the discretion be required to apply for registration of his vehicle”. So, he may apply. That does not take him into the actual registration itself. “The Authority may where it is satisfied with the validity of an application and documentation register the vehicle”. I am just wondering if your transitional provision, perhaps your legislative team is aware of how the transitional provisions in Nova Scotia or elsewhere went. I am sort of concerned that this may be too narrow.

Sen. Nicholas: I honestly do not see the issue, simply because having set the deadline for transferring, anyone who fails to transfer would no longer hold valid documents and all the penalties for not holding valid documents would then apply.

Sen. Al-Rawi: Okay, I could work with that, but I know that I have seen transitional provisions a bit broader. So, the sanction for the record is that once the passage of the time frame to register under the new legislation has expired then the consequence is a lack of registration, but—[*Interruption*] okay, I am sort of uncomfortable, I do not have the clear answer for this.

Sen. Prescott SC: To the Attorney General, would you tell us why in subclause (3) the Authority would not be obliged to register a vehicle where it is satisfied with the validity of the application and the documentation?

Sen. Al-Rawi: So, that is “may” to “shall” in subclause (3)?

Sen. Nicholas: Yes, it can be “shall” where it is satisfied.

Sen. Prescott SC: Thank you.

Madam Chairman: “The Authority shall where it is satisfied”?

Sen. Nicholas: Yes, please, Madam Chair.

Madam Chairman: Hon. Senators, the question is that clause 104 be amended in subsection (3) by deleting the word “may” after “Authority” and substituting the word “shall”.

Question put and agreed to.

Clause 104, as amended, ordered to stand part of the Bill.

Madam Chairman: Can we take Part A all together?

Sen. Al-Rawi: Sorry, Madam Chair, that smile was worth saying yes to, but should it please you I have some concerns on the language in—

Madam Chairman: Okay, we would take it clause by clause, Senator.

Sen. Al-Rawi: Much obliged.

Clause 105.

Question proposed: That clause 105 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move have that clause 105 be amended as circulated:

- A. In the definition of “applicant”, delete the words “person with”.
- B. Delete the definition of “person with a disability parking permit” and substitute the following definition:

“disability parking permit” means a permit issued under section 106 to allow access to parking spaces designated for the exclusive use by a person with disabilities.”

Sen. Al-Rawi: So, effectively the amendments are to bring in line persons with disability now to refer to it as disability parking permits, correct?

Madam Chairman: Yes.

Sen. Al-Rawi: That is the extent of it. And, if so, does it take care of the first

concern that I had? The second concern that I have, if I may, Madam Chair, in the definition of person with disabilities, I was wondering where this definition came from. It is a little usual in that it is a little selective and I was not quite sure how it fit in, in any event, apart from where it comes from:

“‘person with disabilities’ means a person whose mobility”—et cetera—“to the extent that—

- (a) the person is unable...
- (b) the person...
 - (i)
 - (ii)
 - (iii)...”

If you read at (iii) has a severe neuromuscular or skeletal condition, and because of any of the conditions as described in paragraph (i) or (ii) is limited in mobility to 50 metres or less in outdoor weather conditions. Is it that the word “and” should be broken into the tail end of roman (i), (ii) and (iii)?

10.35 p.m.

Madam Chairman: Senator, is it not that the amendments have removed most of what you are speaking to?

Sen. Al-Rawi: I did not see that that way, Madam Chair.

Sen. Nicholas: The definition of “person with disabilities” has been removed from 105 and placed in the definition section at the beginning.

Sen. Prescott SC: And placed where?

Sen. Nicholas: The definition section at the beginning.

Sen. Al-Rawi: I see. I did not quite catch that. I was not aware of that. Has it been removed, not to aggravate Sen. Vieira, *mutatis mutandis* or fully? Has it been removed as it is and transplanted there?

Hon. Senator: Yes.

Sen. Al-Rawi: If so, then, the same observation arises. I think the language in (b)(iii), so that is—

Sen. Nicholas: The language actually came from, I have been told, extensive consultation with the disabled community. And that is where the language was formulated—but the definitions.

Sen. Prescott SC: Chairman, may I enquire—

Madam Chairman: Sen. Prescott.

Sen. Prescott SC:—through the Attorney General. Attorney General, I do not have a recollection of us introducing a definition of a person with disability in the definition section. Do you have a note of it somewhere?

Sen. Nicholas: Well this particular amendment makes that so.

Sen. Prescott SC: Really? How so?

Sen. Nicholas: Clause 105—

B. Delete the definition of persons with a disability—

Sen. Prescott SC: Yes, and substitute, here in Part VIII what is now suggested.

Sen. Nicholas: It is not in the amendment.

Sen. Prescott SC: No, it is not.

Sen. Nicholas: It is not in the list of amendment.

Madam Chairman: Hon. Senators, clause 4 which is the definition clause is already carded for a revisit.

Sen. Prescott SC: Oh! So it is something that you propose to do when we get there? Introduce a definition for persons with a disability.

Sen. Nicholas: Whilst we have actually placed it—

Sen. Prescott SC: “We” being you and your team.

Sen. Nicholas: The Government.

Sen. Prescott SC: Yeah, the Government changes?

Sen. Nicholas: So that the circulated list of amendments has it in the definition section.

Sen. Prescott SC: Oh, I see.

Sen. Nicholas: But we did not—

Sen. Prescott SC: So we will come back to it.

Sen. Nicholas: We failed to mention it in the clause 105 amendments.

Sen. Prescott SC: Okay. So we will deal with it later.

Sen. Nicholas: So I do apologize.

Sen. Al-Rawi: But, Madam Chair, may I point out, insofar as, it is proposed that this definition migrates somewhere else, that the team should look at, the Attorney General's team, the language in (a), (b)(iii), I believe that it should be "broken" after the word "condition" and before the word "and", so that—

Madam Chairman: I think the entire thing is deleted.

Sen. Al-Rawi: But the AG said that it is going to the definition section. The whole thing.

Madam Chairman: Could we discuss that when we revisit clause 4?

Sen. Al-Rawi: Sure, as you please, Madam Chair.

Madam Chairman: Thank you. So the new clause 105 will read in effect AG:

“‘disability parking permit’ means a permit issued under section 106 to allow access to parking spaces designated for the exclusive use of a person with disabilities;”

Sen. Nicholas: Yes, Ma'am.

Madam Chairman: An “International Symbol of Access means the symbol which is used”, et cetera.

Sen. Prescott SC: May I enquire, is there not a definition for the word “applicant” in that?

Sen. Nicholas: Yeah.

Sen. Prescott SC: “Applicant” means a person who applies for a disability parking permit?

Sen. Nicholas: Yes.

Sen. Al-Rawi: And also if the definition is migrating, why are some definition staying and others going?

Sen. Nicholas: It was actually the request of Sen. Singh, when he sat as an Independent Senator and speaking on behalf of the disabled community that he would prefer to see that particular definition for persons with disabilities form part of the main interpretation.

Sen. Al-Rawi: So, just for clarity, what is staying in 105? Clause 105 now reads, definition of “applicant” stays.

Sen. Nicholas: Yes.

Sen. Al-Rawi: “Person with disabilities”—

Sen. Prescott SC: No.

Sen. Al-Rawi:—does not stay.

Sen. Nicholas: “Disability parking permit” stays and “International Symbol of Access” stays.

Sen. Al-Rawi: I see.

Sen. Prescott SC: And your question is, why are they all not—

Sen. Al-Rawi: Yes. My question is, why do they all not go? Because when you split up the reference to definition this way, cross referencing meanings is often difficult.

Sen. Nicholas: Having them in the section where they are dealt with—

Sen. Prescott SC: Madam Chair, may I just point out that—

Sen. Nicholas: —is a little more convenient.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Clause 105 says it is limited to Part VIII. If therefore the term “person with disabilities” appears elsewhere, it may not change but it does not incorporate those references.

Sen. Al-Rawi: Correct.

Sen. Prescott SC: So it might be worth your consideration at this time that we put all of the definitions in clause 4 and not limit it to a reading of Part VIII.

Sen. Nicholas: The other definitions only appear in Part VIII.

Sen. Prescott SC: Beg your pardon.

Sen. Al-Rawi: No, sorry. “Disability parking permit”, we dealt with AG in the earlier clauses, specifically.

Sen. Prescott SC: Yeah, I remember seeing it, not too long ago while I was awake. Was anybody awake then?

Sen. Nicholas: Very well, we will migrate all the definitions to the definition clause.

Sen. Prescott SC: Thank you. *Mutatis mutandis* according to my colleague.

Madam Chairman: Hon. Senators, the question is that clause 105 be deleted and subsequent clauses be renumbered in accordance—*[Interruption]*

Sen. Al-Rawi: It is in clause 86, for example, AG. Clause 86 has the references.

Question put and agreed to.

Clause 105 deleted.

Madam Chairman: So we are moving on, clause 106. Clause 106 becomes the new 105, but could we keep the original numbers in the interim so that we do not become confused as we move along.

Clause 106.

Question proposed: That clause 106 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 106 be amended as circulated:

Delete the words “person with disability parking permit shall apply to the Authority in the prescribed form and pay the fees specified in the Fifth Schedule” and substitute the words “a disability parking permit and apply to the Authority in the prescribed form”.

Sen. Al-Rawi: Would the AG mind reading the amendment, just for the record. I seem to be a little fuzzy on it.

Madam Chairman: Clause 106 now says:

“A person who wishes to be issued with person with disability parking permit shall apply to the Authority in the prescribed form...”

Sen. Al-Rawi: So we are deleting “and pay the fees specified”?

Madam Chairman: Yes.

Sen. Al-Rawi: If I may ask, why?

Madam Chairman: Attorney General.

Sen. Nicholas: Because we have decided not to charge them.

Sen. Prescott SC: Why have you decided not to charge them?

Sen. Nicholas: He asked why we removed the—

Sen. Al-Rawi: Yeah, yeah, I was asking why.

Sen. Prescott SC: I have a supplemental question. Why have you decided not to charge them?

Madam Chairman: At this point in time—

Sen. Prescott SC: Oh! Did he say at this point in time?

Madam Chairman: No, I am telling you—[*Laughter*]

Sen. Nicholas: Policy decision.

Sen. Dr. Maharaj: Because the Government has a part.

Madam Chairman: I understand other jurisdictions have it free.

Hon. Cadiz: It is a policy decision.

Sen. Prescott SC: May I be offensive to people who have disabilities that they do not wish to be singled out for charitable gratuitous or philanthropic treatment.

Hon. Cadiz: Then we come to an argument of having to charge them for it.

Sen. Prescott SC: Oh, no. They have money. [*Laughter*]

Question put and agreed to.

Clause 106, as amended, ordered to stand part of the Bill.

Clause 107.

Question proposed: That clause 107 stand part of the Bill.

Sen. Nicholas: Madam Chair, I beg to move that clause 107 be amended as circulated:

- A. In subclauses (1), (2), (3), (5) and (6), delete the words “person with”.
- B. In subclause (4), insert after the words “person with”, the word “a”.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Actually, I looked at 107(5), and I reflected on an earlier clause that mentioned the doctor certifying permanent disability. And in this instance we are speaking about a medical practitioner certifying immobility which seems more sensible to me than the previous clause, where the doctor had to certify a permanent disability. Just clarification, the distinction in those two clauses, the earlier clause with this one.

Sen. Nicholas: What exactly is the clarification that is required?

Sen. Drayton: Well, in the first instance and I think it was clause seventy-something or thereabouts, which called for a medical practitioner to certify that the person is permanently disabled. And this clause speaks to—

Madam Chairman: Immobility.

Sen. Drayton: Immobility. And it is with respect to obtaining a parking permit. So I am trying in my mind to understand why certifying permanent in one instance, and in this instance it is immobility, and there are periods “not exceeding six months” or “three years”—

Sen. Nicholas: Immobility—[*Interruption*]

Madam Chairman: Sen. G. Singh.

Sen. G. Singh: My recollection, Madam Chair, was that the whole question of the permanent or partial was for purposes of the vehicle, the registration of vehicle that had certain designs, changes and so on.

Sen. Nicholas: Which is correct.

Sen. G. Singh: And subsequently the question of the parking hanger was for all persons who fall within immobility: partial, permanent and temporary. That is my understanding of it.

Sen. Nicholas: That is correct.

Sen. Al-Rawi: May I enquire, insofar as to avoid targeting or discrimination, a person with a disability may elect not to have the plate. For instance, Sen. Dr. Kriyaan Singh had put forward a very interesting point that when you have the symbol on a plate people may target you and attack you, et cetera. So, insofar as it was an elective position, either for plate or for hanger, then the permanent partial disability issue falls apart, because one may elect for the hanger as opposed to the plate. But we also have some further anomaly in terms of the language. We are using in this section, a medical practitioner certifies immobility. Before we used a

registered practitioner. We are now using an immobility as opposed to the permanent disability aspect. Wherein, qualified medical practitioner in clause 107(1), 107(5)(a), “where a medical practitioner certifies the immobility”. When we look to subclause (2):

“The Authority may issue a person with disability parking permit to a visitor...if the visitor establishes”—now this is under 90 days—“ that the visitor is the holder of a valid form of identification, permit or number plates, bearing the International Symbol of Access...”

That seems to me, to be a little bit odd, that this person who is visiting Trinidad for 90 days may walk with number plates. I have heard Sen. G. Singh say, perhaps it is that he may come with a vehicle. I see. But I think that we need to tighten up the phrases that we use, the terms, medical practitioner, qualified medical practitioner, registered medical practitioner. Let us look at clause 85.

10.50 p.m.

And 86(2) uses:

“Where an application is made under subsection (1) and the applicable fee”—et cetera—“the Authority may register”—et cetera—“where the applicant provides a certificate from a registered medical practitioner certifying that the applicant’s disability or immobility is permanent.”

So here we see “immobility”. But in the clause above it is “permanently disabled”.

Madam Chairman: So we are using what, “registered”?

Sen. Nicholas: We simply need to put “medical practitioner”. “Medical practitioner” is defined in the Bill. All the “registered”, all of those things could come off. It is just “medical practitioner”.

Madam Chairman: Any other concerns with 107?

Sen. Al-Rawi: Sorry, just to catch the AG’s thought. So is it that we would revisit,

for instance, clause 86 and take out the word “registered” from “medical practitioner”—86(2)?

Sen. Nicholas: We can, with the permission of the Chair.

Sen. Al-Rawi: I was getting happy that the Chair wanted a small break, but—

Madam Chairman: What would you like, Attorney General?

Sen. Nicholas: That we remove “qualified” from “medical practitioner” and wherever “medical practitioner” appears, it is just to be “medical practitioner”.

Madam Chairman: Throughout the Bill.

Sen. Nicholas: Throughout the Bill.

Sen. Prescott SC: Chair, may I?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: Could the hon. Attorney General confirm that the circulated amendment to 107, insofar as it says “In subclauses (1), (2), (3), (5) and (6), delete the words “person with”, does not refer to the use of those words in line three of 107(1)—

Sen. Nicholas: Only refers to “person with” when speaking with disability parking permit.

Sen. Prescott SC: So, for the record, we may say that in line three of 107(1), the words “person with disabilities” remain and in subclause (3) in the last line, the words “persons with disabilities” should appear.

Sen. Nicholas: “person with disabilities” appears in 107(1) in lines two and in line three.

Sen. Prescott SC: Thank you.

Sen. Al-Rawi: May I please submit—

Madam Chairman: Before you—

Sen. Nicholas: “person with disabilities” also appears in 107(3) line four.

Madam Chairman: That should be “persons”.

Sen. Prescott SC: That should be “persons”.

Madam Chairman: “to provide transportation services to persons with disabilities”—

Sen. Nicholas: Yes.

Madam Chairman: So we delete the word “person” and insert the new word, “persons”.

Sen. Al-Rawi: Madam Chair.

Madam Chairman: Sen. Al-Rawi.

Sen. Al-Rawi: Much obliged, Ma’am. 107(1), if I were to try to bring some congruity between 86(2) and 107(1), perhaps we could consider just before the word “immobility” in the final line of 107(1): “and specifies the anticipated length of time that the”—insert “applicant’s disability or immobility is expected to continue.”

That would use the same language as we had in 86(2) where we spoke that the medical practitioner should certify that the applicant’s disability or immobility is permanent. And then I was wondering, in subclause (3): “The Authority may issue a person with disability”—

Sen. Prescott SC: Um-um.

Sen. Al-Rawi: Sorry, “persons with disability”—

Madam Chairman: “a disability parking permit”.

Sen. Al-Rawi: Forgive me. “—disability parking permit to any entity, organization or corporation...”

Madam Chairman: It is all of the same.

Sen. Al-Rawi: Why are we not just saying “person”? Because we are excluding “an entity is an unregistered partnership” et cetera, an organization, corporation,

but where is the natural individual, John Brown, who may himself own a number of vehicles that are owned or leased by him? There is nothing to prohibit a person having 20 cars in his own name and doing this. So he is specifically excluded out of subclause (3) from getting a fleet disability parking permit, if I could use that expression.

Madam Chairman: But it is all to provide transportation services.

Sen. Al-Rawi: Yes, but, the Authority may issue this disability permit to any entity, organization or corporation. Individual and person is not included there. If you are going to specify them out, you are, by the nature of the language and choice used, you are excluding a person, a natural person, from owning several vehicles and doing this. Then you also have in subclause (5), this permit issued—I am just paraphrasing, forgive me—under this section shall be valid for a period of three years where a medical practitioner certifies the immobility. Perhaps we should again use, “certificates the applicant’s disability or immobility”, keeping in line with the language of 86(2).

Sen. Prescott SC: Except that—may I, Chair?

Madam Chairman: Yes.

Sen. Prescott SC: Except that in the proposed definition of “persons with disability” it says that means “a person whose mobility is limited”. So that it appears to me that it might be—

Sen. Vieira: Superfluous.

Sen. Prescott SC: Yes. You can use the word “immobility” and that should cover—

Sen. Al-Rawi: Sure. In which case, then, we would have to revisit clause 86—

Sen. Prescott SC: We may well have to.

Sen. Al-Rawi:—to look at the language which may be equally superfluous. But

may I, nonetheless, ask the Attorney General, through you, Madam Chair, for his perspective on 107(3)?

Hon. Cadiz: (3) really is speaking to organizations, for instance, that could cater to persons with disabilities. So if there was a minibus, for instance, that would move people around—

Sen. Al-Rawi: I understand. But what if I, Faris Al-Rawi, decided to buy 40 buses?

Hon. Cadiz: No, you, Faris Al-Rawi, are one, so you take your hanger and whichever car you want to jump in that day, you just stick your hanger and you go with it.

Sen. Prescott SC: Chair, I thought what Sen. Al-Rawi was saying is that the word “person” covers all of these three and himself.

Sen. Al-Rawi: Correct.

Hon. Cadiz: No, but the person with the immobility—

Sen. Prescott SC: No, no, I am sorry. I probably jumped out of line. In (3), where you speak of entities, organizations or corporations being issued a parking permit, he says, if you simply said: “The Authority may issue a disability parking permit to a person in respect of a number of vehicles”, you cover the human person as well as the organization.

Sen. Al-Rawi: That is exactly the point.

Madam Chairman: Sen. Singh.

Sen. G. Singh: Madam Chair, I wish to respond to that point but I gave an undertaking that we will adjourn the debate on the committee stage. So, Madam, in accordance with Standing Order 53(12), I beg to move that progress be reported to the Senate.

Question put and agreed to.

Senate resumed.

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Madam President, I wish to report that progress has been made with the Bill and seek leave to resume the committee stage at a later date.

Question put and agreed to.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, I beg to move that this Senate do now adjourn to Tuesday, June 09, at 11.30a.m., and at that sitting we will begin the debate on the Gambling (Gaming and Betting) Control Bill, 2015 and, subject to its completion, the State Land (Regularization of Tenure) (Miscellaneous Amendments) Bill, 2014, and also we hope to resume the committee stage at some point in time during the course of tomorrow, of this Bill before us.

Question put.

Hon. Senators: Division! [*Crosstalk*]

Madam President: Hon. Senators, may I remind you that you have just voted for the adjournment and nothing else.

Sen. The Hon. G. Singh: No division.

Madam President: We cannot have a division on the adjournment. Are you saying you do not want to adjourn?

Sen. Robinson-Regis: That is what I am saying.

Madam President: You do not wish to adjourn?

Sen. Robinson-Regis: No, I want to stay. [*Crosstalk*]

Madam President: No, you do not have a division on adjournment.

Sen. Robinson-Regis: Madam President, could I make an intervention here?

Thank you. I am just saying that my colleague, the Leader of Government Business, has given an agenda for tomorrow, but as is the norm—I do not know if it is because the Parliament is coming to an end, he is now becoming not as nice as he was when he first started—[*Laughter*]

Hon. Senator: Nice?

Sen. Robinson-Regis: Yeah, nice. Because we have had a history of discussing certain things, and I certainly did not know that would be the agenda, so I had some concerns about the agenda. And he has indicated certain things that, I think, should have been discussed. I prefer not to say it, but I would really have preferred if we had the normal discussion, and I think I needed to indicate that to the House.

Sen. The Hon. G. Singh: Madam President, I apologize to my colleague. It was not meant in any way; it is just that it is pretty late in the proceedings and it was remiss of me not to convey to her those sentiments, but it was meant to, really, allow for the proper functioning of the Senate.

Madam President: Hon. Senators, the question was on the adjournment of the Senate.

Question agreed to.

Senate adjourned accordingly.

Adjourned at 11.05 p.m.