

THE House of Assembly Debates

(OFFICIAL REPORT)

SECOND SESSION 1999 - 2004

HOUSE OF ASSEMBLY

Tuesday, November 09, 2004.

HOUSE OF ASSEMBLY Pursuant to the adjournment, the House of Assembly met at 10:12 a.m.

PRESENT

His Honour I.A. ROETT, B.A., Dip. Ed., G.C.M. (Speaker) His Honour J. M. EDGHILL, J.P. (Deputy Speaker) Mr. D.J.H. THOMPSON, LL.B.(Hons.) Mr. L.R. TULL, Q.C., M.A. (Oxon.) Hon. R.C. EASTMOND, B.A.(Hons.), Dip. Ed., LL.B.(Hons.), L.E.C., J.P. (Minister of Labour and Social Security) Hon. R.R. FARLEY, B.Sc., J.P. (Minister of Education, Youth Affairs and Sports) Hon. G. A. CLARKE, B.Sc., Dip. Ed., J.P. (Minister of Public Works and Transport) Hon. R.D. MARSHALL (Chairman of Committees) Hon. H. F. LASHLEY (Minister of Social Transformation) Mr. R. St.C. TOPPIN, LL.B.(Hons.) Mr. D. St.E. KELLMAN Hon. Miss H.E. THOMPSON, LL.B. (Minister of Housing, Lands and the Environment) Mr. T.A. PRESCOD, B.A. Rev. J.J.S. ATHERLEY, B.A., B.Sc., J.P. (Parliamentary Secretary to the Attorney-General and Minister of Home Affairs) Hon. A.P. Wood, B.Sc, M.Sc., M.Phil., J.P. (Minister of Energy and Public Utilities) Hon. Miss C.Y. FORDE, L.C.P., J.P. (Minister of State, Ministry of Education, Youth Affairs and Sports) Hon. J.X. WALCOTT, M.B., B.S., FRCS (Edin.), J.P. (Minister of Health) Mr. R.D. JONES, B.A.(Hons.), M.A.(Ed.), J.P. Dr. D.C. ESTWICK, B.Sc., M.B., B.S. Mr. C.A. MASCOLL, B.Sc.(Econ.)(Hons.), M.A. (Public Finance) (Leader of the Opposition) Hon. D.D. MARSHALL, LL.B. (Hons.) L.E.C., (Minister of Industry and International Business) Mr. M.A. LASHLEY, LL.B.(Hons.) Dr. W.F. DUGUID, B.D.S. (Comm.), F.D.S., FDRCS, J.P. Mr. R.L. SEALY, B.Sc., M.B.A.

Prayers were led by Rev. Canon Ivan Harewood.

Mr. SPEAKER: This House is now in session.

MINUTES

Mr. SPEAKER: Minutes of the meeting held on Tuesday, November 02, 2004.

Hon. R.C. EASTMOND: Mr. Speaker, I beg to move that the Minutes so cited be confirmed,

subject to any omissions, observations and/or corrections.

Hon. R.R. FARLEY: I beg to second that, Sir.

Mr. SPEAKER: If there are no corrections or observations, then let those Minutes stand confirmed.

ANNOUNCEMENTS BY HIS HONOUR THE SPEAKER

Mr. SPEAKER: I am to report to this Honourable House that I am in receipt from the Accountant General of the Accounts and Statements for the month of July 2004.

PAPERS

Hon. R.C. EASTMOND: Mr. Speaker, I am commanded to lay the following

1. Annual Report of the Labour Department for the year 2001.

NOTICES

Hon. R.C. EASTMOND: Mr. Speaker, I beg to give notice of the following

1. The Local Loans (Amendment) Bill, 2004.

2. The Miscellaneous Amendments (Budgetary Provisions) Bill, 2004.

FIRST READING OF BILLS

Hon. R.C. EASTMOND: Mr. Speaker, I beg to move that the following Bills be read a first time

1. The Local Loans (Amendment) Bill, 2004.

2. The Miscellaneous (Amendments) Budgetary Provisions Bill, 2004.

Hon. R. R. FARLEY: I beg to second that, Sir.

The question was put and resolved in the affirmative without division.

SUSPENSION OF STANDING ORDERS

Hon. R.C. EASTMOND: Mr. Speaker, I beg to move the suspension of Standing Orders 6, 16, 18, 20, 42(5), 32 and 44 for the remainder of today's Sitting.

Hon. R. R. FARLEY: I beg to second that, Sir.

The question was put and resolved in the affirmative without division.

GOVERNMENT BUSINESS
ORDER NO. 2 - SEVERANCE PAYMENTS TRIBUNALS
(VALIDATION) BILL, 2004.

Hon. R. C. EASTMOND: Mr. Speaker, this is a matter that is as simple as it is unfortunate. It arises because of an administrative omission. It transpired, Sir, that the Severance Payments Tribunal was to have ended its tenure on August 31, 2003.

The tenure was supposed to have ended and be communicated to all parties, including the Tribunal members and the Minister. As it happened, when the August 31, 2003 came, through the failure of officers in the Ministry to pick up the file on time, it happened that nobody got to know that the terms of service of this Tribunal had actually ended, and so the Tribunal members continued to sit and to act.

Clearly, Mr. Speaker, in circumstances where members' tenure has ended and they continue to act, then it can be said that continuing beyond the end of tenure would mean acting without authority. We are asking Parliament to give that authority, retrospectively, Sir, by validating all acts and decisions taken by the Severance Payments Tribunal between September 1, 2003 until now.

Mr. Speaker, the Bill before this Honourable House mentions the dates for validation as September 1, 2003 to February 6, 2004. Sir, to put the matter right, I am proposing a motion for amendment in Committee, that the February 6, 2004 date be changed to today, November 9, 2004.

As I said in my opening remarks, Mr. Speaker, all Parliament is required to do is to pass law here today to put right all acts and decisions of the Severance Payments Tribunal that occurred between September 1, 2003 and now.

Mr. Speaker, I beg to move that this Bill be read a second time.

Hon. G. A. CLARKE: I beg to second that, Sir.

The question was put and resolved in the affirmative without division.

Hon. R. C. EASTMOND: Mr. Speaker, the Bill has been read a second time and the next stage is for it to go to Committee. I do not see the Chairman of Committees, so I am going to put a motion that the Honourable Member for Christ Church West be appointed temporary Chairman of Committees.

Hon. R. R. FARLEY: I beg to second that, Sir.

Mr. SPEAKER: If this be the will of the House, then so be it.

On the motion of Hon. R.C. EASTMOND, seconded by Hon. Hon. R. R. FARLEY, the House

resolved itself into Committee on the Bill, Dr. W. F. DUGUID in the Chair.

COMMITTEE

CHAIRMAN: This House is now in Committee.

House 46, sequence 3,

10:30 a.m.

Tuesday, November 09, 2004

Hon. R. C. EASTMOND: Mr. Chairman, I first beg to move that the long title of this Bill be changed. It currently reads an Act to Validate the Functions Performed by the Severance Payments Tribunals during the period 1st September, 2003 to 6th February, 2004. I want to make an amendment to reflect the period 1st September, 2003 until 9th November, 2004. So I am asking Honourable Members to agree that 6th February, 2004 be changed to 9th November, 2004.

The question was put and resolved in the affirmative without division.

Clause 1 was called and passed.

Clause 2 was called.

Hon. R. C. EASTMOND: Mr. Chairman, I beg to move that Clause 2 be amended to read as follows

“All functions performed in pursuance of the Severance Payments Act by persons purporting to constitute the Severance Payments Tribunals during the period 1st September, 2003 to 9th November, 2004, both dates inclusive, and all matters done in relation thereto shall be deemed to have been lawfully and validly performed and done as if those Tribunals had been lawfully and validly appointed and constituted under section 38 of that Act.”

Clause 2 as amended was passed.

On the motion of Hon. R. C. EASTMOND, seconded by Hon. R. R. FARLEY, Mr. CHAIRMAN reported to His Honour, the SPEAKER, the passing of one Bill with amendments in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. R. C. EASTMOND, seconded by Hon. R. R. FARLEY, the Bill was read a third time, passed and cited as the Severance Payments Tribunals (Validation) Act, 2004.

Mr. SPEAKER: The Honourable Member for St. Michael North West.

Mr. C. A. MASCOLL: On a point of privilege. Mr. Speaker, I rise on a point of privilege because this is the third successive week that this House has met and the Opposition came prepared to debate a

matter that we were informed would have been debated. Last week, against the will of some of the Opposition Members, I thought the honourable thing to do, given the status of the Prime Minister in the process of the CARICOM Single Market and Economy, was to allow the Prime Minister to speak to the matter of the CARICOM Single Market and Economy given that he leads that particular portfolio within CARICOM.

Mr. Speaker, as we speak, the countries are meeting in Trinidad to discuss the matter, therefore in light of that, I felt that the honourable thing to do was to allow the Prime Minister to be able to go before that forum and say that he has been able to advance the work and cause of the CARICOM Single Market and Economy. The debate was deferred and we were promised that we would resume the debate on the CARICOM Single Market and Economy today. Mr. Speaker, I spent the entire week perusing all the previous legislation that would have been brought to this Chamber so that I could make a reasonable contribution to the advancement of such an important institution within the affairs of the Caribbean, only to enter into this Honourable Chamber this morning and be confronted with another bout of disappointment on the part of the Government as we have entered into a debate on something to do with severance payments that we had not even dreamt about and had not even contemplated. I therefore am restraining Honourable Members of this side from walking out of this Honourable Chamber at this time because of the concerns they are expressing with respect to the apparent disrespect that the Government is showing toward the Opposition. It is unfortunate because last week we could have insisted, if not demonstrated, on the need to be urgent about making a contribution on the CARICOM Single Market and Economy. Therefore, I think it is only but necessary for me to express such concerns.

Mr. Speaker, I am deeply saddened by this situation because it is not about governments alone because the process of integrating the region cannot be confined to just Heads of Governments, it has to be the inclusion of all the people in the region. In that regard, it is important that Opposition parties be given an opportunity to participate in the process. Sir, even if the Prime Minister felt that there would have been some contention with respect to the debate, the Opposition should have been afforded the right and the opportunity to express some concerns that have been raised publicly by Barbadians. We cannot expect that in the implementation there would not be any contention.

Mr. SPEAKER: Sir, you have made your concerns very clear. I really do not expect you to proceed now to give any kinds of opinions or speeches. Have you concluded in bringing your concerns to the attention of the House? **Mr. C. A. MASCOLL** I think I have. There is nothing much for me to say beyond my extreme disappointment in not having the opportunity this morning to debate the CARICOM Single Market and Economy Bill.

Mr. SPEAKER: The Acting Leader of the House would like to respond.

Hon. R. C. EASTMOND: Mr. Speaker, I too rise on a point of privilege. The last thing that Honourable Members on this side would want to do would be to mislead this Honourable House or a part of this Honourable House. I regret what has transpired but let me explain, Mr. Speaker. It is only a short while ago today that I discovered that I would have to take responsibility to lead this Honourable House, I am honest about that.

The matter of the CARICOM Single Market and Economy has been with us. We have had the

situation where the Right Honourable Member for St. Peter led the debate. It is my understanding that the Right Honourable Member for St. Peter feels that it would be entirely disrespectful to this Honourable House if the debate proceeds in his absence.

House 46 Sequence 4

10:30 a.m.

Tuesday, November 09, 2004

Continuation of Hon. R. C. EASTMOND: Mr. Speaker, the Right Honourable Member for St. Peter wants to be physically present for every stage of the debate and therefore, a communication has come that the Right Honourable Prime Minister and Honourable Member for St. Peter would rather be here during the entire debate to hear every Honourable Member's contribution and to respond. There was no intention to either mislead Honourable Members of this Honourable House or to deceive the Honourable Members of the Opposition.

Mr. Speaker, to the extent that the Honourable Member for St. Michael North West seems to be taken by surprise, I personally apologise to him, notwithstanding the fact that it was only a short while ago that I, too, discovered that I would be leading Government Business today.

Mr. SPEAKER: I would like to make a point relating to the Order of Business of the Honourable House. I believe it is only fair that the Opposition Party be informed. When I say be informed, I do not mean at 1000 a.m. or 1010 a.m. but that some attempt must be made, as it used to be done in the past, to inform the Opposition Party, as to what will be the business of the day.

I believe that the Honourable Member for St. Michael North West is not only disturbed about today but as he has said, about what has transpired previously. Therefore, I am suggesting to Government and to whoever is Leader of Government Business, that the Opposition Members should be informed. I believe that it is a matter of courtesy and makes for good relationship in our Honourable House. I am, therefore, suggesting that the Opposition should be given adequate notice as to what will be the business of the day.

Hon. R. C. EASTMOND: Mr. Speaker, in all the circumstances, I give this Honourable House an undertaking that in the future, taking into account everything, we will try our utmost to communicate with the Opposition Party, as has been the practice.

Mr. Speaker, if I had known from yesterday, clearly I would have contacted the Leader of the Opposition and would have told him about today but as I said earlier, I only became Leader of Government Business this morning at 10:00 a.m.

Mr. C. A. MASCOLL: Mr. Speaker, I would like to say that in all fairness to the present acting Leader of Government Business, that whenever he knows that he is in charge of this Honourable House, on those occasions he has sought to inform me as to the business of the day. But that is not true for the substantive officer who started off in that way but then found it necessary and perhaps convenient to exclude the Opposition from such information, perhaps because of the perception that we

would be under-prepared.

Mr. SPEAKER: Honourable Members, of course, I am not in a position to speak about the veracity of the last speaker's statement, but when the Leader of the House returns to the island, I will call a meeting in my Chambers with both the Leader of the Opposition and the Leader of the Honourable House to discuss this matter. Until the Leader of the Honourable House returns, I am suggesting to the acting Leader of this Honourable House that the Opposition must be informed and must be given enough time.

The difficulty, of course, is that both Parties have their meetings on Monday nights and I take it that with the Government, this is when a determination is made as to what business will be discussed the following day. The earliest opportunity I see, therefore, that the Leader of the Opposition could be informed would either be late Monday night or very early the Tuesday morning, but I will have discussions with them both, as I have before done in my Chambers, so that we can have this matter of procedure settled. Can we proceed now?

ORDER NO. 4 - SECOND READING OF THE ROAD TRAFFIC (AMENDMENT) BILL, 2004.

MR. SPEAKER: The Honourable Member for St. George North.

Hon. G. A. CLARKE: Mr. Speaker, at present, in respect of motor vehicular accidents, the law allows a claim of \$10 million to any one individual or several individuals involved in the same accident. Under the present law the insurance companies could be asked to pay unlimited amounts to passengers in a car, bus, truck or any other accident involving such vehicles.

Mr. Speaker, section 38(1) of the Road Traffic Act states:

“For the purpose of this Act, a policy of insurance for a policy that is issued by a vehicle insurer and, subject to subsection (2), insures the persons or categories of persons specified in a policy against

(a) liability in respect of any sum to a maximum of \$10 million which such persons or categories of persons shall become liable to pay in respect of death of, or bodily injury to, any person.

(b) any sum not exceeding \$50 000 which such persons or categories of persons shall become liable to pay in respect of damage to property,

arising out of the use of a motor vehicle on a public road.

Mr. Speaker, it is against this background of unlimited insurance coverage that the General Insurance Association of Barbados has made representation to amend the current provisions of the Act. The amendment now sought is as follows:

“Liability in respect of any sum, to a maximum of \$10 million which such person or category of persons shall become liable to pay, in respect of death of, or bodily injury to, one person in any one accident.”

Mr. Speaker, in other words, it is important to note that in the present Act, it is any person, so that the insurance coverage could be for any amount, once it is an accident involving many persons.

The General Insurance Association of Barbados is proposing that the \$10 million should remain for one person. The Act further states:

2.(ii)“\$30 million which such persons or categories of persons shall become liable to pay in respect of death or bodily injury in the aggregate to any number of persons in any one accident.”

Mr. Speaker, insurers are concerned that the maximum of \$10 million payable in respect of death of, or bodily injury to, any person, is tantamount to unlimited coverage and reinsurers in the international market who carry the excess loss coverage were now no longer prepared to accept this risk and have advised local insurance that effective renewal dates beginning in 2004, they could not guarantee this coverage any more.

Mr. Speaker, this situation was exacerbated by the events of September 11th, 2001, when major reinsurance was required to meet the enormous losses suffered by that event. In this event, a number of insurance and reinsurance companies have withdrawn from the market because of the unlimited nature of the coverage. In fact, one of the major reinsurers which has helped both in the international market and in the Caribbean has said that they will discontinue the coverage in 2004.

H:No.46(5)

10:50 a.m.

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Continuation of Hon. G. A. CLARKE:

It is therefore important to note that many of the local insurance companies would want to seek reinsurance and this extension is indeed necessary.

Mr. Speaker, it is also important to note that unlimited liability insurance has been in crisis for several years and intense pressure has been brought to bear on all aspects of cover mainly because of outlandish levels of frivolous and dubious claims and settlements throughout North America and the Caribbean which have caused many insurance companies to go out of business.

It is important to note that the premiums charged to consumers have skyrocketed. In fact, in Barbados and most Caribbean countries, many vehicle owners and persons seeking insurance have complained about the high premiums now being charged because of the risk involved in the Caribbean and the Americas.

Mr. Speaker, it is, therefore, not surprising that this unlimited coverage has been unprofitable for reinsurers. The frequency of claims and the high level of settlement have had significant, negative

effect on insurers and reinsurers and, as a result, medium and small enterprises have suffered.

Mr. Speaker, if one looks at the amount of claims for accidents over the years, one would see that there were 4 197 accidents in 1980 resulting in 43 deaths. Sir, by 1990 the figure had jumped to 5 238 accidents with 225 serious injuries although deaths were reduced to 22 that year. In the year 2000, the total accidents were 2 693 but deaths were reduced to 27 and serious injuries were also reduced. It is important to note that vehicle accidents have increased from 1980 to 2000. Sir, the total number of accidents in 2002 were 7 641 with 25 deaths.

Mr. Speaker, it is against the background of the unlimited nature of the present law, that insurance companies have been called upon to pay out excessive amounts of settlements and reinsurers have stated quite categorically that they are limited companies operating in an unlimited market. This legislation is an attempt to help to preserve the insurance industry by putting a cap of \$30 million on settlements which would help the situation.

Mr. Speaker, this situation has impacted heavily on the region. At close examination, we find that the situation has become untenable and reinsurers have set the limit of their participation at a prohibitive cost. Consequently, local insurance companies would only be asked to cover up to the participation of the reinsurer. This has helped us to understand the nature of why it is important to set a statutory limit because law courts in the Caribbean and the Americas have awarded such high settlements that insurance companies had to go out of business.

We also realise that local vehicle owners, including the public service, have made representation to the Minister of Public Works and Minister of Finance through the Insurance Supervisor, that local insurance cost in Barbados has become excessive and that something had to be done about it.

Mr. Speaker, recommendations coming out of a report from the United States of America recommended that a ceiling for punitive damages be set at US\$250 000 and that damages for claims of loss of earnings should be paid periodically rather than in one settlement. It was also recommended that there should be a return to fault as a basis for liability as well as limiting the contingency fees of attorneys to reasonable amounts on a sliding scale since, in most cases, attorneys receive as much as two-thirds of all monies paid with the plaintiff receiving one-third. It was also recommended that there be a reasonable statute of limitation in all Tort actions.

Mr. Speaker, some may ask whether reinsurers are important to the Barbadian market and whether we need them. Sir, reinsurers are important because primary companies do not have the capital base to write risk of such magnitude on their own and, accordingly, reinsurance capacity is used to supplement the capacity of local insurance. Mr. Speaker, if there were no reinsurance could you imagine what would have happened after Hurricane Ivan when a number of homes, properties and crops were destroyed in Grenada and Jamaica? It is believed that claims could run into millions of dollars and therefore, reinsurers would help to underwrite some of these claims. Sir, reinsurers provide important coverage for the local industry and for persons involved in insurance.

H46/Sequence 6

11:00 a.m.

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Mr. SPEAKER: I would just like to recognise the presence of the Members of the National People's Congress of China. We welcome you all and hope you had a good time in our country. Honourable Member could you please give them our customary welcome.

Thank You.

Honourable Member for St. George North, please continue.

Hon. G. A. CLARKE: Mr. Speaker, the current limit in Barbados is \$10 million and there is no cap per event. Until recently Barbados was one of the three remaining regional jurisdictions, whose laws imposed a limited liability per event. The other two jurisdictions were the Bahamas and the Cayman Islands. These jurisdictions are in the process of amending their legislation to place a cap on this liability.

Mr. Speaker, in the Cayman Islands the limit is \$10 million per person with \$5 million per event and their effective date is 2004. Trinidad and Tobago's limit is \$1.1 million with \$2 million per event; St. Lucia, \$300,000.000 with \$1.5 million per event, Jamaica's is \$3 million per person or \$5 million per event and Bahamas' is \$2.5 million with \$30 million per event. Sir, by setting the limit at \$10 million per person with \$30 million per event is in keeping with regional trends.

Sir, in England unlimited liability coverage is still legalised while in the United States of America unlimited liability coverage is not legalised. In the European Union the current event is Euros.35 million with Euros.60 million per event. In France the law requires unlimited bodily injury cover. However, efforts are being made to end this statutory requirement for unlimited cover.

The following points should be noted about this type of insurance coverage. The imposition of a cap on motor liability has been the trend internationally. The local industry is satisfied that a cap of \$30 million is adequate. A higher limit would most likely result in increased premiums to the consumer and it is important that we keep the coverage so that the local industry will survive. Sir, unless this matter is addressed, it could cause problems in the future.

Mr. Speaker, therefore, amendment is necessary. The Government is also doing other things to help the situation. There is no doubt that Barbados has a large disposable income and there is no doubt that the bank credit for vehicles is excellent and with little or no security persons can now acquire a vehicle with the vehicle being the security. This has caused a situation where we now have in Barbados in excess of 106,000 registered vehicles on the island's network of 1,600 kilometres of paved roads and this needs to be addressed.

Mr. Speaker, of the 106,000 vehicles on the road, 86,000 are privately owned vehicles. This situation has caused such a problem in terms of traffic management in Barbados that we now have to manage the traffic flows more than we did in the past. The Government has been looking at not only amending the Road Traffic Act but also the Highway Act. A committee has been set up within the Ministry...

Mr. SPEAKER: Honourable Member, please restrict your comments.

Hon. G. A. CLARKE: Sir, it is against the background of trying to amend the Road Traffic Act that we have to do other things such as improving our highways and traffic management so that it will help alleviate some of the problems that currently exist. We believe that a lot of work will be done in the future to help correct some of the problems that now exist.

Sir, with those remarks, I beg that this Bill be read a second time.

Mr. SPEAKER: Honourable Member for St. Lucy.

Mr. D. St.E. KELLMAN: Sir, it is clear to me that we have a fundamental problem here today. We have just come out of a situation where we were privileged to watch the Presidential Debates in the United States of America and we were able to hear the Republicans doing everything in their power to limit the trial lawyers and the compensation to victims. Sir, no one would have thought that we would come to Parliament a week later and recognise that the same approach would be adopted by the Barbados Labour Party and this concurs with a statement which I made a few weeks ago. The Barbados Labour Party's behaviour reminds me of the Republicans in the United States of America.

Mr. Speaker, the evidence has been now presented in this amendment to the Road Traffic Act, where the same attitude which is practised by the Republicans in the United States of America is now being practised by the Barbados Labour Party against victims and lawyers.

Sir, it is clear to me that we are yet to see a continuation of this type of policy within these Chambers. We have to ask this question, if we have for, for example, a Transport Board bus that has the capacity to carry 72 passengers on any one trip and there happened to be an accident and all 72 people were to lose their lives, am I to believe that what I am hearing now is that we are to divide \$30 million among 72 people when previously those 72 people would have been entitled to the large amount?

Mr. Speaker, in most cases in Barbados you would normally find three persons travelling in a vehicle. So, \$30 million divided by 3 equals \$10 million. Therefore, it means that if all three persons travelling in that vehicle were to lose their lives, the average amount of money to each victim's relative will be \$10 million. The persons travelling on the Transport Board bus or the minibus are the ones that this Bill will affect.

Mr. Speaker, your constituents would be affected by this Bill and I have to put a case for you because you cannot speak in this debate.

Mr. SPEAKER: I thank you very much, Sir.

H46:Sequence 7

11:10 a.m.

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Mr. D. St.E. KELLMAN: Your constituents are the ones who will be limited.

Asides.

Mr. SPEAKER: Please proceed with the Bill.

Mr. D. St.E. KELLMAN: Yes, Sir. The point I am making is that it is okay to say that is what the insurance companies want but what we have to worry about, Sir, is not the “too few”. We have to worry that the masses of people who sent us here to represent their interests. They would never have thought that persons who look like you and I, would limit the amount of compensation that their families could receive, in case something happens to them.

Sir, their disposable income has been limited, so they are forced to travel on these vehicles. The possibility of risks has been increased because of a lack of a proper road traffic plan and now you are saying to these types of persons that you have to limit the compensation to them.

Sir, we have to be very careful how we run to this Parliament, lock, stock and barrel to represent the interest of the “too few”, without looking to represent the masses of people in this country. I will watch to see how this vote is taken today. I will see the ones who will support this Bill because to me, this is something that will have to go into the highways and byways and we will speak.

Sir, it is not only this but a combination of factors I am watching occurring in this country that do not speak well for the interest of the masses of people in this country. This is very serious. I understand that the insurance companies have their liabilities to look after but we, as a people, also have to balance it, and if this is the best balance that the Other Side could come with, I am surprised at a Party that called itself a labour party. Sir, when you speak of labour, you normally think about the masses, now you understand that the labour cannot be the masses’ and the labour has to be paying for the masses.

Sir, we have to be serious about this and I know that the Honourable Members that I see on this Frontbench who find it very difficult, considering how over the last ten years they have gone in the highways and byways telling the public of Barbados that it is the interest of the masses that they represent, and there is no way that a Frontbench looking like this can support this particular issue.

I run the risk and we can only find out, Sir, when it comes to the vote.

Asides.

Mr. D. St.E. KELLMAN: I am told to speak to realism and to ignore the masses and recognise that it is the capital class that they have to represent. Sir, I will speak to that. What the Honourable Member for St. Philip South is saying to me is to forget about the masses and understand that there is a possibility that if there is a serious accident, it would affect the “too few” in Barbados, and the interest of the number of people who might lose their lives, that their families are not important and we have to look after the balance sheets.

Sir, that is true. We have to look after the balance sheets but at the same time we have to be fair and that is all we are asking for, fairness. If fairness is difficult for you to preach after 2003, well say that,

because up to 2003, you were known to be a person who represented the interests of the masses of people. You walked around a couple of Sunday nights ago portraying that image and now you come into Parliament behaving differently.

Asides.

Mr. D. St.E. KELLMAN: Mr. Speaker, we need to understand that before we could come to this particular amendment, we must first address what the Minister said. We must have a proper road traffic plan.

Mr. Speaker, I would like you to witness what occurs every morning between the hours of 7:30 a.m. to 900 a.m. I want you to get in your car and come to Mapp Hill down to Warrens and see the amount of frustration that occurs on the road. I want you to see that it forces people to do things that they would not normally do.

Sir, I am saying that if we are going to do that, the first thing we need to do is to limit the risk of a serious accident occurring, by first making sure that we put measures in place so that people would be able to travel freely without any hindrance on the highway.

The Minister also spoke about insurance companies and production, then he went on to say that there were only 23 deaths so far for this year, as if a life is not important, but the balance sheet of a particular company is important. This is very serious because what you are seeing is a recognition of the losses occurring within the insurance companies.

Sir, it is important to note that these losses are not local. They are external, the reinsurance. Sir, am I to believe that because we had so many hurricanes this year and we were not affected that we are going to hear that in those countries where the hurricanes were able to impact in a negative way, they are going to limit the amount of money that the persons can claim? No, we are not going to hear that, but we are going to come in Barbados to hear that a house is important to somebody probably in Miami but the life of a person in Barbados is not important.

Sir, we are not going to hear any limits on what persons can claim if they live in Florida, Miami or any such country but in Barbados, we are going to hear that the reinsurers are interested in decreasing the amount of compensation to persons who die in accidents that would normally pass on to their families.

It is obvious to me, Sir, that the Minister did not look at this very serious point and, he looked at one side and ignored the other side of the equation. I am saying that if the Minister can produce evidence that we will not be impacted upon in a negative way because of the hurricanes that went through the Caribbean, as we were not part of the claims, then I might be able to sit on your Committee.

It is clear to me, Sir, that we will pay for what occurred in the other countries with the reinsurance. It means that the same way this occurred, the reinsurance will have to pick up the tab in Barbados, if something is happening in the negative. The same way that we have to pay our part to compensate them and because, as you know, Sir, even though Ivan did not affect Barbados in a massive way, the reinsurers will still look on us to pay part of that insurance. Sir, even before it occurred, the insurance

companies have been saying that the rates would increase. Sir, if we are to pay increased rates for something that did not affect us, why cannot somebody else pay increased rates for something that is affecting us?

The Minister said that our per capita income in the Caribbean is very high. We walk around and brag and give people the impression that because the per capita income is high that they charge us whatever.

House 46, sequence 8

11:20 p.m.

Tuesday, November 09, 2004

Continuation of Mr. D. St.E. KELLMAN:

Sir, we also have to understand that the high per capita income has nothing to do with the masses having high per capita incomes, because the total income is divided to arrive at an average. We know that for the last ten years the income of certain persons has increased at such a rate that it gives a false figure of what the per capita income for the masses will be.

Asides.

Mr. D. St.E. KELLMAN: I am saying, Sir, that we have to understand what is occurring in this world. We also have to understand that because we are a small country it does not mean that we have to sit back and accept everything that has occurred. We always brag about what we did with the Organisation for Economic Cooperation and Development, so let us take a stance on this too. We are known for taking positions. When the Shiprider Agreement was being forced down our throats, we took a position on it, so let us take a position on this too because this is very important. Ministers cannot be walking around telling people that the private service vehicles are behaving in a particular way and in another breath want to limit the compensation that the people can get because of the behaviour of the PSVs. That is what I call double talk. We have to declare our position, so the Minister has to tell us where he stands on this particular matter.

Sir, am I to believe, and I would like to believe this is true, that because we are making this amendment that we are going to see a situation where the PSVs would be able to carry unlimited passengers like the Transport Board? Sir, the aggregate amount is now limited, so everybody travelling on the particular buses can now be in the pool, because you are dividing the total amount by the number of people on the buses. Am I to believe that is the next amendment that would be coming to this Parliament?

Sir, based on the information being presented by the Minister, it seems to me that I can make a case and tell the owners and drivers of the PSVs that as from tomorrow the Minister would declare that they can carry unlimited passengers based on this amendment, because we are now moving from per head to an aggregate amount which means that the total claim is now divided by the total number of passengers on the vehicle. If the Minister cannot tell me that is where we are heading, then his case has failed. Sir, I am telling the PSV owners and drivers that as from tomorrow they should go the Minister's office and

demand that this occur. Sir, I would be representing them on this particular case because that is the only valid point I see in this amendment. I will say no more on it, Sir.

I thank you, Sir.

Mr. C. A. MASCOLL: Mr. Speaker, I rise to support the Honourable Member for St. Lucy in his position with respect to the proposed amendments to this Bill. In fact, the last point he made is as potent a point as you could want because the reason given for not allowing public service vehicles to carry more passengers is normally one relating to insurance and safety. Therefore, if it is now the case that we are seeking to amend the maximum liability with respect to death and bodily injury to \$30 million irrespective of how many people may be in a vehicle, then in actual fact there is no longer any justification for restricting the number of people in a public transport vehicle. Therefore, that is an excellent point that was made.

Dr. W. F. DUGUID: On a point of order. The Honourable Member who just took his seat is misleading the House. From his own words, he said it is related to reinsurance and safety. So even though there is a cap on the liability in terms of reinsurance, it changes nothing with respect to the number of people in a PSV that would be safely accommodated.

Mr. SPEAKER: Honourable Members, please, we do not want to live with this point. This country has laws. We are governed by rules and laws. Therefore, I do not believe that we as lawmakers should sit here and try to belittle our laws. Let us move on from this point, please.

Mr. C. A. MASCOLL: Mr. Speaker, safety only has merit or weight when it can determine whether or not somebody has been safely transported, but in the event that somebody has been injured, then safety has to be quantified, so safety is a qualitative issue. When you talk about injury, then you have to quantify the extent of an injury. That is how you can then determine how you compensate a person who has either died or has been bodily injured as a result of an accident. Therefore, when you move from the qualitative to the quantitative is when you speak to the issue of insurance. As a result, if you are now imposing a limit on the maximum amount of insurance that can be paid out, but you do not give any specific numbers with respect to the persons involved in that accident, then there is no clarity as to how an individual, bodily injured or dead, is being valued in the event that the accident has occurred in a group.

According to this legislation, it states:

“(a)that liability in respect of any sum to a maximum of;

(I)\$10 000 000 which such persons or categories of persons shall became liable to pay in respect of death of or bodily injury to one person in any one accident;”

Now it has “became”, so there is need to amend that word. It should have been “become” and not “became”.

Then you have, Mr. Speaker, in the second part of that clause that a \$30 million limit is imposed. It states that:

“(ii)a \$30 000 000 which such persons or categories of persons shall become liable to pay in respect of death or bodily injury in the aggregate to any number of persons in any one accident.”

Therefore, I am fully supportive of the point that has been made by the Honourable Member for St. Lucy with respect to this amendment.

Sir, there is more to this than meets the eye. In the not-too-distant past it has been stated even by the Prime Minister of Barbados that there would be liberalisation of the transport sector in Barbados and that international chains such as Avis, Hertz and other such enterprises would be permitted to come to Barbados freely after we open up our markets with respect to transport.

Mr. SPEAKER: Honourable Member, I will not allow you to pursue that line, please. When the time comes, you may pursue that. You cannot pursue based on what is the Addendum to this and what are the limitations set out by the Addendum.

Mr. C. A. MASCOLL: I have to make the link. I am saying, Mr. Speaker, that if an amendment...

Mr. SPEAKER: It is clearly contravening our rules relating to anticipation.

Mr. C. A. MASCOLL: This is a new one. Mr. Speaker, I listened this morning as I always do to the Voice of Barbados, and if it is as I heard that there cannot be a difference between prognosis and diagnosis, then I do not understand why I exist or live.

House 46 Sequence 9

11:30 a.m.

Tuesday, November 09, 2004

Continuation of Mr. C. A. MASCOLL: Mr. Speaker, if I cannot stay here at this point in time and seek to assess the efficacy of a policy, whether it is fiscal, monetary, or relating to insurance, which will impact on the people of Barbados, and I have to await the outcome of that policy, it then tells me, therefore, that there is no scope within my contribution to policy decision-making and to policy-making as a legislator. It tells me that there is no scope to my anticipating or making any viable input into the future framework of Barbados. It tells me that I would have to wait until something happens to make a contribution to it.

Mr. Speaker, in fact, this is where this Administration has gone wrong. This administration has not sought to look ahead or to look at the impact of policy before it is implemented. Therefore, I am suggesting that when one seeks to impose such a restriction on the maximum liability that can be paid out by an insurance company, one has to be conscious that the character of one's transport sector may so change as to allow international organisations to come into our midst. If that happens, then how would one seek to impose a restriction on an international transport chain that comes to Barbados when, in fact, that person may not be guaranteed that the insurance will be taken out by a local insurance company, or even if it is taken out with an international company, how would one be able to impose a

restriction on the maximum liability.

Mr. Speaker, if we have, as we are anticipating, a potential to see the liberalisation of our insurance sector, then we have to anticipate that other companies which may carry much higher levels of liabilities may enter into our space and may have an impact on our local position. Therefore, I am suggesting that has to be taken into consideration because sooner, rather than later, we are going to be in a period of liberalisation.

Mr. Speaker, how could I not speak to an anticipated period of liberalisation when I am expected to sit here and contribute to the implementation of the Caribbean Single Market and Economy. Therefore, I have no rights to look ahead, no rights to anticipate, no rights to diagnose, but only a right...

Mr. SPEAKER: Honourable Member, please do not take it to the extreme. You have stated what you wanted to say. You have changed it around and have said what you wanted to say, so what more do you want to say?

Asides.

Mr. C. A. MASCOLL: Mr. Speaker, I do not want my ability to reason and to look ahead to be constrained. Therefore, I thought that you were imposing such a restriction on my capacity to look ahead.

Mr. SPEAKER: You have done it the proper way when you changed it around and said it how it should have been said.

Mr. C. A. MASCOLL: I thank you, Mr. Speaker. Even though I may not share your interpretation, I accept it. Sir, there is no good reason why this legislation is coming to this Parliament at this stage. In fact, one would wish to wonder what could have inspired the need to make such an adjustment to our laws at this stage.

Mr. Speaker, it cannot be about reinsurance because, as we know, the issue of reinsurance has largely to do with property and the impact that hurricanes and such would have on the liability and cost of insurance. Sir, on the other hand, transportation, which is limited in its form to the local happenings and would hardly be impacted on by say, an unnatural disaster, to the same extent that there would be property being impacted on, one, therefore, wonders what could have inspired, at this stage, the amendment to this Bill. I, therefore, have severe difficulties in appreciating it.

Mr. Speaker, we know that laws are made. We know that amendments are made to existing legislation and that there would hardly be, within the next year or two years, a further amendment. Sir, I say that, because if we are suggesting that Barbados is moving ahead, has developed or is a developing country... Sir, at one stage we even targeted the year 2010 to be the year when Barbados will become a developed country, rather than a developing country. This is now not on the cards and that is understandable.

Mr. Speaker, if we are going to have increases in incomes, if we are going to have a Prime Minister who boasts about the way in which our per capital income has increased by about 40 to 47 per cent over

the last decade, which is not an indicator as to how personal incomes have moved but how our national income has moved, then we have to accommodate for even greater levels of liabilities within the insurance companies because the overall increases in incomes would necessitate that our liabilities would grow over time.

Sir, I need to know what would have been the justification, at this time, for such an amendment. I think it has come on the heels of a very turbulent hurricane season in the Caribbean and at a time when the industry may suspect that the Government may be pliable and amenable to such an amendment at this stage but where there may be no real justification, given the local experience, for such an increase.

That is, Mr. Speaker, Barbados was not impacted on by Hurricane Ivan in the way in which Grenada was impacted upon but the industry might have seen an opportunity to make such a recommendation to Government in spite of the fact that when one assesses our local transport industry, there can be no justification for such an amendment being made on the basis of experiences or on the basis of anything that was diagnosed but that this is really opportunistic on the part of the insurance industry at this stage.

Mr. Speaker, I, therefore, like the Honourable Member for St. Lucy, cannot support such an amendment because it does not speak to anything that has happened within the industry over the last number of years. There can be no basis for it. I can see no good reason why one should limit the life of an individual to less than \$10 million because that person or his/her family might have suffered a loss of that magnitude in a group, as opposed to a separate individual.

Mr. Speaker, if, in the first part of the amendment, it can say that the liability could reach \$10 million, what then would be the basis for an argument to suggest that an additional life lost after that should be valued less? What then would be the justification for arguing that an additional life, after the third life is lost, is valued less than \$10 million maximum. What should give one the justification for a person losing his or her life and perhaps being the 21st person in the accident to have lost his or her life, to be valued much less than a person who might have lost their life in one accident. There can be no good basis for it and, therefore, there can be no justification for the amendment.

Mr. Speaker, I noted that there was never such a clause in the previous legislation and that this clause has now been imposed in the legislation. For what purpose? Has it been the experience of the transport sector or of the insurance companies in Barbados that they should now wish to have such a clause imposed in our legislation? What would have changed over the last several years for the insurance companies to believe that they need to invoke such a clause? What would be the purpose of it when one knows only too well that one is moving towards an environment of liberalisation? What would be the purpose of it when one knows that the local industries are being taken up by larger industries? In fact, we now have a situation in which SAGICOR has been playing the field across the region in 15 countries and is looking to become even larger and may one day wish to go beyond the shores of CARICOM, or might have already gone beyond the shores of CARICOM and, therefore, would be looking to expand its business into North America, Latin America, Central America, and across the world.

H:No.46(10)

11:40 a.m.

Tuesday, November 9, 2004

Continuation of Mr. C. A. MASCOLL:

What then would be the position of SAGICOR when it goes into a market where there is an existing limit that goes way beyond US\$15 million? Would SAGICOR then ask the particular Government to make the amendment to its legislation to allow them to compete within that jurisdiction or would they not have to come to term with the process of having to compete against other insurance companies in much larger and freer markets?

Sir, we cannot on one hand accommodate the process of liberalisation and on the same hand say we understand the notion of competition while on the other hand seek to impose constraints on an industry that we have already started to liberalise. In fact, it is known that the Insurance Corporation of Barbados is on the market and would be sold to a larger company in order that the particular company is able and capable of competing within a freer insurance market. Sir, we cannot now be seeking to impose constraints on the market while at the same time seeking to liberalise the market.

The Honourable Member for St. Lucy clearly argued that there can be no good reason for justifying a limit of \$30 million in the event of an unfortunate accident where life lost would be more than three in any given accident. Therefore, I cannot see why we would need to engage in amending Section 8 of the Road Traffic Act at this time and put a limit on the amount of liability that an insurance company would have to face in the event of an unfortunate accident in Barbados that would take the lives of more than three persons.

Sir, this seems to be an amendment that goes against the grain. It is an amendment that would have to be revisited because when you look at what the future of the industry would become, this would serve to be a constraint and imposition on the industry rather than be an opportunity for it to compete within a global insurance market which is where the focus would be in the not too distant future.

Mr. Speaker, I cannot support the amendment as it is because I understand what it does in terms of not valuing life equally but makes a determination about the value of life and bodily harm depending on how many people might have suffered in a particular accident or unfortunate situation. Sir, you cannot value the life of a person if that person was unfortunate enough to die in a large group.

Mr. Speaker, I understand the wisdom of the Honourable Member for St. Lucy's contribution and seek to support his position.

I thank you.

Hon. Miss H. E. THOMPSON: Mr. Speaker, I must confess that I rise with mixed feeling. I was admitted to practise law in Barbados in 1987. I returned to my profession, enjoyed practice and have now come back to Cabinet. Therefore, when I speak in this matter, I am going to speak from the perspective of one who has practised law in Barbados for at least ten years before coming to Parliament.

Sir, on one hand, I have had the pleasure of representing litigants, people who have been victims of motor vehicle accidents and suffered injuries as a consequence, people who have died in motor vehicle accidents and on the other hand, in the course of my professional career, I have had the opportunity to work for three insurance companies. Sir, I have seen both perspectives of the practice.

There are a number of things that have been put out today in the attempt of the Honourable Members on the Other Side to suggest that this matter is simply one of whether or not Government is pandering to the interest of the insurance companies. The issue, in my view, is broader in perspective than that. Mr. Speaker, I would like to bring a broader perspective to the debate and, therefore, I ask the Chamber, what are the issues?

It has been suggested by Honourable Members on the Other Side who spoke that because there have been no serious incidents in Barbados that reinsurance cannot, therefore, be affected; but this is an error because when reinsurers look at countries to determine rates, they do not say that because Grenada was hit by Ivan but Barbados was not that rates will go up in Grenada but not in Barbados nor do they say that because there are severe motor vehicles in Dominica but not St. Lucia that rates will go up in St. Lucia and not in Dominica. Sir, Honourable Members on the Other Side have sought to mislead the Chamber and the public by putting that argument to them.

Sir, in essence, insurers and reinsurers look at insurance from the perspective of regional claims and perspectives rather than national perspectives. They also look at the risk for carrying the Caribbean region as opposed to another region and this is how premiums are determined. Sir, given the number of extreme weather events in the Americas during the recent hurricane season where three hurricanes reached the coast of the United States, two hit Cuba, one hit the Cayman Islands, one hit Grenada, one hit Jamaica and several Caribbean states were affected, the region is now being perceived at higher risks of extreme weather events particularly in the light of global warming and the consequences of global warming. Therefore, reinsurance for the region will go up even though Barbados has not been the victim of a serious hurricane since Janet in 1955.

It is false for Honourable Members to suggest to the public that the Barbados Labour Party is merely pandering to the interest of insurance companies because there were no hurricanes in Barbados and that our reinsurance risk remains constant. The risk changed because the risk in the region of which we are a part has changed and hence, premiums will go up and reinsurers will not want to carry our cover or will carry it at a different price.

Mr. Speaker, the issue is not whether we are protecting the reinsurers or the insurance companies but whether we are protecting the individual consumer and the Barbadian public. There are big reinsurers that used to carry the Caribbean which stopped in 2002 as extreme weather events became more frequent and intense and the issue is not whether we are protecting the insurers but what would be the consequence to the individual if this cap is not placed.

H46/Sequence 11

11:50 a.m.

Tuesday, November 9, 2004

Continuation of Hon. Miss H. E. THOMPSON:

Sir, the consequence that I am suggesting is that if local insurance companies cannot seek and obtain substantial reinsurance on the international market and are forced to carry a greater burden, then automatically they are going to push premiums up and that would be the consequence. Hence, in attempting to put this measure in place, Government is, by extension, trying to stop the cover from falling completely on the Barbadian insurers and, therefore, stopping our premiums from going up.

Sir, however, I want to say that we do have to be very careful how responsive we are as a Government to the insurance lobby, which is a powerful lobby, and I say this having worked for them. While they complain perpetually, the reality is, when they give their statements at the end of the financial year, the insurance companies in Barbados are able to say that they have made substantial profits. They complain constantly but one sees them recording substantial profits and, therefore, we must be very careful when the insurance lobby complains how we respond to it.

Sir, in this instance, my view is that the response of the Government is warranted and appropriate because of the increased risk throughout the Caribbean at this time and the consequential impact of reinsurance cost and the attendant possibility of premiums going up in the region because of the price of reinsurance and the difficulty of obtaining reinsurance.

I wish, perhaps, for the first time ever in the ten years that I have sat in this Parliament to agree with the Honourable Member for St. Lucy when he made the point that there is yet a wider issue impacting on this. It is the whole issue of traffic management in the wider context of what is happening on Barbados' roads. We have now fallen victim to our own affluence and success. Sir, when the Barbados Labour Party came to Government in 1994 there were approximately 40,000 vehicles on Barbados' roads and as a deliberate policy, you will recall that the Prime Minister said that we intended for every household in Barbados to have at least one car and the taxes and duties on vehicles within a certain engine capacity were substantially reduced and the reconditioned vehicle market was opened considerably to allow people to have access to cars.

In 1990, there were 53,379 vehicles, in 1995, 55,670, in 1997, 62,900 vehicles, in 1999, 72,805 vehicles, in 2002, 101,224, in July, 2004 there were 106,035 vehicles. We have the number of vehicles doubling in less than a ten-year-period across Barbados and that speaks to a level of comfort and affluence.

Sir, you can visit homes and see 3, 4 or 5 cars parked at residences that are not middle-income by any stretch of the imagination. However, there is a consequence to having so many cars on the roads. The speeds at which people travel, the adequacy or inadequacy of the road network system, the dangers and risks in commuting from one part of the island to the other, the risk associated with an increase in vehicles, speeds and more substantially the alterations to the road network. Therefore, it is because of this increase that traffic management and related issues have now become one of the single most important social and economic issues which the Government has to tackle.

Sir, I say social because there is a social component to it. It is not desirable to limit the number of cars. In Barbados we still want everybody who can afford a car to have access to one but it becomes an

economic issue when you, as I did, leave the airport at 7 o'clock a morning intending to get somewhere for 8 o'clock and cannot reach there and it takes you two-and-a-half hours to get to your office. This becomes an economic problem because it impacts on national productivity and the way individuals feel by the time they arrive at work. It impacts on attitude to the boss, the boss to the worker and person in the workplace to the members of the public and this is an issue that the Government has to confront and address.

Mr. Speaker, I also see a lot of school children driving to school some very large upscale vehicles and this says something about where the society has come in a relatively short time but I also see a lot of these young people in accidents and writing off vehicles. I think that we need more serious training for new drivers and ongoing training for drivers who would regard themselves as experienced.

Sir, there is a lot of breaching of the traffic laws going on in Barbados. People are going through red lights, driving on sidewalks, driving the wrong way up one-way roads and it generally speaks to a lack of discipline in the society which I think we need to address.

Sir, it also raises the issue that if we, in fact, have concerns now in the year 2004, what is going to happen come 2007? Therefore, options like water transportation and park and ride will have to be explored with some alacrity if we are to bring effective public transport solutions and creative solutions to the way we address the road network system.

I am not particularly supportive of flyovers because we do not want, small as Barbados is, to so transform the landscape that it becomes ugly or when you come to Barbados it appears as if you are in another metropolitan city. I would still like to be able to run, as I did the other day, to take a photograph of an old gentleman on his donkey cart laden with vegetables going up Sargeants Village and all modern vehicles, with high speeds and tremendous capacity of their engines, came to a halt as these four slow legs went up Sargeants Village. Sir, almost an anachronism in modern Barbados but still a part of the culture that we should not let go.

H46:Sequence 12

12:00 noon

Tuesday, November 09, 2004

Continuation of Hon. Miss H. E. THOMPSON:

Sir, having practised law, let me make the point, as I am sure the Honourable Member for St. John would, that there are not many personal injury claims or death claims in Barbados that amount to ten \$10 million per individual. Many attorneys would practice for years and would not see a claim that exceeds \$1 million.

Asides.

Hon. Miss H. E. THOMPSON: Therefore, a \$10 million limit per individual is entirely reasonable and fair. The largest personal injury claim in Barbados today that I am aware of, has not come

anywhere near this amount.

In our jurisdiction following as it does the British precedence and given some degree of conservatism on the part of our judges, you will not, in my view, see claims get up in these figures, except in the rarest of opportunities so that in all the circumstances, a \$10 million limit per individual is fair, just and more than generous and adequate, given the history and experience of the litigation and insurance sector in Barbados.

However, I want to ask the Minister to look again at the \$30 million cap, because if you are going to say \$10 million for a single individual, perhaps that is the figure that should remain consistent, even in circumstances where there is an accident with multiple injuries or multiple deaths. Other Honourable Members may or may not agree with me, but I am simply suggesting that the aggregate cap is something that perhaps could be looked at by the Minister.

Sir, during the course of his presentation, the Honourable Member for St. George North and Minister of Public Works and Transport made a point with which I have to disagree. It is that legal fees often constitute two-thirds of the total claim. In no case in Barbados does this happen. In fact, I have to say this in defence of lawyers. I do not know if it happens in the United States because I have not practised there, but we cannot give the impression and we do not want the Bar or the public to have the impression that this happens in Barbados.

In many instances where there are personal injury claims, the litigants or prospective litigants or complainants have no money or little money. They do not have the resources to pay to do the claim. What happens in our jurisdiction is that people will say, the police report will cause you \$50...

Asides.

Hon. Miss H. E. THOMPSON: The Queen Elizabeth Hospital (QEH) report used to cost \$50, and there are one or two other things that are absolutely necessary, so give me the money for the police report, the QEH report and a small deposit of \$200 or \$250, just to say you put down something and I am starting the claim. Sir, very frequently, even when the people recover \$1 million, \$¾ a million, \$1.5 million, all the attorney had upfront is that \$200 for him or her. The other \$50 and \$75 have gone to pay people.

I will also say, in respect of the medical profession, that you can write a majority of them and ask them to please see my client, treat him or her, and when the matter is settled, I will pay you out of the proceeds of the claim. Sir, two things have happened in respect of this: First of all, the doctors work so slowly, years pass before you get a medical report from them in order to be able to settle the claim and frequently, therefore, it is getting the diagnosis and prognosis in a formalised report in order to bring the matter to conclusion that holds up the claim from settlement.

Sir, regrettably what has also happened is that many lawyers received the money from the insurance claim, settled the claim and somehow forgot to pay the doctors. Therefore, doctors sometimes now tell you that you have to pay me upfront or you have to pay a certain percentage or I am not going to see them. Some lawyers cannot send people to certain doctors. They would not see them because of that problem. I really feel that between the two professions, if there is to be fairness to the person who has

suffered an injury, they need to resolve these thorny matters.

Sir, this is where I turn again to look at the perspective of the lawyer, vis-à-vis the insurance companies. When I first came to practice in 1987, the Non-contentious Rules allowed for...

Asides.

Hon. Miss H. E. THOMPSON: When I first came to practice, counsels used to get 12.5 per cent of the claim paid by the insurance company and a lawyer would get 12.5 per cent of the total claim. Remember that you have been working for three, five years or seven years to settle a matter and all you have got in your hand is \$200, which really, after you have written the first few letters and had the consultation, that money has been used, and at the end of it, you get 12.5 per cent of the total fee.

The truth is, that where the claim was small, lawyers would frequently say to the person, do not give me the 10 per cent, give me \$500, \$750 or \$1 000, and let the person go. Senior attorneys used to get 15 per cent. The insurance companies, in their haste to get higher profits and returns, then reduced the amount that they were paying to lawyers, unilaterally. They decided that they are not paying 12.5 per cent anymore. They were paying 10 per cent, so lawyers stopped earning 12.5 per cent and 15 per cent and got a reduced sum of 10 per cent.

Sir, since the Non-contentious Rules allowed the lawyer, based on the volume of work required in these matters to earn more than 10 per cent, the lawyers then turned to the client and said, "I am entitled by law to 15 per cent or 12.5 per cent. The insurance company has paid me 10 per cent. I therefore require that you make up the balance, and you also have to pay the doctor, the physiotherapist, and all the other medical professionals who have been making interventions on your behalf and with whose assistance you have been able to settle this matter in this sum".

Sir, two things happened here. Some clients felt that they should not pay a cent, so conflict resulted between the attorneys and their clients. The insurance companies did not do anything to assist the attorneys in this regard. In fact, you can wonder when a claim is \$500 000 and you work for an insurance company and you settle it for \$175 000 or \$200 000, whether or not they should in fact pay you a percentage of what they have saved, that would be reasonable, in my view, but that is another matter.

House 46, sequence 13

12:10 p.m.

Tuesday, November 09, 2004

Continuation of Hon. Miss H. E. THOMPSON:

Sir, many clients, not understanding that the attorney was entitled to a sum above 10 per cent, started to take offence when the attorney said, well you now owe me a further \$1 000 or a further \$500. That problem has been compounded by the fact that the insurance companies started writing the cheques directly to the accident victims and then many of the accident victims did not bother to pay the lawyers

or would not let them deduct a cent to pay the doctors. Therefore, all of the professionals who worked for you in helping to get the claim settled were in the end not able to get their money because many of the accident victims once they got their cheque in hand would not let the attorneys have it.

At one stage, what the lawyers used to do was to ask the clients to endorse the cheque to them and they would pay the client the difference. They would give the client a list stating the money that is due to the attorney, for example, \$500, the amount which is due to Doctor Walcott which may be \$2 500, the amount that is due to Doctor Duguind which may be \$1 000 and the amount which is due to Physiotherapist Sealy which may be X amount. So the attorney would have the client endorse the cheque to him and would deduct all the outstanding monies and pay it over to the various doctors and so on.

Sir, the insurance companies then further compounded the problem because they stopped writing uncrossed cheques to the clients and started writing account payee only on the cheques or crossing the cheques, so attorneys could no longer get the cheques endorsed to them and that forced attorneys into the very difficult position of having physically to walk down to the bank holding on to the clients so that they could get the money in order to pay the doctors and so on, or alternatively they relied on the goodwill and decency of the clients to come back, but so many clients developed very bad memories thereafter and somehow forgot to pay. So it has now become very difficult to practise in this area partly because of the practices and interventions of the insurance companies.

There is need now for somebody to sit down between the three sides, the Bar, the medical profession and the insurance companies to try to effect justice because what is happening now is really not right. This means that a number of professionals who work in the system, including engineers, because sometimes you have to get opinions from motor vehicle examiners and so on to give you assistance. All this while, the lawyers are suffering, and we limit the amounts payable to those who are injured but the insurance companies' profits have not shown any downward trend.

Mr. SPEAKER: Honourable Member, your time has expired.

Hon. Miss H. E. THOMPSON: Thank you, Sir, but may I make a concluding sentence?

Mr. SPEAKER: Well, I sat and I listened and I believe that the legal profession would be very pleased with all that you have said. I am not so sure that I should allow you more time to further please the legal profession.**Hon. Miss H. E. THOMPSON** It was not my intention, if given the latitude to please the legal profession, but you normally signal to me at one, two or five minutes before closing and I was waiting on that signal.

Mr. SPEAKER: I would give you a minute to wind up as long as it relates to this Bill.

Hon. Miss H. E. THOMPSON: Sir, I am grateful, but as with many things in law these are matters of interpretation.

Sir, I conclude by saying that there is one more matter I believe the Government needs to address. It was brought before this Chamber and is related to this matter, the reduction in the limitation period for bringing insurance claims from six years to three years which, in fact, caused a hardship to many

litigants and in my view is an anomaly in the law that ties in with this and the insurance companies. In my view, the Government needs to bring the legislation back to the six-year limitation period to give justice to litigants and to ensure that there are no anomalies in the law vis-à-vis negligence matters and other related matters.

With that, Sir, I trust that I have pleased you even if not the Bar.

I am much obliged to you, Sir.

Mr. R. L. SEALY: Mr. Speaker, I can assure you that I will not continue in the effort at promoting the interest of the lawyers. In my own profession, I have resisted being an expert witness because the courts simply give me the “creeps”, but I admire practitioners of the law who can go there and work every day.

Mr. Speaker, I would have thought that the Honourable Member for St. James South in rising to contribute to this debate would have perhaps taken the opportunity to clarify the issue from the point of view of the Government. The Honourable Member for St. Michael North West and the Honourable Member for St. Lucy made some very fundamental observations. Unfortunately, in introducing the Bill, the Honourable Member for St. George North was a little convoluted and even his colleagues were snickering when he was presenting the Bill as he was not as clear as he should have been.

Mr. Speaker, there is a very fundamental issue here. We need to understand clearly if the Government is pandering to the insurance lobby. The Honourable Member for St. James South indicated that she has worked for both sides. She has worked on behalf of litigants and also for insurance companies in her previous calling as an attorney-at-law. She went on to say that she understands the position that the insurance companies have put to Government and therefore were able to get this action, what we are doing in here today, to take place.

Sir, I think we need to be very clear on what we are really doing here because it goes beyond insurance. These companies, by her own admission and we all know it, are highly profitable. So, are we in essence using what is the people’s Parliament to enhance the black entries on the balance sheet for these companies? I have heard the standard fear that one gets from the General Insurance Association of Barbados. Every time there is a disaster in the region, you are told that it is going to affect rates. We all know the point that they make all the time about the fact that we are looked at as a region. Obviously, a transnational reinsurance company does not look at Barbados as an entity and Grenada as another entity. That was a real trite point that we did not need to have explained to us as we are aware of that. Whenever there is a disaster, insurance companies come to the people of Barbados and say that the rates have to go up, but I have never heard an insurance company announce in a year when there are no disasters that there will be a savings in premiums to the people of Barbados. That has never happened yet. So understand, Mr. Speaker, that we on this side - and I dare say all Honourable Members of this Chamber because I note that some of them are a little silent on this issue - reserve every right to be perhaps just a little wary of what the insurance companies are asking for.

Asides.

House 46 Sequence 14

12:20 p.m.

Tuesday, November 09, 2004

Mr. R. L. SEALY: They have never offered any kind of savings in a year when we did not have any disasters.

Mr. R. D. MARSHALL: On a point of order. Mr. Speaker, we are debating an amendment to the Road Traffic Act. I do not see it having anything to do with disasters. We are talking about the amendment where liability and accidents are concerned. I, therefore, do not see the direction in which the Honourable Member is going.

Mr. R. L. SEALY: Mr. Speaker, I normally have a great deal of respect for the Honourable Member for St. Michael West Central but I do not know if, perhaps, he is somewhat stunned that the Honourable Member for St. George North, instead of himself, is presenting this Bill this evening.

Asides.

Mr. R. L. SEALY: Mr. Speaker, in their quest for reinsurance which will come as a consequence of the passage of this Bill, I sincerely hope that the promised savings which the insurance companies say they can realise, will be passed onto the consumers, in the form of reduced premiums. You cannot argue, on the one hand, that this will give you the opportunity to get cheaper reinsurance but, on the other hand, those savings are not passed on to the consumers. That is the argument that was put. I say, Mr. Speaker, we, therefore, have these concerns.

Mr. Speaker, again the Honourable Member for St. James South has put the Opposition's position beautifully insofar as to the value of a life. If a life is worth \$10 million in an accident involving three persons or less, how can a life now be worth less than \$10 million because you happen to be in an accident involving more than three persons?

Mr. Speaker, I think that is something that needs to be looked at, and for the Honourable Member for St. James South to have raised that on the Floor of this House, tells me that maybe the sort of consultation that one would have expected to occur in a Cabinet on a matter like this, maybe did not occur. But the Honourable Member for St. James South did not give the impression that she was aware that \$30 million for accidents involving three or less persons was, indeed, in the Bill. Therefore, it seems to me that this piece of legislation, in a hasty effort to respond to the very powerful insurance lobby, has, perhaps, been brought in here in too hasty a manner, and that maybe in keeping with what we have heard on this side and from what we have heard from the Honourable Member for St. James South, Government has, as the young people would say in the local vernacular, to wheel and come again. Perhaps Government has to look at this question and assess whether or not the \$30 million limit on persons in that particular category would make sense.

Mr. Speaker, I would sincerely hope that this effort, in conjunction with others by the Ministry of Public Works, would see an attempt maybe to avoid this legislation from being pressed into service at all. In other words, we would want to see the numbers of accidents reduced even further. There are over

100 000 vehicles on the road today and there is no shortage of accidents occurring, therefore, there is a need for more comprehensive traffic planning in Barbados.

Mr. Speaker, I would hope that the Ministry of Public Works would recognise that cross-functional teams which would involve all of the Ministries that would have a relevant interest, may need to be set up. Those cross-functional teams can be, for example, the Ministry of Labour with regard to the question of flexible hours and to what may have to happen in that respect and the Ministry of Finance in terms of the impact or the whole performance of the workplace with regard to productivity. Therefore, there is a need for us to have a comprehensive traffic management plan.

Mr. Speaker, Barbados has quite never had anything like that before and I can say that from looking on the outside, when one considers the “dug-up” roundabouts and “put-back” traffic lights, where traffic lights once were, one sees efforts that suggest that there is no sort of co-ordination at all. Do not let us talk about utility companies and the process of road repair.

Mr. Speaker, the indicators would suggest there are a number of areas where the co-ordination involved in traffic management is lacking. I would sincerely hope, like the Honourable Member for St. James South, that we do not assume on the basis of what we are seeing over and beyond, that because something may work for a North Atlantic country, that we should import it. We constantly hear, for example, of overpasses and I share the Honourable Member’s view that elevated roadways will not necessarily automatically solve our problems. It might create other problems in terms of the aesthetics and offending the environment, et cetera.

Mr. Speaker, I would also hope that we do not give into the temptation to try what has been tried in other countries that have had to face the problem that we now have. For example, in Bermuda they have limited the number of cars imported into that country. Sir, considering all the factors, that would not become necessary. I do not think it should reach that stage.

I would sincerely hope that we would look at ways and means of improving our road networks by having a comprehensive plan for managing our traffic.

Mr. Speaker, the Democratic Labour Party has never expressed the view that the numbers of vehicles should be limited and, of course, the Barbados Labour Party has said its goal is to see one car in every household, therefore, I do not believe there is any danger of that happening but I know there are persons, some of our environmentalists for example, who believe that Barbados has too many cars and that the natural knee-jerk reaction to that would be to limit their importation. Again I hope that does not occur and that we will continue to see vehicles becoming more accessible.

Mr. Speaker, I heard the argument put forth by both Honourable Members this morning that the numbers of vehicles are increasing because of affluence. It is interesting to note that the numbers of vehicles were increasing in the early 1990s and at a time when the Barbados Labour Party said that nothing good was happening in Barbados. Sir, even in economically-challenging times, we have seen more vehicles being imported into Barbados, with more persons owning vehicles.

Mr. Speaker, we all know the advent of more affordable vehicles, the reconditioned and used vehicles coming out of Japan, has seen a proliferation in the numbers of cars but do not let us fool ourselves that

it has anything to do with affluence. Sir, let us understand that it provides an opportunity for more Barbadians to enjoy access to the facility of their own vehicle and that as a Parliament, we need to look at ways and means of having the appropriate national plan, to see that not only does every household or every Barbadian who can afford it can have a vehicle but that they can operate in a manner that does not work to anyone's disadvantage.

Mr. Speaker, as I have said, I join with my two colleagues who have spoken earlier, the Leader of the Opposition, the Honourable Member for St. Michael North West and the Honourable Member for St. Lucy, in saying that I find it difficult to support this piece of legislation. I hope that Government will revisit the concerns that we have raised and, at the same time, would use the opportunity to look at the whole traffic situation in a more comprehensive and holistic fashion.

Mr. Speaker, I am obliged to you.

SUSPENSION OF SITTING

Hon. R. C. EASTMOND: Mr. Speaker, I beg to move that this Sitting be suspended until 130 p.m.

Hon. R. R. FARLEY: I beg to second that.

The question that the Sitting be suspended until 1:30 p.m. was put and resolved in the affirmative without division and Mr. SPEAKER suspended the Sitting accordingly.

H:No.46(15)

12:30 p.m.

Tuesday, November 9, 2004

Mr. DEPUTY SPEAKER: This Honourable House is resumed. The Honourable Member for St. Thomas.

Hon. Miss. C. Y. FORDE: Mr. Deputy Speaker, I wish to add my comments to this amendment. While I would not have the experience or knowledge that learned Attorneys would, I simply speak to my understanding of it and make reference to some of the comments made by some of the Honourable Members who previously made their contributions.

I agree that there is a clear escalation of vehicles on the road and the number of accidents, particularly serious ones. Statistics show that in 1980 there were 43 deaths and 4 197 accidents, that by 1990, accidents had risen to 5,238 with 22 deaths and that in 2002 there were 7 641 accidents with 25 deaths. Sir, already for 2004, there were 23 deaths and I think that every death recorded is a cause for concern.

Sir, it is important that a knowledge of driving is paramount because many Barbadians are becoming undisciplined and discourteous and this is where our challenge lies.

I heard the Honourable Member for St. James South speak about young people who are driving but many of our driving instructors have a lackadaisical approach to teaching although some of them, like Mr. Cumberbatch, are very good. Sir, some of them have their foot on the dashboard or read the newspapers while training student drivers and these are some of the challenges that add to the escalation of injury and death in this exercise.

Mr. Deputy Speaker, I also want to indicate that persons who are injured because of accidents sometimes have to wait for inordinately long periods before they can get compensation because it takes three to four years before their medical records can be accessed but in the meantime these people who have been injured still have to see the physiotherapist and get various X-rays but several years may go by before they get compensation. I am told that nobody has ever claimed \$1 million and that a person might get \$100 000 even though the person injured might have already spent \$12 000 to get the necessary medical assistance before the claim is settled.

Mr. Deputy Speaker, I feel that one's life is more important than \$30 million and it is incumbent on every road user, cyclist, pedestrian, whoever, to be aware of the traffic regulations and to comply with them at all cost. We know at times that the road may be wet or there may be an oil spill and there will be an accident but this does not happen as often as dangerous driving.

I wish to implore all Barbadian motorists and pedestrians to be as cautious as possible because the vehicle may have a defect and the brakes might not hold and a pedestrian could be injured on the crossing.

Mr. Deputy Speaker, the scars which remain with individuals who are relatives of the deceased as a result of the accident or the injury that may develop from a serious accident, leads to great trauma. This calls for special counselling or funding from some source to be able to meet the day-to-day needs of those individuals. Indeed, we know of persons who have become amputees and invalids as a result of bad accidents on the road. Sir, I think that due care and attention is very important.

Sir, when I was a young person learning to drive, instructors were mature persons who complied with the law and taught the student what his responsibilities were as a student driving. You were even taught how to change a flat tire and how to change the oil. Unfortunately, this is not now the case and every precaution is not given to the student driver to be able to function effectively and responsibly on the road.

Sir, many houses are destroyed as a result of bad driving and many businesses are hampered as a result. There are broken traffic lights and street lights and walls are knocked down which were put up as a safety measure. Mr. Deputy Speaker, a wall was put up as a safety measure in Vacluse for other motorists and within less than a week, it was bulldozed by vehicles racing one evening and motorists are exposed to danger again. Sir, on the way to Farm Path, bad driving has again bulldozed the bridge and people are again exposed to danger.

Mr. Deputy Speaker, there is disrespect for the speed limit and also poor maintenance of vehicles. I have a problem as to whether or not members of the constabulary see these vehicles. I call them a heap of rust because sometimes there is no number plate, the whole front part is missing and it is a threat to

human beings, including the driver yet it is still travelling on the road.

H46/Sequence 17

1:40 p.m.

Tuesday, November 9, 2004

Continuation of Hon. Miss C.Y. FORDE:

Sir, a man or woman might have gone ahead of me travelling in an old car that I know is not road worthy and could not have passed any inspection but yet it is free to travel on the road. I think that the police should have a firm hand to make sure that every vehicle that is on the road is road worthy if it is to continue travelling on the road.

Sir, non-payment of vehicular insurance adds to the frustration of what we are talking about today. Too many vehicles, some fairly new, are on our roads without insurance. I was the victim of a vehicle that ran into the back of my car. The driver said to me that I did not have a lot of damage and that I can go on and I thought that this was strange. I found out that there was no insurance policy on a fairly new car. We do not know how many pedestrians, motorists and employed persons who encounter the same kind of unfortunate experience where they cannot claim insurance benefits because the person who would have struck them did not have an insurance policy and as a result of this action they have to hire a lawyer and this creates a lot of frustration.

Sir, there are those who are not paying their road tax. I believe that every effort should be made by the Licensing Authority to have that kind of information on their computer database to make sure that everyone pays the road tax for the vehicle that he or she has on the road.

In addition to that, there is the non renewal of licences or not being the holder of a licence and we see it every day. I know some people who drive without licences and I caution them when I am aware of the situation, but who am I? The police have their work cut out for them but there are laws on the statute books that when they are being breached, those persons breaching them should be punished. I am not going to support any individual who breaches the law.

Mr. Deputy Speaker, I am so firm about this that one day I parked on Roebuck Street to have lunch and I parked in front of the restaurant, a lot of other cars were also parked there. I was the only person who was singled out by the police officer that day to be given a parking ticket. I made sure that I did not call anyone about the parking ticket. I did what was right as a citizen because if I were the ordinary person on the street I would have to comply. I photocopied the details of the ticket, wrote a cheque and sent it to the District A police station and paid a fee of \$50 because I got a ticket for illegal parking. So, anybody who gets a parking ticket for illegal parking, please, do not come to me to beg a favour. I am not going to breach the law.

Sir, I believe that we should uphold the law. I am not asking the Commissioner of Police or any Inspector to ease me because the law must always be upheld and despite whatever one's status or position is in this country, I believe that if they breach the law that they should have to pay the penalty.

Sir, too many motorists disrespect the road signs. The Honourable Member for St. James South spoke about motorists who run the red light and that is another dangerous precedent that is being set. I was very happy early last year when measures were put in place by the Police Department to be able to prosecute those who do not stop when the amber light comes on. This is a very dangerous practice. Once people comply with the road traffic signs that too will eliminate some of the accidents that occur.

Mr. Deputy Speaker, there are some pedestrians who believe that as long as they get on a pedestrian crossing vehicles have to stop. I encourage pedestrians to wait. I like the advertisement where the lady puts out her hand to indicate that she wants to cross. If the man or woman is blind they should not be driving because they should be able to see pedestrians when they indicate that they want to cross the road and they should be given the opportunity to cross the street safely but too many people ignore the road signs.

Again, that is another challenge for the Ministry of Public Works because the signs are sometimes placed very close to the pedestrian crossing, so some persons who are not familiar with that location do not know that there is a pedestrian crossing coming up and, therefore, do not comply effectively.

Sir, anybody who travels Cheapside knows that there is a pedestrian crossing in front of the Post Office. Some people have difficulty trying to cross the street at that location because motorists move very quickly in that area. I believe that motorists must drive with caution and be more observant and that would help to eliminate some of the serious accidents that occur.

Sir, I do not know what is wrong with my people. I cannot show you two bicycles at night that have lights attached to them. Very few seem to have reflectors at the back that you may be able to recognise them. However, we have some roads where there are no street lights, for example, Highway 2A from Redmans Village down to St. James where there are no lights. Sir, can you imagine black man or woman in a black tee shirt and black pants, riding on a black bicycle on a black road? Motorists are unable to see them and this calls for due care and attention from all motorists because you can never tell when you are going to encounter such a situation.

I believe that life is God's blessing to mankind and we should all preserve life. Therefore, respect is due to the pedestrian, motor cyclist, bicyclist and other motorist on the road. They too must pay attention because at any time of the day we who are motorists will become pedestrians. We park in Parliament's yard, walk downtown to do our shopping and cross the street. Therefore, we would want persons to allow us the opportunity to cross the street safely. We cannot always cross by a pedestrian crossing, as we should, but we must make sure that we remember that when the shoe is on the other foot. Now that I am walking, I must pay respect to the motorist and the motorist must remember that he will not always be driving. Sir, it is a give and take situation but the regulations must always come to the fore.

Mr. Deputy Speaker, this amendment will open the eyes of Barbadians more. Sir, I still take a bus if Parliament finishes early and my niece has my car; I would walk down the road and take a minibus to get to St. Thomas where I live. I am not going to get into any bus that is overloaded because this same amendment tells me that if I get into a bus that is overloaded and anything goes wrong, if I am the extra person, I do not have any compensation coming to me.

Asides.

Hon. Miss C.Y. FORDE: Nobody on the Other Side can tell me not to support this amendment because they did not support Barbadians getting back the 8 per cent cut. They cannot coerce me into doing something that I do not want to do because I can be a little loose cannon in my own way.

Sir, the Government, through the Ministry of Public Works, the National Petroleum Corporation and the Barbados Water Authority and other agencies have to make sure that they put their house in order. There are too many manholes on our sidewalks with a little sign or a can that has no marking or a massive hole in the road that other utility companies have been working on, and there are no proper markings. This exposes individuals to get themselves involved in accidents. I am calling on the agencies that are responsible for opening trenches to cover manholes and have bridges properly secured, to act on them as a matter of urgency because at the end of the day, persons who are working and are of a certain status would still be able to make sure that my friend, the Honourable Member for St. Philip West, gets his daily bread because they would be able to hire him to represent them.

H46:Sequence 18

1:50 p.m.

Tuesday, November 09, 2004

H

Continuation of Hon. Miss C.Y. FORDE:

Mr. Deputy Speaker, there are many other people who do not know when their rights are to be attended to, or do not have the facility to be able to contact a lawyer, or know how to go to the record's department of the hospital to get the medical record, or the statute of limitation that they are within the time frame that is allocated.

Again, there is poor signage on roads, or an arrow that should be pointing to say, West View, is pointing somewhere else, and the bush that has grown up over the sign inhibits one from travelling. If we are saying that we are a tourist-oriented society, not only our locals are exposed to danger but, indeed, our visitors are exposed to that kind of danger, who would not know the road as well as we do, hence that kind of liability that we are discussing today.

Mr. Deputy Speaker, there are heavy duty vehicles, such as tractors with the buckets up in the air. We have known of cases where people were decapitated because a tractor or bobcat would have been on the road with the bucket fairly high. Those are the kinds of vehicles, Mr. Deputy Speaker, that are travelling in the peak hour traffic that we are complaining about which is creating so much congestion.

Mr. Deputy Speaker, I believe that there has to be some special policy put in place, wherein the big container trucks and the heavy duty tractors should travel on the road at an earlier time, such as 4:30

a.m. and 500 a.m. to help to minimise some of the road rage that results when a tractor is in front of you at 800 a.m. when you are trying to get to your work, or take your children to school, or to get to the hospital with your sick and so on.

I believe that there has to be some proper regulation to pull them off the route to be able to let the traffic flow freer, because these big vehicles are really a serious source of concern. Sometimes we see cars driven under a truck that has a container, and a lot of that has to do with the congestion that is on the roads.

Mr. Deputy Speaker, I strongly support the Royal Barbados Police Force for that initiative introduced last year called, Operation Road Maintenance. It has eased the congestion on our roads and our public service vehicles are in some instances paying attention. While there are others that are going through all kinds of illegal routes to get to town, many of them have begun to upgrade their habits to comply with the instructions, follow the route, and put in fewer numbers of people so as to avoid the overloading.

I believe that there is to be another phase of Operation Road Maintenance, where people are to be taken off the road when vehicles do not have on a proper number plate that you can tell that it is ZM, TU whatever is the number. A lot of them do not have them exposed for the public to see. Many of them are still breaching the laws. The motorcyclists are not burning the running lights in the day and night as is required in the regulations.

I trust, Mr. Deputy Speaker, that there will be more checks to ensure that the insurance, road tax and licences are paid. The special team of individuals from the Ministry of Public Works who wear the brown and cream uniform, should also be given the responsibility to check to ensure that the life of every Barbadian is properly looked after.

I trust, Mr. Deputy Speaker, that every effort would be put in place for Barbadians to comply with law and order. At the end of the day to be in a hospital with broken ribs or limbs is not any experience that any of us would like for ourselves, indeed, for our family and friends. I think it is incumbent upon all of us to make sure that we try to travel safely, display the best discipline and are courteous to each other, while we are moving on our congested streets.

Mr. Deputy Speaker, I also seek to ask, as a result of this Bill, for Barbadians to be given more public education. There is no point in the Transport Board - and the Honourable Member for St. Philip South will hear me - to be sending a bus that should leave at 10:00 a.m. which leaves at 1030 a.m. overloaded, going up to Sturges, St. Andrew, Shorey Village or whatever, and then the bus driver believes that they have waited too long, and he is going to be passionate with them and he puts in an additional ten or twenty people.

Mr. Deputy Speaker, this creates a serious problem and unless we have buses that are running to these various communities that will meet the needs of the travelling public or the commuters, then we are going to get the overloading. This is going to add more confusion to what we are doing here, because people will not benefit if there is any serious accident. I ask God that we will not have that kind of experience where a bus overturns and ten or twelve people are killed. I would not like for ten or twelve people to be injured.

Therefore, Mr. Deputy Speaker, I am urging Barbadians that if the bus is full to leave it behind. My mother always used to say it in a different context that is to never run behind a man or a bus, another one will always come. I believe that if we never run behind a bus that is full, another bus still has to come. You will save yourself from injury, confrontation and trauma that I know one can experience in an overloaded bus if there is a serious accident.

Mr. Deputy Speaker, we need to utilise our local CBC television station to bring more safety tips to our people. We need to give more opportunities to the Road Safety Association to go into the schools and other institutions to educate the public about road safety.

When I was a little girl, I was taught to look left, look right, look left again, and if the road is clear, then cross. The schools have to do more when it comes to public safety and travelling on our roads. The Government Information Service and the media houses are to all come on board and help us, because nobody wants to have to deal with a serious death by accident or to deal with a serious injury of a relative, friend, or even a stranger. Mr. Deputy Speaker, when we get on the scene and see the challenge it bothers us as human beings as to how the persons are feeling, if they are still alive, or how they will survive, knowing of their particular plight previously.

Mr. Deputy Speaker, no amount of money, whether it is \$1 million, \$10 million or \$30 million for me, can bring back the life of a dear loved one. Therefore, we should use every precaution to ensure that we drive safely, if we are motorists, and that we treat to the travelling public as though they are relatives and friends whom we see on the roads as pedestrians and motorists. I believe that this will help.

In closing, Mr. Deputy Speaker, I support the legislation and every plan that this Government has, indeed, any organisation in Barbados has, when it comes to the sensitisation of Barbadians as to how to travel on the roads safely, and any effort that can be put in place to minimise the serious situation we have on our roads.

We heard about the Road Traffic Management Plan and I know that the Honourable Minister is working towards bringing such a measure to the fore. I would lend my wholehearted support to that kind of initiative because I believe that as a country that is progressing, and we talk about giving people a better quality life, the vehicle comes with that quality life. I also believe that you cannot be allowed to get behind that wheel, unless you are properly trained as a driver, conscientious as to the people around you, and you treat others as you have been treated, because the life that we save may be our own.

I thank you, Mr. Deputy Speaker.

Mr. D.J.H. THOMPSON: Mr. Deputy Speaker, I will be short enough that the Honourable Member who is anxious can speak. Sir, I did not hear the opening presentation by the Honourable Member for St. George North, but it is clear from the speeches that have been made subsequent to his presentation that he obviously has not been clear enough in setting out the need for this particular amendment.

House 46, sequence 19,

2:00 p.m.

Tuesday, November 09, 2004

Continuation of Mr. D. J. H. THOMPSON:

Mr. Deputy Speaker, having heard as many speeches as I have heard, I really find it difficult to determine what the Government's policy or thrust is in bringing this amendment to this Honourable House.

Sir, I would have thought that there are other issues, more compelling, more significant, more impactful and more relevant to the people we represent particularly in relation to road traffic and safety than a two-line amendment which has taken up so much of the time of this House of Assembly today.

Mr. Deputy Speaker, I do not have any constituency on the roads. I do not speak for the attorneys, insurance companies nor any particular category of Barbadian in this debate.

Asides.

Mr. D. J. H. THOMPSON: True, I have worked for insurance companies, but I do not speak for them. They have enough money to speak for themselves. They can hire PR consultants, they do not need me. I negotiated reinsurance contracts in Europe but the reinsurance people have people they can pay. I do not know if they paid anybody in this instance to bring this.

Asides.

Mr. D.J.H. THOMPSON: The Honourable Member asked me to talk. I did not bring anything to the House. The Honourable Members on that side brought it and they must know why they brought this amendment.

Sir, one would think that this Government would be concerned about the people in Barbados who are victims of accidents where the vehicles are not insured. I have to praise the Honourable Member for St. Thomas. Years ago when this House was a caring House of Assembly, we had a debate about how we could establish a fund to compensate the victims of accidents where the driver is driving a motor vehicle that is not insured, because we cared about people then. But what is this really about? This House was concerned about how we could get the insurance companies, Government and the others, to put money in a fund so that if somebody got knocked down by an uninsured unlicensed driver and would not be entitled to any compensation that we could find a way to assist that person. The Honourable Member for St. Thomas is right. If I had three accidents in the past year, in every instance the driver of the vehicle that caused the accidents did not have car insurance and I had to fix my car myself.

Asides.

Mr. D. J. H. THOMPSON: I was hit from behind on the side at a four-cross where somebody missed a...

Asides.

Mr. D. J. H. THOMPSON: The Honourable Member for St. Michael West Central seemed to have enjoyed that comment, so I will rephrase it, Sir.

I knew the Honourable Member would have enjoyed it, that is exactly why I said it that way, Sir.

Mr. DEPUTY SPEAKER: Proceed Honourable Member.

Mr. D. J. H. THOMPSON: Sir, in all honesty that is a serious matter because while we may be concerned about setting limits here, there have been fatal accidents in Barbados and the family of the victims has not received and will not get any money because the vehicle was uninsured. There are people who drive vehicles in all kinds of conditions. There are relatively new vehicles that are not insured. People take the risk because they cannot afford to pay the premiums. What we should be concerned with is how then do we compensate those victims. What are we doing today that would help people to avoid the kinds of challenges that Honourable Members have spoken about? This does not do it. There is not a particular comment that has been made in this debate that I have heard about challenges on the roads in Barbados that this solves. There is not a comment about insurance and classes of insurance that has been relevant to this debate. People are talking about property insurance rates, but this is not a debate about property insurance. Insurance is usually attributable to classes. Because property rates go up, it does not mean that motor rates are going to go up. There are people who shop around for different kinds of reinsurance for different classes of insurance, so that is one issue.

Mr. Deputy Speaker, there is a second more compelling problem that Barbados faces which has little to do with the Road Traffic Act, but has to do with the state of the economy. I remember in 1991 how we had to battle to so manage our payments of reinsurance and not to jeopardize this economy. Even at that time it was felt that too much of the risk is reinsured. The local insurance industry and the regional insurance industry was not doing enough to seek to avoid the repatriation of large sums of foreign exchange to accommodate the levels of reinsurance that insurance companies felt that they needed. A substantial amount of money leaves Barbados and this entire Caribbean region every year. To my mind, it is disproportionate to the benefit that insured individuals get as a result of the premiums collectively that are paid. That is an issue that needs to be addressed not only in times of crisis but in times of managing our resources. As a small country, we cannot be beholden to or, without more, accept those financial implications.

If the Minister had said today that he was bringing this amendment because he thinks that this may stop an unnecessary outflow of foreign exchange from Barbados, then I would say that he did something that was relevant. I do not know what is motivating the Honourable Member for St. George North in this debate and I dare say nobody else knows because nobody has said anything subsequent to his address that would reinforce a single sensible point for this particular amendment. That is a fact.

Sir, we have the problem of victims of accidents with no insurance. We had the leakage of foreign

exchange which may come from laziness in the insurance sector and poor financial planning and reinsurance of too much of the risk. The Minister, in this particular debate, has not touched on the challenges of traffic management in a meaningful way. Instead, its impact on health, productivity and the environment of Barbados is what came up. Sir, this is not the first debate we have had in this Chamber in which the question of traffic management arose. The same study that I heard somebody referring to was supposed to be almost completed. A transport authority was on the verge of being established within a matter of weeks, this is about five Estimates ago. If that traffic management plan was laid in Parliament, we would have seen a revolutionary approach to dealing with the management of traffic in small countries.

House 46 Sequence 20

2:10 p.m.

Tuesday, November 09, 2004

Continuation of Mr. D. J. H. THOMPSON:

Mr. Deputy Speaker, on mornings, particularly in urban Barbados, whenever the traffic converges, we still have a problem with getting children to school on time so that they can function effectively. I am not even going to talk about the road outside of the Lodge School because the condition of that road is enough to cause accidents, where the Ministry of Public Works workers have been assigned to work for more than a year and the students have nowhere to walk or nowhere to shelter. The condition of the road is horrendous, such that sometimes when you are driving you could almost sometimes lose control of your vehicle, even if driving at a moderate speed. If the driver of that vehicle is uninsured, somebody's child, God forbid, could end up being crippled for life, with no recourse.

Mr. Deputy Speaker, the Government does not step in and try to set up a fund. We do not have anything like that. It seems as though we do not care about those things anymore, so what is it that we are caring about in bringing this amendment? What is it that is so significant? I can only ask questions because nobody has answered them. Sir, I suspect that even if I had heard the presentation of the Honourable Member in its entirety, that I would have made exactly this same speech today. That is an amazing thing for me to have to say, relative to this particular matter before the Honourable House.

Mr. Deputy Speaker, I do not think a Government should be lazy in finding solutions to problems with which people are faced. This is officially an uncontroversial piece of legislation that, in this debate, could have permitted Government to come up with sensible plans for either further amendments to the Road Traffic Act to deal with the problems with which we are faced such as the issue of traffic management and providing a fund to compensate victims of accidents.

Asides.

Mr. D. J. H. THOMPSON: Well, if anybody has constrained you such that having delivered a speech you said nothing, it means something is wrong with the Rules of this Honourable House or with those who are applying them.

Asides.

Mr. D. J. H. THOMPSON: I am sorry to hear that the Honourable Member was so constrained that he ended up saying nothing in introducing the Bill in this Honourable Chamber and now I am supposed to unravel an entire debate, almost at the end, after so many legal luminaries and men and women of the people have spoken with such alacrity.

Mr. Deputy Speaker, Honourable Members on this side have raised valid concerns and it comes down to a simple mathematical formulation: what value are you placing on people's lives by virtue of this amendment? What are you saying? What message are you sending to the society about the value of an individual's life or to their rehabilitation after a serious accident, or to the quality of life that they will enjoy? If it is for the reinsurers, then I would have a serious problem with that because the United States of America cannot even grapple with it. It is one of the biggest election issues, not federally, but in States, about seeking to deal with caps on insurance settlements for negligence and other things. They have not been able to grapple with that because of its legality.

Asides.

Mr. D. J. H. THOMPSON: Exactly. They have not grappled with it as yet but we in Barbados are grappling with it. We are satisfying somebody by passing an amendment which seeks, as I say, to place some kind of value on a person's rehabilitative process because the Bill could only be talking about serious accidents. It is not for whiplash injuries nor a broken leg. The kinds of cases that we are dealing with here would have to be cases which involve serious injuries that place persons in a position where they can almost not function in the society at all, or death. Therefore, in those circumstances, what would compel Government to bring an amendment of this type in this debate?

Mr. Speaker, who will benefit by this amendment? Is it going to make insurance cheaper to the consumer in Barbados? That is a question that the Honourable Minister has to answer. I hope that the Honourable Minister is taking the assurance of the right persons because unless the Government's advisors, acting on their own deliberate judgment and not on the basis of any lobby, can establish to the satisfaction of this Honourable Chamber that an amendment such as this, in the absence of other measures, will make insurance cheaper or rather this amendment would make insurance cheaper in Barbados, then I do not think that the Honourable Minister should accept that assurance or should make that statement boldly.

Mr. Speaker, I doubt that this amendment alone could have a substantial impact on the domestic rates of insurance. Will the service provided by insurance companies be better in settling claims and even in case management scenarios? In many insurance companies now, people are not only looking at the total claim but at ways in which they can operate case management so that they can, over a period of time, meet some of the demands and cost of an insurance settlement. They might advance medical payments, they may assist in getting physio-therapy or they may pay in advance or right after payment is made for taxis. They will assist persons along the way instead of waiting for a lump sum settlement at the end of the day, which has been a boon and a great assistance to persons who have been severely injured in some accidents.

Mr. Speaker, will claims be settled faster? Will it mean that less matters will go before the courts for

settlement in our country? Those are the questions that the Honourable Minister should be asking himself, and I certainly cannot see anything in these amendments or anything that I have heard in this debate which would assure me or convince me that any of those objectives, which I would assume would be the objectives of a Parliament acting on the behalf of the people, will be met as a result of passing this particular piece of legislation.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for St. James North.

Hon. R. C. EASTMOND: Mr. Deputy Speaker, one of the salutary characteristics of this debate is the emerging divide between the two sides. I say salutary because in the context of a democracy, we must be able to accommodate this end, and must be able to see the other side. In the context of parliamentary life, it is certainly a good thing that our opponents on the Other Side do see matters differently from us on this side.

Mr. Deputy Speaker, the reason for this is that based on what has just been said and in my intervention I will speak as one of the oldest Honourable Members of this Honourable House at this point. I am not suggesting by any means that I am absolutely all that old but in the context of where we are as an assembled House this afternoon, I will say that I am one of the oldest Members and will speak like that.

Mr. Deputy Speaker, I will begin by looking at the amendment before this Honourable House. This amendment comes under the Road Traffic Act but one would wonder why would an amendment that has to do with insurance be grounded in the Road Traffic Act.

Mr. Deputy Speaker, the answer to this would be that motor insurance is one of the few compulsory forms of insurance that exists. Motor insurance represents a system of compulsory insurance. Before I develop that point, I respect what the Honourable Member for St. John has said concerning the increasing numbers of very serious accidents occasioned by persons who do not pay road tax but what is worse do not have insurance.

Mr. Deputy Speaker, I have had the experience of knowing persons who unfortunately have lost their lives at the hands of drivers driving vehicles which were not insured. I think that the time has clearly come when this assembled House is going to have to look at this particular mischief. It is of serious proportions. H:No.46(21)

2:20 p.m.

Tuesday, November 9, 2004

Continuation of Hon. R.C. EASTMOND:

I recall an accident on the ABC Highway and the driver who caused the accident not only did not have road tax or insurance but was visibly under the influence of a familiar spirit and had no driver's licence. Sir, in that accident, an elderly, working-class lady lost her life. She was the mother of a

family and to this day, they have recovered nothing.

The Honourable Member for St. John was clearly right in suggesting that we have come to the situation where we have to take into account these particular mischiefs.

Some of us on this side have been looking at the question of a Criminal Injury Compensation Board and have given careful thought to this Board. It is not yet policy but we are looking at instances where people suffer at the hands of persons who either would not pay when they have caused the suffering or at people who cannot pay.

Mr. Deputy Speaker, I was saying that motor vehicle insurance is compulsory and I would like to urge all people who are duty bound to pay their insurance. The fact of the matter is that in any community there are those who do not like abiding by the law and to the extent that there are those who do not pay their insurance, we are going to have to contemplate firm penalties against such people. Sir, they do not only break the law but cause untold suffering in the process.

Mr. Deputy Speaker, I mention that motor vehicle insurance is compulsory. Can it not be that a general life insurance company offering forms of non-life insurance protection does not find that covering vehicular accident risk might represent a very interesting portfolio? If you assume that the typical non-life insurance company has many other portfolios, then it could be that where the motor vehicular insurance portfolio does not do well in terms of profitability, that the other portfolios like property might very well be subsidising motor vehicular insurance risk.

Sir, it is to my certain knowledge that certain types of vehicles on the road represent greater risk than others. I am not saying that every public service vehicle will necessarily get involved in accidents by being frequently on the road but the frequency by which a vehicle is driven, clearly increases the risk of something happening just by being frequently present on the road. Of course, there are other factors involved in risk like bad driving and other things.

I wonder when a general company looks at the management of its portfolio, having taken into account all of its premium income, having invested some of it and reserved some in accordance with the law and then having checked at the end of a given trading period, what profits have come out of motor vehicle insurance alone, if covering motor vehicle insurance is a profitable source of income to insurance companies. I suspect that other portfolios actually subsidise motor insurance.

(14:26) I remember a few years ago the Barbados Transport Board, as the principal owner of public service vehicles, had been in controversy over insurance for the reason that it had been perceived as an entity whose vehicles were risky to cover. It could have been that at a given period in our history the Barbados Transport Board changed insurers over and over again because a given insurance company was not prepared to insure them another year.

Mr. Deputy Speaker, the question has been asked, what is the purpose of this amendment? A Government must identify not only social categories of persons in need of help and support but institutions in the community that do serve a purpose. Sir, to the extent that this Barbados Labour Party has a responsibility to address poverty where it exists and manage the affairs of the country with responsibility, this Government also has the responsibility to ensure that important institutions do not

go under.

The Honourable Member for St. George North was crystal clear when he said in clear and cogent terms that unless something was done to reverse the threats to the integrity of the insurance industry, then we could end up in a situation where some insurers go bankrupt.

Mr. Deputy Speaker, we have a responsibility to look at the insurance business in relation to how they interface with their shareholders. We look at the insurance companies from the point of view of how they interface with their clients, staff and workers and the public. It is worth saying that when a Government looks at a non-bank interbank financial intermediary like an insurance company or the insurance industry as a whole, Government is duty bound to protect the integrity of the insurance industry.

Mr. Deputy Speaker, the point has to be made that if you have never-ending, unlimited claims of boundless and limitless amounts of money that, as the Honourable Member for St. George North said, it could compromise the integrity of the industry. I am making the point now, if it were not made in those clear terms before, that we, as a Government, would not want to see a bank, insurance company, credit union or non-bank, financial intermediary in Barbados crash.

Mr. Deputy Speaker, in the context of mentioning these institutions as non-bank, financial intermediaries, they ultimately do things that are not always visible to the naked eyes. Sir, a lot of these insurance companies represent institutional investors who do things in the economy that eventually impact not only on the revenue of Government but on employment as well and one of the principal objectives behind this is to protect the integrity of a given industry.

H46/Sequence 22

2:30 p.m.

Tuesday, November 9, 2004

Continuation of Hon. R. C. EASTMOND:

Sir, the Honourable Member for St. Lucy is no fool. Sir, when I said earlier in my contribution that the debate is proceeding along salutary lines, I meant that this debate will go down as one of the better debate because the Opposition sees things one way and as much as we will disagree, we are sufficiently respectful to understand what they are saying.

The Honourable Member for St. Lucy understands, having gone to the school on the hill in the north, that law should foresee every possible condition. If you are passing law it should really foresee every possible contingency. Unfortunately, positive law does only well in conditions of stability and when you get conditions of turbulence you have to reform positive law. That is why man-made law cannot challenge natural law. Divine law is unchanging because anything made by God is absolutely perfect, in line with the words of Psalm 19, how great are the statutes of the Almighty.

Sir, in the context of what the Honourable Member for St. Lucy was saying, all we can say by way of

response is that insurance companies, much as we would want them to be able to calculate every possible contingency, will normally be guided by probabilities.

The Honourable Member for St. Lucy is saying that this Parliament has a responsibility to foresee an accident where 72 people could be seriously made to be injured or die. Our response, as dealt by my friend, the Honourable Member for Christ Church West, is that clearly the Honourable Member for St. Lucy has a point but insurance companies look at probabilities.

Sir, what is the probability of one accident seeing 72 people mangled or fatally injured? In my life, the folklore of Barbados has suggested that at Lancaster, over 50 years ago, there was a fatal accident where a truck overturned and many people were killed but they were not 72 people, they were not even 50 people. I believe that in the context of what we are looking at, even though we should ideally have law to cater to a particular emergency that the Honourable Member for St. Lucy is forecasting, we have to say that God has been so good to us that we have never had one vehicular accident on the road where 72 people perished or were badly mangled.

However, I was tempted to wonder whether in the context of insurance protection in Barbados, if marine and aviation cover have been so managed over time that we can feel safe. I will have to do some personal research into the extent to which the Barbados insurance industry has manifested confidence in marine and aviation cover.

Mr. Deputy Speaker, suffice it to say that in the context of vehicular accidents we do not want to see it ever happen where 72 people travelling on a Transport Board bus perished or were badly injured. We do not even want to see 50,22,2, or 1. I am heartened in this debate that all Honourable Members who have spoken have demonstrated a reverence and a respect for human life to say that no money can truly compensate for death caused by a vehicular accident.

Sir, in law, as Honourable Members who have read that great discipline will tell you, what we say is that monetary damages compensate as far as money can do it, but there comes a point where money cannot go beyond that particular point. I am heartened that all Honourable Members who have spoken have demonstrated such a reverence and respect for human life as to suggest that we have to look beyond insurance into other measures that can preserve human life.

Mr. Deputy Speaker, I am therefore heartened to hear that a certain gentleman called Mr. Kenneth Best said recently that he is going to involve himself in some public service vehicles and set standards and, all praise to Mr. Kenneth Best. He is saying that he will not be tolerating indiscipline among the providers of public service vehicular services. He is saying that he will set standards and clearly he is signalling a particular ethical behaviour for those who operate public service vehicles on the road.

Mr. Deputy Speaker, when we take into account the fact that a given insurance company in one accident can find itself paying out such a substantial amount of money, we have to ask how often in one year can the same insurance company pay out millions of dollars.

Sir, assume that there is a fact situation where in one accident an insurance company pays out \$5 million and then that company has to pay out further tranches

of \$5,7,10,12 or 15 million in a short period of time, then that would clearly put pressure on them. Sir, the Honourable Member for St. George North said that one aspect of the operation of our insurance companies that has to be taken into account is how the insurance companies protect themselves. The strongest noteworthy way by which non-life insurance companies protect themselves is by purchasing reinsurance and the Honourable Member for St. George North made that point in crystal-clear terms.

Sir, we cannot be deceitful in this Honourable House. The question is, where do we obtain reinsurance from and what policies do those reinsurers practise? Show me one reinsurance company in the Caribbean, Bahamas, the Cayman Islands or Barbados. If we have a situation, where in our culture, we do not have reinsurance businesses, it suggests that there are constraining factors leading to the non-existence of reinsurers in the Caribbean.

Sir, it seems to suggest that to run a successful reinsurance company, enormously high amounts of capital are required at the start and an enormous amount of working capital during a training period.

Mr. Deputy Speaker, I think that the Honourable Member for St. George North did well when he clearly suggested that where insurance companies in Barbados have been practising paying out unlimited sums of money, they have found it nearly impossible to buy reinsurance abroad.

Sir, we operate in what we call the Anglophone Caribbean. If in the Anglophone Caribbean Jamaica, Guyana, Trinidad and Tobago, St. Lucia, Antigua, Grenada and Barbados as a region buy reinsurance from the same reinsurer, that reinsurer is likely to look at where these countries are located, developments and trends over time and the size of the risk and which risk recurs more often. I cannot, from my own perspective, as a man of the world and as a social engineer, yield to this Honourable House that motor insurance per se is either by itself a highly profitable form of insurance or the type of insurance that readily attracts the interest of reinsurers.

Sir, in an ideal world there should be no cap to the claim that one should make on the insurance company, but in a known ideal world we have to encounter what we call the real world and in the real world situation we have to look to see what things there are before us so that we could realistically take part in and the things that we cannot deal with.

The Honourable Member for St. Lucy made a very interesting point and I will respond to it. The Honourable Member said that we were sanguine and determined when we asserted our rights before the OECD and in the context of the Shiprider Agreement we stood up to them. I would say that we did so more at the level of Government to Government. These reinsurers that you have to deal with in the world are private sector entities. They are private sector entities and it could very well be expressed that our local insurers in the Caribbean have to unite and confront them, because it cannot be fair that a place like Barbados with a relatively low risk should be treated badly and made to pay high reinsurance premiums because six or seven of its neighbours seem to have greater risks than Barbados. Sir, that policy must change.

Sequence 23

2:40 p.m.

Tuesday, November 09, 2004

Continuation of Hon. R.C. EASTMOND:

I said recently, Mr. Speaker, that if 40, 50 or 60 years ago, Caribbean countries stood up to the International Monetary Fund and rejected devaluation as a condition for borrowing money, then the region would have been better off and we should have done it years ago. I am saying now that the insurance companies of the region must so cooperate and unite that they collectively see that reinsurers abroad are using the wrong criteria on which to set their reinsurance premiums, and they should press for better.

I am not one to suggest that because there is going to be a cap on the amount payable in a group accident that premiums would automatically fall. I would also be fair. There are categories of insured persons in Barbados who, based on the safety with which they drive, do earn rebates on a yearly basis. I do not think an insurance company is compelled, as a matter of law to offer anybody a no claim bonus. There is no law, whether constitutional or non constitutional that can compel an insurance company to give a client a no claim bonus, but a practice of the industry as an incentive to encourage safe driving is to grant no claim bonuses to those drivers who show the capacity to drive a vehicle for 12 months and make no claim.

I also laud and commend those insurers who, taking into account the reality that there are some working- class people who cannot pay \$1 200 premiums all at once, give those people three months to pay. There are insurers in Barbados with a sufficiently social conscience to calculate that Jim Browne from Pie Corner, St. Lucy is a working-class labourer at a plantation in St. Lucy called Hannays, and he cannot pay \$1 200 and they give him three months to pay. I like that sort of thing because it reflects the reality of the culture.

I know of a particular institutional investor that is an insurance company in Barbados and they are trying to attract savings. They are telling people that the minimum amount that they would take in is \$25 000. You cannot be operating in Barbados and seek to attract investment from the average Barbadian and ask them to bring \$25 000 lump sum one time. This company is out of touch with the culture. If it said, \$500 minimum at a start and then increments of \$100, that would be more in keeping with reality.

Sir, I commend those Honourable Members who reflect on the type of society and the economy that we have. Ultimately, insurance companies have to face up to the fact that they operate in a given jurisdiction. I am not pro-capitalist out and out, but I told you at the start, Mr. Deputy Speaker, that I would make a rather uncharacteristic speech, because as a working-class person, I believe that I have set the tone from an appreciation of what the insurance industry has to go through.

I am not a right wing fellow, but using the full weight of my parliamentary experience and my understanding of financial intermediaries, bank and non- bank, I have sought to bring a particular contribution to this parliamentary debate, to support my good friend the Honourable Member for St. George North who, for the first 17 minutes of his contribution, made a clearly convincing presentation. He has been pining through asides that he was constrained from making a four-hour or five-hour presentation. We advised him not to make a four or five-hour presentation at this stage, and sometime

in the near future, he will have an opportunity to bring a lot of other things before this Honourable Parliament. Nonetheless, he must make bold to rebut any charges that were made which reflect badly on his tenure as Minister of Public Works and Transport.

I think, Mr. Deputy Speaker, that in all the circumstances, I am constrained to support this, not just out of a sense of collective responsibility by being a Frontbencher, but I think that the one point I can make in closing is that where there are institutions in a given economy, it is always good to protect their integrity. We in Barbados cannot have one bank crash or go bankrupt. We cannot have any bank or insurance company go bust. It would send the wrong signal to the rest of the world.

I have been grieved to hear that there have been countries that had situations where banks went bankrupt and insurance company collapsed, and the last thing that any Honourable Member of Parliament in this House would want is to see one insurance company go under.

Nonetheless, Mr. Deputy Speaker, I am heartened by the positive adversarial comments coming from the Other Side, but such comments are not being taken personally. They are taken in the spirit of democracy, coming from an Opposition that has finally come awake.

Thank you very much, Mr. Speaker.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, I sat patiently through this morning session and this afternoon session and my senses have been numbed somewhat because of a lot of rhetoric, interpretation of choice, decisions as to whether it is Parliament's responsibility or role to decide in favour of the interest of one or the next to bring to this Honourable House interpretations that I, as a physician with a responsibility to seriously look at life, find a phenomenon that man cannot give. Yet, we propose in this Honourable Chamber to attempt to quantify its value, and we find all sorts of explanations to attempt to do so.

Mr. Deputy Speaker, from the beginning, I know on which side to come down. I cannot support this amendment because when I analysed it, I do not have the many years of parliamentary experience of the former speaker but an amendment must necessarily do a few things. It must correct some previous wrong, or it must advance certain interests that were underpinned in the original amendment. Sir, when I attempt to apply that basic logic to this amendment, I am having some difficulties.

Mr. Deputy Speaker, I want to find out, as an amendment to the Road Traffic Act, Sir, what perceived problems are we attempting to correct by this amendment, if problems do exist? What imbalances are we trying to correct? Are they imbalances that favour insurance companies? Are they imbalances that favour the consumer or the purchasers of insurance premiums? Are we looking at loss of revenue to insurance companies, or potential loss of revenue for insurance companies? Are we looking at designing mechanisms that will ensure their viability in the future, and are we juxtaposing that against the value of life, as we know it?

Sir, I must ask this further question. In whose interest this amendment is intended? Is it the interest of the consumer who may be injured, or is it the interest of the insurance companies that this amendment seeks to protect? I think that is the nuts and bolts of this discussion.

Mr. Deputy Speaker, I heard numbers being bandied about with respect to the increases in the number of vehicles on the road. Some indicate within the last ten years that we are looking at over 65 000 vehicles.

House 46, sequence 24,

2:50 p.m.

Tuesday, November 09, 2004

Continuation of Dr. D. C. ESTWICK: We infer from that by extension there would be an increase in the number of accidents. It also means an increase in revenue for the insurance companies and an increase in revenue for the Government.

Sir, while I would accept that there is an increased probability that an accident may be fatal or there may be grievous bodily injury to the point where an individual is somewhat vegetated, I have a fundamental problem with how this Parliament would have determined the sums that are in the amendments. How did we arrive at \$10 million for a life in Barbados? What were the defining parameters of that? In my medical career I have seen many individuals who have been maimed and injured in ways that \$10 million cannot maintain them in their vegetated state with respect to housing, food, nursing and all the various other components. I have seen it, so I do not have to play with it, I can speak to it.

Mr. Deputy Speaker, because I have had those experiences I really have a difficult time understanding how the \$10 million was determined. By extension, when you have multiple injuries of a devastating nature and multiple deaths, I want to understand how it is determined that \$30 million would be enough if there are 15 persons possibly killed or two dead and seven seriously injured which has occurred in Barbados.

Hon. G. A. CLARKE: On a point of order. The Honourable Member is misleading the House because the amount of \$10 million was not set in this amendment. Ten million dollars per person was set in an amendment in the 1990s. We are only trying to cap per event where a number of persons are involved in the accident. I think the Honourable Member is not looking at the statistics because evidence has shown that the highest amount that was ever paid out in any single accident where a number of persons were involved is \$12 million and not one particular person. I do not think one individual in Barbados ever got \$10 million, so the Honourable Member is misleading the House.

Mr. DEPUTY SPEAKER: Proceed, Honourable Member.

Dr. D. C. ESTWICK: Mr. Deputy Speaker, does that make it right? Am I to accept that the Honourable Member is telling me that because there was never a pay-out of more than \$12 million in respect of whether a person dies or not, that makes it right in Barbados? It is just as moral, it is decent? That is a very shameful statement from Honourable Members in this House. It cannot be right because you put a value on it, that is the point I am trying to make. More than 10 years later they are arguing that the same amount is acceptable. I will move on, Sir.

Mr. Deputy Speaker, a few months ago in this Honourable Chamber insurance companies benefited from an increase in their tax deductibles from 20 per cent to 25 per cent. Insurance companies benefited through a decrease in the tax on profits from five per cent to 3.7 per cent. Insurance companies also benefited from an increase of the percentage of their profits that they could invest in real estate from 15 per cent to 25 per cent. So am I now to come to the Honourable House and support a Bill that I believe without question is not in the favour of the injured, the ones who have to suffer? The ones whose families may have to live with an individual who is dead or lives in pain and disfigured for 50 years? I cannot support a premium on that, I am very sorry. It is not my job at this stage. I do not want to see an insurance company fold. I hope that they would not have to pay out any sums of money on that matter, but I will not support a carte blanche determination as to what is a premium on life and quantify it with a dollar figure, I will not do it.

Mr. Deputy Speaker, this Administration continues to boast about a promise made by the Prime Minister. Part of the Prime Minister's vision was to see one motor car, I think he has increased it now to two, per house in Barbados. Now after 10 years and we have chaos on the roads with an increase in over 60 000 cars, a significant increase in the revenues at the tax departments in the coffers of the Consolidated Fund, no prescription at all for new traffic regulations and laws, road constructions that were promised in every single manifesto from 1991 to 2003, four-lane roads, this road and that road, no effective planning with respect to traffic management and now that his vision has materialised and there is an increase in chaos on the roads and accidents, the consumer is supposed to pay. Well, I hold this Administration guilty because if they were proactive enough they would have started dealing earlier with the potential that is now manifesting on the roads of Barbados. A true decade of deception. This Administration must take full responsibility for it, they cannot dodge it.

Sir, Parliament does not set premiums for insurance companies. Parliament does not set cost for services for insurance companies. Parliament does not regulate insurance companies' profits except through tariffs, so why should Parliament legislate how much money they should pay out. I need to understand it. It does not make any sense to me. Insurance companies have been benefiting under this Administration from various tax deductions and other allocations, therefore I believe that if the consumer pays a premium that matter should be determined, based on the injuries, within the law courts because if a man is injured, I understand, and my colleague can correct me, that in law there is a case law that certain precedents would have been established as to the payments for certain types of injuries. Therefore, if a man has had multiple injuries, it should be dealt with under those parameters.

House 46 Sequence 25

3:00 p.m.

Tuesday, November 09, 2004

Continuation of Dr. D. C. ESTWICK: Mr. Speaker, I do not believe this is a case that should be dealt with in this Honourable House and, therefore, I support the Honourable Members for St. John and St. Lucy in their positions on this matter. Sir, I would, therefore, revisit the original question In whose interest does this amendment serve?

Mr. Deputy Speaker, I heard reference in this Honourable House and in this debate to the numbers of

drivers who drive without insurance. I heard it said that the insurance companies were kind enough to have the premiums paid in tranches. I would be more inclined to believe that the majority of drivers who may drive without insurance are not genuine scamps, though there may be a few of them.

Mr. Deputy Speaker, I would more want to accept that it is because of the premiums charged that would become a burden. Sir, if I can extrapolate to the fact that more than 81 per cent of Barbadians earn less than \$3000 per month, then I would have to make the assumption that sometimes it is a real burden and that some people take an honest chance.

Sir, I am not supporting or condoning wrong but I have mentioned that to make the point that we had an Insurance Corporation of Barbados that could have been used more effectively to provide for certain levels of insurances that are discounted to those drivers who happen to be in the low-income and middle-income groups in Barbados. I do not know what mechanisms could have been developed, I am not an insurance expert. I would have to ask the Honourable Member for St. Michael West Central but if we are seeing it developing as a problem and we only reduce it to the fact that these persons are scamps and do not want to pay their insurances, that may not necessarily solve the problem. There may be a deeper underlying problem that the institutions need to look at and, therefore, Government's responsibility is to look at those institutional components and utilise mechanisms and opportunities to make sure that these kinds of problems are curtailed.

Mr. Deputy Speaker, I believe that Government having rid themselves of the Insurance Corporation of Barbados, it would have been a fantastic opportunity to allow many persons who could have benefited from a discount rate or from special arrangements of tranche payments to ensue and would still have their vehicles on the road, while not being in breach of the law.

Mr. Deputy Speaker, I cannot support the amendment before this Honourable House because I do not know what problems it is supposed to correct. I do not know what are the perceived imbalances that it seeks to address. I do not know whether it seeks to protect the revenues or the potential revenues of insurance companies in the future, or whether it seeks to maintain them as a viable business by decreased pay-outs as a potential reality at some point in time.

Mr. Speaker, this amendment does not bring along with it the type of administrative changes that need to occur with respect to road traffic management in Barbados. Sir, it cannot stand on its own. It is not just a simple matter of whether or not there is an accident, or of whether or not one is injured. It has to do with a multi-faceted approach to dealing with a problem which involves insurance, traffic management and education. Sir, I believe this is the challenge that Government must necessarily undertake and manage in the interest of the people of this country.

Mr. Deputy Speaker, I want Honourable Members on the Other Side not to sit and see a policy that would lead to chaos and say or do nothing because it is a vision of their Prime Minister. There are visions in every Barbados Labour Party's Manifestos such as four-lane highways, overpasses, fly-overs, and yet we do not have any fly-overs, any overpasses nor any by-pass roads. We have the cars and, therefore, the vision of the Honourable Prime Minister has been fulfilled, but at what price to Barbadians? There has been an increase in accidents and sky-rocketing insurance costs and the Honourable House, which is supposed to protect the interest of the people, ought to say: "Well, if you die, you are only valued at \$10 million."

Mr. Deputy Speaker, this is a scandalous point and I would like all Honourable Members on that side to go to church tomorrow, to kneel and to repent for their action because it is a serious act against the people of Barbados.

Mr. Deputy Speaker, in closing I want to say that I will sit and allow my brains to be numbed by the Honourable Member for St. Philip South, as per usual. But I have learnt how to tune out irrelevance, and that is what I intend to do for the next 30 minutes.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for St.

Michael West Central.

Mr. R. D. MARSHALL: Mr. Deputy Speaker, I thank you very much for the opportunity to take part in this debate which deals with section 38 of the Road Traffic Act.

Mr. Deputy Speaker, I sat here and listened to the Honourable Members for St. Thomas and St. John and during their interventions, I do agree that they both have made some telling points of what pertains in Barbados as it relates to road users, vehicles, pedestrians and the misgivings of the Ministry of Public Works.

H:No.46(26)

3:10 p.m.

Tuesday, November 9, 2004

Continuation of Mr. R.D. MARSHALL:

Mr. Deputy Speaker, when I was Minister of Public Works, the Attorney-General asked that a paper be brought to Cabinet to look at the whole Road Traffic Act and Section 38 of the Act today speaks to limiting the amount that can be paid out by insurance companies as it pertains to accidents where death or injury occurs.

Mr. Deputy Speaker, I am disappointed in the direction taken by the Opposition, especially when the Leader of the Opposition said that he was supporting the comments made by the Honourable Member for St. Lucy as it pertained to the Road Traffic Act. Mr. Deputy Speaker, this debate has nothing to do with ZRs or minibuses. When I arrived at Parliament today, I heard the Honourable Member for St. George North speaking about the Act and the amendment today.

Sir, I am not an expert in every facet of insurance but I specialise in the area of life and pension but as we speak about the Road Traffic Act and limited liability for insurance and reinsurance companies, we are talking about general insurance. Sir, there is a certain amount of risk involved in insurance where

Peter pays for Paul and Paul pays for all.

Mr. Deputy Speaker, Barbados is a small country with large insurance companies like the Insurance Corporation of Barbados, SAGICOR and United Insurance but by international standards they are not known and are like flies in the nostrils of the horse.

Since last year, insurance companies in Barbados were served notice by the big international reinsurers that they would have to discontinue reinsuring business out of Barbados. This message was communicated to the Government through the office of the Supervisor of Insurance. Mr. Deputy Speaker, when these large international reinsurers make such a decision, smaller reinsurers followed suit.

Sir, small insurance companies have to ask these large international organisations to back them by carrying the load for them since they cannot carry it on their own. These insurance companies split the premium, part goes to pay expenses for the company and another part buys reinsurance to satisfy claims. Over the years, international reinsurers have been reduced and we are now depending on only two large companies in the market to carry us through.

Sir, on September 11th, 2001, many reinsurance companies went out of business because they could not carry the burden of the claims that came out of that catastrophe. Until recently, Barbados was one of three remaining jurisdictions to offer unlimited coverage by way of statute.

Mr. Deputy Speaker, in January this year, the Cayman Islands amended their legislation and set it at \$1 million for one person being killed or injured. Also, a maximum of \$5 million was to be paid out for one accident. Trinidad also passed legislation which said that TT\$1 million would be paid to one person and an overall amount of TT\$2 million would be paid for one accident. St. Lucia passed legislation which said that EC\$300 000 would be paid to one person and an overall amount of EC\$1.5 million to be paid for that accident.

Jamaica passed legislation which said that for one person JAM\$3 million would be paid and JAM\$5 million overall for one accident.

The Bahamas has put a proposal to limit BAH\$2.5 million to one person and BAH\$30 million overall for one accident. Sir, no legislation to date has been enacted in the United States of America requiring limited liability.

H46/Sequence 27

3:20 p.m.

Tuesday, November 9, 2004

Continuation of Mr. R.D. MARSHALL: Mr. Deputy Speaker, when one talks about liability coverage and mentions the amount of \$5 or \$10 million to a person injured or to the relatives of a deceased person who was killed as a result of an accident, a few things come into play. One, the age of a person, number of dependents that person would have had and the person's earnings.

For example, we have a situation where a man eighty years old was killed in an accident. A man eighty years old would not have many dependents, maybe a wife. He would not have children at the age where he would have to leave money to educate them. However, a person who is 21 or 30 years old, newly married, had a wife and two young children or a person who is 40 or 45 years old and might have a child or two at a university, these persons would have dependents. Therefore, when they are making a decision as to how persons are compensated, these things come into play.

Sir, for example, a person may be disabled as a result of an accident and disability benefits have to be paid. An elderly man, 80 years of age, would not be in the workforce any more but a young man who is 35 years old, a professional or not, his earnings would be taken into consideration and the length of time that he would have worked before they make a determination on how that person would be compensated or if that person is killed how his relatives would be compensated. The Honourable Member for Christ Church West also spoke about the person's life expectancy first and his earnings over a period of years.

Asides.

Mr. R.D. MARSHALL: Sir, there has been no accident in Barbados to date where the payment for injury or death has exceeded \$5 million per person or \$12 million in total as a result of an accident, whether it is one person or a number of persons injured or killed in that accident.

Sir, what we are doing today is bringing Barbados in line with what is happening within the region. Insurance is a science and companies in Barbados cannot do it on their own. They have to depend on the international reinsurers to do it for them. If the international insurers say today that they are not reinsuring them, what will the insurance companies do? They are stock companies and they have limited liability.

Sir, I am saying that we are dependent on others and we have to follow the legislation that pertains to the Caribbean because we are depending on these insurance companies. Nobody has anybody's hand in their pocket as was insinuated in here today. The Opposition said that they are not supporting this legislation today but when I started my speech I said that we are talking about the amendment to the Road Traffic Act and not an amendment to the total Act. We are looking at a section of the Act to assure insurance companies that are able to find reinsurers to take the burden and spread the risk to persons who travel on our roads.

I thank you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. Philip South.

Hon. A. P. WOOD: Mr. Deputy Speaker, I rise to make my contribution to the amendment to the Road Traffic Act. I have a duty as a member of the Government, first of all, to examine the inconsistencies in what came from the Other Side. The Opposition asked the Honourable Member for St. George North a number of questions and one would get the impression that when he made his delivery... Notwithstanding the fact that I was not inside this Honourable Chamber when he made his presentation, I was listening and a lot of what they asked was already dealt with by the Honourable

Member for St. George North. Let me show the double standards and inconsistencies on the part of the Democratic Labour Party.

Sir, I asked the Honourable Member for St. Michael North West to caution the Honourable Member for St. Lucy when he made his contribution but he followed the same path. Sir, the Opposition is saying that they cannot agree with this amendment because it sets a limit in the aggregate to the amount that could be paid out in any single accident. It is \$10 million in the case of the individual and a maximum of \$30 million per event. They also said that there is no need to introduce that amendment at this point in time and let what is on the books remain, that is unlimited liability.

Mr. Deputy Speaker, first of all we have to examine the implications of us wanting to hold to a position. The Honourable Member for St. George North, and I listened carefully on my way here, provided a very rational explanation why we would need to move to this position. The Honourable Member for St. Michael North West reiterated that position and, of course, the Honourable Member who speaks with great eloquence in this Honourable House, the Honourable Member for St. James North, spoke to that issue as well.

Sir, we have to be very rational and we have to deal with reality.

Mr. D. St.E. KELLMAN: On a point of order, Sir. The Honourable Member is misleading this Honourable House by giving the impression that they have information in front of them that the insurance companies in Barbados have been called upon to pay out substantial amounts of money and I am asking the Honourable Member to produce the evidence to substantiate that point.

Hon. A. P. WOOD: Mr. Deputy Speaker, let me respond that is quite the opposite. If we are to take what they say to heart, will the insurance companies in Barbados that provide this type of coverage be able to get reinsurance?

H46:Sequence 28

2:30 p.m.

Tuesday, November 09, 2004

Continuation of Hon. A. P. WOOD:

In the absence of these companies, not being able to get reinsurance, will the insurance industry in Barbados survive?

Mr. Deputy Speaker, this is the key question that was discussed in this Honourable Chamber today. The overwhelming evidence from those who spoke, suggest that the insurance companies in Barbados and the insurance companies in the region have not reached the stage where they can provide this type of coverage they suggest, without having to seek the backing of large international reinsurance companies.

Mr. Deputy Speaker, once that is the case, I cannot understand, for all the tea in China and India put

together, why we would have a difficulty understanding the necessity for us to fall in line with regional and international trends, in moving to this position.

Sir, if the Honourable Members on the Other Side were questioning the quantum for accident, that is another issue, but to say that they are not agreeing with it at all...

Asides.

Hon. A. P. WOOD: That is not what they said. They say they are not agreeing with it. They did not say because the quantum is too small. Sir, what they said leaves the major reinsurers in the insurance industry in Barbados indeed exposed.

Asides.

Hon. A. P. WOOD: The Honourable Member for St. George North and St. Michael North West just said - have served notice on local insurance companies, not only in Barbados but to other jurisdictions that they will not be in a position beyond 2004 to provide coverage of the type, further encouraged by the Honourable Members on the Other Side.

Mr. Deputy Speaker, I have a second problem with the Other Side. The Honourable Member for St. Philip West, as usual went about his business in a very disorganised fashion and is concerned about the high cost of premiums at present. Sir, all of us are concerned about the high cost of premiums but do know that they encourage it by the stance they have taken for the premiums to go even higher. This is what I mean by their double standards and inconsistencies. The premiums are high but without thinking through what they are saying, they are encouraging the premiums to go even higher.

Asides.

Hon. A. P. WOOD: Do you want me to explain it to you? I will. If you had spared a thought before you had spoken about how high premiums are and at the same time decided that you should adopt a posture which says that the unlimited liability remain the order of the day. The reinsurers say that we are going to have...

Asides.

Hon. A. P. WOOD: No. There is nothing hypothetical about it. They said that they have already served notice, so they are either not doing it, or if they are doing it, they are doing it at similar expense to the local insurers. The local insurers will have to pass on that interest cost to their clients, and it comes in the form of nothing else but increased premiums.

Sir, if they want to put up a proper suggestion, it would be to get those in the region with the financial weight, who might want to become pan-Caribbean reinsurers, and then seek to determine if the terms of engagement with such a company and the local insurers in the region, in the respective jurisdiction could be more favourable than the international reinsurers that we are dealing with at the moment who, based on the state of claim, we have to continue to engage in the end.

Mr. D. St.E. KELLMAN: Mr. Deputy Speaker, on a point of order. The Honourable Member is accusing this side, of accepting higher rates with decreased liability.

Mr. DEPUTY SPEAKER: Please proceed, Honourable Member.

Hon. A. P. WOOD: Sir, the comment from the Other Side takes the cake that if we are going to agree to the \$30 million in the aggregate, then the public service vehicles operators should be allowed to carry unlimited numbers. This is the same team, Mr. Deputy Speaker, that is concerned about the movement from the \$10 million per passenger, and after the third passenger, the amount will reduce, as more and more persons are involved in one accident. On the one hand, they are saying that it should remain an unlimited liability and on the other hand, they are saying to put any amount of people in the vehicles, and in the event that some catastrophe happens, then everyone would get a very small amount.

Asides.

Hon. A. P. WOOD: They are contradicting themselves, Mr. Deputy Speaker.

Mr. D. St.E. KELLMAN: Mr. Deputy Speaker, on a point of order. The Honourable Member is misleading the House. What the Honourable Member is seeking to accuse the Opposition of, Sir, is exactly what the Bill is doing. In other words, the Bill is telling us that a life values \$10 million but as it increases, the life decreases, and that is what the Honourable Member is saying.

Mr. DEPUTY SPEAKER: Please proceed, Honourable Member.

Hon. A. P. WOOD: Mr. Deputy Speaker, the Honourable Member for St. Lucy obviously is not listening. They said that they have a difficulty with setting the \$30 million in the aggregate, so they are keen on getting the highest amounts per individual.

Mr. D. St.E. KELLMAN: Mr. Deputy Speaker, on a point of order. The Honourable Member is misleading the House. He is accusing us of telling the public that whenever you see a public service vehicle and you see more than three persons in the vehicle, not to catch it, Sir.

Hon. A. P. WOOD: Mr. Deputy Speaker, let me see if I could simplify it. Sir, when it was unlimited liability, the Honourable Members of the Opposition did not have a difficulty with the restriction on the number of persons who could ride the Public Service Vehicles.

House 46, sequence 29,

3:40 p.m.

Tuesday, November 09, 2004

Continuation of Hon. A. P. WOOD:

Sir, based on how the reinsurance market is going, we are saying that let us agree to the aggregate amount, and they are saying that in such circumstances they should pack the buses and not have any

respect for the limit. That is what they said.

Asides.

Hon. A. P. WOOD: The Honourable Member for St. Michael North West agreed with that. That is the last point that was made. The Honourable Member for St. Lucy finished his address there and the Honourable Member for St. Michael North West started his with that.

Asides.

Hon. A. P. WOOD: The Honourable Member cannot deny that, so that is a contradiction.

Mr. D. St.E. KELLMAN: On a point of order. The Honourable Member is now telling the House that whenever you are travelling and you see a Transport Board bus and you see a PSV that will carry less passengers than the Transport Board bus, that to catch the PSV and not the Transport Board bus because you would get more compensation if you get into an accident. That is what the Honourable Member is saying.

Hon. A. P. WOOD: Mr. Deputy Speaker, one thing I am doing is preventing them from falling asleep. Let me go on. I just thought I would begin there just to show the inconsistencies in what they are saying, but I suppose that is how Opposition Members of Parliament are supposed to behave.

Sir, there are some issues attendant to the legislation I would like to speak to which have to do with the rate of accidents and if we in Barbados were doing enough to police activity on the roads so as to ensure that the rate of accidents could actually be reduced. Mr. Deputy Speaker, let me say at the outset of this particular component of the delivery that I know accidents will take place and I know lives would be lost. However, I am one who also thinks that one life lost is one life too many and that we need to do everything to ensure that the incidence of fatal accidents on the roads in Barbados is minimised or indeed eliminated. That is what we need to do. I know one would argue that if the number of vehicles registered increases that in the absolute we would see an increase in accidents as well, but I have a serious concern about how the roads in this country are being used. All Honourable Members spend a lot of time on the streets and we see behaviour being exhibited by road users in Barbados which we all hope would be dealt with very decisively.

Mr. Deputy Speaker, one of the things that I hope we get a chance to do is to come back to this Honourable Chamber and have another more exhaustive debate on this issue of traffic management. I want us to be in a position to avail ourselves of the statistics and look at the causes of accidents and see to what extent going back to first principles we can have a very full explanation on these issues.

The Honourable Member for St. Thomas treated us to some examples of irresponsible and ridiculous behaviour by road users, but this is not something that we can just assume away. These irresponsible road users do not only impact on you, Mr. Deputy Speaker, and I. A large number of persons from the region and the international community come to Barbados, so the behaviour exhibited by our road users also has implications for how they would view this country. It is true that they themselves may take a little time in order to get accustomed to the road signs and driving on the other side of the road et cetera, but we in Barbados do not need that time to acclimatise to the practices on the roads, so we need

to show a little more consideration for other Barbadians who use the roads and by extension for those who we bring to our shores in the name of developing this economy. I feel very passionate about it, Mr. Deputy Speaker, and I would dare say it has gone too far. We need to redouble our efforts to bring some semblance of order, good sense and good behaviour to the use of the roads in Barbados.

Mr. Deputy Speaker, the large number of vehicles on the roads in this country have serious implications for the Government's road maintenance programme and the Government's road rehabilitation and road construction programme starting from scratch. On the one hand, while we may be joyous that there is some element of social improvement fuelled by the good stewardship and the good management of the economy and that persons as they move up the social and economic ladder may want to access vehicles, on the other hand, the country pays a price for this social mobility.

Mr. Deputy Speaker, I accept that as economies mature persons would want to have consumer durables which reflect a mature and advancing economy but we have to manage this process carefully because the downside of it could be hurtful to this economy as well. Let us look at the implications of large numbers of vehicles of all shapes and sizes on these roads in Barbados. The Government does not have the deepest pockets which would allow it to launch into the type of road rehabilitation, road construction and road maintenance programmes as all of us would like. The resources that are available to the Government should be used in a more efficient and effective manner so as to ensure that the roads in Barbados are kept in better condition. The causes of accidents cannot all exclude the work that is being done by various agencies which might have an impact on the surface.

House 46 Sequence 30

3:50 p.m.

Tuesday, November 09, 2004

Continuation of Hon. A. P. WOOD:

Mr. Deputy Speaker, the Honourable Member for St. Thomas spoke quite eloquently to the need for better co-ordination of the work of the various agencies. The Honourable Member spoke to the need that when the various agencies are conducting this work, that they must make sure that they put lights in place and that signs be placed at appropriate points so as to ensure that the early warning signals go out.

Mr. Deputy Speaker, what is also important is that the workers at the Ministry of Public Works' depots are sufficiently charged to ensure that routine work such as maintenance, pothole patching, et cetera, are done effectively. Sir, as simple as it may sound, drivers become very irritated and, of course, their vehicles pay the price if the routine work is not done in a timely manner.

Sir, there are also instances where the attention paid to the clearing of major stops or of directional signs leaves much to be desired. Sir, as simple as that may sound, you may find instances where some of these signs are located very close to junctions and are not conspicuous to the users of the roads, then you know what could be the result. Therefore, these little things, or what might appear to be little things, could help us in our approach to providing a better traffic management policy in Barbados.

Mr. Deputy Speaker, there is another issue which the Honourable Member for St. George North, I am certain, is going to address, which is the need for sidewalks. The Honourable Member for St. John has made mention of what happens outside of the Lodge School, but I am certain that we all can recount instances in our constituencies where, if sidewalks were built, we, as Members of Parliament, would feel more comfortable about the safety of those persons traversing those areas.

Sir, there is one particular case that comes to mind and I could not understand why the Ministry of Public Works would not have taken on board this suggestion to put sidewalks, however narrow or wide they could have been, on a stretch of road going from Six Roads to Four Roads. They repaired the road after many years of neglect by the Opposition. Sir, there was that school of thought that St. Philip was the Democratic Labour Party country so they did not have to do anything for us, but I am happy that is no longer the case and that we saw to it that the roads from Four Roads to Six Roads were repaired.

Mr. Deputy Speaker, I had to put out the call for sidewalks because there are two schools located on either side of that stretch; the Princess Margaret Secondary School is located at Six Cross Roads and the St. Martins/Four Roads Primary is located in St. Martins.

Mr. Deputy Speaker, you know how young people behave, nobody wants to walk behind the other and, therefore, would spread themselves across the road. Therefore, without any protection of a sidewalk, it remains an issue. Sir, the road has been paved. There are no speed bumps in the street and obviously it is more inviting now for motorists to speed. Sir, I am still putting out a call for sidewalks. They do not have to be very wide like what I see elsewhere but only to give the school children some measure of protection.

Mr. Deputy Speaker, I am going to close on an issue which I am certain is occupying the attention of all Honourable Members on both sides, which is a request for road humps or “sleeping policemen” because these requests are coming fairly rapidly. Sir, it is now becoming fashionable that wherever Government is reconstructing a road, the residents living along the path of that rehabilitated or constructed road are requesting road humps. There was a time where humps would have been requested on roads where many vehicles would be travelling and where drivers would be speeding but it is now becoming fashionable as we go into residential developments. Mr. Speaker, during the last term and this term, Government has launched into a very serious road rehabilitation programme and the numbers of requests that we receive for road humps are increasing significantly.

Mr. Deputy Speaker, I think it is time that the Ministry of Public Works should speak to this particular matter. What is happening is that because the requests are so numerous and are coming from every Honourable Member of Parliament, the Ministry of Public Works has not put us in a position to know what is the true policy in respect of the placement of road humps. Again, because the wait is extremely long in some cases for the placement of the road humps, some of us who have to deal with these requests now are being evaluated in a not-too-favourable way and those who want these road humps to come would drive elsewhere in the country and see some constructed, then would come back and ask why was it that certain places could have road humps constructed and their constituencies could not have any. Sir, this is a real issue. It is not one of these things that we can assume away and, therefore, we need the Ministry of Public Works to tell us what exactly is their policy on the placement of road humps.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member for Christ Church West.

Dr. W. F. DUGUID: Mr. Deputy Speaker, I thank you for giving me the opportunity to make my submission in this debate. Sir, unlike the Honourable Members on the Front Bench, I bear no collective responsibility. Today I am going to speak as a matter of conscience and as a matter of truth and justice.

Mr. Deputy Speaker, I support the amendment but I have reservations which I will speak to in a while. Mr. Deputy Speaker, insurance is about spreading risks and mitigating loss when loss occurs. Sir, my difficulty comes with limiting this liability to only \$30 million in one event. What is meant by one event? If one or two buses were to collide and then another public service vehicle were to collide with that bus a few minutes later, would that still be one event or would that be a secondary event? I think we need to clarify what this one event means because it is important that the average person understands the coverage that he or she has taken out.

Mr. Deputy Speaker, the other thing which I would like to look at has to do with this concept of limiting the amount which an insurance company will pay, based on that person's earning capacity or that person's life expectancy. Sir, who is to say that a person cannot improve their capacity to earn in their life time? Who is to say that a person's ability to make himself or herself better over their lifetime is limited?

Mr. Deputy Speaker, I must tell you that from my research, the majority of cost does not necessarily come when a person dies.

H:No.46(31)

4:00 p.m.

Tuesday, November 9, 2004

Continuation of Dr. W. F. DUGUID:

I believe the cost comes when the person survives the accident but is significantly crippled or incapacitated in some way and needs care for long periods of time. Sir, all Honourable Members today spoke about death but this is not the greatest burden. The greatest burden comes in having to provide for a person who has been incapacitated for a long indefinite period of time. I must agree with the Honourable Member for St. Philip West who said this can run into millions to be able to provide care for the person if he is incapacitated.

This is why I have a concern with the limited liability aspect of the second part of the Bill. The Honourable Member for St. Philip West said that it was the nuts and bolts of this matter and I have to agree with my colleague at this time on this matter.

Sir, we know that the rate of insurance for public service vehicles is different from a private car. If

that is the case, then maybe in this amendment there should be a part which says that if a public service vehicle is involved in an accident, that the capacity would not be \$30 million, in view of the fact that the public service vehicle pays more and would have an increased capacity of people in the vehicle. Sir, these are things that impact on people who might not be able to provide for themselves and we should consider this matter.

I also want to speak on another matter of insurance in general. When I learnt this, it was a surprise to me but I understand this is correct. If a person is driving a vehicle, hits a wall and injures himself, he has no access to any funds if he is significantly injured because the insurance does not cover the driver. It covers other people in the vehicle but it does not cover the driver himself. Sir, this means that if a person becomes incapacitated in some way, his insurance does not cover him.

Sir, we have to look at this because in many instances, people try to avoid an accident because young persons may step out in the road, they try to avoid them and injure themselves in the process but are not covered by the Insurance Act as it stands in this country. Sir, these are significant matters that need to be addressed in the law and something that Parliament may have to look at in future.

Mr. Deputy Speaker, we spoke a lot in this debate about house insurance and the fact that regionally insurances are increasing. I want to put out an idea to the insurance companies and hope they would take it up. We have seen the benefits of no-claim bonus on motor insurance but, Sir, everyone knows that they could insure their houses for 20 years but not see any no-claim bonus. Sir, there has not been a claim for 20 years but yet they do not benefit from any discount, reduction or no-claim bonus of any sort; and I think we must look at this.

Sir, if you counted up the monies paid in insurance for your house over a period of 40 years, you could have bought another house. I would like to suggest to insurance companies that they need to offer no-claim bonus to people who pay house insurance as well because these people are carrying the industry in this country.

Mr. Deputy Speaker, this matter has come to this Honourable House because it has national consequences and this is why I support the amendment in principle. If the cap on the insurance liability is not allowed to go through then it would have the concomitant effect of increasing insurance premiums throughout this country and I ask the House, what are the ramifications of that, Sir.

The Honourable Member for St. Thomas and the Honourable Member for St. John spoke about using the roads but not having insurance. Therefore, it stands to reason that if insurance premiums are allowed to escalate by not having the necessary caps on liability, we would see a phenomenon of an increasing number of people using the roads without having insurance, getting into accidents which have tragic proportions and the people who have suffered from the accidents get no compensation whatsoever.

Sir, the nuts and bolts of this amendment is about controlling the premium cost to a manageable proportion for the whole country so that we do not have an epidemic of people on our roads without insurance and people are not put at risk if they are hit by a car and become incapacitated.

Mr. Deputy Speaker, this is why both sides of this Honourable House should be supporting this

legislation because it is about providing for those who cannot provide for themselves and for people in times of tragedy. Sir, I support the amendment but would have preferred if the amendment had a cap relative to the capacity of a public service vehicle.

Mr. Deputy Speaker, I think this amendment would go a long way to control premiums. We have given in to the reinsurers but I think they have a responsibility to give in to us as well by reducing the cost of the premium. Sir, it is quid pro quo to us a legal term.

Mr. Deputy Speaker, I thank you.

Mr. M. A. LASHLEY: Mr. Deputy Speaker, I rise to make a submission in relation to this amendment to the Road Traffic Act, Section 38. I want to respectfully submit that this is the first time that I agree with the Honourable Member for Christ Church West and the fact that he has certain fundamental reservations which are correct, about the amendment to this Act.

H46/Sequence 32

4:10 p.m.

Tuesday, November 9, 2004

Continuation of Mr. M. A. LASHLEY:

Sir, in my nine years at the Bar, I have encountered some claims and when we look at the Head under which the claim falls in terms of pain and suffering, loss of amenities and domestic care these Heads sometimes amount to a substantial amount of money. We must ask ourselves whether it is conforming to the true principles of justice to put a cap on the liability.

Sir, this is the same Barbados Labour Party Government that has committed itself to the preamble to their Manifesto. I can recall the same Government outlining that they are committed to transforming Barbados and sustaining a high quality of life for its people but they come here today and place a cap on the lives of citizens. I respectfully submit that it is against the grain of justice, compassion and morality.

Mr. Deputy Speaker, what is the common good that we are seeking in relation to this amendment? The Honourable Members are deemed collectively responsible for, what I would call an injustice. Sir, this amendment is against the grain of justice and morality.

Sir, a caring government would create an environment that would improve the standard of living and quality of life of its citizens. In addition, to seek to bring this Bill to this Honourable House I cannot as a matter of conscience and a Member of the Opposition support this amendment.

Sir, I also believe that some Members on the Other Side have difficulty in supporting this amendment. Mr. Deputy Speaker, I heard for the first time that an Honourable Member for Christ Church West say that he has a conscience and I applaud him for saying that. I will put my hand in his hand because he is on a journey for fairness and, indeed, equity for the pedestrians and would be affected by road users.

Sir, my good friend, the Honourable Member for St. Philip West, said that this is a Government that has embarked on a decade of deception. This Government has promised to improve the road transport system in this country and they keep on promising. If one takes a look their Manifesto...

Asides.

Mr. M. A. LASHLEY: Sir, Page 37 of their 1994 Manifesto and I once again ask them to challenge me on it. They said that they have committed themselves in saying that their Manifesto is a social contract, and I quote

“We recognise the necessity for an efficient system of public transport and it is important for social and economic development.”

The first subsection, paragraph VII:

“establish an independent transport authority to regulate the entire ground transport system.”

Asides.

Mr. M. A. LASHLEY: Sir, even in 1991 and 1999 they promised to establish an independent transport authority.

Mr. Deputy Speaker, I can challenge them whether they have come to the fore or kept these promises in their Manifesto.

Sir, in their Manifesto of 2003, Every Bajan a Winner, again they promised the establishment of an independent transport authority.

Asides.

Mr. M. A. LASHLEY: In fact, three Ministers of Transport have it in here that they have a duty to provide an efficient transport system so that accidents, whether fatal or personal injuries are caused, that compensation should be limited or controlled.

Sir, what has happened to those promises for the last 13 years? It is a shame to even call their Manifesto Every Bajan a Winner and they said that they are going to create a humane and compassionate society but that is the Government of the day. Mr. Deputy Speaker, they are well informed because they promised everything.

Sir, I will go through their Manifesto every time I get up in this Honourable House because their Leader said that it is a social contract and that they are bound by it. What happened for all those years since 1991? What defence can the current Minister of Transport and Works put to this argument? What can the Honourable Member or whoever is responsible tell us?

Sir, if they want someone to defend them, I would suggest to them to plea guilty and that is my

professional opinion. As a defence attorney and one who believes that fairness, justice and equity should be part of their political system and that justice would be seen to be done, I am saying that I suggest to them to plead guilty as charged.

Mr. Deputy Speaker, the Honourable Member for St. Thomas said that there are persons who are driving without insurance and when they become involved in an accident are charged by the police and the person who is injured then has to sue the person who caused the accident and who could be a man of straw. When we say a man of straw, we mean that we can only get a paper judgment.

H46:Sequence 33

4:20 p.m.

Tuesday, November 09, 2004

Hon. Miss C.Y. FORDE: Mr. Deputy Speaker, on a point of order. The Honourable Member is misleading the House. I really would wish that the Honourable Member would quote what I said. I did not talk about any paper judgment. I made reference to bicyclists and motorcyclists on the road, who do have adequate brakes and lights that they can be easily distinguished, especially when they are wearing black attire and, therefore, I would wish to encourage them to do the right thing, in order to safeguard themselves.

The Honourable Member was not in the House when I was speaking and I suppose he did not hear the content of what I said.

Mr. DEPUTY SPEAKER: Please proceed, Honourable Member.

Mr. M. A. LASHLEY: Mr. Deputy Speaker, I was here during the speech of the Honourable Member for St. Thomas but I was making the point that I believe my good friend from St. James North had suggested a criminal injuries compensation board, because if a man of straw injures someone, how can that person be compensated.

Sir, once again their Manifesto of 1994 states:

“Compensation for victims of accidents.”

Mr. Deputy Speaker, they put it before the public. They got the concession and they had an opportunity to put whatever in place, be it a victim compensation scheme, be it a criminal injuries compensation board similar to the one in Britain and, once again, a promise in the 1994 Manifesto was not done.

Sir, I will tell them to plead guilty. I do believe they will not be any mitigating factors because they had a number of years to do it. I will continue to prosecute because the evidence is clear. They can talk until the cows come home, Sir, they are bound by these Manifestoes.

If they do not mean what is written in the Manifestoes, they should tell the public of Barbados that

they did not mean that and it is not the truth. It is the only excuse, but I challenge them.

Sir, I want to go further because I believe the Honourable Member for St. James South mentioned some concerns. I also have some concerns in relation to insurance companies. I find that in personal injury claims sometimes insurance companies will call in that persons who are injured and ask them to settle the claim, without giving them the opportunity for independent legal advice.

In fact, sometimes the person who is negotiating the claim at the insurance company is not a lawyer, so that person may sign a disclaimer, and they will receive \$5 000 for a serious injury and a couple of years down the line, Sir, they have to spend more than \$5 000 to get out of that pain and suffering. This is a problem I have with the insurance companies.

In fact, I will submit that if there is something pondering the insurance companies then, Sir, to balance justice, they should consider the limitation period. It was mentioned here today to extend the limitation period from three years to six years. It was that way before. I do not know why it was done, but I will support that if it was three years to six years.

Further to my argument, Sir, I want to submit that when we look at the road repair programme of this Government, indeed the area of St. Philip North, my constituency...

Asides.

Mr. M. A. LASHLEY: Sir, I want to say that road works, in relation to St. Philip North that the residents from Fortescue have been complaining. I believe my good friend from St. Philip South said that some persons are requesting from the Government, what we call, humps in the road. I had requests from the residents of Fortescue and they are extremely concerned about the road users who come through the district at extreme speeds, causing concern to little children and residents in the area.

Indeed, also in my constituency, the area of Long Bay to Well House Corner there is a road that is very bad. In fact, by this time, the Honourable Member for St. George North would have received a petition from me, Sir, because I went around the district and got signatures from constituents who are concerned about the state of the road. I believe that was the first time it was ever done.

Asides.

Mr. M. A. LASHLEY: It was a petition that was drawn by me and sent out to the residents for signatures. They have agreed that the road is in bad condition and that is dangerous. I would want to find out from the Honourable Member for St. George North how soon that road will be fixed.

Mr. Deputy Speaker, I hope that it would be done soon and by doing that they would actually stray from their practices of the past, and give some good service to the people of this country.

I thank you, Sir.

Mr. R.D. JONES: Mr. Deputy Speaker, I was between two minds if I should speak on this amendment to section 38 of the Road Traffic (Amendment) Act, after listening to my colleague from

St. Philip North, because I believe he captured, in a very poignant fashion, the thoughts really of the wider masses of Barbadians when he spoke in his manner to this issue.

I recognise the general disturbance in the minds of the Honourable Members of the Barbados Labour Party, particularly those on the Frontbench who have been stymied by their own inactivity in many of the promises and pledges that they have made in the social contract called the Manifesto; but that is not the area on which I will speak today.

It shocks me, Mr. Deputy Speaker, that less than 18 months after coming to this House, you will find the Government of the Barbados Labour Party bringing protectionist legislation to this House. There is nothing else that you can call what has been brought by the Minister of Public Works and Transport as protectionist legislation. In this instance, it is protectionist legislation for the capitalist marketplace. House 46, sequence 34,

4:30 p.m.

Tuesday, November 09, 2004

Continuation of Mr. R. D. JONES:

This Parliament is not set up to place on the backs of the people of Barbados legislation which will further burden them and which will create for them problems in the management of their own affairs. This amended portion of the legislation does this quite admirably.

Sir, on my way to this Honourable Chamber I was listening to the presentation of the Honourable Minister, and as he expressed himself in his state of confusion I recognised that he seemed unprepared, but maybe that is as a result of having been promised before that we would have been discussing the CARICOM Single Market and Economy Bill. Sir, he, like the good Don Quixote, jumped on his horse and tried to cover a gap that was created in not having a matter to be dealt with before the House. Mr. Deputy Speaker, let me apologise on his behalf because he comes from the noble profession of teaching and there is always a certain notion that you should be prepared.

Mr. Deputy Speaker, we are operating in a marketplace today where individuals who become involved in business accept or must accept the consequences of that business. On some occasions they will make profits beyond recognition. On some occasions they will suffer loss. That is the risk that they placed themselves.

Mr. Deputy Speaker, we have a situation where the Minister from his own mouth has said that the General Insurance Association of Barbados (GIAB) came to the Government of Barbados and asked the Government to protect them from what is happening in the marketplace. I do not believe that is the role or the function of any government. In this instance, by rushing to this Chamber and moving the particular amendment, it would suggest to me that the Minister has completely imbibed what has been placed before them by the GIAB.

Mr. Deputy Speaker, I have no difficulty with any capitalist institution seeking to garner greater levels of profit or seeking to protect themselves, but it must never appear as though Government sits in

sync or walks in sync with them on all of these issues. From the time you do that, you put yourself against the better interest of the wider masses of the people within the country. On this occasion, by their very words and actions, they have aptly demonstrated that they now sit solidly in the chair with those persons in Barbados who in one instance would do any and everything to ensure that they scrape every inch of profit from the people.

Mr. Deputy Speaker, by saying that I am not suggesting that I want to see insurance companies in Barbados collapse from heavy burdens. I do not want to see that. Just like all the Honourable Members on this side, I do not want to see the destruction of any Barbadian business, but you cannot eat your cake and still want it preserved for you. This is what this amendment brought by the Honourable Member for St. George North is seeking to do.

Sir, if I were the Honourable Member, after listening to the entire debate even from Honourable Members from the Other Side I would withdraw this particular amendment. If the Honourable Member would withdraw this amendment, he would go down in the annals of this House as having done the right and decent thing.

Mr. Deputy Speaker, as I said before when persons get involved in these business, they accept the risk. I listened to my good friend, the Honourable Member for St. Thomas, and I agree with her on several of the pronouncements she made. As we debate issues which fall under the Road Traffic (Amendment) Act we are speaking about how we operate on the roads in this country. The Honourable Member for St. Thomas gave us very excellent and cogent examples of the mishaps she would have encountered on her daily journeys from her home to other parts of Barbados. She is absolutely right when she said that there are persons who use our roads in a manner which is detrimental to the well-being of other users of the road.

Mr. Deputy Speaker, in aligning myself with the comments made by her, it has been drawn quite forcibly to my attention that there are persons who believe that tracks of the highway of Barbados must be used as car racing terrains. Mr. Deputy Speaker, there is evidence that persons race cars on Friday nights commencing at the junction of the Kendal Hill Roundabout which is in the constituency of Christ Church West Central right out to the Lowlands junction. I am sure, Mr. Deputy Speaker, that you are aware of this. The noise and the speed of these heavily revved up cars has been drawn to my attention. When the policemen move in at particular times they relocate their activities to other parts of Barbados. This is part of the scenario that is taking place in Barbados. It is a form of madness which seems to be possessing some persons in our country. Now how do we get to those minds? They are obviously aware of the danger which they pose to the users of the road, both persons in vehicles and persons who ride or walk the streets of Barbados. They are creating a dangerous practice in this country.

Sir, on behalf of the people of Christ Church East Central particularly those people who cannot sleep because of these heavily souped up motor vehicles, the people in Kendal Hill Park in Christ Church West Central, the people along the whole Kingsland stretch, the people in Ballantyne Gardens and along Ballantyne Road and in Lowlands, I am appealing for some respite for these people not only from this annoyance but from the danger which is posed. There is no respect by these persons for the law or for persons in the country. So even though I charge that this legislation is protectionist, it gives us the opportunity to look at other areas that this Road Traffic (Amendment) Act can speak to.

I believe that the Honourable Member for St. James North in his usual style has placed before this Honourable Chamber the opportunity to establish a criminal injuries compensation board. I recognise it as a sleight of hand technique that he was using to say to his colleagues that this is something that he truly wants, and let us say that the Honourable Members of this side agree with him. I recognise the technique because if your colleagues are not listening to you and I know that you have put this on the table before them, on this side we support him in this particular initiative calling for a criminal injuries compensation board to deal with matters that will come out of injuries and accidents.

House 46 Sequence 35

4:40 p.m.

Tuesday, November 09, 2004

Continuation of Mr. R. D. JONES: Mr. Deputy Speaker,

it is important that even though the Government does not act on its own promises with alacrity, that things like this would be acted on with alacrity. We cannot expose our citizens to further harm and danger.

Mr. Deputy Speaker, by seeking to cap at the maximum of \$30 million for injuries, harm, death, et cetera, resulting from accidents, this legislation produces harm to two or more persons who might be involved in the same accident. Yes, we have all recognised that we do not want to see the lives of our people being sacrificed on the streets of Barbados. I do not believe that any Honourable Member or Honourable Members of this Honourable House would want to see the lives of any citizen of Barbados being sacrificed on the streets of Barbados but I believe that when the Honourable Minister recalls this Bill, that he would look again at setting a higher cap, rather than the \$30 million which he has placed in this Road Traffic (Amendment) Bill, 2004.

Mr. Deputy Speaker, I think it would be useful for the Honourable Member seriously to reconsider getting all the minds involved in the process and to look at it again. If the Honourable Member is seeking to satisfy that part of the Barbados Labour Party's constituency and the wider constituencies of Barbados that they were elected to serve, then they can go back to the drawing board and get a happy mesh, one that is captured under the General Insurance of Barbados, and one that can satisfy their constituencies and the wider constituencies as a whole. Sir, as has been clearly elucidated by Honourable Members on this side, we cannot support this amendment as it stands.

I thank you, Mr. Deputy Speaker.

Mr. DEPUTY SPEAKER: The Honourable Member St. Michael North.

Mr. R. St.C. TOPPIN: Mr. Deputy Speaker, I rise to make a very brief contribution to this debate. I support the measure before the Honourable House today but as Honourable Members have said, including some Honourable Members on this side, I think we have to see what is happening today as

part of a package that must be presented to the citizens of this country.

Mr. Deputy Speaker, I think that we are in overtime now in terms of being provided with a proper road traffic management system. Sir, for a very long time now, we have heard about a promise that a serious look was going to be taken at the situation on our roads. There is no denying that there is now complete chaos and madness on the streets of Barbados. On any morning, to get from anywhere to anywhere, is simply complete chaos and complete madness. I believe, therefore, that the time has come when we need to hear more about where we are in terms of a proper road traffic system.

Mr. Deputy Speaker, there is now too much stress on the roads and I would like to see a greater level of interest being shown in attempting to deal with this level of stress. Sir, recently we saw a long overdue assault on the behaviour of the ZRs and minibuses of Barbados. I wish to commend the Commissioner of Police and his members for taking the very bold initiative in confronting that very disorderly sector on our roads, and I hope that they keep up their vigilance until law and order finally prevails.

I must say that as we go along the streets, as the operation begins to fade, we are again seeing the ZR operators behaving in the same way in which they were behaving prior to that operation. I see the Opposition shaking their heads in agreement and, therefore, I would hope that the Police Force would not ease off in their resolve to ensure that law and order returns to our streets, insofar as the behaviour of that sector is concerned.

Mr. Deputy Speaker, today while coming to Parliament, a ZR operator took it upon himself to stop on a corner on Golf Club Road for somebody to run across the street to board his ZR van. When I pulled up next to him to ask him if he had not seen the bus stop, he told me about where I had come from and what he had in the van. He asked me why I would not stop and let him show me what he would do to me. Sir, there is still a need to keep that pressure up, and I would hope that the Commissioner of Police would keep that pressure up.

Mr. Deputy Speaker, I see everyone in this Parliament nodding in agreement with what I am saying and, therefore, I hope that the authorities will likewise continue the approach they have recently taken.

Mr. Deputy Speaker, in all, a lot of the problems we have on our roads is as a result of stress. When people are under stress, anything can happen, accidents can result and persons can get injured, then the question of compensation being dealt with here today will arise.

Mr. Deputy Speaker, there are a number of little things that can be done. Sometimes there is no need for a major policy approach or decision to be taken, but little things. Sir, you wonder, for example, why you would have a system in place to this day where you would go by the traffic lights in the Pine by the Caribbean Broadcasting Corporation (CBC) and you will see that whenever those lights are flashing, there is never a build-up of traffic but whenever they are working properly, there is always a build-up of traffic. Sir, commonsense would say to anybody leave the lights flashing but there are some who would say that traffic lights should not be put in place and not be working properly. Then, therefore, commonsense would dictate that if you believe that, then move the traffic lights from there altogether so that traffic can flow. Those persons coming from the Pine/East/West can turn left, go on to Bussa Roundabout, turn around the roundabout and traffic would flow freely every day. But, Mr. Deputy

Speaker, when things are very simple, people cannot see them because they are too simple.

Mr. Deputy Speaker, there was a time when one would come down from the road by St. Winifred's School. When that roundabout was finished, before there were any markings, people going straight or turning left would go to the left lane. If they were turning right, they would go into the right lane.

Mr. Deputy Speaker, the Ministry of Public Works marked that roundabout and marked it that if persons were going straight or right, they had to use the right lane and those going left, would use the left lane. Sir, this has resulted in miles and miles of back-up traffic every morning and throughout the day at that particular junction

Mr. Deputy Speaker, there is currently no uniformity in rules at roundabouts in Barbados, therefore, you cannot say that it is done at all the other roundabouts and, therefore, it must be so. Therefore, you would have to use the system that would make things easier for users of the road.

Mr. Deputy Speaker, I also believe and understand that at one stage they were looking at the issue of staggering working hours or staggering school hours with working hours. I would like to hear more about where we are with that. Is there any serious study underway to deal with staggering working hours or changing school hours to ease the congestion on the road?

Mr. Deputy Speaker, I heard the Honourable Member for St. James South saying that she did not want to see Barbados resorting to having fly-overs. Sir, I could not disagree more because I believe that in Barbados we have to look very seriously to these areas of severe congestion, for example, at the traffic lights at the junction of Barbados External Communication and further down by Shell Service Station, Wildey, where there is too much congestion and back-up of traffic, as there are in some other areas. Therefore, we have to look very seriously at getting with it.

Mr. Deputy Speaker, I believe that the public of Barbados would have to be on board with recognising that money spent now on a road rehabilitative system...

Asides.

H:No.46(36)

4:50 p.m.

Tuesday, November 9, 2004

Continuation of Mr. R. St.C. TOPPIN:

When the ABC Highway was built, there was a hue and cry because of the amount of money spent on that road. Mr. Deputy Speaker, we are at a stage where the public of Barbados recognises that spending money on road works and infrastructure has to be seen as necessary and not as a luxury because there is a lot of stress and productivity is endangered because of time lost on the road. Sir, we have to spend as a necessity to ensure that roads are put in such a state that people can get around more

freely. Sir, things like flyovers and walkovers have to be seen as a priority. I would like to know what has happened to the plan for a walkover on the ABC Highway in the area between Hinds Hill and Warrens in the constituency of St. Michael North. Since 1995, I was assured that it was approved and would have been put in place because a number of people have to come from across Hinds Hill/Airlie Tenantry side to cross the ABC Highway to get children to Eden Lodge Primary School and literally have to run across the road and hope to get across without being struck by a vehicle.

Mr. Deputy Speaker, if 100 children get struck by vehicles, we are going to be confined, because this amendment says that only \$30 million can be paid out. Sir, I do not want the children to get struck by vehicles in the first place. Sir, as we say in Barbados, we have to “get with it”.

Mr. Deputy Speaker, a source of supreme annoyance on the roads of Barbados is a number of motorists driving at zero miles per hour which keeps back people. Sir, it is unreasonable and if you toot your horn they get annoyed. I contain myself, but people tell me if they toot their horns or show any objection to the slow speed, the motorist drives slower or may retort with words that cannot be repeated in this Honourable House. Sir, I believe that we have to look at minimum speed limits where appropriate.

I cannot understand why anyone would want to go on the ABC Highway and drive at 10 or 15 miles per hour because that is not why the ABC Highway was built. Sir, if they have the time to drive at that type of speed, then they could take another road and leave the ABC Highway for people who wish to get from point A to point B quickly because that is the purpose of the highway.

Sir, I believe that we should have a minimum speed limit and if you fall below that speed you would also be guilty of violating the law as you take a drive along that particular road.

Mr. Deputy Speaker, I said that I was going to make a very short intervention with a few points and with those few remarks I am indebted to you.

I thank you.

Mr. DEPUTY SPEAKER: The Honourable Member for St. George North.

Hon. G. A. CLARKE: Mr. Deputy Speaker, I am indeed grateful to those Honourable Members who have participated in this debate today. We did not anticipate that it would have been such a long debate because it is a simple amendment in which we are trying to protect the interest of consumers.

Sir, the Democratic Labour Party’s Opposition has divided the Honourable House to the extent that they cannot see beyond what is written in the legislation and some of the members of the Opposition are of the view that this was the first time that a limit has been put in place.

This Bill was amended in the 1990s when a limit of \$10 million was put as the liability for one person and today we are seeking to put a further cap on each event. Sir, I must say that we are not protecting the interest of any insurance company or individual. I believe that this amendment is to protect the industry as a whole and those consumers who now pay large premiums. Therefore, I believe that the Government is on the right course to protect the industry as a whole.

Sir, vehicle insurance is compulsory and it is true a number of persons from time to time do not bother to renew their insurance or do not have insurance at all. In fact, it is recorded that between 2000 and 2004, over 1,518 cases were reported to the police where persons did not have adequate insurance. The records also show that in the year 2002 there were three hit-and-run cases, thirty-eight in 2003, twelve in 2004 and we are concerned about the number of persons not having insurance.

Mr. Deputy Speaker, we believe that if the trend continues we would see the premiums for car insurance skyrocketing. In fact, I made the point earlier that many Barbadians have complained about the rising cost of insurance premiums for public service vehicles and this situation is worrying to the Government. The Supervisor of Insurance has advised us that if we do not put a cap on the liability being paid out per event at this time, it may mean an increase in premiums in the year 2005.

Sir, most of the reinsurers operate out of Barbados and they have made the point that in 2005, they would be operating a limited liability company and would not be accepting unlimited premiums. Therefore, we need to put a cap on the unlimited liability at this time.

Mr. Deputy Speaker, all the other islands have put a cap on unlimited liability and Barbados is one of the two remaining islands to put a cap on unlimited liability. I understand that the Cayman Islands have set a cap to their limit in January, 2004, that the Bahamas are the only outstanding islands to follow suit and that they are proposing to set a cap on liability. Sir, Trinidad and Tobago has set a cap of \$1 million per person and \$2 million per event. To date, Jamaica and St. Lucia have a cap and even European countries have a limit.

Mr. Deputy Speaker, we believe that it is important for reinsurance to support the local industry.

H46/Sequence 37

5:00 p.m.

Tuesday, November 9, 2004

Continuation of Hon. G. A. CLARKE: Sir, we heard in this Honourable House today that primary insurance companies do not have the capital base to write risk on their own and, therefore, reinsurance is important. We also said that coverage in the past was accessible for unlimited liability but today the reinsurers are saying that you must set a limit and so have set a limit of \$10 million per person and \$30 million per event.

Mr. Deputy Speaker, the Opposition asked what were the benefits to the consumer. It is my understanding that all general insurance companies are required by law, as part of the administrative arrangement, to place part of the risk with overseas reinsurers. It is also noteworthy that these reinsurers take on 80 per cent of the risk and the insurance companies receive a commission. Sir, the reinsurance companies are not willing to operate without a cap and this is important.

Mr. Deputy Speaker, it is also important to note that insurers would be forced to increase premiums to cover a risk that do not have any reinsurance cover. If we do not set a limit, I can see the premiums of

many of these insurance companies increasing in the future. The Government, by setting the limit today, is saying that we would prefer premiums to remain low. In fact, I believe that consumers will benefit in the future, that we should see a reduction in the rate and would not see an escalation in the rate in the future. Sir, I believe that this is the best thing that we could do at this time.

There are other concerns which need to be addressed. I want to say that there will be a further amendment to the Road Traffic Act. Sir, a subcommittee has been set up within Cabinet and we are looking at a number of proposals to change a number of things within the Road Traffic Act.

Mr. Deputy Speaker, more than 18 definitions are going to be changed. We are looking at the mandatory carrying of drivers' licences, playing of music on the public service vehicles and using cell phones while driving. These are things that we are looking at and hope that would come before Cabinet in the near future.

Sir, it is also important that we address the Highways Act to look at the way utilities companies currently dig up the road. Sir, even though they have asked for permission, sometimes they dig up the roads without due care and attention and we have to be able to protect our roads.

Mr. Deputy Speaker, there is a Traffic Management Unit within the Ministry of Public Works and I am very happy that they are responding to the problem that we have. Sir, there are almost 107,000 vehicles on the road and we have only 1,500 kilometres of road and we have proposed a number of methods in order to solve the problem. We are also concerned with the number of vehicles that are on the road, the time it takes to reach one's destination and how this affects productivity; but the Ministry is doing its best to address the situation.

Sir, I believe that Honourable Members would have seen that we have resurfaced a number of roads, for example, Bridge Road. In addition to that, a number of roundabouts have also been resurfaced and this work was carried out at night because we recognised that to carry out this work during the day would inconvenience the travelling public.

Mr. Deputy Speaker, we are now working on Bridge Street. I understand that tonight Bridge Street and part of Heroes Square will be resurfaced and we are also looking at Crumpton Street as well. Sir, the Ministry of Public Works is trying to resurface a number of roads at night and weekends to minimise any inconvenience.

In addition, we will be re-paving a number of sidewalks. We will also be increasing sidewalks in residential areas and will be looking at Highway 7 and the West Coast. Sir, we believe that we have to carry out this work in response to what is happening today and I must assure this Honourable House that within the next two years, as we prepare Barbados for World Cup Cricket, we will see more roads being built to the standards specified in a developed society.

Mr. Deputy Speaker, we will definitely meet the challenge but, of course, Honourable Members need to understand that Barbados probably has more cars per population than any island in the Caribbean. We see many persons travelling to Bridgetown every day by themselves in a car and we are looking at car pooling as one of the ways to try to manage traffic.

Sir, we are going to be looking at the synchronisation of the traffic lights at The Pine from BET junction. Honourable Members have been asking us to remove the traffic lights at The Pine junction but it is not as easy as removing the traffic lights because persons coming from The Pine East/West Road must all be able to use that road. However, we will try our best to manage the traffic in a way as to keep the historical and cultural aspect of Barbados intact.

Sir, I know that many of our parliamentarians do not like flyovers, bridges or culverts, but in a developed society we have to be able to try a number of things. We have tried looking at turning right on highways and some people said that we should not change a system. Sir, when traffic is flowing and vehicles have to turn right on that road it causes a back-up of traffic so we have to be able to say no right turns on some highways which in some cases we have been doing. For example, the one at Graeme Hall has remained with a right turn because we recognise that does not have an impact as the one at St. Barnabas.

Mr. Deputy Speaker, we will continue to upgrade roads and look at roads where in the morning traffic would go westward and in the evening where roads would become one-way. For example, Honourable Members have been asking about Broad Street and The Wharf and we are looking at how we could move the traffic through the City as fast as possible so that people can get to work on time. Sir, a committee is also looking at flexi-working hours. These are things that the Ministry is looking at in an effort to alleviate some of the traffic on the roads.

Sir, I do not want Honourable Members to feel that we are asleep within the Ministry. We have an active committee which is chaired by one of our prominent members and one of our great traffic management engineers. I believe that given the opportunity and the resources we would be able to see a movement of traffic within the next two years because we must be able to accommodate more than 27,000 visitors to the World Cup in the next two years.

H46/Sequence 38

5:10 p.m.

Tuesday, November 09, 2004

Continuation of Hon. G. A. CLARKE:

We are aiming not only to move those people but we want to gear Barbados up for the role ahead.

Mr. Deputy Speaker, I believe that this amendment is justified and we have to set the cap at this time. We are not saying that we must set a cap for life, because we do not believe that we can set a cap for life, but as the Honourable Member for St. Michael West Central made the point, there was never an event in Barbados where more than \$12 million dollars was paid out, or \$5 million per person. Historically, we have taken into consideration that the cost of insurance is escalating and we would want to keep it at basic premium at this time.

With those remarks, Mr. Deputy Speaker, I beg that this Bill be read a second time.

Mr. R.D. MARSHALL: I beg to second that, Sir.

The question was put and resolved in the affirmative without division.

On the motion of Hon. G. A. CLARKE, seconded by Hon. R.C. EASTMOND, the House resolved itself into Committee on the Bill, Mr. R.D. MARSHALL in the Chair.

COMMITTEE

Mr. CHAIRMAN: This House is now in Committee.

Clauses 1 and 2 were called and passed.

On the motion of Hon. G. A. CLARKE, seconded by the Hon. R.C. EASTMOND, Mr. CHAIRMAN reported to His Honour the DEPUTY SPEAKER the passing of one Bill in Committee, and Mr. DEPUTY SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. G. A. CLARKE, seconded by the Hon. R.C. EASTMOND, the Bill was read a third time and passed and cited as the Road Traffic (Amendment) Act, 2004.

ADJOURNMENT

Hon. R.C. EASTMOND: Mr. Deputy Speaker, this brings us to the end of Government's Business for today's Sitting and I beg to move that this House be adjourned until Tuesday, November 16, 2004 at 1000 a.m.

Hon. R. R. FARLEY: I beg to second that, Sir.

The question that this House be adjourned until Tuesday, November 16, 2004 at 10:00 a.m. was put and resolved in the affirmative without division and Mr. DEPUTY SPEAKER adjourned the House accordingly.

House 46, sequence 39,

5:15 p.m.