

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT
IN THE FOURTH SESSION OF THE TENTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON JUNE 18, 2010**

SESSION 2013—2014

VOLUME 23

HOUSE OF REPRESENTATIVES

Friday, February 07, 2014

The House met at 1.30 p.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I have received communication from Miss Donna Cox, who I have been advised will not be able to attend today's sitting, and has asked to be excused from the sitting of the House. The leave which the Member seeks is granted.

PAPERS LAID

1. Response by the Commissioner of Police to the Fourteenth Report of the Joint Select Committee of Parliament on Ministries (Group II), and on the Statutory Authorities and State Enterprises on the Administration and Operations of the Trinidad and Tobago Police Service (with specific focus on efforts at maintaining law and order). [*The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal)*]
2. Ministerial Response to the Seventh Report of the Joint Select Committee of Parliament on Ministries (Group I), and on the Statutory Authorities and State Enterprises on the Administration and Operations of the National Insurance Appeals Tribunal. [*The Minister of State in the Ministry of Finance and the Economy (Hon. Rudranath Indarsingh)*]
3. Response by the Public Service Commission to the Eleventh Report of the Joint Select Committee appointed to inquire into and report to Parliament on Municipal Corporations and Service Commissions on a re-evaluation of the Efficiency and Effectiveness of the Public Service Commission. [*The Deputy Speaker (Mrs. Nela Khan)*]

ORAL ANSWERS TO QUESTIONS

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, may I indicate that today, the Minister of Sport is here, and is prepared to answer question No. 37. We will ask for a deferment of two weeks for questions Nos. 40, 41 and 42, all to the Minister of Local Government.

The following questions stood on the Order Paper in the name of Miss Alicia Hospedales (Arouca/Maloney):

**Upgrade of Recreation Grounds
(Arouca/Maloney)**

40. Could the hon. Minister of Local Government state when would the Clayton Ince Recreation Ground, Henry Street Recreation Ground and Bon Air Recreation Ground be upgraded

**Tunapuna/Piarco Regional Corporation
(Garbage Collection Services)**

41. Could the hon. Minister of Local Government state:
- a) The names of the contractors/firms who have been providing garbage collection services for the Tunapuna/Piarco Regional Corporation during the period June 2010 to August 2013?
 - b) The contract date(s) for each contractor/firm?
 - c) The amount paid to each contractor to date?

**Litter Wardens
(Details of)**

42. Could the hon. Minister of Local Government state:
- a) The number of Litter Wardens that have been hired by the Ministry of Local Government?
 - b) The date(s) their employment became effective?
 - c) The number of Litter Wardens assigned to each Regional Corporation?
 - d) How many Litter Wardens are still working for the Regional Corporation(s) that hired them?
 - e) Whether these Litter Wardens identified in part d) above will continue to work at their designated Regional Corporations?

Questions, by leave, deferred.

**Red Hill/D'Abadie Recreation Ground
(Details of)**

37. Miss Alicia Hospedales (*Arouca/Maloney*) asked the hon. Minister of Sport:

Could the hon. Minister state:

- a) Whether land has been identified for the development of a Recreation Ground for the Red Hill, D'Abadie community?
- b) If the answer to part (a) is in the affirmative, can the Minister state the exact location and date of commencement for the development of the Recreation Ground?

Mr. Speaker: The hon. Minister of Sport. [*Desk thumping*]

The Minister of Sport (Hon. Anil Roberts): Thank you, Mr. Speaker. With regard to part (a) of question, no land has been identified in the Red Hill/D'Abadie community for the development of a recreation ground. Given the above, part (b) of the question is not applicable.

Thank you, Mr. Speaker.

**NURSES AND MIDWIVES
REGISTRATION (AMDT.) BILL, 2014**

Order for second reading read.

The Minister of Health (Hon. Dr. Fuad Khan): Mr. Speaker, I beg to move:

That a Bill to amend the Nurses and Midwives Registration Act, Chap. 29:53, be now read a second time.

Mr. Speaker, I rise this afternoon to present the Bill entitled: The Nurses and Midwives Registration (Amdt.) Bill, 2014. This Bill seeks to amend the Nurses and Midwives Registration Act, Chap. 29:53. Inter alia, it will change the composition of the council from 22 members to 15, providing for a new cadre of nurses called the Advanced Nurse Practitioners. It will also provide for the removal of the licensing examination for graduates out of a training programme, accredited by the Accreditation Council of Trinidad and Tobago, and the provision of mandatory continuing education for all nursing personnel.

Mr. Speaker, as you are aware, the health sector is now facing a crisis, and there is an incredible shortage of nursing staff in our nation's hospitals. Notwithstanding the injection of over 300 foreign nursing personnel, this shortage

still exists. To this end, the Ministry of Health has spent approximately \$34 million in the past three years on foreign nurses from Cuba, the Philippines, St. Vincent and other countries. Mr. Speaker, this is not unique to Trinidad and Tobago. The World Health Organization in its article, the global shortage of health workers and its impact 2006, indicates that 57 countries face severe health workforce shortages. WHO estimated that at least 2,360,000 health-service providers and 1,890,000 management support workers, or a total of 4,250,000 health workers are needed to fill this gap.

Further, Mr. Speaker, it is to be noted that the health workers are inequitably distributed throughout the world with a significant imbalance between the developed and developing countries. Additionally, these shortages are exacerbated within countries where the rural areas suffer due to inadequate health staff as compared to the urban areas.

Mr. Speaker, Trinidad and Tobago is left without the option, but to import foreign labour to supply our local market. This is primarily due to the migration of nurses to countries offering better pay packages. As such, due to more attractive benefits overall, many of our trained nurses left our shores. Even today, Mr. Speaker, nurses continue to migrate to more developed countries which are in a better position to attract and retain them.

Mr. Speaker, the present nursing legislation is a serious deterrent to attracting students, and allowing such students to eventually become licensed nurses. An example of the frustration that is faced, is the three-chance system. By that I mean, graduates have three chances to write and pass the licensing exams set by the Nursing Council. If a graduate fails after his third attempt, he or she has to redo the entire degree or diploma programme, notwithstanding that they have already had—well, they have already obtained a degree or diploma in nursing before, and this is before they could resit the nursing council exam once more.

Mr. Speaker, it is incumbent on this Parliament to amend the laws of this country to keep abreast of modern day practice and thinking. This is the responsibility, and as Minister of Health, I take very seriously, and as such we have a number of pieces of legislation that will be introduced shortly to this honourable House. These will include: the Pharmacy Board (Amdt.) Bill, the Food and Drugs (Amdt.) Bill, and the Opticians (Amdt.) Bill. We will also be reintroducing the National Health Service Accreditation Bill.

Mr. Speaker, with respect to nursing, the Ministry has increased its training programme, where over 300 students are enrolled each year in various campuses

such as UWI, COSTAATT, the University of the Southern Caribbean and the Government programme. However, notwithstanding, there continues to be a severe shortage of nurses within our local health system. This shortage continues to be a perennial problem.

Mr. Speaker, another major reason for this shortfall is the high failure rate of graduates sitting the council's examination. Mr. Speaker, unlike other professions, students after obtaining a diploma or degree in nursing, must, in accordance with the Nursing and Midwives Registration Act at present, sit and pass the nursing council's examination, before he or she can be granted a licence to practise the profession of nursing.

Mr. Speaker, currently over 40 per cent of the total number of graduates from training institutions which offer basic nursing education programmes, fail the licence examination of the council. This among other factors has impacted negatively on the Ministry's manpower, the planning and more importantly, its ability to satisfy the needs of the health sector. In order to address this situation, the Ministry has embarked on a number of initiatives, and this will address this situation. Among those are the amendments before this honourable House today.

Mr. Speaker, some of the initiatives are as follows, and I shall now go through the amendments before us, highlighting the main clauses. Mr. Speaker, this Act is currently entitled: the Nurses and Midwives Registration Act, however, we are now proposing that it be renamed to: the Nurses and Midwives Act, as these amendments will widen the scope of the Act. This Act will:

“...now provide for the Registration and Regulation of Advance Practice Nurses, Midwives, Nurses, Nursing Assistants and other recognized specialties and for matters connected therewith.”

Clause 5, Mr. Speaker, seeks to introduce a number of new words with their corresponding meanings in the interpretation section of the Act. Such include the definition of “advanced practice nurse”, “nurse intern” and “nursing personnel”.

Mr. Speaker, the regulation of nursing and midwifery education and practice in Trinidad and Tobago commenced before independence, and the current Act though amended several times, is rooted in the thinking of regulatory approaches prevalent to the 1950s and 1960s. As such, it is no wonder that the current legislation is significantly outdated, and has a number of major omissions when compared to the best international and modern practice.

Mr. Speaker, the nursing council, like other councils, has a much more expanded role than it had 60 years ago. As such, clause 6 seeks to give wider powers to the council in order to better regulate the profession of nursing. Such functions include: the opening and maintenance of registers and rolls; the registering, the enrolling, the certifying and licensing of nursing and midwifery personnel; the power in determining in collaboration with the Ministry with responsibility for health, the qualifications necessary for the registration, the enrolment, the certification and licensing of nursing personnel; setting standards for education and practice of nursing and midwifery personnel; developing a code of ethics and conduct for nursing personnel; monitoring the adherence to, and investigating breaches of standards and codes of ethics and conduct; promoting the interest of the nursing profession; and advising the Minister on the requirements for securing continued competence of the registered nurse and enrolling nursing assistants under this Act; and advising the Minister with respect to amendments to the law relating to nursing and midwifery as it considers necessary.

Further, Mr. Speaker, in exercising its function under section 3A:

“...the council shall have the power to—

register or enroll nursing personnel;

issue certificates or licences to nursing personnel;

cancel certificates or revoke licences where applicable of nursing personnel;

suspend or place conditions on licences to practise;

set standards for education and practice of nursing and midwifery in consultation with the Accreditation Council of Trinidad and Tobago;”

They should also:

“examine applicants as a prerequisite to initial registration;

verify the authenticity of certificates and other documents in support of applications under this Act;

establish such committees as are necessary for the discharge of the function of the Council; and

collect monies for fees required to be paid under this Act.”

1.45 p.m.

Mr. Speaker, clause 7 provides for the repealing of section 4, and the substitution of a new section which sets out the composition of the new council. The new council will see a reduction in the number of persons on the panel. The proposed council is more in line with current and future needs of the profession. This new configuration is expected to better further the interest of the profession. The council shall now comprise of six persons appointed by the Minister of Health and they are as follows:

- “(i) an Attorney-at-law;
- (ii) a person with qualifications and experience in nursing administration;
- (iii) a person with qualifications and experience as a nursing educator;
- (iv) a person registered under this Act, nominated by the Tobago House of Assembly;
- (v) a representative of the Minister;”—with the responsibility for health—
“and
- (vi) a member of the public who is not an advanced practice nurse, midwife, nurse or nursing assistant;”

It will also consist of nine persons elected as follows:

- “(i) five nurses elected from among their own number by the persons who are registered as nurses under this Act at the date of the election;
- (ii) one person elected from among their own number by the persons who are registered as midwives under this Act at the date of the election;
- (iii) two persons elected from among their own number by the persons who are registered as mental health nurses under this Act at the date of the election;
- (iv) one person elected from among their own number by the persons who are enrolled as nursing assistants under this Act at the date of the election.”

Mr. Speaker, it is our expectation that the reduction from 22 members to 15 will result in greater efficiency in addressing matters before the council.

Mr. Speaker, clause 8 provides that the present council shall continue to hold office for a period of six months from the date of commencement of this

amendment. This will allow for a smooth transition and, more importantly, the elections and appointment of the new council.

Mr. Speaker, currently the Act refers to the role of the secretary to the council, and gives the council power to create and delegate its functions into subcommittees. This means that council members are by necessity involved in the day-to-day operations of the council. It is our position that the creation of the post of registrar is in keeping with contemporary practice. This individual can, under the guidance of the council, discharge certain functions.

Consequently, Mr. Speaker, clause 10 introduces the position of registrar and details of their duties. Mr. Speaker, the registrar will be responsible for, inter alia, establishment, keeping and maintenance of the registers; issuing of certificates and licences; cancelling certificates and suspension or the revocation of licences; addition to and removal of names from the register; receiving fees and keeping open the registers for public inspection.

Furthermore, Mr. Speaker, some of the duties conferred onto the present council can now be delegated to the registrar to ensure efficiency and expediency in dealing with administrative matters. Such functions include creating the registers; issuing certificates and licences; cancelling certificates and suspension and revocation of licences and removing names from the register.

Mr. Speaker, any new Act or revised Act and associated regulation should be geared towards meeting the demands and needs of the demographic, the epidemiological and social shifts taking place in the country, and those wider regional and international factors impacting on Trinidad and Tobago. New and pragmatic approaches to health-service delivery necessitates revisiting present scope of practice of existing professionals, as well as looking at new types of workers at varying levels of the health profession spectra. It is material to note that a number of countries are recognizing the need to support further education and training of nurses to assure continued competence. This equips them to fully support the health team.

Consequently, clause 11 seeks to amend section 15 to include a register of advanced practice nurses. This is a new cadre of nurses we will be introducing into the health system. Over the past few years, the Ministry of Health has been assisting nursing personnel to gain higher qualifications in the nursing field. This includes the Masters in Nursing Administration and Nursing Education. Holders of this additional qualification will now be eligible for entrance on the advanced register.

Mr. Speaker, nursing is believed to be a scientific discipline requiring creativity in the said execution. The art of nursing lies in the application of concepts and principles of nursing theory to the design of individualized care using nursing processes. The essence of nursing is to provide evidence-based care to patients in the performance of those activities; those activities that contribute, Mr. Speaker, to the health promotion and resolution of illnesses.

Mr. Speaker, the practice of nursing is concerned with the diagnosis and treating human responses to actual or potential health problems in a variety of settings. This is achieved through independent and interdependent functions, as well as a formal system of nursing administration and management.

Independent nursing functions include health counselling and provision of care, supportive to the restoration of life and well-being. The interdependent functions comprise of implementation and coordination of client-care services with other health professionals with emphasis on patient advocacy.

Mr. Speaker, in accordance with clause 11, the Register of Advanced Practice Nurses shall, inter alia, contain the following particulars:

- “(a) the name and address of the advanced practice nurse;
- (b) the area of expertise;
- (c) the training, experience and qualification in the area of specialization;
- (d) the date of registration in the Register of Nurses.”

It should also be noted that the advanced practice nurse responsibilities have widened as they shall take medical, social or family histories in any institution to the community for the purpose of initiating, directing and reviewing plan of care of patients.

Mr. Speaker, the advanced practice nurse responsibilities also include: diagnoses, treat, evaluate and manage non-life-threatening acute and chronic illnesses and diseases. They will be responsible for screening patients at the point of entry to the health-care delivery system to include the performing of physical and psychosocial assessments and initiating and maintaining the plan of care. They will provide pre-natal care and family planning services, well child care, perform minor surgeries and procedures such as dermatological biopsies, et cetera, after training.

These are just some of the expanded responsibilities of the advanced practice nurse and, I must say, Jamaica has been doing this since 1978. In this regard, the workload of the medical practitioner will be lifted to ensure that all citizens

receive quality care. The advanced practice nurse, Mr. Speaker, will develop the primary care services in conjunction with the health sector plan.

Mr. Speaker, as I indicated earlier, the Act at present is outdated as most of the provisions are pre-independence. Consequently, the provisions in section 21 need to be updated, as such, new subsection (2) provides:

“Any person who has—

- (a) completed a course of training approved by the Accreditation Council of Trinidad and Tobago under the Accreditation Act; or
- (b) passed the examinations prescribed either by the Council or the Regional Nursing Body,

and who establishes to the Council’s satisfaction that he is a fit and proper person to be entered on the register as a nurse shall, on making an application to the Council and upon compliance with the requirements of this Act, be entitled to be registered.”

Mr. Speaker, I put on record that I will be moving an amendment to delete the “Regional Nursing Body” and replace with “any other internationally recognized nursing examination body”.

Furthermore, Mr. Speaker, we will also be moving an amendment to clause 16 which will remove the repealing of subsections (2) and (3), as these subsections will still be relevant after the passage of this amendment. The amendments will be circulated.

Mr. Speaker, Caricom ministers at one of its COHSOD meeting held a few years ago agreed that there will be one examining body in the region, and this will be responsible for examining graduates out of the nursing programmes for the purposes of licensing to practise. This responsibility was placed in the Caribbean Examinations Council. However, at present, there has not been any exam to date, and as such the local councils continue to examine graduates. Mr. Speaker, I felt it necessary to share with you what a graduate of a bachelor or diploma programme endures on her way or his way to becoming a registered nurse.

In accordance with the current legislation, each student is allowed three chances to write the nursing council licensing exam within a 5-year period, after which his studentship ends along with the dream of becoming a nurse. In addition, a nursing student can:

- (a) be removed from the register after the second unsuccessful attempt of the assessment examination held at the end of the first six months of training;

- (b) the second unsuccessful attempt at the practical or written preliminary examination; and
- (c) the third unsuccessful attempt at the practical or written final examination.

Mr. Speaker, as Minister for Health, I have through my tenure received numerous letters from student nurses and graduates pleading for the removal of these onerous provisions. As you may be aware, the taxpayers' bear the cost of training nurses. The students themselves also endure severe financial hardships, and also emotional hardships throughout the four or five years of formal training. Mr. Speaker, it is heart wrenching to hear the plight of students who fail the exam, and have to start back from scratch or abandon the profession altogether. Mr. Speaker, I want to afford these graduates the opportunity to work and enjoy the profession that they have invested so heavily in.

Consequently, clause 13 seeks to amend section 16 by inserting a new 16(a), which will allow for persons who have acquired a degree or diploma after January 2008 from a recognized place of training, to be entitled to a provisional certificate as a nurse intern. Consequently, these individuals can now re-write the council exam while working in the public hospitals. To this end, Mr. Speaker, clause 13 seeks to amend section 16 by introducing another new category of nursing personnel called the "nurse intern". These are persons who have succeeded in obtaining a diploma or degree in nursing, but have not sat or passed the nursing council exam.

Upon the passing of this Bill, such a person can apply to the council for a provisional licence to practise as a nurse intern. These new nurse interns holding provisional certificates can now work in the clinical areas of the public hospitals of the RHAs, under supervision, while preparing for the council examination. Both the Ministry and the council believe that this will be done to the best interest of both the students and the patients as there will be more nursing personnel on the wards to deliver care while, at the same time, the new graduates will be afforded the opportunity to gain valuable experience under the supervision of registered nursing personnel in the clinical setting.

However, it must be noted that:

"Where a nurse intern fails to attempt the examination under subsection (4) within fifteen months of the grant of the provisional certificate, the Council may revoke his certificate."

This is to avoid complacency of the nurse interns by postponing council examination. It is our intent to have all persons fully licensed by the council in the shortest possible time. The amendment I just spoke about, section 16A(6), will have that.

Mr. Speaker, this provisional certificate granted under this section shall be valid for four years after which the holder shall, if he or she has failed all certification exams, be required to undergo a one-year remedial programme. Upon completion of that remedial programme, this student will be required to resubmit himself to a certification exam.

Where a nurse intern takes a remedial programme under subsection (7), the provisional certificate shall be valid for the period of the remedial programme. Where a nurse intern completes a remedial programme under subsection (7), he or she shall be issued a provisional certificate which shall be valid for two years. If he fails to pass the certification exam within the two-year period, he will not be reissued a provisional certificate, and will have to then exit the system.

Mr. Speaker, clause 17 seeks to amend section 22 where it provides that:

“Where a person fails to pay any annual registration fee...the Council may suspend the certificate or licence of such person until such time as the payment of the fee and any fine...”—is paid.

Subsection (3) is also amended by increasing the fine and terms of imprisonment where a person practises midwifery during the period where their licence is suspended.

2.00 p.m.

Mr. Speaker, clauses 18 to 21 and clause 23 seek to amend sections 24, 25, 29, 31 and 35 by increasing the fines payable under this Act. Mr. Speaker, we have also taken measures to insert a new section 17(4), which provides that:

“A person who practises as an advanced practice nurse after his certificate of registration has been suspended under subsection (2), commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for three years”—

Mr. Speaker:

—“and in the case of a second or subsequent offence, to a fine of twenty-five thousand dollars or to imprisonment for five years.”

Mr. Speaker, it should be noted that all amendments made to the nursing register in terms of qualification for admission have also been made to the

midwives in Part III of the Act. Like the nurses, section 24 has been amended to increase the fine for midwives practising without the appropriate certification from the figure of \$75 or one month imprisonment to \$1,000 or 18 months imprisonment. We have also modernized the Act to insert a new section 32A to include males in the definition of “midwife” as currently only females are allowed to enter the midwifery programme. Mr. Speaker, this level of discrimination is no longer practised today.

Clause 24 seeks to amend section 41 by expanding the regulation-making powers to include the following:

- “prescribing the conditions under which persons may be registered as advanced practice nurses;
- prescribing the qualifications required for persons to be registered as advanced practice nurses...
- prescribing the standards for continuous education and training of advanced practice nurses, nurses and midwives;”

Mr. Speaker, many countries are experiencing an increased frequency and magnitude of natural disasters. When this happens often foreign help is required and normally forthcoming. This results in professions practising without the requisite licence from the regulatory body. To remedy the situation, we have included a new provision in clause 29, where section 51A has been inserted to reflect that:

“Where”—should—“a national emergency exists, the Minister may, by Order, permit a person who is registered to practise nursing or midwifery under the laws of his governing country,”—will be able—“to practise nursing or midwifery for the period specified in the Order,”—this is—“for the purpose of providing specific skills and technology and such person shall be deemed to be practising as if a licence had been issued under this Act.”

This may also be permitted for nursing personnel visiting the country to teach and educate our staff, or members of the public.

Mr. Speaker, after going through the amendments for the Nurses and Midwives Registration Act, I say that we at the Ministry have had discussions with the nursing council at length, over the last year and a half, and we have all come to the agreement that the nursing Act needs to be changed.

Mr. Speaker, also, when I first became Minister of Health, I was approached by a number of students who had completed the nursing training, however, after

three attempts most of them were asked to leave the system to start all over again, from year one onwards. Looking at this level of what the previous Act, the 1960 Act that is being amended—looking at the situation in the Act, we discussed it, looked at it and tried to find changes that will be a win-win situation for both sides.

The examination, Mr. Speaker—and there are numerous letters which I would not really read because some of these letters are not really nice. I just want to read about one, a group of nursing students writing to the then Minister in 2008:

Attention: Unfair nursing results

We would like your support and guidance concerning the high failure rate at the Ministry of Health, School of Nursing and COSTAATT, Port of Spain General Hospital. We have exhausted our chances at the writing of the final year nursing exam on three occasions, which were October 2007, April 2008 and October 2008.

On each occasion, three-quarter of the class failed the clinical paper I. We strongly believe that we have passed the exam. However, we have received a letter stating that we have failed with no indication of the marks, or reason for a final chance in the nursing career after four years and two months of sacrifice.

The Nursing Council of Trinidad and Tobago basically have disallowed us the opportunity to continue the nursing profession after this, the three times failure rate. And they were further instructed by the Principal of the School of Nursing not to query the paper results, as they claim no change would occur because they claimed that three markers were present.

Mr. Speaker, we have a lot of these letters. I do not want to read them into the record, but they brought about the reason that the exam needed to be changed, because in one letter indicated that the practical exam that had the highest failure rate, there were not enough nursing educators per student, approximately one nursing educator to as much as a hundred students in some cases.

So looking at that system, we realized that the practical aspect was the one that needed to be revised, and we came up with the idea to starting up the nurses intern as we have medical interns. The nursing intern will start off with a provisional certificate like a medical doctor, and have their internship on the first time for one year or 15 months before they write the exam. Should they wish to write the exam before that one year, they would be allowed to do so, but we have

written into the legislation that they must write that nursing exam within one year of the provisional certificate. This will prevent complacency as we indicated.

The provisional certificate, Mr. Speaker, will be going on for at least four years in the first instance, where the exams of the nursing council will be written within that period of time, and once passed, will be given their practising certificate and they will no longer be nursing interns but registered nurses.

We have also addressed, Mr. Speaker, the nurses coming in from abroad, qualified registered nurses who would like to practise in Trinidad and Tobago. Those nurses sometimes have to write exams or do a sort of a semi-internship, however, when these amendments are passed, Mr. Speaker, you will find that nurses who have been trained abroad, who have passed their licensing abroad, which is an internationally recognized licensing body, shall be entitled to be registered a nurse in Trinidad and Tobago. So that will take into consideration that problem that now exists, because there are a lot of nurses aboard, Trinidadians and otherwise, who would like to practise in Trinidad and Tobago and are somewhat, as they say, they are deterred by the registration process.

We have also looked at the advanced practical nurse. As I indicated, Jamaica started in 1978, Canada, I think 2005. In the United States they are called, I think, physician assistants. These are nurses that are highly specialized and who are trained to examine patients, give medication, prescribe medication, as well as run clinics on their own. It has proven to be a benefit in the primary health care system where we cannot get doctors to go into the rural areas. It was started off as a result of taking care of patients in the rural areas. The advanced practice nurses, they are trained to such a level that they function as general practitioners, and we do require in Trinidad and Tobago health centres to be open later, and to have personnel who are trained and competent to take care of the population that we deliver health care to.

So, Mr. Speaker, the advanced practice nurse is a new category of nurse. It has been clamored for by the nursing council for a while, and we have decided to write it into this legislation twofold: one, to allow the nurses the ability to move upwards in their quest for specialization, as well as allow the health sector to have a cadre of professionals that will treat the rural community and assist doctors in general practice methods. In doing so, we would be able to open the health offices later, we will have trained professionals on weekends, et cetera, because that is the time sometimes of greatest use, and usually the primary health care system, most of the areas are closed.

Recently, during the smoke in the landfill in Beetham, I tried to open a couple of the health centres late, overnight, 24 hours, but the problem was getting the required amount of general practitioners to work there. Had I had a few advanced practice nurses then we could have cycled it 24 hours of open health care.

So you see, Mr. Speaker, this is a novel piece of legislation. It takes into consideration defining the powers of the council which have been given to them, defining a registrar, changing the council that we could give different professionals: attorney-at-law, industrial relations specialists, nursing midwife, mental health nurses, enrolled nursing assistants, a Tobago nurse. So we put in the mix that system.

The Minister of Health usually had two persons, the Chief Medical Officer or the Chief Nursing Officer; it is now the prerogative of the Minister of Health to put a representative from the Ministry. We may one day need to put a legal officer there. We may need the Chief Medical Officer. We may need somebody, an industrial reliable person, to assist the council in a different manner. The council also now has the power to determine the curricula of the nursing profession in the various institutions: the COSTAATT, the University of the Southern Caribbean, as well as the University of the West Indies. They will be the ones who will determine that curricula, and monitor and regulate most of the nursing—well, the different categories of nurses.

Hopefully, I have asked the council to develop training programmes, so once they develop these training programmes, the council together with the experienced nurses could then become nursing educators. In doing so, Mr. Speaker, we are doing what they call the “win-win situation” on both sides. We have always suffered in this country for shortages of nurses; you have always heard that. The Minister of Tertiary Education and Skills Training—in El Dorado there is a nursing training centre, I think there are about 2,000 people right now; if I am not mistaken, I might be wrong.

We are developing systems where we are bringing nurses, we are, as you say, training nurses to such a level. But, Mr. Speaker, one has to take at heart that we are training new nurses, but outside in the general public, there are a majority of nurses, quite a few of them, who have gone through the system, who have had the training, but because they fail one practical exam out of let us say four, well, three different parts, one part of one—now I do not mean a whole exam, I mean sometimes the exam is in three parts—you could fail one part of one exam and be out after three times. And once that occurs, sometimes you may have to write the

nursing council to reassess or start over, but imagine yourself four years into a programme, two years into writing exam to start back at year one; in any situation it does not really augur well for a human being.

So we have changed it to allow the nursing intern level. Right now as I speak, in order to practise or go into a hospital level, after you finish your training programme or you have had your practical experience, you have to write the nursing exam before you enter the system. Now, once these amendments are passed, as you finish your diploma or your degree, you enter the system as a nurse intern with a provisional certificate, as doctors; doctors do that—as other professionals. You then could write that exam any time during that first year, or if you do not do it in 15 months, then the council could revoke that provisional licence.

Once you pass your exam, you go on to become a registered nurse with your certificate, or if you think you need more training in the practical aspects, or what you may be deficient in, you could then stay on the wards under your senior peers and be trained as you go forward—and you have at least four years to pass that exam to become a registered nurse; hardly, I do not think anybody will need, except one or two, the remedial course, and continue. But I am hoping to give the chance, Mr. Speaker, to those who are out since 2008. I would have liked to have gone back later, but I am in discussion with the council that we could have them in a programme.

Those who have been in 2008 could now apply, although they have failed the exam three times, they could now still apply to have a provisional certificate—sorry, to enter the system. So they can now enter the system with their provisional certificate as a nurse intern, and then write the exam on the system, like one year, 15 months before they write the exam and continue again, and they have a period—we are doing four and two, six and one, seven years before they pass, or some will pass it before.

2.15 p.m.

Most of them, when you looked at the results, had failed one part of a whole exam, which was a very small portion, and that was the practical aspect. The usual complaint was that the nurses were willing to teach, but there were not enough educators. There was a large amount of students—you had sometimes 50 and 100—and the nurses educator also indicated that you did not get attention, based on the volume of nurse that were being taught—teacher to student ratio. Thanks, Sir. So it was a bit unfair to really and truly penalize somebody for something that may have been the fault of the system.

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. F. KHAN]

Friday, February 07, 2014

We are hoping that this will augur well with those students, and we are hoping that the Nursing Council will develop strategies if in case they need training to come back into the system, to allow that to happen—classes, et cetera.

Mr. Speaker, we are in the process right now of having demolition done to most of those old buildings in Port of Spain, and we are hoping to put up a whole new system of a training academy in Port of Spain for nurses, doctors as well as the full amount of health professionals.

There are other letters that I have here. One young lady wrote to the Ombudsman who indicated that he could not interfere in this. So you had this whole system as a catch-22 situation: nowhere to go, nobody to turn to. So these amendments will take care of what those problems are. As legislators in this Parliament, I do believe that if there is a problem among our citizens, it is our duty to find a way to assist them with such problems and, at the same time, developing the nursing fraternity in this country.

In 2011, faced with this problem, I started a programme in the Ministry of Health—in the Ministry of Health we have discussed it—with the Regional Health Authorities, called the Aides to Nursing. The Aides to Nursing Programme gave nursing students a chance to enter the system with either no O levels or one O level, whatever it is, and work themselves up by training and possibly writing the exam in the system. That was the Aides to Nursing Programme. They are there doing a very good job. Now some regions have them for 24 hours, some people have them from 8.00 to 4.00. We are now working together with the system. I am working with GHRs as well as COSTAATT to develop an exam routine system, where they could write exams every three months online, and once they have passed that, they move to what they call the PCA level—patient care assistant.

From the patient care assistant level, they will go to the ENA level, which is the enrolled nursing assistant, so you are now in the system. So hopefully we will get from this system, from the ATNs, once the exams are put in place, a registered nurse in our system. But what you notice in that system is that it is all practical—practical and teaching. So we have in our health care system enough nurses that will be taking care of patients at all different levels. At the same time moving up to the advanced practice nurse, we could now have these nurses become specialized, because some go on to intensive care, some go on to cardiac nursing. This is the BSc in nursing that is being developed.

We will get the advanced practice nurse now being just at the level of general practitioners. The United States use them in all their drugstores together with

physician assistants. We can have that cadre of nurses now working in the health office on their own; not as they say reporting to and under the supervision of the doctor, but they could be there 24 hours at different levels. And we do hope that sometimes along that line, those who want to become professional doctors, MDs, or MBBS, we will give them the opportunity to move forward into that after their training, if they so desire.

So, you see, Mr. Speaker, these amendments have a far-reaching effect on the nursing profession. I take today to say thank you to the Nursing Council. Really and truly, we had discussions at all different levels, and Miss Karin Pierre, Miss Beulah Duke-Murphy—and I forgot most of the other names—but they were all there, together with the technocrats in the Ministry: the permanent secretary, Miss Roopchand, the legal advisor—and we all were able to come to a common understanding, even in the LRC, together with the LRC Ministers: Minister Prakash Ramadhar, Member for St. Augustine, and the others—Emmanuel George. We were able to come to agreement that this is a novel piece of legislation and we would like it to develop the nursing system in the country.

It also gives the chance to those who started it off. The people who started this off were those nurses who were dispossessed and felt hurt, and for that I say thank you for pointing us in this direction.

Thank you, Mr. Speaker. I beg to move.

Mr. Sharma: Well done, well done!

Question proposed.

Dr. Amery Browne (*Diego Martin Central*): Thank you, Mr. Speaker, for the opportunity to contribute to this, what should be a very important debate for the society of Trinidad and Tobago, because it gives us an opportunity to address one of the neglected sectors in this country, and that is the nursing fraternity.

I listened very closely to the words of the Hon. Minister of Health, and in my view he missed a golden opportunity to send a signal of understanding and concern to every single nurse that is working hard for the people of Trinidad and Tobago. [*Desk thumping*] Mr. Speaker, his presentation was very clinical; one might say almost surgical, lacking in any care and concern, and really I would say uninformed by the realities that face our nurses today.

I want to say that nursing is under threat in this country. Nursing is under threat based on a lack of understanding by some citizens, and even policymakers at times, based on poor communication within and outside of the health sector and

Nurses and Midwives (Amdt.) Bill, 2014
[DR. BROWNE]

Friday, February 07, 2014

based on a lack of respect, which we see sometimes in the Parliament, but we really would not want to see the levels of disrespect that some of our nurses have been facing in this country. Unfortunately, the manner in which this Bill has come to this Parliament is another reflection of disrespect to the nurses of Trinidad and Tobago. [*Desk thumping*] I will identify clearly what I am referring to in that regard.

Mr. Speaker, with regard to disrespect, I am informed by the hon. Chief Whip that there was an agreement between the Government side and the Chief Whip of a sequence of business in the House today, which would have begun with the amendments to the Dog Control Act, which would have then taken the Parliament to the amendments to the Bail (Amdt.) Bill—and the Chief Whip is nodding—and the final order of business would have been this Nurses and Midwives Registration Act. So just even in the manner in which this Government treats the Parliament of Trinidad and Tobago, their signature is disrespect and deception. [*Desk thumping*] But, Mr. Speaker, that is not going to stop us from doing our duty.

I want to say, right from the onset, that the spirit of this amendment Bill is supported and well supportable in spirit. The overall intention of updating and amending what has been a very outdated piece of legislation is something that is noble, but sometimes it is not so much what you do, but how you do it. And this Government has proven that they really do not know how to take care of the people's business in the right way.

I will go through the sequence of events, which the Minister, of course, failed to do, because that would not have been convenient to his cause at all, that has brought us to this point. If you listened very carefully to the hon. Minister, he kept referring to the council, the council, the council. The Minister of Health shockingly does not seem to recognize that we have a wide array of nursing stakeholders in this country.

Mr. Minister, if you have your ears open to the ground right now, you would realize that many of these stakeholders are quite upset, and if they had the opportunity to speak to you—and they do have that opportunity right now through the representatives on the Opposition side—they would tell you, that while the intent is noble, this Bill is not fit or ready as yet. It is not ready as yet. [*Desk thumping*] It should be withdrawn. Proper consultation should be hosted where some of the very simple and some of the very dangerous errors will be corrected, in collaboration with the entire sector.

Mr. Indarsingh: Consult with whom?

Dr. A. Browne: I will tell you who to consult with, Member for Couva South. And as a former trade unionist, that disrespectful comment towards the nursing sector will not be tolerated.

Mr. Speaker: Member for Diego Martin Central, please! I do not want you to be responding to an aside. I will ask the Member for Couva South to observe Standing Orders 40(a), (b) and (c) respectively. And for you, Member for Diego Martin Central, your charge is to address the Chair. Do not take on side talks, okay. Continue.

Dr. A. Browne: Thank you Mr. Speaker, for both your guidance and protection in this matter.

I am going to outline, for the enlightenment of the Minister of Health of this country, some of the key nursing stakeholders that must be taken into account and consulted systematically, before any legislation that is relevant to their careers and future is brought to the people's Parliament: the Nursing Council of Trinidad and Tobago; the Trinidad and Tobago Registered Nurses Association; the Nursing Research Society—I wonder if the Minister has ever even heard of them. Have you? I will not force his hand—the Psychiatric Nurses Association of Trinidad and Tobago. They are all impacted by these amendments. The Trinidad and Tobago Association of Midwives—very, very important and vibrant stakeholder group—the Community Nurses Association of Trinidad and Tobago—where are they? The Minister has not mentioned them, and there is a good reason for that. They were not consulted, and that is not how the people's business should be done.

In addition, the Minister did not really—because the structure of the Ministry of Health indicates a chief nursing officer, who really probably would have been able to provide this Minister with some guidance, to avoid some of the pitfalls that he would be falling into during the course of today's business. But I want to ask the Minister of Health through you, Mr. Speaker: Where is the chief nursing officer? When last have we had an appointed CNO in Trinidad and Tobago? So some of what the Minister might be suffering from is simply a lack of good advice. But even in the absence of good advice, one would hope that there would be good judgment. Unfortunately with this Government, both appear to be sorely lacking today.

Mr. Speaker, I presented the constellation, as it were, of nursing stakeholders, and there are others as well—and there are also the nursing educators—these are

some of the key stakeholders. Those are the basic ticks I would want to see and hear from the Minister, before he comes to boast about updating outdated legislation. But I want to go a little further in terms of the details, because you cannot know where you are going unless you know where you have come from.

This is what really transpired with this amendment Bill. Yes, the Minister is right, there were some discussions and interventions. There was some support from PAHO with a consultancy. There were some discussions, I would say, just over a year or so, but in terms of the formulation of this Bill and the intention to approach Parliament and put this on the order of the people's business, I am advised by key nursing stakeholders that it was only during a media interview conducted by the Minister of Health, when he said to the media that he had had plans to bring a Bill, in short order, to decrease the size of the Nursing Council—fair enough. And he made another—I do not want to say outstanding—outlandish pronouncement, which was that he would lower the entrance standards for the nursing profession.

2.30 p.m.

You see, Mr. Speaker, this Minister, as many other Ministers, is under a challenge himself because the Government held up its ability to respond to the challenges of this society, key social issues, one of which is the health sector and a deplorable lack of staffing and a dearth in human resources within the health sector.

So as the time has gone, and the years have gone, we are starting to hear more and more short term and knee-jerk reactions coming out as opposed to any strategic or long-term thinking. So the Minister's grand design as was announced in that media interview was that he would lower the entrance requirements to nursing and the famous phrase, "all you would need is one subject and a passion for nursing".

Mr. Speaker, that was like a toxic emission to the ears of anyone with knowledge of nursing: "one subject and a passion for nursing". [*Crosstalk*] When you look at what is going on on our wards today and the stresses that some of our patients and staff are faced with, that is just going to make the health sector even worse. We should be talking about raising standards; the Minister sent a signal, that to address that human resource challenge, he is going to lower the standard.

So that was the interview that got the nursing council quite alarmed, I would say; quite alarmed. And it was the nursing council, and the Minister would correct

me if I am wrong, but I suspect that I am better advised than him on these matters. It was the nursing council that approached the Ministry and wrote the Ministry.

So the Ministry is talking about drafting a Bill with some revolutionary changes and the Ministry did not approach the council with this Bill. It was the council that wrote to the Minister, to the Ministry, asking for a meeting to discuss what they were hearing through the media.

The response was slow, but eventually the Ministry responded and the way the council got the acceptance was again via the media. The Minister, because he is, along with the Minister of National Security and several others, very media friendly. Yeah; which is a good thing. I salute that, but—and I am going to be distracting myself a little bit—sometimes when he is in those ad hoc interviews, the quality of what is coming out is terrible, and I will give a few examples, some very current examples, a little later on, Mr. Speaker, especially when the Minister was referring recently to the issue of statutory rape and the responsibilities of medical personnel. I hope I remember to get back to it because some of those pronouncements I can only describe as highly erroneous and even reprehensible, very, very damaging to a social issue that needs to be corrected.

So, Mr. Speaker, again on the media, our senior nurses heard the Minister say that he is going to be meeting the council on Monday and that is how they knew that that meeting was arranged. So it was set up as a meeting between the Ministry of Health and the nursing council. This wide array of stakeholders was not engaged. But we have some smart nurses in this country and it was the council who took it upon themselves, without the Ministry's permission or sanction, to invite a representative of the TTRNA, the Trinidad and Tobago Registered Nurses Association.

Mr. Speaker, I am laying this out very carefully because the Minister came here and gave us, you know, Mary's little lamb, a very innocent—this is a Bill, we are updating it et cetera, ran through quickly, sat down, but people need to understand when this Government says it has good intentions, we need to look twice at how they are going about the business of this country. This Bill is not ready. It is not ready for consideration of Parliament because it has not been properly considered by those it affects the most.

Mr. Speaker, so the nursing council brought the association—a member of the association—into that meeting, but none of the other stakeholders has been engaged. And when this Bill or some version of it—because there have been a few versions rattling back and forth—went back to the LRC, it seemed to have disappeared from the radar of the health sector.

So I “doh” know what was going on in the Ministry of Health between the long-standing legal advisor in there and others, but as the nurses entered a dark hole, the Bermuda Triangle, they fell off the radar altogether, and up to today they have not seen the final version of this Bill that has been brought to the House. I have been advised by the nurses that is the reality. [*Crosstalk*]

They were not even told, out of respect, that this matter would be debated today. [*Crosstalk*] The nurses, thank God, our nurses are well-advanced and they are able to use the Internet properly, and they have to go onto the Parliamentary website themselves, and they saw that this Bill was now up for debate. I suspect that some of them are paying attention, in various forms, to what is transpiring here.

So, Mr. Speaker, I just want to dismantle any notion that this Minister of Health has an appreciation of the nursing sector because just in the manner in which we came here, he has demonstrated that he does not. If you do not have that appreciation, as I have said at the beginning, that understanding, that respect and that communication, I do not think you are going to be very useful in improving this sector. So, wrong start, wrong approach and I suspect we are going to have some of the wrong conclusions.

So my overarching advice, Mr. Speaker, at this point, Mr. Minister, great intentions, and I salute that this Bill—because you see, I used a phrase once in the Parliament and, you know, some people took it in the wrong way, but there are certain professions that have the ability to bring down a Government, and you do not really want to anger them at all. Nurses, while they are under siege in many regards, you hear people bad talking and writing letters about nurses; they do the same about doctors all the time, but at the same time we need to recognize that if it were not for that profession very few of us would be alive today. Even the wide-shouldered persons like the Minister of Education, probably would not be alive today if it was not for the care and involvement of nurses from birth right up to our final breath.

So let us try our best, as humanly possible, to treat them with the respect they deserve. I have a lot of nurses in my family—I am a product of a nurse as well, Mr. Speaker, biologically, and therefore when I am speaking here it is with a sense of direct responsibility.

So, Mr. Speaker, there are a number of specific concerns. Now that the nurses have availed themselves of this Bill via the website, they have been communicating a number of very specific concerns above and beyond the overall

recommendations—and I am glad that the hon. Prime Minister is here; it is very good to see her in the House—Madam Prime Minister, that this Bill be taken back for proper, systematic consultation. It should not take that long, but you just have to ensure that you have the right persons at the table in order for proper consensus within the sector.

Mr. Speaker, I am going to address some of those specific concerns at this time and, you know, some of these things could have been taken care of before and I see the Government has fallen, once again, to the temptation of, in piloting a Bill, referencing unspecified or uncirculated amendments, which really does a disservice to the people's business in the Lower House of Parliament.

So you bring a Bill, you put it on the Order Paper, you have whatever lead time is ensured by the provisions of Parliament, then you stand up, you are speaking to Members on this side beforehand in many cases, these amendments are not circulated at all, Mr. Speaker. I am checking through the papers on my desk. They are not here. Raise your hand if you have the amendments, Member for La Horquetta/Talparo. They are not here, but the Minister glibly mentioned them and somehow, in the middle of debate, we are supposed to do justice to this sector.

Mr. Speaker, it is not disadvantaging me, you know. It is disadvantaging those that we would like to see benefit from proper law-making. That is not how to do business.

So, Mr. Speaker, we could begin even with the definition section, and again, there is a reason why a government is comprised of a Cabinet and why you have persons from various walks of life sitting around that table. I say that because it is clear from some of the gaps and errors in this Bill, that one of the things it suffers from is that lack of variety of brains focusing on it; nurses and key stakeholders from various aspects of the profession which would have helped to avoid some of these errors.

So even, Mr. Speaker, starting with the definition section, there are a slew of omissions and very simple errors that the Minister of Health would have done well to correct; and that is a bad sign for the rest of the Bill. So I will give just a few examples, Mr. Speaker, but again, this is not my way of amending on the fly because you would remember the overall recommendation to withdraw this Bill. There is no shame in that at all because you would be withdrawing it for the right purpose; properly consult and bring it back. So even in the definitions, Mr. Speaker, there is no definition of “registered nurse”.

Miss Mc Donald: This is right.

Dr. A. Browne: And, Mr. Speaker, if it is one thing that is required in amending that outdated Bill, it was to insert a proper definition for registered nurse because what we have outside there right now is a little bit of a free-for-all. What we have out there right now is between the public and private health care system, a variety of persons who might be trying to act like nurses, talk like nurses, behave like nurses or even communicate like nurses, but who are really not nurses and sometimes the nurse, the burden of those actions, or the consequences of those actions, fall on the nursing profession and on registered nurses.

So the whole purpose of a definition section in a Bill, Mr. Minister, and Mr. Speaker, would be to define our key terms and all sorts of other things. Even a “nurse intern”—[*Interruption*]

Miss Mc Donald: This is right.

Dr. A. Browne:—is defined, but not a “registered nurse”. Again, if there was proper discussion, and I wonder if this was not brought to the Minister’s attention because then somebody would have done the Minister a disservice, even in whatever talks the Minister would have had because that is the first thing they are saying—[*Interruption*]

Miss Mc Donald: And registered mental nurse.

Dr. A. Browne:—exactly; the definitions—thank you, Madam Chief Whip—just in terms of the definitions we seem to be way off.

Then under “nursing personnel”; I “doh” know who came up with these things. There is a partial list, and it may seem academic to us. So under “nursing personnel means an advanced practice nurse, a nurse, a midwife and a nursing assistant”. There are categories within the nursing profession that are not listed here as nursing personnel. And the Minister knows what I am talking about. He knows fully well. It may seem academic to us. Let us just go with this, but the fact of the matter, Mr. Speaker, in simple Acts like this, we are lowering morale when we should be elevating morale and trying to elevate the profession.

So, of course, “registered nurse” is not even mentioned here because it is defined in the Bill. The “registered mental health nurse” is not there, and then the phrase is really enrolled nursing assistant. I “doh” know what is this “nursing assistant” that the Minister is including in this definition section under “nursing personnel”; very, very simple errors.

Then, Mr. Speaker, “regional nursing body”. Again, the Minister, I do not—because he was very swift in his piloting, I do not know if this was one of the amendments on the fly that was made today, the definition of regional nursing body, I hope it was, Mr. Speaker. He is not even nodding, but I hope it was because this definition is completely erroneous, and this does not speak to what the Minister has offered us.

“Regional Nursing Body means any regional body”—any regional body—“recognized by CARICOM for the regulation of the nursing profession in the Caribbean.”

No. That is really not what it is at all, and the Regional Nursing Body is really a regional association or grouping of chief nursing officers. So this definition is completely off. If we are part of that body, I am wondering who this country is sending because we really do not have an appointed CNO, Chief Nursing Officer at this time and that is something that the Ministry, while it may not be in total control of, should really be putting a lot more heat and attention on that particular matter.

Mr. Speaker, then moving forward in section 6—clause 6(d): “The Act is amended by inserting after section 3 the following new sections: 3”. Then in 3A(d):

“3A The functions of the Council are to—

(d) set standards for the education and practice of nursing and midwifery personnel;”

Mr. Speaker, it is my view and the view of some within the health care sector that this particular role, this particular function of the council cannot be properly performed by the nursing council without specific and specified collaboration with the Trinidad and Tobago Registered Nursing Association. And the TTRNA, Mr. Speaker, is not any fly-by-night organization, but is a product of Act 30 of 1980, a copy of which I have here, with a very specific mandate. I am not sure that the Minister would have reflected on the distinction or the specific roles of the council vis-a-vis the association, Mr. Speaker, but it might be useful for us to touch on that.

2.45 p.m.

The council, Mr. Speaker, is a regulatory and licensing body for the licensure of nurses. It focuses on practice and training inclusive of discipline for nurses in the country; not just nurses but also nursing students or students of nursing, and

Nurses and Midwives (Amdt.) Bill, 2014
[DR. BROWNE]

Friday, February 07, 2014

really must have a mandate to approve all curricula in our nursing schools. The nursing association is a professional development body for nurses, very distinct from the council and does a lot of work and focus on networking, regional collaboration, and maybe one day will actually be a trade union for the nurses of this country.

So even in the amendments that the Minister has brought, one of the strong suggestions is that clause 6(d) be amended to insert the words, “in collaboration with the TTRNA” and that would take the Minister some way in the right direction. Again, under 6(h), we have the omission of the profession of midwifery:

“...advise the Minister on the requirements for securing continuing competence of the registered nurse and enrolled nursing assistant under this Act”.

And, of course, leaving out midwife, so that would have to be inserted. The same applies in 6.3B:

“(b) issue certificates or licences to nursing personnel”—

and midwives.

Mr. Speaker, the same applies—sorry.

Dr. Khan: Where in the association they approve?

Dr. A. Browne: No, I will tell you exactly where I am recommending the association—*[Interruption]*

Dr. Khan: *[Inaudible]*

Dr. A. Browne: No, not there. Mr. Minister, I am trying to be—*[Interruption]*—Mr. Speaker, you gave me some good advice and I am going to follow that advice, because the Minister had his opportunity, and now he is calling nurses’ names and all sorts of things, when he had the opportunity to praise all of them. But he is trying to distract me; I am going to focus in the right direction. *[Interruption]* Thank you for your guidance. If I—*[Crosstalk]*

Dr. Khan: All right, go ahead. Go ahead.

Dr. A. Browne: Thank you for your permission to go ahead. Mr. Speaker, he is talking about the TTRNA, and yes, they are further relevant lower down in section 6.3B(e), again:

“In the exercise of its functions under section 3A, the Council shall have the power to —

- (e) sets standards for education and practice of nursing and midwifery in consultation with the Accreditation Council of Trinidad and Tobago;”.

So, you see on the education aspect you might want to refer to accreditation. We will have some further discussion on that. But on the practice aspect, clearly that is where the TTRNA is going to have to come into play, not the Accreditation Council of Trinidad and Tobago. So, that is where they would be relevant.

Mr. Speaker, I want to then proceed to some of the more dangerous aspects of this particular amendment Bill and this is where the Minister, again, when he withdraws the Bill, is going to receive some proper advice. I bring you to clause 13, and the Minister made some comments about this, again, it appears adding up to lowering the standards and multiple chance for persons who are failing in their professional training toward nursing, a very, very convoluted set of clauses and subclauses. At present there is a route that if a nursing student would fail at some of these levels they would be shunted or routed towards the enrolled nursing assistants programme, and some of them have become excellent nursing assistants and probably working their way through in that manner.

But the Minister has come up with—I suspect advised—a very, very convoluted series of interim registration, remedial examinations and various remedial programmes, provisional certificates that are valid, and there is some contradiction in that regard, and at the end you have an amazing clause “For the avoidance of doubt...”. I have never seen such language in law before, but I am sure the Minister has a greater legal expert than I. “For the avoidance of doubt...”. Because it is so convoluted:

“For the avoidance of doubt, a provisional certificate can only be issued to a person for a maximum of two times”.

This is after 10 clauses, that are twisting one’s brain left, right and centre, all amounting, in my humble view, to an excessive lowering of the bar, but all in response to the Minister’s desire, an understandable desire to increase the pool of human resources available on the wards of Trinidad and Tobago.

Mr. Speaker, I am warning, this is not the way to go about that, and the best way to improve the human resources available with regard to our nursing sector is to properly address the physical, financial conditions, and systems conditions under which our nurses are pressed into service every single day. That is the only way you are going to take care of the lack of nurses within the system today. This Bill does not address that sufficiently and that is going to be the main issue to cure the problem to which I have referred.

Mr. Speaker, there is reference in several of these subclauses to a provisional nurse's certificate and there is a requirement for direct supervision of some of these categories; direct supervision being provided by the registered nurses on the wards, et cetera. Mr. Speaker, if anyone here—and I know the Member for Oropouche East would hardly have cause to visit a public hospital, being a very healthy Member of Parliament, and he is frowning because he knows—[*Laughter and interruption*]

Dr. Moonilal: [*Inaudible*]

Dr. A. Browne: No, no, I am talking about hospitals with staff and patients not the ribbon cutting excitements. [*Laughter*]

Mr. Speaker, again, again, again, the Member for Oropouche East has become famous for distracting PNM members sometimes, in and out of the House; I am not going to fall prey to that. [*Interruption*]

Mr. Indarsingh: In and out.

Dr. A. Browne: He has become notorious. In and out of the House, I tell you. [*Crosstalk and laughter*] Who is that?

Mr. Speaker, the point I am making, and it is a serious point, is those of us who have cause to interact with the public health sector would know that our RNs are already stretched like thin rubber bands, and the Minister did not give us any figures as to the implications of some of these provisions, but increasing the mandate for them to provide supervision to these various categories of trainees and partial failures, et cetera, is going to put an additional burden on our registered nurses.

So, that entire section, we need to take another look at it because it really is contingent on the ability for proper supervision to be applied. Just like the teaching hospital and all these grand sounding phrases that the Government is throwing around. If you have a lack of proper supervisors, teachers and lecturers, the entire thing falls down. It is not just a matter of tables, chairs and air-condition units; you need warm bodies to ensure the system works.

So, I know they are struggling to deal with that issue in San Fernando, but I am talking from the nursing sector's point of view, you cannot just assume that our RNs are well positioned to provide this kind of supervision, because they have already been stretched by all of these sub and ad-hoc categories of ancillary nursing that this Minister has already come with, and I would go through some of them in a short while. And he saluted himself today again, what was it? The Aides

to Nursing Programme, and he said, “I created this”, but sometimes when we commit actions like that we have to look back and examine the consequences, and one of those consequences is a lack of proper supervision and a strain on the already strained nursing staff on some of these wards and in some of these hospitals.

So, that is another consideration that, while I may not have all the answers for it, it is something that needs to be taken a closer look at and if the Minister properly consults, maybe, we can have some means of addressing it properly. Our nurses are already very, very busy—very, very busy! So, you have nurse interns, you have enrolled nursing assistants, you have aides to nurses, you have patient care assistants and then you have the provisional certificates being provided. So, we have some serious issues.

Mr. Speaker, I was going through the Bill and I do not know why I stopped doing that, because there is another dangerous clause that I want to point the Minister to and this one, I mean, is beyond me, but I am hoping we could get some explanation from the other side. And that is clause 29 in “Times of emergency”. Whenever I see this Government and they talk about emergency I sit up one time because they are emergency specialists. Every week is an emergency. In fact, 2014 has been an emergency year thus far under this UNC-dominated coalition. So, emergency, and we see “Times of emergency”. So, the Minister is seeking to make some provision within this Bill. He is updating and he is giving a gift to the nurses, but it seems to me he is giving a gift to himself as well. Because under 29, subsection 51B:

“The Act is amended by inserting after section 51, the following sections:

51B. The Minister may, by Order, permit nursing personnel who are registered to practise nursing or midwifery under the laws of their governing country as part of a visiting planned education or teaching programme or medical visiting treatment team—what a phrase—for the purpose of providing specific skills and technology and such persons shall be deemed to be practising as if a licence had been issued under this Act.”.

Miss Mc Donald: That is right. That is right.

Dr. Rowley: What! What!

Dr. A. Browne: Let me just say, I looked at this Bill and I am not seeing North Korea—

Dr. Rowley: Read it again! Read it again!

Dr. A. Browne: Read it again. Mr. Speaker, even Members of the Government are saying read it again, and that is to tell you where we are, there is alarm in the House.

“The Act is amended by inserting after section 51, the following sections:”—and they have this nice little phrase at the side, “Times of emergency”, sounding like now.

“51B. The Minister may, by Order, permit nursing personnel who are registered to practise nursing or midwifery under the laws of their governing country...”

So you are talking about elsewhere, Mr. Speaker, [*Crosstalk*] anywhere, there. Where is there? Maybe Saturn, I do not know. There, elsewhere, not Trinidad and Tobago.

“...who are registered to practise nursing or midwifery under the laws of their governing country as part of a visiting planned education or teaching programme or medical visiting treatment team, for the purpose of providing specific skills and technology and such persons shall be deemed to be practising as if a licence had been issued under this Act.”

Mr. Speaker, I would just—[*Interruption*]

Dr. Rowley: That is what we call authorized quacks.

Dr. A. Browne: Authorized quacks, yes, that is very dangerous. Mr. Speaker, this is not a Bill in the Parliament of North Korea or some other country that we might want to label or stigmatize. This is the Parliament of Trinidad and Tobago, and the Minister gave us absolutely no explanation as to why this unprecedented, and even if he can find some precedent I would describe it still as unacceptable abrogation of the role of the nursing council in this manner.

Mr. Speaker, “Times of emergency” should always be times of reason as well, and there is no justification, whatsoever, for a Minister of Health to be given this level of control over, well, the apparent licensing of nursing personnel when we have persons highly experienced, qualified and responsible. I am not saying that those adjectives do not apply to the Minister, but highly experienced and responsible nurses who are, by law positioned, to provide that type of decision. So, I would want to see that expunged when the Bill is withdrawn and consultation occurs and, at minimum, the Minister must be constrained by consultation, collaboration with the nursing council or, in fact, I would say that entire subsection needs to be reworked.

It is simply not acceptable. I choose to describe it as dangerous, and I am not sure even if the Minister in his quiet moments would really want that responsibility. I do not know if the Minister requested that this section be put in or if this was just the advice that was given to him. But, Mr. Minister, I strongly recommend that you think again. And again, I did not hear that mention in the off-the-cuff amendments that were glibly referred to earlier. I am not sure because I have received no such amendments.

So, one wonders what was the strategy in that regard. Mr. Speaker, but I do not want this opportunity to slip by, and I do not want to find myself in the position that the Minister is in now where I would have completed my contribution and then sit with regrets thinking about what I should have said, and therefore, I am going to touch on a few issues that are relevant to this Bill but really would help us look forward in terms of nursing as a profession, an honourable, distinguished, vital profession for the well-being of the human species.

3.00 p.m.

One of the unfortunate realities is this—there is a cycle in the country right now, “blame the nurses”. So anytime something happens—while there may be a variety of individuals and agencies to blame, because the nurse is that direct interface with the patient, the nurse usually gets the blame. And sometimes, you know, even in terms of the representation that nurses receive it is not really sufficient to steer them through some of those murky waters, and that is why there is talk about, in the future, the issue of trade unions, professional representation for nurses at that level. So we will see where that goes. I really wish them well in that regard.

So as we speak, Mr. Speaker, we are here talking about the nursing sector, and updating and making changes, and there are health facilities in several parts of this country that have not a drop of water. That is a reality. I am aware of clinics that were closed yesterday, that are closed today, the Minister takes up a phone and calls our nation’s only mental health hospital right now, where is the water. And again, we fine, we here, I have a bottle of water right in front of me; we all can take a drink. We all can take a drink of water, but the fact of the matter is there are staff and patients right now in several health institutions that are under acute hardship. I do not know how you tidy a patient if you do not have water at your facility.

So you can imagine what some of these nurses are dealing with as we speak. Some of them probably have on their radio, may or may not have it on, and

Nurses and Midwives (Amdt.) Bill, 2014
[DR. BROWNE]

Friday, February 07, 2014

therefore, besides all of the future projections, there is a current reality of a time of emergency that our health sector is facing and that our nurses are at the front lines as we speak, as I mentioned.

Mr. Speaker, the other thing that our nurses, if they have the ear, as the Minister would say, is that, the very simple basic things on our wards, our clinics and in the health care environment, the simple things seem very difficult to improve. On the wards of our public hospitals, if a light bulb needs changing there is a convoluted chain and process, and sometimes weeks would pass, but the nurses still have to do their manipulations, their procedures and are still held to account if something goes wrong.

There is a clear challenge, and some of these things the Minister of Health would have been confronted with before, he had brought a Bill earlier that has implications on how the regional health authorities go about their procurement cycle, but that Bill has disappeared into the “UNC Bermuda Triangle of laws”, and we do not even know when it is going to be coming back. They adjourned and that was the end of that. I could give you a long list of laws that went down that same road, including, the THA Act. We are not too sure where the Government is on some of these laws.

So some of those simple things: fixing a tap that is leaking; changing a light bulb; a bed that is collapsing, et cetera, our nurses feel powerless, and it feels as if it is like rocket science to get these simple things done, but we are talking about enhancing, uplifting and expanding the profession of nurses, et cetera.

So we are bringing out these advanced practice nurses, something that I support because we have some highly, highly trained nurses that are very poorly rewarded. This might assist them in that regard, but the real reward is an enabling environment, Mr. Speaker, and I listened very, very closely to the Minister and he chose not to send a single signal that that is something that he is minded and passionate about addressing—[*Desk thumping*] miss opportunity, miss opportunity, Mr. Speaker. But again the biggest challenge has to be the HR scenario, and we have some HR experts on the bench, and I am sure—I hopefully will hear from them in various ways, maybe trying to advice the—[*Crosstalk*] I got the attention of the Member for San Fernando East—trying to advice the Minister so that some of these issues could be effective.

Mr. Speaker, I mentioned on a previous occasion, and it is relevant today, because it is an unresolved issue. It is a basic principle that you cannot just remove—and we have industrial relations experts here; you cannot just remove

benefits and provisions from staff members without their consent, and this is what has happened to a number of our workers in the regional health authorities, and the Minister—last time he gave a response, and I think he was pointing certainly that the responsibility is not his. And so, when we had the cocaine surgery going on, that is not my responsibility.

The issue of statutory rape and the ridiculous comments coming out from certain sectors, it appears that is not his portfolio either.

So on the issue of travelling officers, including nursing personnel; including mental health staff; including district health visitors, those on contract within the regional health authorities, that have lost their travelling claims and lost their tax exemptions—you know just little exemptions, not big parliamentary exemptions, simple things that can help them to purchase vehicles, et cetera, they are still out in the cold—*[Interruption]*

Mr. Speaker: Hon. Members, the speaking time of the hon. Member for Diego Martin Central has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. *[Miss M. Mc Donald]*

Question put and agreed to.

Mr. Speaker: Before you continue, I think there is a Motion before us.

ARRANGEMENT OF BUSINESS

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, in accordance with Standing Order 37(3), I beg to move that debate on the Nurses and Midwives Registration (Amdt.) Bill, 2014, be adjourned to later in today's proceedings.

Agreed to.

Mr. Speaker: The hon. Attorney General, Motion 1. *[Desk thumping]*

BAIL (AMDT.) BILL, 2013

Senate Amendments

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you very much, Mr. Speaker. I beg to move the following Motion in my name:

Be it resolved that the Senate Amendments to the Bail (Amendment) Bill, 2013, listed in Appendix I, to the Order Paper, be now considered.

Question proposed.

Question put and agreed to.

Clause 4.

Senate amendment read as follows:

Delete and substitute as follows:

“Section 5 Section 5 of the Act is amended –
amended

- (a) in subsection (1), by deleting the words “subsection (2)” and substituting the words “subsections (2) and (4)”;
- (b) by repealing subsections (2), (3), (9) and (10);
- (c) by renumbering subsections (4), (5), (6), (7) and (8) as subsections (2), (3), (4), (5) and (6) respectively;
- (d) in renumbered subsection (2) by deleting the words “Part III” and substituting the words “Part II”;
- (e) by inserting after renumbered subsection (2) the following subsection:
“(3) For the purpose of subsection (2), a conviction under the Anti-Gang Act shall be counted.”.
- (f) in renumbered subsection (4) –
 - (i) by deleting the word “two”
 - (ii) by deleting the word “(4)” and substituting the words “(2) and (3)”;
 - (iii) by inserting after the words “fifteen years” the words “and time spent serving a sentence shall not be counted in calculating the said fifteen years”;
- (g) in renumbered subsection (5), delete the words “(7) and (8)” and substitute the words “(6) and (7)”;

- (h) in renumbered subsection (6), delete the words “(8)” and “(6)” and substitute the words “(7)” and “(5)” respectively;
- (i) by inserting after renumbered subsection (7) the following subsections:
 - “(8) Notwithstanding subsection (2) and subject to subsection (9), a Court shall not grant bail to any person who –
 - (a) was, before, on or after the commencement of the Bail (Amendment) Act, 2014, convicted for an offence listed in Part II of the First Schedule; and
 - (b) is, on or after the commencement of the Bail (Amendment) Act, 2014, charged with an offence listed in Part II of the First Schedule within ten years after the completion of the sentence including the payment of any fine imposed, if any, in respect of the conviction referred to in paragraph (a).
 - (9) Where a person is convicted of an offence listed in Part II of the First Schedule on or after the commencement of the Bail (Amendment) Act, 2014, and is charged with an offence listed in Part II of the First Schedule and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.
 - (10) Where a person has been granted bail and is subsequently convicted for an offence under Part II of the First

Schedule or the Anti-Gang Act, the Court shall reconsider the grant of bail in respect of any pending charge.

- (11) For the purpose of this section, a conviction includes a conviction for a similar or materially similar offence as listed in Part II of the First Schedule which is imposed by a court of competent jurisdiction in any foreign jurisdiction.
- (12) For the purpose of this section, except subsection (5), where a person is charged with an offence listed in Part II of the First Schedule and evidence has been taken within one hundred and twenty days of the reading of the charge but the trial is not completed within one year from the date of the reading of the charge, that person is entitled to make an application to a Judge for bail.”.

Mr. Speaker: The hon. Attorney General.

Mr. Ramlogan SC: Thank you very much, Mr. Speaker. As you may be aware, the—*[Interruption]*

Mr. Speaker: No, you will have to follow—*[Inaudible]*

Mr. Ramlogan SC: Sorry, Mr. Speaker. I beg to move that the Bill—

Mr. Speaker:—that this House—

Mr. Ramlogan SC:—that this House of Representatives

Mr. Speaker:—agree—

Mr. Ramlogan SC:—agree—

Mr. Speaker:—with the Senate—

Mr. Ramlogan SC:—with the Senate in the amendment to clause 4 of the Bail (Amdt.) Bill, 2013.

Mr. Speaker: Yes, you can now explain.

Mr. Ramlogan SC: Yes, thank you very much, Mr. Speaker. The amendment made on this particular clause has to do with the strikes rule. You may recall the law as it stood when we came to debate this particular amendment Bill, there was a one strike provision which related to firearm-related offences. There was a “two strike and you out provision”, whereby no bail whatsoever was to be granted, and that was a measure that was in the existing law. And then of course, there was a “three strike and you out provision”, where there was an opportunity to apply for bail.

Mr. Speaker, when we completed the debate in this honourable House, we had passed a law to introduce a measure for “one strike and you out”; whereby the formula that was in place in other similar legislation—where the Bail Act had been amended previously to deal with such offences, such as kidnapping, and thereafter, in the Anti-Gang Act was adopted in the Bail (Amdt.) 2013, Act. In that new formula we sought to deny bail to persons who had been once convicted of a serious, dangerous and violent criminal offence and who had reoffended and subsequently been rearrested and charged by the police for another offence.

3.15 p.m.

As a result of that provision, if after 120 days no evidence was taken and the prosecution had not commenced, there would be the right to apply for bail, and if the case had started within the 120-day period, there would have been no right to apply for bail until the completion of the matter.

When the matter went forward to the Senate—to the other place—we were able to take a careful look at this provision, and it was felt that there would be no need to have three strikes and you are out because if, as the law currently stood, that you had two strikes and bail was permanently deprived—and that was, in fact, the existing law passed under a different administration—then we thought there was no need to go beyond two strikes because whether it was three, four, five or six, once you had at least two prior convictions, then once the law is framed that way, then you would be caught because it would be a minimum of two without reference to any maximum.

So what we did was to expand the category of offences in respect of the existing two strikes and you are out policy, which was already the law, and we then went on to address the question of the one strike and you are out policy. We had to make an amendment for the anti-gang offences because there was no point in putting in the Schedule the anti-gang offences because the Anti-Gang Act had

Bail (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

already contained a formula that denied bail to gang members and gang leaders for 120 days on the same formula.

Because it could not be listed in the Schedule, what you had to do was to separately provide for offences under the Anti-Gang Act, so that if someone is convicted of a serious, dangerous, violent crime, we will have to now say, in addition to the listed offences, an offence under the Anti-Gang Act, so that an offence under the Anti-Gang Act—a conviction recorded under that Act—will now be a strike for the purpose of this rule. Previously, the omission of the Anti-Gang Act from the Schedule would have created the anomaly whereby the anti-gang offences would not have necessarily counted as a strike. So that loophole has been plugged.

The second thing is that in calculating the two strikes and you are out, I had, in fact, made the observation that that law was not working as effectively as it ought to, and the reason for that was because the period of time that the convicted person would spend during incarceration serving his sentence, was not, in fact, discounted from the period of time that you had to calculate the 10- or 15-year period, as the case may be. So we have now made an express provision to say that the time spent serving a sentence shall not be counted in calculating the 15-year period.

Now this is a significant amendment because what it does is to treat with the anomalous situation and the aberration that occurred before, whereby a man could be convicted for a serious criminal offence and he could be sentenced to a 10-year term of imprisonment, and if the 15-year period during which you must have two strikes to be out—if the 10-year period ran during that 15-year period—then, essentially, the man could come out and you have curtailed the period of time when he would have had to obtain the next strike.

A man could be convicted for a crime and get 20 years and the 15 years would lapse by effluxion of time whilst he is incarcerated in prison serving his sentence. So you necessarily needed to subtract that period of time so that when he is serving his sentence, that period of time will now be discounted and will not be for the purpose of calculating the 15-year period. It will not count.

Mr. Speaker, we then go to the amendment at 7(b) which speaks now to the one strike and you are out provision. We have done away with the three strikes because once you have a minimum of two, it will capture anything greater than two. So if you have two or more convictions and you reoffend—if you have two or more convictions for serious, dangerous, violent criminal offences, there will be no bail.

With respect to one strike, where you have one conviction for a serious, dangerous, violent criminal offence, that conviction is a conviction that would include an offence committed prior to this Act. Convictions that you have obtained before this law comes into being, those convictions, will count for the purpose of this law. So it is not that you are pressing the reset button. And we have levelled the playing field so that you now start afresh. So that you now have to get one conviction henceforth, that is not the case. If you have an existing conviction, it will count as a strike for the purpose of this law, so that the net is going to be cast from the past, come straight up to the present and go forward in the future. So a court shall not grant bail to any person who was before, on, or after the commencement of this Bail (Amdt.) Act convicted for a serious, violent or dangerous crime.

For the one-strike policy, we have selected the 10-year period as opposed to the 15-year period for two convictions. It says, once you have completed your sentence on a first conviction—you have been convicted of a serious crime and you have been sentenced to serve time, or a fine has been imposed by the court, then you pay the fine or you serve your time. Once you come out of jail, in the next 10 years if you reoffend and you are arrested and charged a second time for a serious, dangerous, violent criminal offence, then there will be no bail, initially, for 120 days.

If after 120 days the prosecution does not start its case, then you have a right to apply for bail. That is what exists currently in the Anti-Gang Act. If, however, the prosecution is able to start its case within 120 days, Mr. Speaker, then we have a double-edged sword coming into play. The prosecution will be able to start its case within 120 days, but the case must finish within a year. If the case does not finish within a year, the defendant has the right to apply for bail. If the case is finished within the year, then there is no right to apply for bail and during the course of your criminal trial, you will remain behind bars, unable to interfere with the administration of criminal justice in your case, witnesses, jurors, as the case may be.

So the one strike and you are out policy is that you will remain behind bars and you will not be entitled to apply for bail until one year has elapsed. Mr. Speaker, that is a double-edged sword because it allows the prosecution an option—it gives them an option which they did not have before. They can now target the most dangerous and violent criminals and they can handpick which trials they would like to fast-track and get on with, within the year, knowing that they will be behind bars for the full duration of that time.

Bail (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

A most significant amendment has to do with criminal deportees. Convictions recorded and given by a court of competent jurisdiction outside the Republic of Trinidad and Tobago, those convictions will now count. So criminal deportees who come to Trinidad and they are deported because they come “outta” jail and a US air marshal accompanies them on board the flight, and they come and walk straight into society, they will be carrying with them their convictions, and under this law it will count. So that if they reoffend, then their liberty will be in jeopardy and to jail you shall go. So, criminal deportees must be aware. It is not that you are starting from scratch. Your previous convictions in a foreign jurisdiction will count.

To deal with the persons who have no conviction, but they have about 10 matters pending before the court—so each time they are charged they go before a magistrate and they get bail, and while on bail they commit another offence, they go back and they get bail, and there are cases the police have actually cited to us where people have over 10 pending matters in court and every time they get bail. The explanation given for that is that there is no conviction against the person because they have 10 pending matters but they have bail in respect of each one. The provision now will allow the court, when a conviction occurs—when they are convicted of any one of those offences—the moment they are convicted, the court must now review the grant of bail in respect of all the other pending charges. So that if you are a repeat offender and you have a high rate of recidivism, once you are convicted of one of the offences that are pending, the court is now mandated to review the grant of bail in respect of each and every single offence.

I turn, Mr. Speaker, finally, to the list of offences in the Schedule. You may recall, when this Bill had left this House and gone to the other place, we had a catch-all provision that said, any offence that attracted a term of imprisonment of 10 years or more will be caught by this Act. It was felt in the other place that that did not identify with a sufficient degree of certainty, what offences would be caught by the Bail (Amdt) Act, and as a result of that we were able to negotiate a compromise whereby we would identify the Acts themselves that would now form part—that would be subject to this Bill. And it would now read: The Offences Under the Firearms Act; the Larceny Act; Malicious Damage Act; Sexual Offences Act; the Children Act, and the other offences under the various Acts, which I will come to in due course.

Mr. Speaker, the one-strike policy and the two-strike policy now, will be the law. The two strike was already in existing law. We have simply expanded the category of offences to which it shall apply. We have done away with the three-

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

strike rule and we have emboldened and strengthened the one strike and you are out policy, and those are the amendments that were made in the other place.

I beg to move. [*Desk thumping*]

Question proposed.

Mr. Colm Imbert (*Diego Martin North/East*): [*Desk thumping*] Thank you, Mr. Speaker. Mr. Speaker, if the Government was interested in having a reasoned debate on this matter, they would have moved a Motion to debate both of these amendments at the same time—both 4 and 5. I am constrained in having to debate 4 now and then have to do 5 because they are interwoven. But I will try to see what I can do.

Mr. Speaker, the Government, throughout its defence of this Bail (Amdt.) Bill, has presented an argument that it must take away judicial discretion in the granting of bail because, as far as the Government is concerned, the Judiciary has granted bail to seasoned criminals in circumstances where that should not be done. In the other place, the Attorney General made a most unfortunate statement which found itself the subject of newspaper reports, and I will simply read one of them. This is in the *Newsday* on Sunday, February 02, headlined: “Judiciary condemns ‘fear factor’ comments in Bail debate”. And it is necessary to read the whole thing:

“The Judiciary has rejected statements made in the Senate last week which inferred that judges and magistrates considered the ‘fear factor’ in making their decisions, including the granting of bail to accused persons.”

3.30 p.m.

This newspaper report goes on to report that:

“During the Committee stage of the Bail Amendment Bill, Attorney General Anand Ramlogan and two Independent senators said the fear factor was why bail was consistently granted to seasoned criminals.”

Now that is the message the Attorney General has been promoting and pushing in this honourable House ever since he brought this Bail (Amdt.) Bill. The Judiciary has reacted quite angrily to this point of view being promoted by the Attorney General, and the article states that:

“In a statement sent out yesterday by Jones P Madeira, Court Protocol and Information Manager, the Judiciary said the comments, which it described as ‘offensive’ and ‘extremely unfortunate’—these are the Attorney General’s

Bail (Amdt.) Bill, 2013
[MR. IMBERT]

Friday, February 07, 2014

comments—“were ‘irresponsible, dangerous and can only serve to undermine public trust and confidence in the institution and its officers’.

The Judiciary noted that before judges and magistrates assume office, the Constitution demands that they swear to an oath or affirm solemnly that they will bear true faith and allegiance to Trinidad and Tobago and...uphold the Constitution and the law...and conscientiously, impartially and to the best of their knowledge, judgement and ability discharge the functions...”—and so on.

“It said the Constitution was categorical that such an officer shall not enter upon the duties of his office unless he or she has taken and subscribed to the oath of allegiance and the oath...of...“office.

The Judiciary said it does not have a history of its officers breaching their oath out of fear, and assures the national community...it will continue steadfastly, scrupulously and rigorously to ensure adherence by judicial officers to those principles...that govern their practice.

The Judiciary...rejected the statements”—and these are the statements made by the Attorney General—“and the innuendos...”—and these are the innuendos made by the Attorney General—“...and called for introspection and a deeper understanding and appreciation of the potential damage that such statements, uttered especially by the nation’s leaders, could have on institutions such as the Judiciary....”

Now the point is, Mr. Speaker, when one looks at what the Government is doing, the Government has taken a sort of a sledgehammer approach to the question of judicial discretion and has taken up its big sledgehammer and dropped it right bang on judicial discretion. Because when one looks at what the effect of the amendments are, the amendments in clause 4, what the Government is seeking to do is to create a multitiered layer system of the granting or denial of bail as the case may be.

So they have categorized a host of offences, some of which there will be no bail whatsoever if you are charged with the crime, some of which if you have one previous conviction and you are charged there will no bail, and if you have two previous convictions and you are charged there will be no bail. They are doing all of this because they are of the view that magistrates and judges are incompetent, that magistrates and judges are afraid of the criminals in our midst and are unable to consider the factors that any judicial officer must consider when granting or denying bail. These things are simple and well known, that whether there is a

likelihood the person will commit another crime while out on bail, whether there is a likelihood the person will interfere with witnesses or attempt to pervert the course of justice, and it has been the practice in most civilized countries to leave these matters up to judges, but not this Government.

This Government has gone to the extreme and has decided there are a whole host of crimes—crimes dealing with firearms, larceny, malicious damage, sexual offences, offences against the person, dangerous drugs, trafficking in persons and so on—where judges are not competent to look at the history of a person who is charged with an offence and establish whether that person should be granted bail or not.

The point we have made and the point I am going to make again, is that, whereas for certain crimes, murder, kidnapping and gang offences, reacting to a problem in the society, a problem that was faced with kidnapping, a problem that was faced with gangs, the Parliament passed laws restricting bail with respect to persons who commit these types of crimes, whereas a law such as that which is what I have participated in as a parliamentarian, what this Parliament has participated in in the past, where you are looking at specific categories of very dangerous crimes such as murder, kidnapping and gang offences, whereas in this Parliament we have made decisions as a Parliament that in those specific and that small group of cases, persons can be denied bail if they have been charged with such an offence.

We have always been very careful in this Parliament to extend that principle to a range of offences because in so doing—and this is not an attack on the Government per se—what the Government is doing by declaring judges to be incompetent, whether you are doing it directly or whether you are doing it indirectly, the effect is the same by declaring judges incapable of determining whether a person has a right to liberty or not because this is what this is all about. It is the denial of liberty and by creating this no strike, one strike, two strike, three strike regime, you are telling the Judiciary that they are incompetent, they are afraid and they are incapable of granting bail to a person, and this Parliament is superior to the Judiciary in determining whether people should get bail or not.

As I said, this is not an attack on the Government. It is the amendment because the amendment introduces a regime—that amendment to that clause—certain crimes no bail; certain crimes, one offence, one charge, bail; certain crimes, two offences, one charge, bail. That is what that clause will do. The other clause which we will deal with in due course gives a definition of what these two strike things will be, but their principle of no strike, one strike, two strike, three

Bail (Amdt.) Bill, 2013
[MR. IMBERT]

Friday, February 07, 2014

strike is in this amendment which I am debating, and what this Parliament is attempting to do today is to usurp the role of the Judiciary and I can assure you they will not take kindly to this. Very recently, the court struck down a sentence for drug trafficking I believe. I do not have the details with me, but I saw a report of a case where there was a sentence—[*Interruption*]

Mr. Deyalsingh: Twenty-five years.

Mr. Imbert:—25 years where the judge had no discretion with respect to drug trafficking, whether a person was caught trafficking two joints, or whether they were caught trafficking a kilo of cocaine—[*Interruption*]

Dr. Moonilal: Passed by the PNM.

Mr. Imbert: It does not matter. The court struck down the mandatory 25-year sentence. Mr. Speaker, it shows the lack of understanding of the intellectual issues here. The court struck down the mandatory 25-year sentence for drug trafficking on the grounds that it had taken away judicial discretion.

In other words, you are telling the judge that a fella who is caught trafficking a small quantity of marijuana will get the same sentence as somebody trafficking \$600 million worth of cocaine, for example, and the Court of Appeal of Trinidad and Tobago decided that that infringed on the separation of powers and it walked too far into the area, the domain of the Judiciary in terms of their discretion, in terms of granting bail and they declared that section of that law to be unlawful and they struck it down.

The message I am sending to the Attorney General: you may think that you are doing something good; you may feel by creating this regime where murder, kidnapping, no bail; gang and so on, one charge, one conviction, no bail; these other things, one charge, one offence, no bail. You may think you are doing something good, but what you are doing is you are walking straight into a situation where you are going to get someone to file an action in the court on the grounds that this infringes the separation of powers and it takes away the ability of the Judiciary, the right of the Judiciary under our Constitution to determine someone's right to liberty.

In the past—and I want to stress this because this Attorney General is fond of confusing the issues, Mr. Speaker. He is fond of confusing the issues. In the past—[*Interruption*]

Mr. Ramlogan SC: You are my twin?

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Imbert:—when the People’s National Movement amended the Bail Act, we did so in the case of kidnapping, where there were at that particular time, there were 155 kidnappings per year at that particular period. After the amendment was passed kidnappings went down to 3 or 4. But it was a particular response to a particularly grievous problem in our nation’s history at that particular point in time, and we felt as a Parliament that we could take the risk. This is the point. This is the issue that the Attorney General is conveniently confusing.

We felt as a Parliament we could take the risk in the instance of kidnapping to deny bail. But now this Government feels in terms of a host of crimes, it can decide a judge is not competent or should not be allowed to grant bail. All I am warning the Attorney General, you think you are doing something good? But I am firmly of the view, just like the mandatory 25-year sentence for trafficking that was struck down as being unfit and wrong in a society that has respect for the rights and freedoms of individuals, or a society that has respect for the separation of powers, just like that 25-year mandatory sentence this host of offences which will now attract—[*Crosstalk*] Mr. Speaker—

Mr. Speaker: I get the impression that you are about to wind up and thing, hon. Member, or are you going on?

Mr. Imbert: Mr. Speaker, on two counts let me go to the amendment. I mean, I forgive hon. Members opposite. I forgive them because they have not read the document. They are not clear on what we are debating, but I would draw the hon. Prime Minister’s attention, through you Mr. Speaker, to the second page of amendments and I will draw the hon. Prime Minister’s attention through you, to the amendment that is (9). And it says:

“Where a person is convicted of an offence listed in Part II of the First Schedule on or after the commencement of the Bail (Amendment) Act, 2014, and is charged with an offence listed in Part II of the First Schedule and brought before the Court but no evidence has been taken within one hundred and twenty days of the reading of the charge, that person is entitled to make an application to a Judge for bail.”

I will also draw the hon. Prime Minister’s attention to the amendment (8) which deals with offences listed in Part II of the First Schedule (a) and (b). I will also draw the hon. Prime Minister’s attention to the first page of amendments, and what these amendments are doing is creating this multitiered regime. It is there in black and white. The intent and effect of the amendments is to create a multitiered regime where the Parliament has taken on the role of the Judiciary, and the Parliament has decided that it is more competent to deny bail to a person.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Dr. Moonilal: Mr. Speaker, 36(3).

Mr. Imbert: What? Mr. Speaker?

Mr. Speaker: Member, continue, but try to confine yourself to—
[*Interruption*]

Mr. Imbert: Mr. Speaker, I am confining myself to the matters in this green piece of paper. [*Member shows House of Representatives Order Paper*] I am dealing with the amendments. I have not even got to the section—and Prime Minister could mutter all she wants—about a sentence imposed by a court of competent jurisdiction in any foreign jurisdiction which is item 11. Nor have I got to item 12 which is, that if evidence has been taken within 120 days and the trial is not completed within one year that person—Mr. Speaker, look at the amount of amendments we have here: one, two, three, four, five, six, seven, eight, nine, 10—20 amendments. I am talking on two. I have 18 more to talk about, and the Government is trying to muzzle me and stop me from talking? [*Crosstalk*]

3.45 p.m.

Now, Mr. Speaker, since I have been reminded about amendment 12 on page 2, let me ask the Attorney General to explain in his response what is the policy, what is the theory behind the one-year limitation that has now been put on the denial of bail? Because this Government is capricious, Mr. Speaker; they are whimsical, they pull things out of a hat. The effect of this amendment is that if you have one conviction for one of the offences and you are charged, you will be denied bail for four months, more or less; if the trial begins within that four-month period, you will remain in prison for one year. Now, I would ask the Attorney General to tell me: how many criminal trials last year and the year before, and the year before, were completed within a one-year period?

Mr. Ramlogan SC: Once it starts.

Mr. Imbert: No. How many people were charged and how many trials began within the 120 days? You have the information?

Mr. Ramlogan SC: Yeah.

Mr. Imbert: How many people were charged and how many trials began within 120 days and how many were finished within a year? I will give way to the Attorney General.

Mr. Speaker: No, no, no, in his response, he will answer.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Imbert: Thank you. I was being kind, Mr. Speaker, I was not being belligerent like them. But the fact of the matter is, Madam—Mr. Speaker, sorry. The deputy has been in the Chair for a little too long.

Mr. Speaker: I understand.

Mr. Imbert: Yes. [*Laughter*] The fact of the matter is, what is the policy, Mr. Speaker, for keeping a man in remand for one year simply because he had one conviction 15 years ago and he was charged with an offence? You keep him in remand for a year once the trial begins because one would assume you want the trial to begin. Your intention is not to have a host of bail applications after four months. One will assume there is some logic to picking this 12-month period for the trial to be completed because there is no rationale whatsoever.

I saw this argument in the other place reported in the press with respect to this whole question of limiting how long you could deny bail for. And what I saw? I saw a proposal from an Independent Senator that—[*Interruption*]

Hon. Member: Prescott.

Mr. Imbert: “Nah”, it was Drayton—as soon as the trial begins, the person could apply for bail, and I thought that was eminently reasonable, because what the Attorney General is telling us, they want to keep these dangerous people inside so that they do not tamper with witnesses so that the police could gather evidence and so on. So the police charging the person but they have no evidence, “eh”, so you have to put the criminal inside while the police could go and gather sufficient evidence to get a conviction.

But I heard this proposal that as soon as the trial starts, the person could be entitled to apply for bail and the judge would then make the decision as to whether the person should get bail or not. That seems to make sense to me, that seems to be a balance between the denial of liberty and the rights of the individual, but up they come with this one year thing. So, as far as they are concerned, it is okay to deny a person his or her liberty for one year simply because they have been charged with one of these offences. So, I would like the Attorney General to explain that.

Could the Attorney General also tell us—you know, these deportees and so on are now at risk because what they are saying here is that if you have been convicted in another country, that counts as if you are convicted in Trinidad and Tobago.

Mr. Ramlogan SC: That is right.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Imbert: So what you are saying, [*Crosstalk*]—you see, what the Government is saying, that it has repudiated its manifesto because in its manifesto—I believe it is on page 27—the Government said they are going to get rid of the revolving door syndrome, that they are going to be looking at restorative and rehabilitative justice, that they are going to be looking to reduce the rate of recidivism. That is the message that the People’s Partnership sent to us in its manifesto, that they are trying to prevent people from returning to prison.

Dr. Moonilal: We are also trying to protect citizens.

Mr. Imbert: But what they are telling us now is that as long as you have one conviction and you have served your time, you are a risk to society [*Crosstalk*] and you must be denied bail.

Mr. Speaker, I do not think that that is something that this Parliament is competent to decide. I would like the Attorney General to explain to me why the Government believes this Parliament is more competent than the Judiciary to decide why these particular categories of people, this whole category, this group of people—I would like the Attorney General to tell us why he is of the view that this Parliament is more competent than the Judiciary to look at all the circumstances surrounding criminal offences, and determine that people should be denied bail rather than the Judiciary. I thank you, Mr. Speaker. [*Desk thumping*]

Mr. Ramlogan SC: Thank you very much, Mr. Speaker. The Member for Diego Martin North/East has been somewhat naughty and mischievous— [*Interruption*]

Hon. Member: As usual.

Mr. Imbert: How? How?

Mr. Ramlogan SC:—in his contribution by peddling a number of misconceptions about this bail amendment. He posits his contribution on the basis that the Parliament, or the Government, is effectively saying that the Parliament is more competent than the Judiciary— [*Interruption*]

Mr. Imbert: That is what you said.

Mr. Ramlogan SC:—to determine the question of bail, and he portrays this as an attack by the Government on the Judiciary. He cites from a newspaper article which purports to repeat a press release that was issued by the Judiciary.

Mr. Imbert: “Is not true?”

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Ramlogan SC: And I am grateful for the opportunity to clarify that matter and to also deal with some of the misconceptions—*[Interruption]*

Mr. Imbert: “Is not true?”

Mr. Ramlogan SC:—that have been peddled during the Member’s contribution.

Permit me to start by declaring that this Bill in no way can it be interpreted, misinterpreted, represented or misrepresented, as an attack against the Judiciary. In fact, there is ample precedent for what the Government is doing, and it is, perhaps, ironic that the hon. Member for Diego Martin North/East, who voted in support of similar measures in the past, did not take similar umbrage—*[Interruption]*

Mr. Imbert: I went through that.

Mr. Ramlogan SC:—on those occasions. The function of the judicial arm of the State, and the Judiciary, in our constitutional democracy, is to declare, interpret and apply laws made by Parliament. *[Desk thumping]* That is the function of the Judiciary: to declare, interpret and apply laws made by Parliament. And it is against that backdrop, Mr. Speaker, that when I was piloting this measure and when I was speaking in the other place, I quoted from previous debates when the Bail Act was amended, and it was in quoting from previous debates on the Bail Act that the issue of the fear factor arose. I want to say for the record, publicly, at no time did I utter any such statement that the Judiciary was denying bail because it was in fear. I never said that! But I want to clear the air to tell you who said it, when they said it and why they said it.

Mr. Roberts: Yeah, oh God, bacchanal.

Mr. Ramlogan SC: Permit me to quote from the Bail amendment debate 1994, the *Hansard* of August 29, 1994 which is what I, in fact, read.

Hon. Member: Hedwige Bereaux.

Mr. Ramlogan SC: The then People’s National Movement, Member of Parliament, Mr. Hedwige Bereaux, and I quote:

“Moreover, Madam Speaker, we...have a situation because judges and magistrates are not immune to terror. Terror is common to all. Also, fear. There comes a time when one gets too stupid to be afraid...”—listen good, Member for Diego Martin North/East *[Laughter]*—“too stupid to be afraid...”

Mrs. Persad-Bissessar SC: Who is saying that?

Mr. Ramlogan SC: PNM Member of Parliament, Hedwige Bereaux.

“but, in most cases, terror is common to all. In several instances, I believe...some judicial officers, because of fear of reprisals from the criminals, exercise discretion in”—their—“favour.”

Let me repeat that. MP Hedwige Bereaux from the PNM said:

“I believe”—“In several instances...some judicial officers, because of fear of reprisals from criminals, exercise discretion”—to grant bail—“in”—their—“favour.”

Dr. Moonilal: Who said that?

Mr. Ramlogan SC: That was the PNM’s position in the bail amendment debate, 1994. Their position was that the Judiciary and the magistrates were granting bail out of fear of reprisals from the criminal elements. That was their position. The Member for Diego Martin North/East tries to do a moonwalk on that contribution today, and tries to somehow turn it on its head and stick it to the Government. I was quoting from the People’s National Movement in 1994 when they amended the Bail Act, that was not anything I said.

Dr. Moonilal: That is the PNM.

Mrs. Mc Intosh: Why you quoting it?

Mr. Ramlogan SC: Then he said that this is an attack against the Judiciary, that we are saying that the judges and magistrates are not competent. If to say or to suggest that it is an attack against the Judiciary, then the people that are most guilty of that kind of scathing, boldfaced and shameless attack is the PNM.

Mr. Sharma: Correct! [*Desk thumping*]

Mr. Ramlogan SC: Let me read again. Not only did they attack the Judiciary by going after a sitting Chief Justice but this is what they said in another bail amendment debate. They were the ones who said it. This is former Attorney General, Mr. John Jeremie, in the bail amendment debate of 2007. This is what the then Attorney General said. He said:

“...we consider the denial and/or the placing of strict conditions to bail...to be reasonably justifiable in our societal context.

The increasing levels of other violent offences cannot be ignored.

There are persons...”—[*Interruption*]

Mrs. Persad-Bissessar SC: Who is saying this?

Mr. Ramlogan SC: This is PNM Attorney General, John Jeremie. He said:

“There are persons”—magistrates and judges, that is—“in this country who would allow individuals out on bail, in respect of very, very serious offences...They”—the Chief Justices—“talk to their troops about the need for granting bail in a uniformed fashion, but this does not happen because these are individuals. That is why there is a need, in this time of crisis, for us to legislate.”

The People’s National Movement’s Attorney General was saying that the Chief Justice talking to their troops about the need to grant bail in a uniformed fashion, but it does not happen. He said that there are people in this country who would allow individuals out on bail in respect of very, very serious offences. So what he is saying essentially is that the Judiciary and the magistracy were allowing people out on bail in respect of very serious offences and the PNM could not trust the Chief Justice to talk to the magistrates and judges so that they will exercise judicial discretion in a uniform and consistent manner. That was their position in 2007.

Mrs. Persad-Bissessar SC: That is the same Chief Justice they wanted to lock up.

Mr. Ramlogan SC: That was the same Chief Justice they wanted to lock up and hound out of office, so that was their position then.

The Member for Diego Martin North/East does not tell the population that the People’s National Movement passed an amendment to the Bail Act whereby if a man had two strikes for certain serious offences, there was a permanent deprivation of bail. They were the ones who introduced this concept in the law. [*Interruption*] The two strikes and you are out concept, whereby the Judiciary did not have the opportunity to consider—I want us to understand this. The bail amendment law passed by the PNM deprived the Judiciary of the opportunity to consider the question of the grant of bail permanently. Once the man had two strikes, he was down and out for the count forever. They had no compunction, no remorse then, they did not see it as saying the Judiciary was so incompetent that the Judiciary should not be allowed to consider the question of the grant of bail.

Bail (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

The man has two offences, he is arrested a third time and the law they passed—which is the law today as I speak—is that there will be no question of the grant of bail whatsoever. The Judiciary does not have the opportunity; the PNM did not afford them the opportunity, to consider the question of bail.

Mr. Imbert: Mr. Speaker, Standing Order 36(1). I was prevented from speaking on the Bill, he is speaking on the Bill. Standing Order 36(1).

Mr. Speaker: You were never prevented, not by the Chair. Never! Continue, hon. Member.

Mr. Ramlogan SC: Thank you very much, Mr. Speaker. [*Desk thumping*]

Mr. Imbert: “Seventy-five minutes yuh getting.”

Mr. Ramlogan SC: So having withdrawn the opportunity to consider the question of an application for the grant of bail in the case of two strikes and you are out, they did not see it as an attack against the Judiciary, they did not see it as a belief that the Judiciary was incompetent, and they certainly did not see it as Parliament usurping the role and function of the Judiciary.

4.00 p.m.

In fact, Mr. Speaker, when they passed the law to say that a man should not get bail for kidnapping offences for 120 days, likewise, the PNM did not see it as an attack against the Judiciary. They did not see it as a questioning of the competence of the Judiciary. They passed that law because they said kidnapping was a prevalent offence, at the time. When we passed the Anti-Gang Act, 2011, after a Joint Select Committee and the PNM voted in favour of the Anti-Gang Act, 2011, they had no compunction about depriving a man of the right to bail for 120 days, and they voted in support of that measure. They were on the Joint Select Committee.

So, there is ample precedent for what we are doing today and it is political hypocrisy of the highest order to pretend that this is some kind of revolution that is unknown to the PNM and that it is some kind of attack against the Judiciary. I challenge the Member to find, in the *Hansard*, anywhere, where I uttered those words. In fact, what I was doing is simply quoting from the PNM and that is why, today, they are seeking to further the misrepresentation.

Mr. Speaker, he asked about the one year limitation—why one year. Mr. Speaker, the one-year limitation was a negotiated compromise in the other place,

whereby the Independent Bench felt that the prosecution, if it is allowed to keep the man behind bars with no bail, unlike what the PNM did, which was to have a permanent deprivation of bail, they felt that, look, if the State could not get its act together and get on with this case on a fast track and the case is not completed within a year, let us give the man the right to apply for bail.

The Member for Diego Martin North/East questions this—why one year? Well, I want to ask him—should we do like the PNM did and say no bail for “he” lifetime? Should we do like you say, after he has two strikes and say no bail whatsoever?

Mrs. Persad-Bissessar: In perpetuity.

Mr. Ramlogan SC: In perpetuity. We are simply saying that after one year, we are giving the man the right, the entitlement, his right to apply for bail—applies—and he will be able to apply for bail. And he questions: why one year? It was because one year was a consensus and it was a compromise arrived at, that we were able to live with in the collective conscience of the Parliament. And we felt it was fair and reasonable.

In closing, Mr. Speaker, I wish to say that the very Constitution which he refers to, the Constitution itself speaks about the right to bail but it is a right not to be deprived of bail without just cause. Today, in this country, we say there is more than ample and just cause to restrict bail for serious, violent, criminal offences. Mr. Speaker, when one looks at the newspaper reports, we see, almost on a daily basis, crimes are reported, people are being murdered and when you read the article you will see the person has pending matters and prior convictions but they are out on bail. That is why we need this measure. We need this measure so that we can take a strong stance in the protection and defence of our democracy and so that the State can meaningfully guarantee the first right in the Constitution, which is the right to life, liberty, security of the person and the right to peacefully and quietly enjoy your property without unlawful interference and disturbance. Mr. Speaker, I beg to move. [*Desk thumping*]

Mr. Speaker: Hon. Members, the question is that this House agrees with the Senate in the amendments to clause 4 of the Bail (Amdt.) Bill, 2013.

Question put and agreed to.

Mr. Speaker: The hon. Attorney General.

Mr. Ramlogan SC: Mr. Speaker, I beg to move that this House agree with the Senate in the amendments to clause 5 of the Bail (Amdt.) Bill, 2013.

Mr. Speaker: Before you continue, I think we have to just continue with—let us deal with 6 one time because it is a very short clause. So rather than complete 5 and then come back to 6, I will ask the Clerk to just read 6 and then you will deal with both 5 and 6. Continue Clerk.

The hon. Attorney General.

Mr. Ramlogan SC: Mr. Speaker, I beg to move that this House agree with the Senate in the amendments to clauses 5 and 6 of the Bail (Amdt.) Bill, 2013.

Clauses 5 and 6.

Senate amendments read as follows:

Delete the proposed Part II and substitute the following:

“Part II

Specified Offences

- Clause 5.*
- (a) an offence under the Firearms Act which is punishable by imprisonment for a term of ten years or more, or an offence under section 8, 9 or 10 of that Act;
 - (b) an offence under the Firearms Act which is punishable by imprisonment for a term of ten years or more, or an offence under section 8, 9 or 10 of that Act;
 - (c) an offence under the Larceny Act which is punishable by imprisonment for a term of ten years or more;
 - (d) an offence under the Malicious Damage Act which is punishable by imprisonment of a term of ten years or more;
 - (e) a sexual offence in which the alleged victim is a child, including a sexual offence under the Sexual Offences Act or the Children Act, 2012 or any Act repealing and replacing any of those Acts;

- (f) an offence under the Sexual Offences Act which is punishable by imprisonment for a term of ten years or more;
- (g) an offence under the Offences Against the Person Act which is punishable by imprisonment for a term of ten years or more, or an offence under section 48 or 54 of that Act;
- (h) an offence under the Dangerous Drugs Act which is punishable by imprisonment for a term of ten years or more;
- (i) an offence under the Trafficking in Persons Act, 2011 which is punishable by imprisonment for a term of ten years or more;
- (j) perverting or defeating the course of public justice;
- (k) an attempt to commit an offence listed in this Part or Part I of this Schedule.”

Clause 6.

Delete the words “continue in force for a period of three years from the date of its commencement” and substitute the words “expire on the 15th day of August, 2016”.

Question proposed.

Mr. Ramlogan, SC: Mr. Speaker, the amendment in clause 5 deals with the Schedule that lists the specified offences to which the one-strike and two-strike policy shall apply. As you are aware, there were two Schedules before. There were two parts in the Schedule before because we had two streams running side by side where certain offences were subject to the “two strikes and you are out” principle, where you had no question of bail being granted and certain other types of offences were subject to the “three strikes and you are out” principle, where again you had no bail but a right to apply for bail.

It was discovered that there was an inconsistency and an incongruity in the law, as it stood, because the irony was for three strikes and you are out, which

Bail (Amdt.) Bill, 2013
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

was the worst criminal offender, as compared to the “two strikes and you are out”, there was a right to apply for bail but it was not there for the two strikes and you are out. What we have done, is to remove the three-strike provision, have the two-strike alone and the one-strike provision and there will be one schedule of offences which will now apply; two strikes, one strike, there is one schedule that will apply to both.

The schedule really tries to capture those serious offences that are prevalent in our society and which the Parliament felt were deserving of this kind of special measure. It lists offences for ten years or more under the Firearms Act, the Larceny Act, Malicious Damage Act, where the victim is a child—under the Sexual Offences Act or the Children Act, 2012, the Sexual Offences Act, the Offences Against the Person Act, the Dangerous Drugs Act, Trafficking in Persons Act, 2011, perverting the course of public justice and an attempt to commit such an offence.

You will see from the range of offences that are captured, there are two points that need to be made. The first is that we have limited it to the serious and dangerous offences that attract a penalty of 10 years or more. Now one can cherry-pick the offences and go through the whole range of offences but it was felt, in the other place, that once it was an offence that the Parliament had said was so serious that it should attract a 10-year sentence or more, then we will include it in the Schedule, bearing in mind that this schedule only comes into play if you have a previous conviction for another serious offence.

The second point, Mr. Speaker, is that there were offences that could not have been within the contemplation of Parliament when they had had the previous amendments to the Bail Act because these are offences which were created subsequent to that amendment and I cite, by way of example, the human trafficking issue, which is also very topical in our society. And we have, therefore, included offences under the Trafficking in Persons Act.

So what it does, Mr. Speaker, is to clear a jurisprudential, philosophical argument about whether the omnibus provision that was there before, to say any offence which attracted a penalty of ten years or more, would be subject to the one-strike and two-strike principle, whether or not it needed a little refinement so that it will satisfy the requirement for the law, to be sufficiently certain and clear to the man in the street so that the people will have a better idea of it and in so doing, rather than having the umbrella provision of any offence for 10 years or more, we have listed out the separate Acts of Parliament to which it would apply.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

With respect to clause 6, where we have adjusted the date for the sunset clause, there is a sunset clause in existence now for the existing two strikes and you are out policy and it was felt that it will be better to harmonize the deadline so that the both, the one-strike and the two-strike will now come to an end on the same date. So rather than go for the three-year sunset clause, we whittled it down to about two—by a couple months, so that the sunset clause is now adjusted to expire on August 15th, 2016, Mr. Speaker. I beg to move. Thank you. [*Desk thumping*]

Question put and agreed to.

Mr. Speaker The Hon. Member for Diego Martin North/East. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker. I will take all “meh” time. Mr. Speaker, this amendment is the one that is the most dangerous of all. This is the one that goes straight into the area of interfering with judicial discretion because in this amendment what the Attorney General is saying is that for the following offences, and I will read them:

“an offence under the Firearms Act...punishable by imprisonment for a term of ten years or more...”

An offence under the Larceny Act, similarly.

“an offence under the Larceny Act...”

Similarly.

“an offence under the Malicious Damage Act...

a sexual offence...including a sexual offence under the Sexual Offences Act or the Children Act,...

an offence against the Offences Against the Person Act...

an offence under the Dangerous Drugs Act...

an offence under the Trafficking in Persons Act,...”

And that is—the one before, the Dangerous Drugs Act, is the one where the Judiciary had a problem with that mandatory 25-year sentence.

“perverting or defeating the course of public justice;” or

Bail (Amdt.) Bill, 2013
[MR. IMBERT]

Friday, February 07, 2014

“an attempt to commit an offence listed in this Part or Part I of...”—the—
“...Schedule.”

Now, in this amendment, what the Attorney General is telling us, that with respect to all of these offences—firearms, larceny, malicious damage, et cetera, et cetera, this Parliament is of the view, as the Attorney General is of the view, Mr. Speaker, this Parliament is more competent to determine whether someone should be denied bail than the Attorney General. Now, the Attorney General—*[Interruption]*—that this Parliament—well the Attorney General, “is he” bring in the thing—this Parliament is more competent than the Judiciary in terms of deciding who should get bail and who should—*[Interruption]*—yeah, same thing—who should get bail, Mr. Speaker.

Mr. Speaker, let me read from the *Hansard* in the other place. The Attorney General likes to scream but he also likes to confuse the issues. And when he is caught flat-footed he tries to dance away from it. Remember the case of the missing piano? Remember that? Mr. Speaker, these are the words of the Attorney General that strike to the root of the Government’s rationale for this amendment:

“...Why is this necessary? Why is this measure necessary? The police gave us some information...and what they showed us is nothing short of astonishing... They showed me rap sheets that run into four and five pages. I would give you an example. I would call Mr. S, convicted in March of ’91 for robbery; serves his sentence, comes out, gets charged for receiving stolen goods in August, 1997, gets bail, then charged in 1999 for shop-breaking...gets bail; charged for factory breaking in ’99, gets bail;”...and so on and so on.

He goes on.

“Somebody already convicted and they arrested and charged again and they keep getting bail...Because the second case will take about five years...to start up and while that second case is pending “he out on bail and he committing all these offences,...”

And here is the relevant point.

“all the Magistrate says:”—when he is presented with this information—is:
““Oh, only one conviction, bail granted, bail granted, bail granted.” It is astonishing”.

Just one second, Mr. Speaker. Let me repeat what the Attorney General said:

All the magistrate says is “only one conviction; bail granted, bail granted, bail granted. It is astonishing!”

4.15 p.m.

Now, you see the Attorney General thinks that we in this Parliament are a pack of fools and that the people listening are a pack of fools, Mr. Speaker. He obviously thinks that the Judiciary is illiterate because if you read the commentary on the statements made by the Attorney General, the Judiciary was under no misapprehension that the sentiments, the quotations, that he was identifying himself with those sentiments expressed in that 1994 debate.

If the Judiciary did not feel that the Attorney General also believed that magistrates and judges are incompetent and unable to grant bail, because they are afraid, then the Judiciary would not have issued this press release. This press release was reported in the *Newsday*. It was reported in the *Guardian*. It was reported in the *Express* and in every case they say the same thing. The Judiciary said it found the comments offensive.

Mr. Speaker: Yeah, but you already said that.

Mr. Imbert: Yes, Mr. Speaker, I am aware of that. But, you see, I want the Attorney General to tell this Parliament—because I too found the comments offensive—what is the reason for legislating denial of bail. [*Interruption*] Because the Attorney General—[*Interruption*]

Mr. Speaker: Members!

Mr. Imbert: Mr. Speaker, I know they do not like to deal with unpleasant truths, you know. You do not like to deal with unpleasant truths. You in particular. Mr. Speaker—[*Interruption*]—yeah all right, quieten down now—the Attorney General must tell this Parliament and tell the public and tell the Judiciary what is the reason for removing judicial discretion with respect to the granting of bail. Because when he spoke in the other place and he spoke in this place he identified himself with comments that the Judiciary are afraid. He got a lash from the Judiciary for that.

He is now pretending he did not say that. The fact is he said it. So I would like the Attorney General to tell us, why did he identify himself with those sentiments? Why did he step in the shoes of those people who debated the Bail Act of 1994 and why did he echo, as he said in an interview with the press that all he was doing was echoing the sentiments stated in that Bill? But when you echo something, it means you agree with them. You see the problem with the Members opposite, they have a little problem with the English language from time to time.

Bail (Amdt.) Bill, 2013
[MR. IMBERT]

Friday, February 07, 2014

When you say something and you identify yourself with it and then when “yuh geh ketch, yuh say: not me. I was simply echoing what dat odder fella say” what they do not understand, the use of language. When you are echoing something, you are identifying, agreeing and stepping into the shoes of the person who made that statement.

So, Mr. Speaker, I want to repeat the—*[Interruption and crosstalk]*

Mr. Speaker: Member, please.

Mr. Imbert: I do not know what is going on here.

Mr. Speaker: I get the impression that there seems to be some current flowing on both sides and I would ask you to get the electricity behind me, please *[Laughter]* and allow the Member to speak in silence. Continue, hon. Member, please.

Mr. Imbert: Mr. Speaker, I could tell you “wha going on yuh know. Dey so interested” in the internal election in the PNM. They—*[Interruption]*

Mr. Speaker: No, no, no. I am not interested.

Mr. Imbert: That is what is going on.

Mr. Speaker: Just focus on the matter before us, please. I have no interest in that matter, please. *[Laughter]*

Mr. Imbert: I spoke the truth, Mr. Speaker. That is what is bothering them. That is why they are so excited.

Well, let us go back to the issue here. Can the Attorney General tell this Parliament, tell the Judiciary, through the forum of this Parliament, why do you feel a judge is not competent to look at a bail application in a firearms offence? Because that is what you are saying. You are saying here that an offence under the Firearms Act, that is the first one, which is punishable by imprisonment for a term of 10 years, or an offence under section 8, 9 or 10 of the Firearms Act, this person is going to be denied bail and the judge will be denied the opportunity to determine whether the person should get bail or not. Tell this Parliament why a judge is incompetent to determine whether a person should get bail under the Firearms Act. Why have you plucked out the Firearms Act?

Secondly, Mr. Speaker—*[Interruption]*

Dr. Gopeesingh: You are going to each one.

Mr. Imbert: An offence under—I have to go to each one, yes—the Larceny Act, which is punishable by imprisonment for a term of 10 years or more.

Dr. Gopeesingh: You are filibustering now.

Mr. Imbert: Filibustering? I want the Attorney General to tell us, because the Attorney General has chosen, this is his list of amendments, Mr. Speaker. He has decided that judges are incompetent to grant or deny bail, with respect to offences under the Larceny Act and he must tell us why a judge could grant bail in cases of serious fraud. Tell us why a judge is competent to grant bail in a case of serious fraud but is not competent to grant bail in a case of larceny.

Mr. Speaker, I would like to know—*[Interruption]*

Mr. Speaker: Please Members.

Mr. Imbert: I would like to know, Mr. Speaker—*[Interruption]*

Mr. Speaker: Member for Port of Spain South, please!

Mr. Imbert: We know what they are excited about, Mr. Speaker. We know.

Mr. Speaker: I myself do not know.

Mr. Imbert: Is our election they are excited about.

But let us go now to the Malicious Damage Act. What is malicious damage? The Attorney General has decided that a judge could decide whether an editor of a newspaper, charged with an offence under section 8 of the Libel and Defamation Act—his is criminal libel where you knowingly publish something that is false—could get bail. But he has decided a judge is not competent, because that is not in this list. But he has decided that somebody who has an offence under the Malicious Damage Act “cyah geh” bail.

So I would like the Attorney General—he has given us a list here. You have plucked out firearms, larceny, malicious damage, sexual offences, offences against the person, dangerous drugs, trafficking in persons, and so on. What is the public policy in your decision-making process? There are so many crimes that you have left out and so many crimes that you have put in—so many crimes, so many offences the Attorney General—because he said in the other place that these people, they have multiple convictions, and when they go before the magistrate, the magistrate keeps granting bail and he said that is astonishing and then he echoed the sentiments of another speaker in a 1994 Bail Act, who said that the judicial officers are afraid. He echoed those sentiments and then he decides to pluck out these.

Bail (Amdt.) Bill, 2013
[MR. IMBERT]

Friday, February 07, 2014

So, is it when somebody is charged for malicious damage, the judge is afraid? And when they are charged for fraud, they steal \$10 billion, is not a case where the judge is afraid, he could grant bail then, like in the airport case, where people were granted bail? A judge could decide to grant bail there but “cyah” decide to grant bail in something like malicious damage. So you see the inconsistency, Mr. Speaker? You see the contradictions in the Government’s policy? “So malicious damage, no bail for you. Judge cyah give you bail.” Then you go on to offences against the person, dangerous drugs, trafficking in persons, and so on.

So I would like the Attorney General—[*Interruption*] Mr. Speaker, I see instructions being given by the Prime Minister to the Attorney General.

Mr. Speaker: I am not seeing so I cannot focus on that.

Mr. Imbert: I heard it. I think the Attorney General is quite capable of answering the matters that I have raised. He does not need to be instructed by the Prime Minister.

Mr. Speaker: Well that is not before us. Member, you might be seeing things that I am not seeing, but if you address the issues before us I will appreciate it very much. Continue, please.

Mr. Imbert: Thank you, Mr. Speaker. [*Interruption*]

Mr. Roberts: “Ah hear de PNM looking tuh buy bleach.”

Mr. Speaker: Please, Member for D’Abadie/O’Meara.

Mr. Imbert: Thank you very much, Mr. Speaker. Now, the other thing I would like to know, Mr. Speaker—[*Interruption*]

Mr. Speaker: Member for Port of Spain South.

Mr. Imbert: The other think I would like to know, Mr. Speaker, they have a sunset clause. This Bill is going to run for about two and a half years. What is so special about the 15th day of August 2016? So, on the 15th day of August, miraculously, by some intervention—because you see, Mr. Speaker, it does not matter what happened in the past, we are dealing contemporaneously. We are dealing with now.

The Attorney General is bringing legislation now to deny people bail if they have one conviction. Now! I want to know now, why is it you want this measure to only last for two and a half years? Is it that on the 16th of August 2016, a judge will magically acquire the ability to determine whether somebody should get bail or not, but on the 15th of August, the judge is incompetent to do so? So you see,

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Speaker, the real crux of the matter is that, in everything that the Government has told us, in everything they have said, they have just waffled and waffled and waffled. *[Interruption]* “But is you do the thing first. Aah, thank you. All right, thanks for lehing me know.”

Yes, Mr. Speaker, in everything the Attorney General has said, the underlying policy, Mr. Speaker, is that there are certain categories of crime where the Government is of the view that when one looks at the pattern, when one looks at the statistics, when one looks at the history of the case, the administration of justice in this country, the underlying theme in all of this, Mr. Speaker, is—*[Interruption]* Mr. Speaker, could you quieten down the other side, please?

Mr. Speaker: Yes, you have my protection.

Mr. Imbert: Are you sure, Mr. Speaker?

Mr. Speaker: Yes, you have my protection.

Mr. Imbert: Mr. Speaker, the underlying presumption in this Bill and these amendments that have been brought to this House is that there are certain categories of crimes where the Attorney General and the Government is of the view that you need to take away judicial discretion. This Parliament has done that in the past and you have said so. And please, I am asking the Attorney General, through you Mr. Speaker, stop confusing the issues.

In the past we thought that society was in danger and we decided to take the risk to take away judicial discretion in a very limited situation, Mr. Speaker. Yet, the Government has now decided to widen that and has decided a whole host of situations the Judiciary is not capable of dealing with a situation like this. I would like the Attorney General to explain that to me, Mr. Speaker.

What is the policy behind this Bill? What is—*[Interruption]* yeah, I could repeat all I want—the policy behind—*[Interruption]*

Mr. Roberts: Do not be rude!

Mr. Speaker: Please.

Mr. Imbert: Mr. Speaker, you know, one of the problems with hon. Members opposite, they have not paid attention to the fact that they lost four elections in the last year—*[Interruption]*—and Mr. Speaker, when they shout insults across the floor—*[Interruption]*

Mr. Speaker: No, no, no. Member, if anyone is shouting insults I will intervene. Just focus on the measure before us. This is not a debate. We are dealing with amendments. Please! Continue.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Imbert: Now, Mr. Speaker, the other thing that I would like the Attorney General to tell us, in the last line of this set of amendments here on this page, you speak about an:

“attempt to commit an offence listed in this Part or Part I of the Schedule.”

Now the Attorney General was not forthcoming at all. I would like to know what are the crimes that are listed in Part I of this Schedule. Because one of the disservices that has been done to this Parliament and particularly the Opposition, you have a series of amendments here, complex amendments, to an already complicated piece of legislation and the Government has not had the courtesy to give us a consolidated version of the Bill, has not had the courtesy to give the Opposition a list of the crimes that will attract no strikes, one strike or two strikes, Mr. Speaker. It is the way we do things inside of here. They may have a list of amendments on the Order Paper and until you go to the parent Act and then go to all the amendments from 2007, 2008, 2010, 2011, coming up and you come right down and you produce your own consolidated version, that is the only way you would get an understanding of what the Government is trying to do, Mr. Speaker.

So I would hope, Mr. Speaker, that the Attorney General is going to tabulate for us all of the offences that are in Part I of the Schedule. So at least the public will know the offences that they have to be wary of, that they have to be careful of, in terms of one strike or two strikes.

I believe, in addition, this is a Bill where you require a lot of public education, a lot of public education. The public needs to know exactly. We are talking about parents and we are talking about people themselves who need to know the situations, the whole list of crimes now, where persons will be denied bail. And I think the Government owes this to this country to engage in an education programme and let us know exactly what is the effect of this amendment.

Mr. Speaker, I thank you. [*Desk thumping*]

Mr. Speaker: I would like to propose, hon. Members, that we conclude this matter before we go for our suspension and tea. So with your leave and support I call on the Attorney General. [*Desk thumping*]

Mr. Ramlogan SC: Thank you very much, Mr. Speaker. The last—
[*Interruption*]

Mr. Imbert: Make it short.

Mr. Ramlogan SC: I will do like you and make it short. Mr. Speaker, the last point about the date and what is the magic about the 15th of August, I adequately explained that that is the date that the present law passed by the PNM, the sunset clause comes to an end on that date and it was felt it would be easier and administratively proper to have the same deadline and same finish line, as it were, for both measures. So that is very clear.

I think the hon. Member was being rather unfair and I am not referring to complexion here. I know there is a complexion issue on the other side but he was being rather unfair when he sought to make it out that the deadline was somehow arbitrarily and capriciously chosen and that was somewhat unfair.

With respect to the policy behind the offences, I think the Member himself inadvertently underscored that during his contribution, when he said that the public is in danger and that is why they amended the Bail Act is the past. It is because the Government recognizes—we are not about to bury our heads in the sand—that there is a problem, in terms of crime in this country and we are, therefore, moving to protect the public, because we are on the side of the decent, hardworking, law-abiding citizens who eke out a living day-in day-out.

In closing, Mr. Speaker, I therefore wish to end by quoting the Member of Parliament for Diego Martin North/East, when he contributed to the bail amendment debate on the 16th of March 2007, and this is what the Member for Diego Martin North/East had to say:

“We are passing this Bill today, on behalf of the people of Trinidad and Tobago, to ensure the safety and security of the good people of this country. Whether we are on this side or that side, the serious, decent, committed Members of Parliament will be passing this Bill today, so that persons who have been convicted twice of a heinous crime and are charged for the third time, will be denied bail, incarcerated and prevented from wreaking havoc on the innocent people of this country.”

Mrs. Persad-Bissessar: Who said that?

Mr. Ramlogan SC: The hon. Member for Diego Martin North/East.

Mrs. Persad-Bissessar: Hypocrisy.

Mr. Ramlogan SC: And I quote from him today to say that I urge decent, law-abiding Members of the Parliament who have the public safety in mind to protect the innocent, law-abiding citizens of this country to vote in support of this measure. I thank you.

Mr. Speaker: I beg to move. Attorney General, I beg to move.

Mr. Ramlogan SC: I beg to move, Mr. Speaker.

Mr. Speaker: Thank you.

Question put.

Mrs. Persad-Bissessar: Division.

Dr. Moonilal: Mr. Speaker, I beg to move that the House register its position on all the amendments before us by way of a division.

Mr. Speaker: Hon. Members, the question is that the House registers its agreement or disapproval on all the amendments that have been agreed upon by this honourable House thus far, that is clauses 4, 5 and 6. So a division will be taken on that basis. Division.

4.35 p.m.

The House divided: Ayes 27 Noes 12

AYES

Moonilal, Dr. R.

Persad-Bissessar SC, Mrs. K.

Mc Leod, E.

Dookeran, W.

Sharma, C.

Ramadhar, P.

Gopeesingh, Dr. T.

Peters, W.

Rambachan, Dr. S.

Seepersad-Bachan, C.

Seemungal, J.

Khan, Mrs. N.

Cadiz, S.

Griffith, Dr. R.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Baker, Dr. D.

Roberts, A.

Ramadharsingh, Dr. G.

De Coteau, C.

Khan, Dr. F.

Douglas, Dr. L.

Samuel, R.

Indarsingh, R.

Roopnarine, Miss S.

Ramdial, Miss R.

Alleyne-Toppin, Mrs. V.

Partap, C.

Baksh, N.

NOES

Mc Donald, Miss M.

Rowley, Dr. K.

Hypolite, N.

Mc Intosh, Mrs. P.

Imbert, C.

Jeffrey, F.

Deyalsingh, T.

Browne, Dr. A.

Thomas, Mrs. J.

Hospedales, Miss A.

Manning, P.

Gopee-Scoon, Mrs. P.

Bail (Amdt.) Bill, 2013

Friday, February 07, 2014

Mr. Speaker: Let me repeat that division. Let me just repeat. With a division of 27 Members voting for the amendments 4, 5 and 6; 12 Members voting against the amendments and there being no abstentions, the amendments have been accordingly approved by a constitutional majority.

Question agreed to.

[Desk thumping]

Mr. Speaker: Hon. Members, it is a good time for us to suspend for tea. We are now almost about 20 minutes to five. We shall resume at 10 minutes past five p.m. This sitting is now suspended for tea until 5.10 p.m.

4.38 p.m.: *Sitting suspended*

5.10 p.m.: *Sitting resumed.*

**NURSES AND MIDWIVES REGISTRATION
(AMDT.) BILL, 2014**

Mr. Speaker: The hon. Member for Diego Martin Central. *[Desk thumping]*

Dr. A. Browne: Thank you, Mr. Speaker, Members on both sides for their—
[Interruption]

Hon. Member: “Dey desert yuh boy.” *[Crosstalk and laughter]*

Dr. A. Browne: Mr. Speaker, when I speak, I speak for all Members on the PNM Bench. *[Laughter and crosstalk]*

Mr. Speaker, when we were—before we abruptly adjourned, and I want to acknowledge the role of the Member for Oropouche East in that adjournment, we were looking at some of the broader issues affecting the nursing profession today because the Minister of Health came and represented that he was in the process of modernizing and uplifting the nursing sector, and for us to really achieve that lofty goal, we would have to look at the big picture.

Mr. Speaker, I was in the process of remarking on what many nurses regard as a very sinister change in their benefits package, particularly affecting travelling officers on contract under the various regional health authorities. Suddenly and abruptly, of course, without consultation, their tax exemptions/partial tax exemptions for the purchase of motor vehicles, those concessions, as well as claims for travelling, mileage claims for travelling were removed from their benefits, and the nurses regard this as very serious. Mr. Speaker, I regard this as very serious, and every citizen should as well because some of these district

health visitors, and district nurses and mental health nurses, really provide the backbone of the primary health care system in this country. That primary health care system is weak and requires further strengthening, but the strength that is there, is largely as a result of some very hard-working individuals.

One of the things that would affect morale the most is, if all of a sudden you wake up and you open the newspaper or you listen to the news, and you realize that the little benefits you have are being reduced without any agreement by the nurses or their representatives. These nurses work in communities, they do immunization for our little babies, they conduct family planning sessions, school health services, maternal and child health interventions, really, the health of the nation rests on these individuals. And, again, I am imploring the Minister and his colleagues, the various sectors that would be able to solve this particular problem, to mobilize, if we are talking about uplifting, modernizing the nursing sector.

Another issue that we really need to—this debate would be incomplete if we did not touch on a key issue and that is the safety of our nurses. We are talking about the future of nursing, Mr. Speaker. We need to talk about the safety of our nursing staff, because when many of us are asleep, I mean, we sometimes keep long hours here, but on the days that we are asleep, there are nurses across the country working—midwives and others, working very, very, very, very, very hard, and sometimes—*[Interruption]*

Mrs. Gopee-Scoon: Shifts.

Dr. A. Browne: Sorry?

Mrs. Gopee-Scoon: Shifts.

Dr. A. Browne: Yes, shift work, and sometimes they have to travel. Now, they are not being assisted in purchasing motor vehicles in the right way. They are not being assisted with mileage claims and so on, and everything is so slow, and you know, bureaucratic, but sometimes they have to travel to work and away from work to home, and their safety is an issue. When you talk about safety, it is not a matter of arming nurses, that would be a very facetious response, but some of the recommendations that have come—and this is where a strong Ministry of Health, guided by an appointed chief nursing officer, in collaboration with all the stakeholders that I mentioned, could really help to provide a vision, and map the way forward for a key sector such as this, and you know, that would be to the benefit of all citizens.

So we are talking about some basic training in self defence. We are talking about communication training in dealing with aggressive individuals, or

aggressors, both on the ward or off the ward. We also are talking about better lighting and so on, in all our health facilities, Port of Spain hospital particularly, and many others are very poorly lit on the periphery, and there are safety issues involved—but the nurses need their vehicles, our travelling nurses, and district health visitors need their nurses [*sic*] as well.

When we talk about security, there is security, lots of security these days in some of our tertiary health care institutions. So you have people downstairs and outside the wards and so on, because of some of the incidents that have occurred, threats to nurses' lives and safety of nurses, as well as prisoners who are on the wards, escaping. One recently, I mean, terrorized the entire Port of Spain General Hospital, and then a nearby school, and shots fired and all sorts of issues. So security is an issue that is relevant to every nurse in this country. So the security staff is there. I am assuming these companies are well paid, et cetera, but some of the staff are so poorly trained, that some, I say some, they would be searching staff, and then strangers are allowed to pass through comfortably. Some of them sit and they are playing games on their phones and—Candy Crush and whatever else and not doing—[*Interruption*] [*Laughter*]

Mr. Deyalsingh: What is Candy Crush? [*Crosstalk*]

Dr. A. Browne: All right, I see a flash of recognition all over the Parliament. Mr. Speaker, the point is, if persons are being paid good money to secure our nurses, doctors and patients at our health care institutions, that is what they should be doing. And again, it just goes to quality control and standardization across the board. So security, I just wanted to flag that.

Then there are nurses who work in our national STI service. I raised this with the Minister before, and this was over a year ago. There was a temporary location about four years ago—three years ago, sorry. A temporary location was sourced because the primary building, QPCC, was in disrepair. The staff was told just for six months they have to exist in these cramped quarters. We are here three years later and they are still there. There is no confidentiality whatsoever, so you have nurses having to whisper to patients, because there is a gypsum partition, and there are other patients right on the other side.

These are the conditions, when we talk about modernizing the world of nursing, that we have to confront. And it would have been very encouraging if there were some more traction on that particular issue, but despite what I feel are the Minister's good intentions, for some reason that Ministry at present seems to

have its heart closed against the STI service. That is the conclusion I am going to have to draw because the Minister has said things, but nothing whatsoever has occurred in that regard.

Mr. Speaker, again, talking about the morale of our nurses and incentivizing our nurses. Sometimes when you do something that seems to be good, it can have bad consequences. So recently the Government took a look at the security sector, the security services, and they provided what they call—what is it, an incentive allowance, et cetera. I think it was \$1,000, and they made the decision that this allowance would not be taxed. It is exempt from taxation. But then we have our hard-working nursing colleagues on the other side, who also receive a nursing incentive, but the tax considerations have not been addressed at all with that particular incentive.

So, Mr. Speaker, the signal here is that as a nation because we have a very acute lack of nursing personnel, which this Bill does not really address in my view comprehensively enough, we should be a little more creative and, I am advising the Government to be a little more creative with things like our tax code. There are states in the United States where, when there is a shortage of teachers, they exempt their teachers from income tax, and there is a flood of persons becoming interested; same applies to nursing.

So particularly with regard to the nursing incentive, I want to use this opportunity to advise the Minister of Health that this is something that should be done immediately, to make the appropriate representation to the Ministry of Finance and the Economy, and ensure that that nursing incentive, if it is to be a true incentive, and if they are not to feel like the poor cousins against the folks in the security services, ensure that the taxation is not continued against that particular incentive. And, again, if you consult with the nursing professionals, these are some of their burning concerns, and that comprehensive overview has not been provided, and I think it needs to be provided.

5.20 p.m.

Mr. Speaker, just on the issue of safety again, we have a number of health institutions that have been condemned—I am not talking about condemned in little articles in the newspapers or letters to the editor, I mean condemned by infrastructure experts and seismologists who have basically told us—including most of the buildings that comprise the Port of Spain General Hospital—they

cannot withstand a serious earthquake. So you have thousands of patients who are paying their health surcharge, finding themselves in institutions that cannot withstand even a moderate earthquake today.

And, Mr. Speaker, that is actually very relevant to me because I found myself at the Port of Spain General Hospital a couple months ago with the birth of my son, and there was an enormous earthquake—everyone remembers it in the country—for many minutes, and the postnatal ward in that hospital, it was described as “hellish conditions”. You know, everything is a little bit rickety, so there was a lot of noise with the shaking, and the patients were screaming at the nurse: “What should we do?”—what is the procedure under these conditions, because the earthquake is going on—and then a nurse just shouted out, “Drop and roll”. Now, where are you going to drop and roll to?

So the mothers are on the bed with their babies, newborn babies, some of them have IV lines and catheters in them, and because there is no protocol; there is no training; there is no support; the nurse, probably in her best intention, shouted out to the patients, “Drop and roll”. I do not know where they are going to roll to or how they are going to do it. So again, if we are looking at the big picture and we really want our nurses to function in the best manner, some of those things that we have all overlooked in the past—I am going to repeat, some of those things that we have all overlooked in the past—we need to deal with them. If this Minister of Health is serious—and these are the things, if he were to properly consult with the stakeholders, they would tell him, but he has not been doing that, and this is an opportunity to help set him on the right course.

I am not going to dwell too much on the infrastructure issues because that is something all our citizens are familiar with, who interact with the public health services. The one I would want to mention because there is so much suffering, not just by the patients but also the midwives, the other nurses and the other health care professionals, including the doctors is, again, the Port of Spain General Hospital and the antenatal and “gynae clinics”. Mr. Speaker, if he does not visit, it is hard to even describe it. I would have to say, “hellish conditions”. It is like an oven, and you have hundreds of persons passing through on a weekly basis, most of them are gravid, very pregnant women, and they have to wait significant periods of time in extremely hot conditions.

There have been excuses over the years in terms of why the air-conditioning has not been put in; why, at least, some decent fans are not there. So you have these patients sweating it out affecting their health as well, as well as staff because that is their working environment, and then you know what they say,

“They see all this investment going on elsewhere and talk of new hospitals, et cetera”, but the largest hospital which sees the majority of those patients—and there is no restriction by geography, so you have patients from Mayaro sometimes coming up to clinic at that same antenatal clinic in Port of Spain, going through “hellish conditions”, right alongside the staff.

You know, you see other buildings getting facelifts and all sorts of nice things, all of that is part of it, but if there was one wish in terms of infrastructure, at least, with regard to that hospital, it would be to cool the clinic area because it is horrible. I am saying that, Mr. Speaker, because I have seen it for myself, and I have spoken to the professionals. So there is a lot, a lot, I can talk about, you know.

But, the Minister is aware of many of these things; he is aware that sometimes patients after a C-section—and it breaks the nurses’ heart to have to move a patient from the recovery room after a caesarian section, too quickly, because there are other patients who have to come in. The workload is so great, and the infrastructure is so limited that all of these things affect client outcomes and sometimes there is insufficient recovery time.

Mr. Speaker, another issue affecting our nurses—and, you know, this is one I raised with the Minister. I do not know, there is disconnect in that Ministry right now. So there is a big announcement that the Minister has a grand plan in association with some foreign entities—we are due to have a meeting on that at some point—to tear down some of the old buildings at Port of Spain General Hospital, and to construct some new facilities—fair enough, on the face of it—but the fact of the matter is that some of those old buildings have asbestos in their ceilings and, immediately—[*Crosstalk*—yes, yes, well probably that is one of the reasons they are tearing them down. I am not opposed to that you know but, again, it is a matter of how. The nurses now have been writing all sorts of letters and are very concerned, including the nursing students because of the way in which this demolition is occurring. They have become somewhat experts on asbestos because there are buildings in the past, years ago, that were demolished right on that same compound, but that was done properly, and one of the steps that was taken—and if you consult with Cariri and so on, they would tell you—is they shroud the building completely, in case the building—just like Rentokil and, you know, it is done for other chemical processes, but when you are dealing with asbestos removal that is one of the basic steps that is recommended. [*Member for St. Joseph’s cellphone rings*]

Mr. Roberts: St. Joseph boy! [*Crosstalk*] “Yuh in ah red light district.”
[*Crosstalk*] [*Cellphone continues to ring*]

Mr. Speaker: Go ahead.

Dr. A. Browne: Thank you for your protection, Mr. Speaker. [*Laughter and crosstalk*] Mr. Speaker, the day will come when somebody is going to have to crush their phone here, but these phones are so expensive now, we could understand, I tell you.

Mr. Speaker, but we were talking about asbestos, a serious issue, because we all know the link with various forms of cancer and other serious respiratory illness. So the staff is aware of how this should be done because they have seen it done in the past. What is happening now is that this demolition is taking place; a new subcontractor—I would not get into all of that, but the concern is that the visitors, staff and students are now exposed to the dust. I mentioned it to the Minister, he said immediately—because he responds quickly—he said, “Okay, I am going to ensure that it is covered.”

Mr. Speaker, I went—because you know, you do not trust, you have to verify—to see what is going on there now and, Mr. Speaker, all they have done—they have not encased anything or shrouded anything in anything—they just put up one flat piece of tarpaulin. In fact, not one piece, several pieces with gaps in between—and the breeze is blowing straight through—just on one side of the building.

Dr. Khan: At least I respond and do it.

Dr. A. Browne: Now, Mr. Speaker, and the Minister says, “Well, at least, ah respond.” Now, Mr. Speaker, I would have to describe that as a frivolous rejoinder. That is frivolous because, on one hand, the recommendation which the Minister accepts is that these buildings have to be shrouded. It is not my health, you know. Right? You are talking about hundreds of citizens and thousands of citizens including sick persons and nurses. It is their work environment.

Dr. Khan: Thank you, very much, Member for Diego Martin Central. When you told me about it, I called the CEO and the chairman of the board, since then, they are working with a contractor who is specialized in asbestos movement to block off the whole area before demolition, and that is happening now. That may be an interim measure we are speaking about.

Dr. A. Browne: Thank you, Mr. Minister, for that non-clarification because while this interim measure—all the buildings are going down already, so I do not

know what they are going to shroud. They will shroud the empty space after the buildings are gone. And, Mr. Speaker, if the Minister wants to talk details because I just do not come here and open my mouth. I know what I am talking about. So even the same specialist staff, if you see their equipment, it is like a radiation site inside of there—mask, headgear, hazmat stuff—but then when they want to buy their pie and their whatever, they are coming right out of that environment into the hospital environment—under the hospital go into the cafeteria and so on—sometimes with the same suit on, et cetera.

Just in terms of the basic straightforward standards, they are not being observed. I do not want to harp on it, et cetera but, Mr. Speaker, sometimes I feel if these issues are not raised here, like they are not being raised anywhere, so we have to use whatever opportunity we have. There are several other issues within the health sector right now that the Minister is aware of, and I find the response is very weak. They all affect our nurses. Let me give you another example, Mr. Speaker—they all affect our nurses—and I mentioned it earlier, but I just want to spend a couple minutes touching—Mr. Speaker, how much more time do I have?

Mr. Speaker: You have exactly 10 minutes.

Dr. A. Browne: Okay. Mr. Speaker, there were some comments about this issue because one of the reasons our nurses have been struggling is the lack of client education in the general public; the lack of utilization of many of our community health facilities; weak primary health care infrastructure; so everyone is coming to the hospitals. The Minister is fully aware of this phenomenon. Now, some of those persons that are coming to the hospitals are coming to deliver or coming for antenatal care—pre-delivery care—and some of those who come for antenatal care are teenaged girls.

Mr. Speaker, our nurses are directly implicated in this latest debate or discourse triggered by the Minister of Education's response to a question elsewhere on this issue of statutory rape. And then, Mr. Speaker, the Minister of Health chose to confuse the entire health sector; confuse every doctor and nurse; every parent of a teenaged child; and every teenager out there with some very bizarre comments which I just want to summarize very briefly.

I want to begin with a quotation from the *Trinidad Guardian*, and I am quoting Ms. Margaret Sampson-Browne, very experienced and, I would say, highly effective police officer, a retired police officer, who is a former member of

Nurses and Midwives (Amdt.) Bill, 2014
[DR. BROWNE]

Friday, February 07, 2014

the police community unit and she said—let me start quoting her, Mr. Speaker. *Trinidad Guardian*, the title is “Jail Doctors”, February 06, 2014. I quote:

“Children are going into the hospitals and the health centres and having children, and the doctors are not informing the police, and this cannot continue. They must be held accountable. Let us start to hold some of these doctors and nurses who fail to report this to the police and who turn a blind eye, and let some of them make a jail.”

So that is the police service comment on the matter; they must be held accountable.

Mr. Speaker, in the same article:

“In an immediate response yesterday,”—so he is an immediate responder—“Health Minister Dr. Fuad Khan said because of the concept of ‘doctor-patient confidentiality,’ doctors had no obligation to alert the police regarding teenage pregnancies.”

Mr. Speaker, what is going on in this country? What is going on in the Ministry of Health?

“...doctors had no obligation to alert the police regarding teenage pregnancies.”

He went on to talk what I have to describe—I cannot say nonsense, what should I say, folly:

““This puts the doctors in a ‘catch-22’ situation...between a rock and a hard place...doctors are obligated to protect their patients,””

he told the *Trinidad Guardian*, and he talked about privacy laws; all sorts of things he just fantasied in his head because they do not exist.

Mr. Speaker, every doctor and nurse should know what section 31 of the Sexual Offences Act says:

“Any person who—

- (a) is the parent or guardian of a minor;
- (b) has the actual custody, charge or control of a minor;
- (c) ...temporary custody, care, charge or control of a minor
for a special purpose...or

(d) is a medical practitioner, or a registered nurse or midwife, and has performed a medical examination in respect of a minor,

and who has reasonable grounds for believing that a sexual offence has been committed in respect of that minor, shall report the grounds for his belief to”—who?—“a police officer as soon as reasonably practicable.”

The offence of obstructing prosecution is also an offence under this Act. Mr. Speaker, after three years in office—or 2.5 or whatever it is because they had some shuffling before—this Minister of Health is ignorant of the basic laws governing—*[Interruption]*

Dr. Khan: Will you give way? Just for clarification.

Dr. A. Browne: How many times are we going to do this?

5.35 p.m.

Dr. Khan: Last time, point of clarification. According to what you have just read there—*[Interruption]*

Dr. A. Browne: You were supposed to thank me for giving way.

Dr. Khan:—are you saying then the parents should also report it to the police and face jail? Is that what the law is saying?

Dr. A. Browne: Mr. Speaker, I am going to have to read what I just read again, because apparently the Minister of Health feels this is my opinion I am giving. This is the law of Trinidad and Tobago:

“Any person who—

(a) is the parent or guardian of a minor;”—

I will cut right down to the end for simplicity, because I need to be very simple—has that duty. If it is someone who:

“(b) has...custody, charge or control of the minor;”—they have that duty.

If someone is in:

“(c) ...temporary custody, care, charge or control of a minor for a special purpose”—such—“as his attendant, employer or teacher, or in any other capacity;”—they have that duty

And, specifically:

“(d) ...a medical practitioner, or a registered nurse or midwife...”—has that duty.

Mr. Speaker, where is the grey area that they are talking about? [*Crosstalk*] This is serious, serious, serious business. Mr. Speaker, I am not going to give the Minister another opportunity to interrupt my contribution. I have little time and he is not using the time I give him wisely at all because he is asking what I just read in plain English. Yes, the parents have to report, everyone with whom that minor comes into contact, including the medical officer, including the nurse, including the midwife, but they know that out there. The medical professionals are aware of it, but then you have the head of their sector, the guiding light, the visionary, the Minister of Health coming and saying something different, and I would encourage him to use any opportunity to clarify—not to mention you have others obscuring the issue.

I see an assistant commissioner of police talking more gibberish out there about, “It is statutory rape to have sexual intercourse with a child under the age of 14”. I mean, apparently these folks are making up the law in their offices. This is crazy. So you talk about times of emergency, Mr. Speaker. We are in times of emergency; the health sector is under a cloud of confusion, patients are crying and I have said a lot of things in support of our nurses, because for many reasons, including the fact and we respect our nurses very much, and we all are dependent on a strong nursing sector, but the reality is, Mr. Speaker, there are also nurses within the profession who do not do a good job as well, and we would be relying on strong stakeholders, associations, organizations of nurses, as well as the Ministry of Health, the Chief Nursing Officer to really assist us in monitoring the health sector and ensuring that whenever there are transgressions, or clients are not properly treated, there is some degree of recourse. That is another aspect.

Just yesterday a gentleman approached me outside the supermarket. I am getting into my car and he and a young lady approached the window of my vehicle and launched into a story, which I believe, because he had no incentive to do so otherwise, talking about the fact that his grandmother had died that morning at the hospital of pneumonia. The previous evening she was on the ward and had to be taken across to do—I believe it was an ultrasound, if my memory serves me correctly—and that occurs in another building of the hospital. The nurse in attendance, as well as the two orderlies, the persons who were pushing the wheelchair, had a choice to take the long way around under a covered walkway or take a shortcut across the yard, and, Mr. Speaker, the patient was telling them and he was telling them, “It is drizzling, you cannot take her through there”, and they still, out of expediency, maybe they had a heavy workload, went through the yard with the rain drizzling on the wheelchair with that elderly lady. One thing may not

have led to the other, but in his own mind he was devastated because he thought it was a very callous response. Very unfortunate.

So I just do not want it to be a one-sided presentation, Mr. Speaker, there are issues as well, and all professionals in this country—and that is why we need strong professional associations to help monitor; training is important, professional support is important, but sometimes the degree of frustration right across the country must be a cause for worry. There is so much tension. There is so much violence just below the surface, and it would help if the citizens have a sense of leadership in the various sectors, if those that we entrust with sector leadership are able to instill a sense of confidence—*[Interruption]*

Mr. Speaker: Ten more minutes, *[sic]* hon. Member.

Dr. A. Browne:—and a sense of direction.

So, Mr. Speaker, my recommendation to this Minister of Health is that it is not too late. I have told him—I have chided him on his lack of consultation in the manner in which this Bill came here. My suggestion is, at minimum, a select committee can be established which can invite all the nursing stakeholders in to design a proper comprehensive piece of legislation that every citizen and all our nurses will be duly proud of. Mr. Speaker, I thank you. *[Desk thumping]*

Mr. Speaker: The hon. Minister of Education, Member of Parliament for Caroni East. *[Desk thumping]*

The Minister of Education (Hon. Dr. Tim Gopeesingh): Thank you. Mr. Speaker. Mr. Speaker, it is a real honour and a privilege for me to join a debate where two of my colleagues in the medical profession have in fact been discussing the matter, and particularly my colleague, the hon. Minister of Health, and our younger colleague, the Member for Diego Martin Central—well, a brilliant student from the past and a very accomplished young doctor before coming into the politics—gave their versions of this, how they saw the Bill.

I am very pleased to really join this debate on the Bill proposed by the hon. Minister of Health, the Member for Baratavia/San Juan, an Act to amend the Nurses and Midwives Registration Act, Chap. 29:53, and this Act that is being amended is cited as the Nurses and Midwives Registration (Amdt.) Act, 2014, and the long title to the Act is deleted and now replaced by the following. It is now substituted:

“An Act to provide for the Registration and Regulation of Advance Practice Nurses, Midwives, Nurses, Nursing Assistants and other recognized specialties and for matters connected therewith.”

Mr. Speaker, the hon. Member for Diego Martin Central first indicated that the hon. Minister missed the opportunity to send a message to all the hard-working nurses. I want to take this opportunity to join with my colleague that we say a very special thank you, sincere congratulations to all our nurses in Trinidad and Tobago [*Desk thumping*] for the tremendous job they have been doing in the midst of some difficulties, whether—as the Member mentioned, we know that there are financial difficulties, we know there would be infrastructure difficulties, and this is what we have been trying to improve all along. But they ought to be sincerely congratulated, the thousands of them who have been giving tremendous yeoman service all throughout Trinidad and Tobago in our various public institutions, and private institutions, and to some of those who give support to their friends and families even outside of these institutions. They put the extra effort and energy to ensuring that patients are taken care of to the best of their ability, and they give yeoman service.

All three of us and my colleague, the Member for Tobago East, who are medical professionals in the field here—[*Interruption*]

Hon. Member: Tobago West.

Hon. Dr. T. Gopeesingh: Tobago West. We know the long and arduous hours that these nurses put in, sometimes 12 hours straight, and sometimes, to make ends meet, some of them go to work in some of the private institutions when they are working in the public institutions, and work double shifts at times. They stay in Trinidad despite the fact that if they migrate aboard they can get very lucrative contracts in the international circles, whether it is the United States, Canada or Great Britain, and a very good nurse in the United States coming from the Caribbean can work for as much as US \$90,000 to US \$100,000 per year, but it is hard work which they do here as well. But because of family constraints and so on, many of them have remained here and have not taken up the offer to migrate outside of Trinidad and Tobago and work outside.

Mr. Speaker, because of the competence of our nurses and the calibre of our nurses, and the training of our nurses, we have lost hundreds across to the rest of the world. At one time, when I was a practising doctor I realized that just in the United States and Great Britain, they were short of 96,000 nurses, and thousands from within the Caribbean were going across because of the lucrative increased type of salaries. So we had a massive brain drain of nurses and as Governments come—it was one of the PNM administrations that stopped the training of nurses for a while, and then I remember it was Mr. Panday's administration that started

back the training of nurses, starting back with over 300 per year, and the hon. Minister of Health is now multiplying that, at least threefold, by training probably close to 1,000 nurses throughout the training system.

Minister Fazal Karim in tertiary education at the Tacarigua Training Centre is training nurses there. There are nurses being trained at San Fernando hospital, there are nurses being trained at Port of Spain hospital, and then there are nurses aides being trained and people being trained for enrolled nursing assistants, and the hon. Minister had started the basic aides to nursing. From there you could move up the ladder and move to enrolled nursing assistants as you pass examinations, and then eventually probably move to a state registered nurse. So the amount of training has been continuing.

Unfortunately, in the past there was a high failure rate in the system, Mr. Speaker, and it gave the hon. Minister of Health serious concerns about the failure rate that was emanating over a period of time. And we knew that in some years there were failure rates set by the nursing council of possibly close to 40 per cent in some cases, sometimes 50 per cent and, therefore, when these nurses who were being examined by the nursing council and 40 per cent failing, they became very unhappy and they began to ask questions over a period of time. From 2008, even in their administration, letters began pouring in about questions about the nursing council examinations and why there was such a high failure rate.

Now, when the students have failed they cannot join the hospital system. So some of them failed once, twice, three times, and if you failed three times, different parts of the examination, you are kicked out of the system, and therefore you are put completely out and you are asked to start back again if you really want to do nursing. But the hon. Minister, in the Bill that we are presenting here, gives the opportunity for the nursing students, if they have failed on a few occasions, they can come into the system as a nurse intern and be supervised by top-class nurses and have a period of time where they can rewrite the examinations. They have at least four years to do so.

5.50 p.m.

Therefore, it gives them an opportunity to be within the system, rather than being kicked out after three failures. You know, for different reasons people may not pass an examination, but some of those students lost faith in the Nursing Council. [*Crosstalk and laughter*]

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. T. GOPEESINGH]

Friday, February 07, 2014

I just want to read two letters that were written by students, under the name “Seeking Justice” and “Ex-nursing students”. They were addressed to the hon. Minister of Health then, Mr. Jerry Narace, in 2008. Part of it reads:

“We the students of BNEP...and BN...who have written the final year nursing exams in...”—certain years—“...failure rate have been steadily high. Why is this so? We have toiled and given our dues to serving the people of Trinidad and Tobago for four years and three months and was presented on...”—a particular date—“with results stating ‘fail’. This was our last chance of becoming registered nurses and our dreams completely shattered due to”—what the student wrote—“corrupted nursing council of Trinidad and Tobago.”

That is what those students are saying:

“From BNEP 6, 13 trainee nurses out of 42 were thrown out of the programme, simultaneously in”—batches—“BN 17, 11 trainee nurses out of 17 are also out. Why are these two batches being targeted continuously?”

Mr. Minister which tertiary institution an individual joins, continuously fails a paper (in this case Clinical 1 written on three occasions) and the results blatantly states ‘fail’ with no indication as to why or the reason. The Nursing Council of Trinidad and Tobago never up to this day gave any feedback to us the students. WHY?”—and so on.

Mr. Speaker, they feel aggrieved. They say:

“...we have been given a raw deal and the Nursing Council of Trinidad and Tobago is playing luck and chance with people lives.

...we the aspiring local citizens of Trinidad and Tobago desiring to be nurses given the dirty end of the stick which is not our fault.

We firmly believe that the Nursing Council of Trinidad and Tobago has treated us unfairly and corruption exists on a large scale within this failing institution.”

So that is just one letter, Mr. Speaker. I myself had met a number of nurses on previous occasions when they came complaining about the same failures, and I drew it to the attention of our Hon. Minister of Health.

There is another one written on January 08, 2008:

“We would like your support and guidance concerning the high failure rate at the Ministry of Health—School of Nursing...(Port of Spain General Hospital). We have exhausted our chances at writing the final year nursing exam on

three occasions which were in October, 2007, April, 2008, October, 2008. On each occasion three quarter of the class failed the Clinical Paper 1.

We strongly believe that we have passed the exam, however we have received a letter stating we have failed with no indication of marks or reason for our final chance in the nursing career after four years and two months of sacrifice...

We strongly believe that we have been given a raw deal by the Nursing Council of Trinidad and Tobago which is an unjust system and playing with people lives. We would like you to advocate on our behalf.

We totally believe that corruption exist in the Nursing Council of Trinidad and Tobago and would like an investigation to be done.”

You see, these are the claims of some of our students who went through being trained by the Nursing Council, and they felt aggrieved. So what is the redress? How can a Government and a Minister of Health take up the plight of young nursing students, who we want to keep in Trinidad and Tobago, and who after three attempts ended up with nothing, after spending four and half years, and they are back to square one?

I taught medical students all my life, from 1981 formally and from 1978 formally. *[Interruption]*

Mrs. McIntosh: And you are still there.

Hon. Dr. T. Gopeesingh: Yes, teaching—I still teach. *[Laughter]* But the question is, our job is to make sure that our students pass the examination and not by any special thing. We must teach them. If a student fails once, it is our duty to take that student in hand and guide that student and nurture that student and make sure that that student passes on the second attempt.

There were very few students from the University of the West Indies Medical School who had to drop out after two failures. Mr. Speaker, I think over 2,500 medical students passed through my hands while I was a lecturer at the University of the West Indies, and I probably would have examined more than 4,000 students from the Caribbean—in Trinidad, Jamaica, Barbados and Bahamas. Twice a year we would be examining.

So, therefore, when an institution like the Nursing Council—*[Interruption]*

Mr. Speaker: Hon. Minister. I am hearing someone like they are dialing their phone. I am getting that feedback, and I hope it is not within this Chamber because phones are supposed to be on silent. But I keep hearing like somebody is trying to ring or make a call, and you are getting a feedback here. So if a Member is doing such, and I doubt it could be members of the public gallery because they are not supposed to come here with cellphones whatsoever. If it is Members of this honourable House, I ask Members, please place your phone on silent mode. Thank you.

Hon. Member, continue.

Hon. Dr. T. Gopeesingh: Thank you, Mr. Speaker.

I was making the case for a reduction in the failure rate. When students feel aggrieved by the Nursing Council, and having 30 to 40 per cent failing, time and time again, it is time that a Minister of Health must take the bull by the horns and deal with the matter. This is what our hon. Minister did, in consultation with the Nursing Council.

I know that the Nursing Council had objections. They picketed at the Minister's office on one or two occasions. The Minister met with them. I saw the releases from the Minister. He spoke to them and came to a consensus and understanding that there must be a different way of managing the system of the examination process. Therefore, he found a means of allowing the students to continue coming into the hospital system, giving some assistance from a practical aspect, but being supervised by senior nurses and tutor administrators, and eventually passing their examinations and being of service to the people of Trinidad and Tobago, rather than being thrown out and having lost four and a half to five years of their lives, not because of their own fault, but because of the system. So the Minister has, through this Bill, put in a system whereby they would become nurse interns, supervised and eventually passing their examination. So that is one of the fundamental points that this amendment to the Nurses and Midwives Registration Act made.

The second is the composition of the Nursing Council. The Minister has not brought in any amendment here to move the Nursing Council away. Let us look at the Nursing Council of Trinidad and Tobago and nursing councils as a whole, in an analogous situation with other professional bodies.

The Member for Diego Martin Central said that the Minister did not consult with some of these institutions, some of these organizations. He said that there were key nursing stakeholders: the Nursing Council, the Trinidad and Tobago

Registered Nursing Association, Nursing Research Society, Psychiatric Nurses Association, the Trinidad and Tobago Association of Midwives and the Community Nurses Association of Trinidad and Tobago.

Well, let us look at the medical situation. We have the medical board which determines the standards and the code of ethics and conduct and so on of doctors in Trinidad and Tobago. You have the law association which determines those for lawyers. You have the dental council which determines for dentists, and you have for different professions, the engineers, et cetera, the pharmacy board. These other associations, the Registered Nursing Association and the Nursing Research Society are akin to the medical association. Now, the medical association does not set any exams or standards or anything, but they help in the propagation of information and knowledge and so on. So the real important bodies are like the nursing council, the medical board, the law association. So the nursing council is akin to that. Therefore consultations with the nursing council—and I am sure the Minister would have had meetings with other bodies as well, in coming up with this piece of legislation and the amendment on this Act.

So the nursing council is the body that really sets the standards and, in fact, the Act says what the function of the nursing council is:

“The functions of the Council are to—

- (b) register, enroll, certify and licence nursing and midwifery personnel...
- (c) determine...the qualifications necessary for registration,...
- (d) set standards for the education and practice of nursing...
- (e) develop a code of ethics and conduct...
- (f) monitor the adherence to, and investigate breaches of, standards and the code of ethics and conduct;
- (g) promote the interest of the nursing profession;
- (h) advise the Minister...”

The Nursing Council has not been thrown out. It is there, and it is to:

“...advise the Minister on the requirements for securing continuing competence of the registered nurse and enrolled nursing assistant under this Act;

- (i) advise the Minister with respect to amendments to the law..”

So they have tremendous power, and the functions of the Nursing Council are tremendous.

So this amendment does not take away any of those powers from the Nursing Council but, in fact, ensures that those powers are there and to set the standards, to register, ensure a code of ethics, promote the interest of the nurses, advise the Minister.

It goes on to say:

“In exercise of its functions...the Council shall have the power to—

- (a) register...
- (b) issue certificates...
- (c) cancel certificates...
- (d) suspend...
- (e) set standards...in consultation with the Accreditation Council of Trinidad and Tobago;
- (f) examine applicants...
- (g) verify the authenticity of certificates...
- (h) establish such committees as are necessary for the discharge of the functions of the Council; and.
- (i) collect monies for fees required to be paid under this Act.”.

So the Nursing Council stays intact; the functions are strong. The powers of the Nursing Council are strong to regulate the entire nursing profession.

What, in fact, he has proposed in the amendment, is a reduction from 22 members of the Council, largely unwieldy, to 15. So you have sacrificed quantity for quality—from 22 to 15.

No one can accuse the hon. Minister of exercising autocratic powers, and having the majority of the members that he appoints to the council—not so. This amendment has indicated that he appoints six out of the 15, and the other nine are elected; so it is a democratic process.

6.05 p.m.

The Minister does not have the authority to manage the nursing council because of the appointments of, let us say, a majority of eight out of the 15; he is

entitled to appoint six. He has even removed the appointment of a doctor, which was there before, and allowed a nursing administrator and a nurse educator to be two of the people that he will appoint, and also an attorney-at-law. So, in fact, he has removed some of his own powers that he possibly could have had, and in fair play, ensured that the nursing council's composition reflects the nursing profession standards where most of them will be appointed by the nursing profession.

So, the six people he appoints: attorney-at-law, one with nursing qualifications in nursing administration, very important, a nursing educator, one from the THA. That was not there before, hon. Minister. No, Tobago must be part of this decision making and part of the administration, because it is Trinidad and Tobago and we have medical professionals for both, for our sister isle as well. A representative of the—Minister, this is the only person really, you could say, that he is appointing, and a member of the public who is not a nurse or a midwife or anything. And nine persons elected as follows: five by the nursing profession itself, one midwife by the midwife association, two mental health by the Psychiatrist Association of Trinidad and Tobago and one nursing assistant by the nursing assistants.

So, there it is, if the hon. Member for Diego Martin Central says that there was no consultation, here it is these associations and organizations, professions, they appoint their own people to the nursing council—a midwife, a mental health—*[Interruption]*

Dr. Browne: That is a fact.

Hon. Dr. T. Gopeesingh: Yes, I am glad you agree with that—and one nursing assistant. So, they still, by virtue of their appointments on the nursing council, are regulating the profession of nursing by their presence on it.

Dr. Browne: Would you give way?

Hon. Dr. T. Gopeesingh: Sure.

Dr. Browne: Thank you, Member, for giving way. I do not want you to miss the point that was being made. We recognized and I had no issue with that clause at all. We have no issue with that clause, the reduction in size and the composition generally of the council. The issue really was the lack of consultation on the Bill itself. So, it is two different things.

Hon. Dr. T. Gopeesingh: Yes. All right, but I am pretty sure that I know that the Minister worked hard, because you remember—*[Interruption and laughter]*—since in 2011, the previous Minister of Health who was there, Mrs. Therese

Baptiste-Cornelis, did some work on this as well and the Minister took up the mantle and went with it for the last two to two and a half years, and he has been working assiduously.

Dr. Browne: You do not think he should have consulted us?

Hon. Dr. T. Gopeesingh: Yes. I have read some of his speeches myself where the Minister spoke on a number of occasions—address by the hon. Minister, Monday, July 02, 2012, and I can even read some of the things the Ministry and so on—[*Interruption*—yes, he did consult on a number of occasions—[*Interruption*]

Dr. Khan: The council also consulted them.

Hon. Dr. T. Gopeesingh:—and the council also consulted.

So, the second point I want to conclude from is that this amendment takes care of the composition of the nursing council and removing the excess from 22 down to 15, concentrating on the capacity and capability and the quality of the people on the council to do the work of the nursing council.

And you know in the past the Chief Medical Officer and the Chief Nursing Officer were to form part of this nursing council, but they are no longer here. There is no need for them to be here because they are well represented. The nurses are well represented, and an attorney-at-law is an important person on this nursing council. So, that is the second point. So, quantity does not necessarily mean quality.

Dr. Browne: We agree with you.

Hon. Dr. T. Gopeesingh: And we have abandoned the quantity for quality.

The third point is the introduction of a registrar of the council. The proposed amendment introduces a registrar of the council and lists the duties of a registrar. Therefore, having a registrar would enable the council to efficiently manage the issuing of certificates and enable control procedures to ensure that the proper requirements are met and the standard of the profession increases and/or is maintained. So, one additional benefit is the fact that this amendment to the Nurses and Midwives Registration Act and this Bill of 2014, allows for a registrar to be employed. So the council can employ a suitably qualified person to be the registrar of the council and that registration must be gazetted, and the registrar shall, on behalf of the council, establish, keep and maintain registers; issue certificates, cancel certificates and to remove names from the register; receive

fees, keep open registers on the receipt of written instructions from the council; the registrar shall carry out his functions under subsection 3(b), (c) and (d). The registrar appointed under subsection (1) shall carry out such functions on its behalf.

So the third point, Mr. Speaker, is the question of the introduction of the registrar which was never there before and who would do the work of the nursing council and take away some of the hard work of the nursing council by being there and doing the work: establishing registers, issue certificates, cancel certificates, remove names, which the nursing council would have normally had to do that, but you appoint a registrar, take away that workload from the nursing council and allow the nursing council to do its work for which it has been elected and nominated, the 15 members. So, this is a very important new consideration on this amendment Bill for us to ratify and for us to accept.

The fourth point, Mr. Speaker, is this Bill allows for the register of advanced practice nurses and the register to be known as the register of nurses and the register of advanced practice nurses. That is a very fundamental shift and a major shift in the development of the medical profession and the nursing profession in Trinidad and Tobago. A very fundamental and major shift and the hon. Minister of Health ought to be sincerely congratulated and complimented for bringing this to the forefront. [*Desk thumping*] And when I saw it appeared in Cabinet from him I was very elated, because I know that developed countries, even Jamaica our next door neighbour, Australia, Great Britain and the Commonwealth countries— [*Interruption*]

Miss Mc Donald: Belize.

Hon. Dr. T. Gopeesingh: And Belize, right. A number of countries have brought it, so why should we be left behind when we have some of the best trained nurses in Trinidad and Tobago? Being a medical doctor, I would say undoubtedly we have the best doctors in the world. There is no question, you know, Mr. Speaker.

I want Trinidad and Tobago to know and the world, the rest of the Caribbean, that the doctors who come out from the University of the West Indies are the best trained in the world, you know, Mr. Speaker. [*Desk thumping*] They hold their ends any part of the world and once we lose them from Trinidad and Tobago, it seems as though we lose them forever because they establish the highest positions wherever they go. They take over the highest positions and they excel at the top,

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. T. GOPEESINGH]

Friday, February 07, 2014

and so, our nurses. If you go to the British teaching hospitals, if you go to the Canadian hospitals—[*Interruption*—God has been good, I worked in four of the hospitals in the United Kingdom.

Dr. Moonilal: Yes. [*Desk thumping*]

Hon. Dr. T. Gopeesingh: I worked in five in Canada; I worked in three in the United States—[*Interruption*] Yes, I worked in Bogota in Colombia. I was all over the world; 16 hospitals around the world. And wherever you go, Mr. Speaker, Trinidadian nurses and West Indian nurses are at the forefront [*Desk thumping*] and we must never sell ourselves short for our strength and capacity and capability and ability as small nations of the world to produce the best people, to produce the best people. An example is, of course, my hon. Member for Diego Martin Central. I had tremendous amount of respect for him when he was working—and I still do.

Dr. Moonilal: Not as a politician.

Hon. Dr. T. Gopeesingh: Well, politics aside. He was doing a tremendous job in the fight against HIV/AIDS and in management of patients with HIV/AIDS. My distinguished colleague, the hon. Minister of Health is undoubtedly one of the Caribbean's best urologists, urologic surgeons [*Desk thumping*] and, of course, the Member for Tobago West, my colleague from Tobago West is no less than anybody else, equally very brilliant young man.

Hon. Member: Caroni Central.

Hon. Dr. T. Gopeesingh: Of course, Caroni Central is one of the distinguished veterinary surgeons of Trinidad and Tobago. So, wherever we are, the University of the West Indies, the dental school, the medical school, the vet school, the school of pharmacy; the Member for St. Joseph will testify to that.

Just last week Tuesday in my constituency office a young brilliant student with a first class honours from the school of pharmacy, wanting to do some advance work, a PhD, but with a first class honours she is entitled to a PhD but she was having some difficulties because of what the development programmes for Trinidad are; her course was not fitting in with it easily. So, I spoke to the hon. Minister to try and guide that process because these are the people, Member for St. Joseph, where we can have pharmacists graduating to the top with doctorates and could work in almost any area, in HIV/AIDS, in pharmacy, at the highest level, and the Member for St. Joseph is a great pharmacist himself and he is doing law now, he has his LLB and we congratulate him.

Mr. Deyalsingh: I finished it.

Hon. Dr. T. Gopeesingh: I know that, he finished it, but I do not know whether politics suits him. *[Laughter]*

Mr. Deyalsingh: You were going good, you know. You were going good.

Hon. Dr. T. Gopeesingh: Yeah, all right. *[Interruption]* So, Mr. Speaker, the question of the advanced practical nurse—you know, in centers in the United States there is a nurse anesthetist who anesthetizes patients like a doctor does. My colleague, the Minister would tell you that the advanced practical nurses—so they give the anesthesia just like a doctor does, and I know in some countries now being a gynecologist when we do what you call the episiotomies and so on, where they were not able to suture the episiotomies, they are now doing that themselves so they can suture, they can take blood, they can put up intravenous lines—*[Interruption]*

Hon. Member: They can prescribe.

Hon. Dr. T. Gopeesingh:—they can prescribe, they can diagnose and manage and treat.

So, this point, Mr. Speaker, of bringing in advanced practice nurses is one of a revolutionary issue for Trinidad nursing profession as the Member for Port of Spain South indicated, that there are other countries right next door to us which have already started it.

Dr. Rambachan: St. Lucia.

Hon. Dr. T. Gopeesingh: St. Lucia as the Member for Tabaquite says. So we are grateful that the hon. Minister saw it necessary to incorporate this in the amendment Bill that we have here today.

Now, the midwives—the fifth point I want to make, Mr. Speaker, is the question of the midwives. *[Interruption]* We have approximately 17,000—18,000 deliveries per year in Trinidad and Tobago, and we have close to more than 95—98 per cent receiving antenatal care either in the public hospitals or the private institutions, and the deliveries of babies, these 17,000 or 18,000, most of these are done by midwives and they do a fantastic job.

6.20 p.m.

I used to tell my medical students, when you want to learn obstetrics, let the midwives teach you because they are the best, with the tremendous experience. In fact, I remember my own case in 1975. I was a young house officer—1974, I

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. T. GOPEESINGH]

Friday, February 07, 2014

think—and on the labour ward the midwife called me and she said, “Dr. Gopeesingh”—I am a young doctor then, learning. She said, “Come, I want to show you something. This patient has a ruptured uterus.” So I said, “Sister, how is it”—I do not want to call her name because she has not given me permission. She said, “I want to show you.” I said, “Sister, how can you show me?” She said, “You remember you were feeling this head here just a while ago? And where is the head now—the tip of the head? It is no longer there. So the uterus ruptured and part of the head was in the abdomen.”

So I learnt my first case of ruptured uterus from a midwife, and this is where my colleagues will tell us—will say—that we learn from our nursing colleagues; we learn from our midwives. So I am happy to see now that the Minister, through this Bill, is ensuring that we take a special interest in the recognition of midwives and making sure that they are registered properly and so on.

The other part of the Bill, a part that deals with crimes and so, penalties and so on, for who are faking their certification and who are not practising properly and so on—these fines—you scarcely find any one of our medical or nursing profession involved in those irregular activities, and it is a rarity. So fines related to doctors, midwives and nurses and so on, are rare.

But one important consideration here, colleagues, for the first time we may have the consideration of male midwives.

Mr. Deyalsingh: You have to change the name.

Mrs. Mc Intosh: Male husbands.

Hon. Dr. T. Gopeesingh: So what is the nomenclature that you will put with it?

Hon. Member: Male husband.

Hon. Dr. T. Gopeesingh: But across the world we still have—in Australia, they are now coming up—they have a number now graduating as midwives and they are males. In the USA, 2 per cent of the registered midwives are males—in the USA. But in the United Kingdom, less than 1 per cent are males.

So, as far as the amendment to the Bill is concerned, Mr. Speaker, these are the four or five important considerations I want to make to tell you that I think this amendment Bill moves to the avant garde of the nursing profession—
[Interruption]

Hon. Ramlogan SC: Nice word, man. Nice word.

Hon. Dr. T. Gopeesingh:—and we know that we have hundreds of nursing staff that are short—we have a shortage—and this administration is moving swiftly and urgently to fill the vacancies that are existing in a number of our institutions. And as the Minister of Health has indicated, if we get our advanced practical nurses going, our 104 health centres throughout Trinidad and Tobago can be filled by our advanced practical nurses, and our health centres can be open up to eight o'clock in the night and 12 o'clock in the night, and on weekends as well. The Minister has been doing that to make sure that these health centres are open during—a lot of these are open during the night.

Some remaining time, Mr. Speaker—the Member for Diego Martin Central had spoken about nurses feel unhappy based on their infrastructure around which they work: their surroundings, their environment, their financial packages and so on. As far as the financial package is concerned, Minister McLeod reminded me—the Member for Pointe-a-Pierre reminded me at the tea break that I had called him in about 1998 when I was chairman of the Regional Health Authority, while Minister Khan was a Minister in the Ministry of Education and I was working—[*Interruption*]

Hon. Member: Minister of Health.

Hon. Dr. T. Gopeesingh: Minister of Health—and I was locked in with negotiations with Miss Jennifer Baptiste from PSA at Port of Spain Hospital, and Mr. Panday gave me direction to make sure—[*Interruption*]

Mr. Speaker: I know you are locked in, but I think your time is up now. Hon. Members, the speaking time of the hon. Minister of Education and Member for Caroni East has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Hon. Dr. S. Rambachan*]

Question put and agreed to.

Mr. Speaker: You may continue, Hon. Member.

Hon. Dr. T. Gopeesingh: Thank you, Mr. Speaker. Mr. Speaker, I was making the point that when we were there, we made the decision to increase nurses' salaries by 25 per cent. That was about 1998—by 25 per cent. It was a former UNC administration and the UNC is part of this Government. So it is important to show how the Members on this side feel about the profession, how we nurture and care for the professionals and how we respect the professionals, to the extent that in 1998 we gave them a 25 per cent increase in their salaries, and

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. T. GOPEESINGH]

Friday, February 07, 2014

the Minister has been contemplating improving a number of their allowances: the basic allowance, the travelling allowance, and that is, I am sure, being discussed with the hon. Minister of Finance and the Economy.

As far as the infrastructure is concerned, Member for Diego Martin Central, it is unquestionable that this administration has made major leaps and quantum leaps as far as improving the infrastructure in institutions in Trinidad and Tobago. Not only are we moving to ensure we train professionals, we take care of the professionals. We are training more doctors; we are giving more scholarships. We have almost 200 doctors now nationally being trained on an annual basis. We have nearly 1,000 nurses at different levels being trained.

So that is just one aspect. We are now equipping the hospitals with equipment and state-of-the-art technology; the CT scanners; the MRI machines—*[Interruption]*

Hon. Member: San Fernando teaching.

Hon. Dr. T. Gopeesingh: I am coming to that. I just want to touch for a brief moment on the work that the Minister did—*[Interruption]*

Hon. Member: “Take yuh time. Take yuh time.”

Hon. Dr. T. Gopeesingh:—in Port of Spain General Hospital. I worked there for a number of years and when I went—when I was acting for him recently, at Christmas time we went to give some hampers to some of the patients who delivered—I think New Year’s Day—and the advancement in the entire aesthetic surrounding, and the work that has been done by this hon. Minister, was unbelievable. *[Desk thumping]* I saw air condition—the labour ward was air conditioned; the labour ward partitioned. Husbands could go in now and see their wives deliver.

Hon. Ramlogan SC: Yeah, yeah. *[Desk thumping]*

Hon. Dr. T. Gopeesingh: The antenatal wards were done, and the operating theatres were reconstructed, Mr. Speaker. I was pleasantly surprised—*[Interruption]*

Hon. Ramlogan SC: “Yuh could bathe an ting; bathtub an ting.”

Hon. Dr. T. Gopeesingh: Yes, and you can go across—you pass down Charlotte Street and you could see the beautiful maternity block existing at Port of Spain now. That is just one of the advancements that he has made.

Look at the Tobago Hospital—took about 10 years to be built, from 2001. It was this Minister of Health and this administration, under our distinguished Prime Minister, who pushed the Minister of Health—well, you know, our Prime Minister “doesn’t eat nice” at all. When she says, “Get on with it, Ministers. Move on”, you have to do your work. So our Minister of Health was pushed to making sure that we opened the Tobago Hospital.

Hon. Member: I thought he did it voluntarily.

Hon. Dr. T. Gopeesingh: Yeah. And the Tobago Hospital is now there, opened by the UNC administration, completed by this hon. Minister of Health under this administration, led by our hon. Prime Minister, and it was a delight. Because I had made a statement, that if you go to Tobago you have to be careful about getting a heart attack, what may happen to you. I feel a lot more comfortable going there now because of the hospital in Tobago.

Dr. Khan: They are going to get an MRI and a cath lab.

Hon. Dr. T. Gopeesingh: And he has promised that an MRI and a cath lab will be going to Scarborough Hospital, Tobago. He has been upgrading a number of health centres throughout Trinidad and Tobago.

The district health facilities which are open 24 hours a day, he is making sure now that they are staffed with the appropriate staff of pharmacists, ultrasonographers, radiographers, technicians. Now, throughout these nine district health facilities, which are the intermediate between the health centres and the hospitals, about nine district health facilities are working well throughout Trinidad and Tobago.

It would be remiss of me if I did not bring to the attention of the honourable House that the work that this Government has been doing and the hon. Prime Minister has been pushing, together with the support of the hon. Minister of Health and the Minister under which UDeCott comes—the hon. Minister of Housing and Urban Development, the Member for Oropouche East, Dr. Roodal Moonilal—I just want to read today from the *Daily Express*, Friday, February 07, 2014:

“Sando Teaching Hospital opens...

Patients pleased with service”

Mr. Speaker, “yuh doh” often have very nice complimentary things being said, you know. Something has to be really nice for them to write “patients pleased with service”. [*Desk thumping*]

Hon. Member: “Dat shouda be front page.”

Hon. Dr. T. Gopeesingh: So they said:

“Patients using the San Fernando Teaching Hospital for the first time yesterday said they were pleased with the service.”

Patients pleased with the service.

Mrs. Mc Intosh: “Dey like de building too?”

Hon. Dr. T. Gopeesingh: “All the hospital’s outpatient clinics are now housed in the new facility with the exception of the eye, ear, nose and throat (ENT) clinics.”

Hear what a person said:

“Marsha Cazoe, who attends the Orthopaedic Clinic, said: ‘So far, everything was good...The staff is doing a good job.’”

Hon. Ramlogan SC: Yeah, yeah, yeah.

Hon. Dr. T. Gopeesingh: Yeah?

“Susan Boodoo, who attends the Gynaecology Clinic, said the new area was more comfortable...she was not...distressed...because...”—she felt very comfortable in the new surroundings.

Hon. Ramlogan SC: Very good, man.

Hon. Dr. T. Gopeesingh: So:

“Most patients were aware that the clinics were moved to the new building yesterday.”

Many went to the old place to see whether they might be in the wrong place. But we just opened that when the place was relatively empty, and within about a three-week period—we were there for the opening. Within a three-week period or a four-week period, Mr. Speaker, imagine the outpatient clinic moved totally across to the new wing at the San Fernando Teaching Hospital. And now you know what that is going to do? We free up some areas for administration and when three or four of the blocks—the levels—are now housed with beds—*[Interruption]*

Dr. Rambachan: Two hundred and sixteen beds.

Hon. Dr. T. Gopeesingh: Two hundred and sixteen beds.

Dr. Rambachan: Making a total of 866 in San Fernando.

Hon. Dr. T. Gopeesingh: How much it will be?

Dr. Rambachan: Eight sixty-six.

Hon. Dr. T. Gopeesingh: So 670 and 216—866 beds. And, you know, all the issues of overcrowding and patients having to wait long at the emergency department, will be a thing of the past, Mr. Speaker. So that is just—and the clinic opens—this is now from *Newsday*, Friday 07:

“Clinics open at Teaching Hospital.

There were smiles all around from patients, doctors, nurses, medical support staff and South West Regional Health Authority...officials when the outpatients clinics at the new San Fernando Teaching Hospital officially opened yesterday.

The facility, adjacent...was officially opened on January 9 by Prime Minister Kamla Persad-Bissessar...”

What was the date yesterday, Mr. Speaker? Yesterday was the 6th of February. Within less than a month from the opening, patients are in the hospital—outpatients. Congratulations to the People’s Partnership Government. [*Desk thumping*] Congratulations to our Prime Minister for leading this by herself. [*Desk thumping*] The Prime Minister has taken this single-handedly and championed it. And I know Minister Moonilal and Minister Khan, my colleagues from Oropouche East and from Barataria/San Juan, were under the gun, making sure that they deliver, like many of us have to deliver as well.

We are a delivery Government, Mr. Speaker. [*Desk thumping*] Every one of our colleagues here on this side can boast about delivery. But, you know, sometimes our delivery has not been—we have not been forthcoming and telling the population as much as we should be telling them. But there has been no other government in the history of Trinidad and Tobago that has delivered so much in such a short space of time—[*Interruption*]

Hon. Ramlogan SC: Yeah, yeah. [*Desk thumping*]

Hon. Dr. T. Gopeesingh:—three and a half years. But the population will know about what we are doing.

Mrs. Mc Intosh: They will know about crime and corruption.

Hon. Dr. T. Gopeesingh: So: “The opening of these wards is expected to ease—“[*Interruption*]

Mr. Roberts: “Go back an teach nah gyul.”

Hon. Dr. T. Gopeesingh:—“overcrowding at the”—San Fernando General Hospital—“as an additional 216 beds will now become available.”

6.35 p.m.

Hear what a patient said, Dolly Mohammed, who was in the waiting area:

“The old clinics were so crowded and small but here there is so much space and everyone is so helpful. I hope this kind of service lasts...”

So, Mr. Speaker, the Tobago Hospital, the San Fernando Chancery Lane Complex, as we go up the highway we see the work going on at the children’s hospital; [*Desk thumping*] and then on the other side of the road if you are not on your telephone you will see the aquatic centre moving on by the Ato Boldon Stadium, [*Desk thumping*] and then the south campus in Debe when you pass through in the south—and I must say about the schools myself. I am Minister of Education. [*Desk thumping*] The Parvati and the Shiva schools are building—tremendous amount of work.

Mr. Speaker, you know, the other side accuses us of trying to be discriminatory, but yesterday Member for Point Fortin, I made some fast flights down to south. [*Crosstalk*] I went through touring some of the schools that we are constructing and I happened to reach Point Fortin and Cap-de-Ville, and you will see the work that is going on in the school where the Egypt School was before. You saw the two ECC centres—[*Interruption*]

Mrs. Gopee-Scoon: Point of order.

Hon. Dr. T. Gopeesingh: What is your point of order?

Mrs. Gopee-Scoon: 36(1).

Mr. Sharma: What it said?

Mr. Speaker: Overruled. Continue.

Hon. Dr. T. Gopeesingh: Mr. Speaker, two ECC centres I am providing, Salazar Trace and another one, and the school at Cap-de-Ville, all in the constituency of Point Fortin.

Mrs. Gopee-Scoon: You are building those schools now?

Hon. Dr. T. Gopeesingh: If she is not gracious enough to say, well the People’s Partnership Government is doing that—I was just drawing an analogy

between the hospitals and the infrastructure. Another one we can talk about is the Oncology Centre.

Mr. Speaker: Members, Members, please, please, please! Allow the Member to speak in silence, please. Too much noise. There are too many people speaking when only one is supposed to have the right to do so. So I want to urge Members, if you are tired, you could exit the Chamber, but do not disturb the proceedings and the Hansard. [*A Member's phone rings*]

Now this is about the fifth time I am hearing phones ringing in this Chamber. I am going to have a meeting, after this meeting, with the Chief Whip and the Leader of Government Business on this matter, because if we have to revisit phones being brought into this House, we will have to do it. But Members have been told over and over, keep your phone on silent mode and Members are forgetting this and disturbing the proceedings. I will have a meeting with both the Chief Whip and the Leader of Government Business with a view to bringing this thing to an end once and for all.

Continue, hon. Member, please.

Hon. Dr. T. Gopeesingh: Mr. Speaker, thank you. I just wanted to indicate, look at the Oncology Centre by Mount Hope Medical Complex, the centre for disabled in Carlsen Field completed, they are going to start extension for the Sangre Grande Hospital, the Arima Hospital is going to get some new work going. [*Desk thumping*] So, I just wanted to respond to the Member for Diego Martin Central, when he was speaking about the infrastructure around and the environment in which nurses are working. We have been striving ardently to ensure that the esthetic surroundings are very pleasing for the work of the medical professionals, whether it is nursing or paramedical or medical professionals.

Dr. Browne: I am pleased.

Hon. Dr. T. Gopeesingh: So that, we as the People's Partnership Government, continue to work hard to ensure that we take care of our population.

We know that there is an increase in certain incidents of non-communicable diseases of diabetes and hypotension, and the thinking of the distinguished Prime Minister, we are establishing a hospital in south to ensure that there is a centre and a hospital for taking care of patients with the non-communicable diseases of diabetes and hypotension.

So, in relation to the amendment Bill, the Nurses and Midwives Registration (Amdt.) Bill, 2014, I want to posit this as a Bill that needs to be supported with

Nurses and Midwives (Amdt.) Bill, 2014
[HON. DR. T. GOPEESINGH]

Friday, February 07, 2014

fervour by the other side because it ensures the protection of the nurses, ensures that the Nursing Council continues to do what they have been by law permitted to do and will improve their work, and the respect for the nursing profession will improve and continue to increase significantly as we move to better their conditions. We want to train more nurses and prevent those who have not been able to pass the examine on the first, second or third try to remain with the system, get more hands on deck—they are being supervised—so that we will continue to grow from strength to strength and eventually within the Caribbean we will keep our cadre of nurses right here within the Caribbean, rather than having a mass migration of nurses while the Minister of Health and this Government try to improve the conditions and the financial conditions of our nursing professionals.

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

Mr. Speaker: The hon. Leader of the House.

ARRANGEMENT OF BUSINESS

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Mr. Speaker, in accordance with Standing Order 37(3), I beg to move that the debate on the Nurses and Midwives Registration (Amdt.) Bill, 2014 be adjourned.

Question put and agreed to.

DOG CONTROL (AMDT.) BILL, 2014

Order for second reading read.

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Mr. Speaker, I beg to move:

That a Bill to amend the Dog Control Act, 2013, be now read a second time.

Mr. Speaker, this Bill presents for consideration of this House, amendments to an Act that was passed by both Houses of Parliament and, that is, the Dog Control Act, 2013. You may recall just by way of introduction that 36 Members in this House voted unanimously—36 Members voted in favour of that law and one Member, the then Member for St. Joseph, voted against the measure. There were no abstentions and that was on July 03, 2013.

The Bill then proceeded to the Upper House, the other place, where there were two days of debate, and on the second day of debate which was July 10th, that was in fact the final day for the Third Session of the 10th Parliament. Because there was support in principle for the Dog Control Act, rather than have the Bill

lapse in the other place, we passed the Bill with an undertaking given by the Government through myself, as Attorney General, that we will entertain amendments which arose during the course of the debate itself in the Upper House. It is as a result of that undertaking that I am here today, consistent with the promise of the Government, to present these amendments after much deliberation and consultation.

In the other place, the measure was passed almost unanimously with 28 Members voting for, one Member voting against with one abstention. The proposals for these amendments, today, come as a result of much consultation with the stakeholders that concern themselves: animal welfare, animal rights activists, the Veterinary Association and, of course, Members from the other place whose contributions had crystalized certain suggestions and proposals.

Subsequent to the debate being completed and the Bill being passed, I mandated the Chairman of the Law Reform Commission, Mr. Samraj Harripaul SC, to lead a delegation from the Ministry of the Attorney General to meet with the Association of Trinidad and Tobago Insurance Companies, to meet with the Executive of the Trinidad and Tobago Veterinary Association as well as other groups, and this, of course, came after we had published a paper, a policy document on “Dangerous Dogs” which had prompted a lot of public comment and suggestions which were received by way of email and written submissions to the Law Reform Commission.

So we met with the Association of Trinidad and Tobago insurers, we consulted with the stakeholders which included the dog breeders, the kennel operators and the dog trainers. We also consulted the Federation for Canine Registration of Trinidad and Tobago, the Trinidad and Tobago Society for the Prevention of Cruelty to Animals, the Animal Welfare Network, the Trinidad and Tobago Veterinary Association and, of course, there was the public advertisement in newspapers inviting these persons who might be interested to make a submission, many of whom did.

So I would like to register my profound gratitude for those who participated in the consultation process, and to say that the amendments which the Government proposes today for consideration of this Parliament, would make an otherwise good Act of Parliament even better. This Bill and the amendments which we

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

propose require a special majority and that is because of one clause, it is clause 18 which says that:

“22. (1) A constable or officer of a local authority has the power to seize and cause to be impounded a class A dog, which is in a public place or in a place where it is not permitted to be.”

Because we are giving the power to a constable or officer of a local authority to enter someone’s property or to seize a dog, it is felt that it would interfere with their constitutional right to enjoy one’s property because the dog is in fact your property. As a result of that, you would see that we would pass this measure with a special majority to err on the side of caution.

I do not propose to rehash much of what was said before, but to direct my attention to the amendments. Suffice it to say, that we have moved from the 2000 Act which dealt with absolute prohibition of certain types of dogs, namely the pit bull and other dangerous dogs to a policy that now favours responsible management, ownership and control of dogs in general, but the dangerous dogs in particular. Why are we spending time on this measure today, Mr. Speaker? It is because in our small country we are sadly filled with replete examples of tragic incidents where innocent citizens have been attacked by vicious and dangerous dogs, and among them we have seen children, the senior citizens, the elderly, women and others who cannot defend themselves, and we have seen the nightmarish experience, the horrific injuries inflicted upon them and the everlasting consequential trauma and distress.

It is therefore incumbent upon the State to intervene in this matter, to protect innocent law-abiding citizens who wish to go about their business from these kinds of vicious attacks from persons who have no responsibility in law and no duty in law to control and manage their dogs so as to minimize, if not eliminate, the possibility of vicious attacks. These dogs, Mr. Speaker, put members of society at great risk and, therefore, we have a responsibility to society, at large, to ensure that fierce and dangerous dogs are not kept in an irresponsible and reckless manner by their owners.

It is for this reason, Mr. Speaker, we will see the newspaper reports which deal with these matters, and I will just—the *Trinidad Guardian*, boy 11 killed by his own pit bull. That is August 2011; April 2012, boy six-years-old critical after attack by bit pull; May 16, 2012, the *Guardian*, neighbour’s pit pull mauls pregnant woman; January 7, 2012 in the *Trinidad Express*, housewife may lose leg after pit bull attack; on May 10, 2011, *Trinidad Newsday*, deadly dog attack

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

on Denise Rackal a 46-year-old female security guard; and then on December 07, 2012, two pit bulls attacked women. A young girl Karen Lara, 22 years of age, attacked and suffered injuries to her face and buttocks.

In the case of Karen Lara, she has given permission for us to tell her story, Mr. Speaker, to persuade this House to support this measure. Karen Lara has indicated to us at age 22 when she had only just graduated from a tertiary education institution with a bachelor of arts in fashion design, she had just gotten a job and she was working in a Carnival production band pursuing her dreams and living her life to the fullest, she had her whole life ahead of her and the brightest of prospects, not just in terms of her career, but also in terms of marital prospects.

6.50 p.m.

She said she was bitten eight times on her face, once on her arm, once on her side and once on her legs, but eight times on her face, a 22-year-old woman with a Bachelor of Arts degree in fashion and designing. Karen Lara said and I quote:

My life has changed so much since that incident. I am living with fear of dogs and animals. I am afraid to walk out of my house. I am afraid to go into residential areas. In fact, I stay inside and rarely ever go outside. I am going through the worst aftermath ever in my life. I am no longer independent. I am no longer working and supporting myself.

The injuries inflicted on a young woman's face, bitten eight times by a pit bull. She continues to experience traumatic nightmares, and she has the physical scars which would last a lifetime which have no doubt adversely affected marital prospects and the like. Mr. Speaker, it demonstrates and highlights why we need this legislation in our society.

Since we passed the Act to now, during the intervening period, there was one other reported case which has pressed us into coming to deal with this matter. Parliament has a lot more, a lot of urgent legislation to debate. The Government has a very busy legislative agenda, but I asked the Leader of Government Business to put this matter on today when I read, during the intervening period, the case of the 82-year-old grandmother, Lillian Bunsee. Lillian Bunsee, Mr. Speaker, in a most heart-wrenching and tragic accident, her son's dog, a pit bull, attacked her.

Hon. Member: La Seiva.

Sen. The Hon. A. Ramlogan SC: Yes, this was from La Seiva, that is right. "Pitbull kills granny"; Pit bull mauls her to death; "No mercy from pit bulls",

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

were the headlines. The residents of La Seiva Road in Maraval, nine o'clock in the morning, the fellas had to climb onto a roof, they climbed onto the fence and they started to throw bricks and everything they could find at the pit bull. But no matter what they did, nothing they did, could get that pit bull to break free the firm grasp and to release the osterized flesh from its jaw.

Mr. Speaker, nearby police officers responded to the distress call and the police officers had to shoot the pit bull, not once, not twice, not three times but six times. In most cases, whenever there is an incident involving a dangerous dog, and the pit bull in particular, the dog does not come out alive, sometimes the human does not come out alive, but the dog has to be shot to its death because it just does not relinquish the victim. So you literally have to kill the dog in order to pry lose the jaw and get the person freed. Anything else just does not work. That is the reality of what we have seen.

Now, that case of Ms. Bunsee was also filmed and went viral on Facebook and YouTube, and I think just about everyone who has seen it would have been traumatized just looking at it. It is a very horrifying experience but it also raised the public's consciousness and sensitivity where this matter is concerned, and therefore the Government is pressed into taking strong, tough decisive action on this matter of dangerous dogs.

Mr. Speaker, no legislation is perfect. There is bound to be criticism with whichever road you travel. In 2000, the Parliament travelled the road of absolute prohibition and extinction. When we attempted to proclaim that law, there was an outcry in the society. People said that you were penalizing and criminalizing the dog instead of the dog owner. So, in response to that, we had consultations and we have come with a Bill that seeks to have a hybrid position. It seeks to, one, penalize the owner of a dangerous dog if he is not properly managing, caring for and controlling the dangerous dog. It seeks to protect society and it seeks to strike a balance between the welfare of the animal, the rights of the owner and the rights of citizens to be free from such ferocious attacks.

But what it also does, Mr. Speaker, is that it allows us to pass legislation that would apply, in some cases, to all dogs, whether you classify them as dangerous or non-dangerous. The animal rights group in the country wants us to pass a legislation that is not breed-specific and will not target any particular kind of dog. They say, "Well, look, ah pot-hound could be dangerous so pass ah law for all dogs, doh only single out my dog, I love my dog". The problem with that, of course, is that we have to go on the empirical evidence that there is, and the

empirical evidence suggests—[*Crosstalk*] Yes—that there may be a propensity, whether natural or not, in the case of certain dogs to be a little more dangerous towards innocent citizens.

The experts will concur and say that any dog can be a dangerous dog in the same way any human can be a dangerous human being, but the reality is in trying to strike the balance, bearing in mind the multitude of functions and roles that a dog would have from assisting visually-impaired, providing companionship for single parents, taking care of the elderly, acting as a security alert in a time of high crime. All of those things we have taken into account, and we have come up with legislation that will create a legal framework to govern dog ownership on the whole. Having two categories, class A dog which is a dangerous dog, and all other dogs which would be class B, and striking a balance in terms of putting emphasis on safeguards to protect innocent members of the public from the dangerous dogs, and then thereafter from the ordinary other dogs. This delicate balance is one that is always very difficult to strike, but I believe we have walked the fine line between the competing interests of the dog owners and the dog lovers, and the members of the public to be safe and secure and we have struck the right balance in this matter.

Now, Mr. Speaker, some people have termed this legislation and the marked shift in policy from the Government away from absolute prohibition and extinction of a dangerous dog, and the trend and drift towards responsible ownership, management and control of dangerous dogs—They have termed the legislation now to say that the phrase “properly trained”, a man can become a dog’s best friend, and the idea here is to educate and train the owner of the dog so that they can be a friend to the animal that they claim to so love.

I make this point because the statutory duties that are going to be imposed on the owners of dogs, the owners now have a legal responsibility with consequences in the criminal law if they do not abide and fulfil those legal duties that are imposed by this law. You take a risk if you own a dangerous dog and the risk that you take is that you put yourself in jeopardy because if the dog attacks someone and you did not fulfil the legal requirements, you will face criminal prosecution, and there are stiff fines and, of course, imprisonment as well.

Mr. Speaker, I turn to the question of which dogs should be classified dangerous and which dogs should be classified as non-dangerous. You may recall that we had created, I think, three or four on the last occasion, but in our consultations, it was pointed out to us—and I had the opportunity to consult with

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

the serving Government vet, the Member for Caroni Central, who was very instrumental in providing a lot of technical advice in this matter, and I would like to record my gratitude for my colleague, the Member for Caroni Central.

Hon. Members: Yeah, yeah. [*Desk thumping*]

Sen. The Hon. A. Ramlogan SC: Among the many advices given— [*Interruption*] Yes—he advised that we should perhaps consider whether we should have the different breeds that are recognized in veterinary medicine stated in the Act, and this was, in fact, echoed by many of the vets with whom we spoke, and many of them pointed out that the pit bull itself is not, in fact, a breed. We colloquially refer to it as a pit bull but in veterinary science and medicine, the pit bull itself is not actually a breed, and therefore, we thought it prudent to allow the breed standards, as established by internationally recognized breeding clubs and as applied by veterinary surgeons, to be the final arbiters of the types of breeds.

Whilst the pit bull is not a recognized breed as such, there are certain distinguishing features and characteristics, and it is to those features and characteristics that we now turn our attention, rather than to simply go with the local approach of saying “if it looks like a pit bull, it must be a pit bull”. The average Trinidadian may not know the difference between an American Pit bull terrier, an American Staffordshire terrier, a Staffordshire bull terrier or an Alano Español or even a Perro de Presa Canario. Any one of these dogs could be called a pit bull by the average man in the street but these are the recognized identified breeds, and we will, therefore, stick with them.

Now, what is a breed standard which identifies the peculiar characteristics that are unique to a particular kind of dog? The breed standard also called “bench standard” or “standard of points” in animal husbandry is a set of guidelines which is used to ensure that animals produced by the breeder or breeding facility conform to the specifics of that particular breed. Breed standards are devised by breed associations or breed clubs, not by individuals, and they are written to reflect the use or purpose of the species and the breed of the animal. Breed standards help define the ideal animal of a breed and provide goals for breeders in improving stock. In essence, a breed standard, Mr. Speaker, is a blueprint for an animal fit for function for which it was bred.

Now, Mr. Speaker, to give you an example of a breed standard, it is interesting to note at the onset that there are over 300 separate breeds of dogs.

Hon. Member: So much?

Sen. The Hon. A. Ramlogan SC: Yeah. So the existence and usage of breed standards for identifying breeds of dogs is not something that is uncommon or unheard of. In fact, it is a very well-established science that people know about.

Now, Mr. Speaker, if I had to read one of the descriptions for the breed—in the law of intellectual property, you have to learn about drafting a patent application. When you are drafting a patent application, you have to describe the invention in such detail, with precision down to every minute aspect of the invention, that by the time someone reads that, the image appears in front of their eyes, and that is what they have done with these breed standards. The unique identifying characteristics and features of the dog are described with such detail and precision that I can well understand why the veterinary association and so many other persons we spoke with asked that we use these characteristics to identify the dogs.

The Perro de Presa Canario, the United Kennel Club breed standard, Mr. Speaker, it starts by giving you the ancestral lineage of the dog. It tells you that it was brought to Canary Islands by Spanish conquistadors and co-existed with indigenous cattle dogs from the beginning of the 15th Century. These dogs served many purposes in the early days. They guarded the farms, helped catch and hold cattle and exterminated wild or stray dogs. In the 1940s, the breed began to decline in numbers, it was revived again in the 1970s when reputable breeders developed and bred for true to their original size and character. It was recognized by the United Kennel Club as a specific unique breed on January 01, 2003.

I am saying all of this so that we could understand how specific this thing is. They traced the ancestry of the dog, so you know when this dog came into being, how it came into its existence, and then they traced its evolution and development over centuries.

7.05 p.m.

They then go to:

“GENERAL APPEARANCE”

They say:

“The Presa Canario is a moderately large, powerfully constructed dog with a harsh-textured, flat coat. The head is massive and cuboid. Ears are set just above the line of the eye and may be cropped, naturally pendent or rose. The body of the Presa Canario is slightly longer than its height at the withers, with a broad, deep chest, but females may be slightly longer and possess somewhat less rib spring than the males. Skin is thick and elastic. The distance from the withers to the elbow is roughly equal to the distance from the elbow to the

ground. The tail is very thick at the base, and tapers to a point. The tail is moderately high and reaches to the hock. The overall impression is that of an imposing, solid guard dog.

CHARACTERISTICS

The essential characteristics...”—that make it a strong and powerful animal—“...enable it to drive and hold cattle,...to guard its home and family. These tasks require a powerful, agile, courageous dog with a large head and powerful jaws.”—It—“...is extremely affectionate, docile and well behaved with its owner and family, but...strangers and...”—other—“...aggressive...dogs”—must beware.

The “HEAD

The head is massive, cuboid (...-like) in shape. When viewed from the side, the top lines of the skull and muzzle are roughly parallel to one another, and are joined by a well-defined, but not abrupt, stop. When the dog is alert, the skin forms several symmetrical wrinkles in the median furrow.

Fault: Excessive wrinkling.

Serious faults: Skull and muzzle not in correct proportion, abrupt stop.”

They then go to the skull of the dog.

“The skull is cube-shaped, broad and slightly domed, but without occipital protuberance. The width of the skull is about 3/5 of the length from occiput to nose. Zygomatic arch is very pronounced and there is a deep median furrow that diminishes in depth from the stop to the occiput. Cheek muscles are well developed without being pronounced.”

That is a description of the skull. Then they go to the muzzle.

“The muzzle forms a smaller cube that tapers just slightly from”—the—“stop to”—the—“nose. The length of the muzzle is roughly 2/5 of the length of the head,...”—whilst—“the width is about 2/3 as wide as the skull. The bridge of the muzzle is flat and straight. Lips are moderately thick and pendulous with black pigment.”

“Ah doh want to run afoul eh but that is what the people mark here. Ah know they said we are complexion conscious these days.” I am quoting here what it says. So it says:

“Lips are moderately thick and pendulous with black pigment. The top lip should fall naturally over the lower without excessive flews. Viewed from the front, the lips form an inverted ‘V’ where they join.

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

TEETH – The Perro de Presa Canario has a complete set of evenly spaced teeth, set in a wide jaw. A scissors or reverse scissors bite is preferred.”

So they even go into telling you how the jaw is and what kind of bite this dog naturally gives.

“A scissors or reverse scissors bite is preferred.”—by the dog.

They observe these animals, even down to the way they bite.

“A level or slightly undershot bite is acceptable.

Fault: Missing any tooth other than the first premolar.

Serious fault: Excessively undershot bite.

Disqualification: Overshot bite.”

I then come to the nose.

“The nose is wide and black. In profile, the nose fits cleanly into the square formed by the nasal bone and the front plane of the muzzle. The nose does not protrude beyond the front plane of the muzzle, which would give a snipey look to the head.

EYES – Eyes are slightly oval, set level and wide apart and range in color from medium to dark brown, in accordance with coat color. Eyelids are close-fitting and”—are—“black.

Serious faults: Light eyes, droopy eyelids, eyes set close together or obliquely.

Disqualifications: Blue, gray, or yellow eyes,”—or—“non-matching eyes.”

They then take you to the ears. This is the detail. I thought I would read it because one of the concerns raised is: “Well why are you going to rely on these characteristics, they might not be specific enough” and somebody coming to say that. So I want to show you how specific it is.

“EARS—Ears are of medium size, set just above the line of the eye and wide apart, and covered with short, fine hair.”

Dr. Browne: The heir apparent?

Sen. The Hon. A. Ramlogan SC: The heir apparent, my friend says. I do not know if that is him in the party.

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

“Ears may be natural or cropped. The natural ears may be pendent or rose.”
—They—“...drop effortlessly to the sides of the head, and rose ears are close fitting. Cropped ears are erect.

Fault: High set ears.”

And they then take you to the neck.

“The neck is cylindrical, thick, well muscled, and slightly shorter than the length of the head. Loose folds of skin at the throat form a slight dewlap.

Serious faults: Excessive dewlap, long or weak neck.

FOREQUARTERS”

So “they taking yuh from this dog nose down to the rest of the body eh”.

“FOREQUARTERS

Shoulders are muscular and well laid back. The upper arm is of good length and well-angled so that the front legs are set well behind the point of the shoulder. The elbows set slightly out from the body.

FORELEGS – Front legs are straight, well muscled, and heavy boned. Pasterns are strong, short and nearly vertical.”

And then “ah” now reach to the body “ah” the dog.

“BODY

A properly proportioned Presa is about 20% longer...and...”—the—“length of the front...should approximately equal one-half of the dog’s height. Females may be slightly longer in body. The withers are slightly elevated. The back and loin are strong but without prominent musculature. The back line ascends slightly toward the croup which is just slightly higher than the withers. The croup is of medium length, wide and slightly sloping. Females...have slightly wider croups. The loin is moderately short, muscular and deep, with moderate tuck-up. The ribs are well arched. The brisket extends to the elbow. The chest is broad and deep with well developed pectoral muscles. Ideally, the circumference of the deepest part of the chest should equal almost 1½ times the dog’s height at the withers.

Serious faults: Shallow chest, croup...”—with—“...withers equal height, body too short, swayback, roach back.

Disqualification: Croup lower than withers.”

Mr. Speaker, I will just call the headings because this thing goes on for about five pages more. You have the “HINDQUARTERS”, the “FEET”, the “TAIL”, the extent of detail about the dog’s tail. The “COAT”, the “COLOR”, the “SIZE”. And this one really got me—the “GAIT”—G-A-I-T. They tell you how the dog even is expected to walk. So they start, you know, from the nose of the dog, the jaw, the teeth, the bite, the neck, the fore body, the latter half, the legs, down to the tail; every single aspect of the dog. They go into tremendous detail, Mr. Speaker. So that we can be sure that when we introduce these recognized standards, we are doing so because it will help the vets to identify the dogs in a way that they are accustomed to, in a way that is rational and a way that is sensible, rather than having it by saying a pit bull and a pit bull is not, in fact, a breed.

Dr. Gopeesingh: It will help with prosecution.

Sen. The Hon. A. Ramlogan SC: It will also, as the Member for Caroni East quite rightly reminds me, it will assist in the prosecution of offences because if you left the law where it stood and say well a pit bull is a dangerous dog and, as we have been told, a pit bull is not, in fact, a recognized breed, how are you going to—how is the prosecution to mount a viable case in court if the owner is running a defence that it is not a pit bull? What is going to happen in court is that they will call an expert who will have to testify to these very unique, peculiar characteristics and features of the dog but there will be no recognition of it in the law, so that the prosecution’s case will be very weak.

So that this now provides a solid, legal platform for the prosecution to launch its case; it provides a solid platform for dog handlers and dog owners to know, beforehand, the risk they assume when they buy a particular kind of dog so that they will, in fact, pay attention to the breed of the dog, bearing in mind what the legal consequences are.

Now, there are, in fact, Mr. Speaker, several recognized clubs. You have the United Kennel Club, the Canadian Kennel Club and the American Kennel Club and they have identified these kinds of dogs and the breed standards for them. And I will take you through some of them that we have dealt with in the Bill:

The “American Pit bull terrier”

The “American Staffordshire terrier”

The “Staffordshire bull terrier”

The “Alano Español”

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

The “American Bulldog”

The “Boston Terrier”

The “Bull Terrier”

The “Cane Corso”

The “Cordoba Fighting Dog”

The “Dogo Argentino”

The “Dogue de Bordeaux

English Bulldog

French Bulldog

Japanese Tosa

Perro de Presa de Canario”—and—

“Fila Brasileiro”

These are—and the American Bully.

These are the dogs that have been identified and [*Interruption*] Sorry? Yes. And, Mr. Speaker, these dogs have been so classified by these associations so that it makes it an easy and administratively convenient task for legislators, as well as dog handlers and dog owners and the veterinary profession to be able to identify the dogs.

Now, Mr. Speaker, in anticipation of someone saying “well, you know, you could never really—you might have a new form of dog, you might have a new strain of the same virus by way of analogy”. The answer is yes. Could someone breed a new breed of dog? Yes, they can. But should that prevent us from legislating based on what we know exists now? No, it should not. We must start somewhere to protect society because right now the protection is virtually non-existent. So we have got to start somewhere and therefore if other breeds evolve that are considered dangerous, we will come back to Parliament, we will amend the law, if needs be, to include those breeds. I think the Minister could amend the schedule. So we can treat with that. But for now, let us make a start and work with what exists, to stem the attacks that have been taking place.

And, Mr. Speaker, you may recall, in an attempt to gain the support of the Parliament, in a consensus manner, we had, in fact, accommodated several suggestions made in the Lower House, in this honourable House, when I had

piloted this matter. There was a suggestion for a certificate of good character to be introduced and I did that. There was a suggestion to have a fine introduced as an alternative to imprisonment, I have done that. They had asked that the period of registration for a class A dog be expanded from three months to six months and I did that as well.

Well, of course, when we went to the other place, in like manner, we had to contend with suggestions, Mr. Speaker, and there were several proposals and we needed a constitutional majority for this Bill. One had to accommodate the views from a certain quarter and, you know, in the dynamics and the cut and thrust of the debate, which is always very lively and illuminating, I found that there were many suggestions made that would have improved and strengthened the legislation and I wish to come to those suggestions now, Mr. Speaker, by taking us through the proposed amendments.

Mr. Speaker, in the interpretation section of this Bill, in the Dog Control Act itself, a class A dog was simply defined as a dog listed—of the type listed in the Schedule. Now, we have changed that to read as follows:

“‘class A dog’ means-

a dog of the type listed in the Schedule or any dog bred therefrom...”

That latter part “...or any dog bred therefrom...”, is to take into account the possibility of the mixing of the breeds and the creation of different strains of the same virus, if I might use that language.

Or—

“(b) any dog which has the appearance and physical characteristics predominantly to the standards of any of the types listed in the Schedule, as established by the Kennel Club, Canadian Kennel Club or the American Kennel Club as certified by a veterinary surgeon;”

So that is where the kennel club characteristics would come into play. And notice we used the word “...predominantly...”. It is not that you have to get an exact fit on all square fours.

7.20 p.m.

Once the dog predominantly possesses these unique characteristics and features then we err on the side of classifying it as a dangerous dog, Mr. Speaker. This would address the difficulty identified by the Veterinary Association, in terms of their ability to identify the pit bull, which they have pointed out to us is not in fact actually a breed at all.

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

Now, Mr. Speaker, the second change was in the definition of “local authority” and that was a minor grammatical correction to delete the word “Act” from Tobago House of Assembly Act, because it really speaks to a local authority and the local authority is in fact the Tobago House of Assembly, rather than the Tobago House of Assembly Act.

The next change came in the definition for “Minister”, because it was pointed out that we should also cater for the fact that the Act uses the word “Ministry”. So we have defined “Minister” to mean the Minister with responsibility for local government and “Ministry” in the Act shall now be construed accordingly, so that you do not mix it up with any other Ministry.

We then go to subsection (6) in the very interpretation section. And it states:

“For the purposes of this Act, a dog shall be regarded as dangerously out of control if it is not being kept under control, by whatever means, by the owner or keeper, and—

(a) it injures any person without reasonable cause;”

Now, the language here was a little funny because it could be interpreted as meaning the dog did not have reasonable cause and, of course, you cannot ask the court to delve into the mind of the dog to see whether the dog had reasonable cause to attack or not. So, on the suggestion of the Independent Bench we have removed “with reasonable cause” insofar as it gives rise to questions about the dog having reasonable cause and we have removed that from subsection (6), “reasonable cause”.

We then go to clause 5 of the Bill and we have deleted the old section 5, which dealt with the public places that you were entitled to carry a dangerous dog and we had exempted “restaurant”, a place where food or beverages were sold, a commercial mall or a shop. And it was felt, you know, why limit it in that manner? I mean, some of the colourful examples given in the other place was you could have a dog on a flight in a plane because you are transporting your dog. There are people who take their dogs with them on their vacation.

Someone pointed out, in other countries you see a dog in a library next to people sitting and doing their work. So it was felt that you should not limit the public place that you can take the dog like that but, rather what is proposed now is:

“No owner or keeper of a dog shall permit the dog to enter any public place at which notices are prominently displayed prohibiting entry to dogs, unless the dog –

(a) is an assistance dog;”
to assist visually impaired or challenged persons;

“(b) is being used for the purpose of securing the location;”
We did not take into account security dogs; or

“(c) is being used for a lawful purpose by a constable or a person in the service of the State.””

Now, the reason we have catered for these exceptions, Mr. Speaker, is, of course, in the last instance, the police service has a canine unit and as part of our national security measures you will see in the very near future there will be a lot of sniffer dogs, and so on, at the airport and at our ports, as the case may be, as and where it is deemed appropriate by the law enforcement agencies. And one would have to create an exemption for that.

And in the case of a guard dog, you might have one outside a restaurant, as the case may be. You may have one in a commercial mall, which we do see from time to time. So it was felt that we needed to tighten up the wording of it to cater for that. [*Interruption*]

I have never seen a dog brought in the Parliament, as the Member for Fyzabad queries, but who knows. They have? Or, I am told that they have in fact brought them here already. Well there we go.

Mr. Sharma: I was not referring to anybody in the PNM.

Sen. The Hon. A. Ramlogan SC: All right, Sir.

Mr. Speaker, we then go to section 5(2) of the Act where, if you are going to have a dog permitted in such places then the owner or keeper who has put up the sign prohibiting entry to any dog, is now entitled to, of course, require documentary proof that the dog has completed a course of training and upon request he can be provided with the proof, documentary proof. So if, in other words, “you know you going to take yuh dog”—[*Interruption*]

Mr. Speaker: Hon. Members, the speaking time of the hon. Minister has expired.

Motion made: That the hon. Minister’s speaking time be extended by 30 minutes. [*Hon. Dr. T. Gopeesingh*]

Question put and agreed to.

Mr. Speaker: You may continue, hon. Attorney General.

Sen. The Hon. A. Ramlogan SC: I am most grateful, Mr. Speaker. So that the person can ask for documentary proof of such training. So the onus now is on the dog owner to have the dog properly trained if they intend to carry that dog anywhere with them outside “dey” house and so on. Let the dog be properly trained. You will have “some lil certificate or something” to prove that the dog owner and the dog, they have been trained and so forth and that can be presented upon request if anyone so desires.

Now, in subsection (3)(a), we have included—the law read before:

...permit or incite the dog to attack a person without reasonable cause.

That is prohibited. But it was pointed out the “incite” might be a little too heavy and we have now changed that to “cause”. So it would be:

“permit or cause the dog to attack a person...”

because incite can be a very difficult thing to prove in a court of law, when it comes to a dog. So, the cause, to cause it to attack someone might be better.

“So if ah fella liming in ah park and he see his ex-girlfriend, yuh know, walking with de new boyfriend and he tell de dog shook, shook, shook—ah doh know if the *Hansard* go geh dat but S-H-O-O-K, S-H-O-O-K, S-H-O-O-K for the *Hansard*. But if yuh tell de dog dat” and the dog attacks the new boyfriend, well you have caused it, as the case may be. “If yuh see de dog, if yuh slacken yuh” grip on the leash, well you may have permitted it to attack the person. So that is the kind of scenario that that would cover, by way of example.

Mr. Speaker, I then go to section 7 of the existing law. Section 7 dealt with the licensing of dogs and the way this was phrased it said:

“No person shall own a class A dog unless...within six months of the coming into force of this Act,”—they applied for and obtained—“a licence in the prescribed form from the local authority for the area”— in which they reside.

And it was pointed out in the other place that we should be a little careful about the wording in this, because you wanted to prevent a fella from getting the licence in his brother or father’s name and he keeping the dog as his own. And then, of course, the entry on the register should include the particulars of the policy of insurance.

Now the association of the insurance industry, ATTIC, they pointed out to us that they will not give you a policy of insurance unless you get the licence in the first place. So to ask that when you come to licence the dog you give them the

particulars of the insurance for the dog, that is, perhaps, a little convoluted. So what they ask is that look, the person must get the licence first, go to the insurance company, take out the insurance for the dog and then, subsequently, you could provide those details as the case may be.

So the amendment will now read:

“A person who owns a class A dog shall, within six months of the coming into force of this Act, apply for and obtain a licence in the prescribed form from the local authority for the area where he resides and the dog is kept.”

So, you might reside in West Mall but “yuh dog is being kept in San Fernando by yuh bredda and yuh bredda” have a criminal record and he is disqualified from owning the dog. We have now harmonized it to plug that loophole so that you would have to get the licence if “yuh is de owner” and if you are keeping the dog as well.

Now, Mr. Speaker, in this case, it was pointed out to us as well that whilst we created the obligation to register the dog within six months of the Act coming into force, we will have to insert there—because when I was reading it today it dawned on me, we would have to insert there, not only within six months of the Act coming into force but there will have to be a continuing obligation. If outside of six months after it becomes law, a man buys a dangerous dog he will still have to register it. So we will insert there:

“within six months of the coming into force of the Act or thereafter”, as the case may be, and we will sort that out.

Then we go to subsection (5). This is section 7(5) where we have the requirement for a certificate of good character. It was pointed out that if you get a certificate of good character, that does not necessarily mean you will be disqualified from getting the licence. Because it may record a minor conviction or it may record a serious conviction but you may still get it. So the amendment suggested, which we have accepted, is that you must get the police certificate of good character but you must also—it must be that:

“and he has not been convicted of a criminal offence for which the penalty is a term of imprisonment of one year or more.”

So, it is not just that you have to get the police certificate of good character but it must be that you do not have a conviction for a criminal offence that carries a penalty of one year or more.

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

Now, section 7(5)(c) deals with the implanting of the microchip. Now, Mr. Speaker, that matter has caused some anxiety, because the Veterinary Association lobbied us very strongly to say that only a qualified vet should have the power, in law, to implant the microchip and I am pleased to say that after much toing and froing on this matter I left the final word on this to my colleague from Caroni Central who advised that it would be best and most prudent for the vets to be the ones to do the microchip insertion to implant in the dog and his rationale for that, which persuaded me, was that that brings the dog into contact with a qualified veterinary surgeon who will be required, in accordance with their code of conduct, to observe the dog and to examine and inspect the dog as a matter of general routine course and if there is anything wrong with the animal they will be able to pick it up and that might be an additional safeguard for the protection of the public interest and welfare.

So we would delete and make the changes accordingly to ensure that the person that can implant the microchip refers to only a qualified vet. So subsections (13), (14) and (15) will in fact be deleted to allow for only a vet to make the implant.

Subsection (13) dealt with the death of a dog at the earliest opportunity and we have now inserted the question of the loss of a dog because that is the section that dealt with “if your dog died you had to inform the local authority”. But the point was made that you may not know for a fact “de dog dead. It may just be loss dat yuh loss de dog, somebody tief it.” So it now reads:

“An owner of a class A dog shall inform the local authority of the loss or death of his dog at the earliest opportunity.”

A major concession is in section 7(18), Mr. Speaker, which deals with the criminal offence for vets. Remember we had put a provision in place that if the vet did not certify the dog and he falsely certifies it when he did not believe it to be correct, that vet committed a criminal offence.

7.35 p.m.

The veterinary association was dead set against this, they lobbied us strongly, and they have asked that there be some self-regulation on that issue, and we have acceded to that request, because we have given the compensatory guidelines that will guide the exercise of their judgment and discretion in identifying the dogs. So they have assured us as well that, of course, if anyone were to dishonestly and knowingly, wrongly certify a dog, the consequences from their standpoint as a profession, would be quite severe. The Member for Caroni Central will speak

further to this issue during his contribution to this Bill. One cannot—you see, because for this law to be workable, for it to be implemented properly, you need the support of the vets because if they did not certify the dogs, to say what kind of breed they are, then the very lynchpin of the law, it falls apart.

Now, Mr. Speaker, in section 8 of the law, we have deleted subsection (2), 8(2), because that stated that:

“Where the Ministry has taken possession of a class A dog...that dog shall be destroyed in a manner to cause as little pain as possible, by a veterinary surgeon.

This was the animal rights group now speaking to us and saying, well, you know, did you consider—before you go and jump straight to destruction of the dog, did you consider, for example, dog adoption because there may be people who would adopt the dog. There are homes that cater for stray dogs that will perhaps want to use it. In fact, the hon. Prime Minister a couple weeks ago in the company of the Minister of Food Production, presented a cheque, I think for \$250,000 to the Animals Alive group, headed by Miss Jowelle de Sousa in Oropouche where they have a very large facility. So there are facilities that people run to cater for these dogs.

So the proposed amendment will now read:

“Where the Ministry has taken possession of a class A dog...it may—

- (a) give the dog to a person who is able to care properly for the dog; or
- (b) give the dog to an establishment for the reception of stray dogs.
- (3) Where the class A dog has not been given to a person or an establishment under subsection (2) within seven days,”—then—“the dog shall be destroyed in a manner to cause as little pain as possible by a veterinarian surgeon.”

So it is not that we have to keep the dog forever, but a seven-day period gives it a chance. Maybe the guy who was not qualified to own the dog and did not have a licence, he might get his partner or somebody to come and take it.

In section 9, subsection (3): the authorized officer of the local authority—we have included now—or “constable”, because this is the obligation to secure premises and when you come to inspect it, we want it to include the police, not just the local authority representative, because if your neighbour had a dangerous dog and the fence is too low, and you have a young child, you would want—the

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

first person you would call is the police. And if the police comes and they measure the fence, and they see it does not meet the minimum height requirement by law, then they will, in fact, be able to take action as they are.

Now, I go next to section 10 of the Act which will remain as is. In the circulated list of amendments, there was a suggestion that we should include: “knowingly” for a person who knowingly keeps a dangerous dog without a licence, but to introduce that concept of “knowingly” is going to run contrary to the very policy and intention of this law. It will create a loophole for everyone to say well, I did not know it was a dangerous dog, when in truth and, in fact, you very well knew, and you will now be creating a loophole. So that will remain as is, and that will not, in fact, be amended.

Section 11:

“A person who owns a class A dog shall have in force in relation to each dog, a policy of insurance...”

That has to change because the ATTIC has pointed out to us, that what will happen, they will have a general home insurance policy which will cover damage by the dog, but it is not that they will grant a specific dog insurance policy for each and every single dog you have. So the law that we had passed did not cater for the fact that there was no insurance product on the market, and there was unlikely to be an insurance product offered by the insurance industry to, in fact, give dog insurance on a per dog basis. In fact, it will be subsumed under the general coverage for property and home insurance as the case might be.

Section 11(4) deals with the question of what the policy of insurance should cover and we have included the words, “livestock or other animal”, because the insurance industry has pointed out that one of the claims that they anticipate will be made is, in fact, claims for damage not only to person or property, but livestock or other animal.

In section 12 of the existing law, we have doubled now—by this amendment, we will double from 24 hours to 48 hours, the question of when your policy lapses or when it is terminated, and you have to inform the local authority. Instead of giving you 24 hours, we will give you 48 hours.

In subsection (4), we have tidied up subsection (4) to take into account persons who may not have the policy, and who may get it subsequently, the dog can be impounded at the owner’s expense pending such time as you, in fact, get the insurance.

In subsection (5), we have replicated the formula to which I just alluded, which will allow for the dog to be given to someone to care for it, a dog facility that can receive dogs, or in the worst-case scenario, to allow for it to be destroyed by a vet if those options are not practical and relevant.

Now, in section 13, subsection (6), we dealt with the question of who can sue, and we have now added on words to cater for the legal requirements. This section will also apply where a claimant brings an action in his capacity as the personal representative of a person who suffered fatal injuries, or as guardian ad litem or on behalf of a person who is under a disability or a minor. The reason we did that is because a lot of the dog bite cases we have looked at, have been really against children, and the children cannot sue in their own right, they have to sue through their guardian or their parent, and that is tidied up to clarify that.

In 14 subsection (5), we will now make an amendment, this is where we allowed for:

If: "...a class A dog enters onto private premises, the owner or occupier of those premises may destroy the dog."

We now want to add the words: "while it is on those premises". So it is not that the dog comes on to your premises, you go to shoot the dog as the case may be, and the dog really is no longer on your premises. You really do not lean over the neighbour's fence and shoot the man's dog basically the next day. If the dog comes on to your premises and poses an immediate threat or a risk, by all means you can take action, but the idea is to take such action in defence of your life, limb and property as the case may be, whilst it is on your property.

In section 18, it was felt that when dealing with the question of notice being displayed on your property, "yuh know people have dem sign by dey gate", Beware Bad Dog, Dangerous Dog and so on, but because the law mandates you to have that now where there is a class A dog, it was felt well, you know, should we not extend this really to all dogs as the case may be, and the formula that was acceptable will now read:

"A person who owns a class A dog or keeps a class A dog on his premises or owns a class B dog that has been dangerously out control on at least one occasion, shall cause to be displayed in a prominent place on the premises, a notice warning people..." that you have this dog.

So you know, the idea is that this is to cater for the argument that all dogs could be dangerous. So that if "yuh goin by somebody house and dey have—not a fair

pompek, but ah Rottweiler” and they do not put up a sign, because the dog has had a previous kind of violent, aggressive behaviour against the neighbour’s child or something, and something goes wrong; in a case like that, if they did not put that sign so that you could keep your child with you whilst making that visit, then they could be liable.

I thought it was a useful intervention because there are, in fact, instances where dogs that are not pit bulls and not covered in the schedule, where they would have attacked innocent persons. So this will at least give some slight measure of protection by forewarning visitors to your premises, or people walking outside the gate and so on, that look, well, I have a dangerous dog, because a dog which is not by breed specific in class A, deemed to be dangerous, may nevertheless be categorized as dangerous if it is that it has a demonstrated propensity to be aggressive and attack.

Now, it is also in dealing with the—we then go to section 19, subsection (3) which is now deleted to read: Where a class—and replaced with this:

“Where a class A dog injures or kills a person or animal or causes the death of a person or animal while on, or outside private premises, the Court may order the seizure and destruction of that dog where the attack was unprovoked or was encouraged or incited by another person to attack the person or animal injured or killed thereby.”

It was felt that this section will give some measure of protection because it did not just limit it to the question of death. Before the subsection was:

Where a class A dog injures a person or kills a person or causes death...

This one is a little wider, because it speaks to where there was encouragement, where it is unprovoked, encouraged or incited by another person to attack the person or animal injured and so forth, the court may order the seizure and destruction in such cases.

In section 20 subsection (2), we have deleted the old subsection (2) and created a new subsection, and this is a very interesting point. The old subsection (2) in the Act reads that:

“It shall be a defence for a person charged with an offence under this section to establish that the other person was committing or had an intention of committing a criminal offence.”

Now, the new section will read as follows:

It shall be a defence for a person charged with an offence under this section to establish that:

- (a) the other person was committing a criminal offence against the person charged;

Now, the change here, Mr. Speaker, is that the old section simply says that if you could establish that the other person was committing or had an intention of committing a criminal offence, that is a defence, but using obscene language could be an offence. So “ah man cuss yuh and yuh leggo yuh dog on him, and he raff him. Yuh know wha happen?” You have a perfect defence.

So we kind of tidy it up and revised it to really cater for serious situations. So it will no longer be “a criminal offence”. It will be that—

the other person was committing a criminal offence against you, or they were committing a criminal offence against your spouse, your child or any other person under your care; or

- (b) the person charged had reasonable cause to fear an attack on himself, his spouse, his child or any other person in his care”.

So in other words, the dog poses an immediate threat, as the case may be.

Now, Mr. Speaker, the conjoint effect of the deletions in section 21 of the existing law is such that it will now give a right of appeal to persons whose dogs—for persons who have been denied a licence, they will now have a right of appeal, as well as persons whose dogs would have been ordered to be put down.

So persons whose dogs would have been ordered to be put down, as well as persons who were denied a licence, they would now have a right of appeal, and that would be by virtue of a consequence of the amendment to section 21 where you delete (c) and (d).

7.50 p.m.

Mr. Speaker: Hon. Attorney General, there is Procedural Motion to be moved; the Acting Leader of the House.

PROCEDURAL MOTION

The Minister of Transport (Hon. Stephen Cadiz): Mr. Speaker, in accordance with Standing Order 10(11), I beg to move that the House continue to sit until the conclusion of the Bill under consideration.

Question put and agreed to.

DOG CONTROL (AMDT.) BILL, 2014

Sen. The Hon. A. Ramlogan SC: Thank you very much, Mr. Speaker. The conjoint effect of the deletions by the replacement of one subsection, subsection (c), which deals with the question of both the destruction as well as the disqualification in (i) and (ii) will now mean that the reference to (1)(c) in subsection (3) will cover both situations and, therefore, you will have a right of appeal in both as the case may be.

I will take you now to section 22. The new section 22 will read:

“(1) A constable or officer of a local authority has the power to seize and cause to be impounded a class A dog, which is in a public place or in a place where it is not permitted to be.

(2) Where the local authority is unable to locate the owner or keeper of the dog which has been seized”—it can—“be destroyed”—et cetera.

The point is that we have now created a little opportunity so that you could, do not just take the dog and destroy it. The animal rights group suggested: “Well, if you try to locate the owner, at least, before you rush to destroy it”, and that is fine because dogs do stray, and why put it down at the first instance rather than, at least, seek out the owner? If the dog has a dog—most people, the dogs have a dog tag with the person’s name or the owner’s number to call and so on. “People doh put that on dey children but dey does put it on dey animal now.”

Now, Mr. Speaker, the new section 24 will deal with the question of an exemption for vets when they are dealing with dogs in their professional capacity, and they are not liable for any damage caused by that dog. We will have a further amendment, because whilst we were discussing this matter this morning, it dawned on me that there were vets who would have like “ah lil pet hospital”; animal hospital, and if “yuh” dog suffers a broken limb or something, and you take the dog, the vet may have to keep it, but they will be keeping a dangerous dog, and they do not have a licence for that dog to keep it. So we will exempt for all professional care, as the case may be, also the pet hospital and the vets in a proper manner, so that the vets would be allowed to practise their profession freely and without any threats imposed by law.

The new imposition of section 25A, Mr. Speaker, deals with a corporate body committing an offence, and they are liable to a fine of \$200,000. It was obviously an oversight on the part of Parliament that a corporate body—companies now

own dogs—some security firms do and so on—and, therefore, we needed to impose the fine, and in the case of a corporation, it needed to be properly imposed.

I then go to section 28(4)—[*Interruption*]

Mr. Speaker: You have three more minutes, hon. Attorney General.

Sen. The Hon. A. Ramlogan SC: Thank you very much, Mr. Speaker—and that deals with the regulations, and the regulations now, we provide specifically for regulations to be made to prescribe penalties not exceeding \$50,000, and the reason for that is because the Interpretation Act limits the penalty made by regulations to the imposition of a penalty to a maximum of \$500.

Mr. Speaker, I then go next to the Schedule, and you will see that we have listed 16 breeds or 16 types of dogs in the Schedule. Now, I do not want us to be alarmed and to think now, “We include 16 different new things”, these are but variations of the same strain of the virus, if I may use that analogy. They are all, in one way or the other understood, recognized and categorized as dangerous.

Now, if you go on the Internet, you could type “friendly pit bull”, and “Yuh go geh ah picture of pit bull playing with children and so on”, but if you type “pit bull attacks”, you will get the body of mauled victims of the same pit bull. So this is one topic, the issue of dogs and dangerous dogs, where any angle you want to take it from you could find research to support it, but what you have to deal with in Trinidad and Tobago is the protection of the citizens and the empirical evidence we have with the bodies that we have, and the injuries that have been inflicted.

And, in this regard, I want to place on the *Hansard*, Mr. Speaker, it is not very often you get civic-minded citizens who have given of their time freely, but one person who was outstanding during the course of our consultations and went beyond the call of duty is, Miss Kristel-Marie Ramnath. She is a graduate of the University of Wolverhampton with a Bachelor of Science in Ecology and Environmental Animal Biology, and she holds an MSc in Animal Behaviour and Animal Welfare from the University of Edinburgh in Scotland [*Desk thumping*] and I want to pay public tribute to her because the class A dogs that we have listed, is really based on the kind advice she provided, Mr. Speaker.

I think this Bill, the amendments would strengthen and improve the Act passed by this Parliament. The suggestions and proposals contained in these amendments are reasonable and sensible, and will go a long way to the

Dog Control (Amdt.) Bill, 2014
[SEN. THE HON. A. RAMLOGAN SC]

Friday, February 07, 2014

administration of this Bill to protect the innocent members of the public, and I beg to move. I thank you. [*Desk thumping*]

Mr. Speaker: All right. I recognize the hon. Member for Diego Martin North/East. The hon. Member for Diego Martin North/East. [*Desk thumping*]

Mr. Colm Imbert (*Diego Martin North/East*): Thank you, Mr. Speaker—
[*Interruption*]

Mr. Speaker: Just a moment, hon. Member, please. I have to propose the question for debate—no that question was already proposed. The hon. Member for Diego Martin North/East, please.

Hon. Member: Come with something sensible!

Mr. C. Imbert: Come with something sensible? I definitely will, because what I just heard was not sensible. Mr. Speaker, it is unfortunate that the Attorney General did not do any independent research when he drafted this legislation. I have just heard him make two statements: one that he was advised by the Veterinary Association with respect to the new schedule which contains 16 types of dangerous dogs, class A dogs and, at the end of his presentation, he paid tribute to a lady by the name of Kristel Marie Ramnath, who he said assisted him in preparing this list of very dangerous dogs. Now, Mr. Speaker—[*Interruption*]

Mr. Speaker: Before you go—the question, I think I need to correct the records. I think subsequent to the AG’s presentation, the Clerk was correct. I have to put the question for debate. So let me put the question, and then you will continue. Hon. Members, I shall now propose the question for debate.

Question proposed.

Mr. Speaker: I recognize the Member of Parliament for Diego Martin North/East. Continue hon. Member, please.

Mr. C. Imbert: Thank you, Mr. Speaker. Mr. Speaker, I would not rely upon this device to display too many photographs but, you see, the Attorney General should really have done his own independent research.

Sen. Ramlogan SC: I did.

Mr. C. Imbert: You did?

Sen. Ramlogan SC: Uh-huh.

Mr. C. Imbert: This is dog No. 13. [*Shows picture on iPad*] Mr. Speaker, dog No. 13, the “French Bulldog”.

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

Miss Mc Donald: “Leh meh see whey he look like”.

Mrs. Mc Intosh: “Leh meh see it.”

Mr. C. Imbert: A tiny little dog. Look at it! Look at the plants next to it, you will see how small this dog is. And, Mr. Speaker, this is the—*[Interruption]*—do not be silly. It is you who give him bad advice—and this is the definition of the modern “French Bulldog”, Mr. Speaker.

“The French Bulldog is a small breed of domestic dogs”—small breed. I have several photographs in this article, all of which show how tiny the dog is. Look at the adult dogs on the lap of a woman; *[Shows picture on iPad]* tiny little dogs. Now, Mr. Speaker, when we go to the temperament of this dog, what do they say?

“The French Bulldog like many other companion dog breeds, requires close contact with humans. They have fairly minimal exercise needs, but do require at least daily walks...”

French Bulldogs are very sweet, and make excellent companions. The French Bulldog rarely barks and if he does, it’s often to draw attention. This breed is patient and affectionate with its owners...”

It is a tiny little dog. And, Mr. Speaker, the Attorney General, not for the first time, has “taken basket” with this list; this spurious list of dangerous dogs.

I will go to some of the other dogs that he has listed as being ferocious and dangerous and require to be microchipped and put behind bars and so on. The Boston terrier: what is a Boston terrier? *[Shows picture on iPad]* Tiny dog! Boston terrier! *[Crosstalk]* Yes, go right ahead. Look, Boston terrier, a tiny dog! And when we go to the description of the dog and the temperament:

“The Boston terrier is a gentle breed that typically has a strong happy-go-lucky and friendly personality.”

I mean, come on, a Boston terrier? Has anybody in this Parliament ever seen a Boston terrier? It is a little dog. Has anybody ever seen a French Bulldog? It is a lap dog, and those among us who know—this is not a joke—about dogs will know that these are little house dogs. They could not possibly be placed in the same category as an American pit bull terrier or even the Fila Brasileior or the Dogo Argentino or the Japanese Tosa, Mr. Speaker.

Mr. Speaker, you see in England, the British law that deals with dangerous dogs just has four categories. I have just named them, and I will repeat: pit bull terrier, Dogo Argentino, Fila Brasileiro and Japanese Tosa. Now, why in God’s

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

name has the Attorney General decided that the French Bulldog—as I said, a tiny little lap dog—the Boston terrier, a tiny little sweet dog, and a number of other dogs, Mr. Speaker, such as the English bulldog, according to the American Kennel Club, which is one of the references that he has cited because in this legislation, he tells us in section 4 that:

“‘class A dog’ means—

“any dog which has the appearance and physical characteristics predominantly conforming to the standards...listed in the Schedule, as established by the Kennel Club, Canadian Kennel Club or the American Kennel Club...”

But according to the American Kennel Club, this is the description of the English Bulldog—sorry, I have not even reached the English Bulldog yet, that is even worse. This is the Staffordshire terrier.

“The Am Staff is a people-oriented dog that thrives when he is made part of the family and given a job to do. Although friendly, this breed is loyal to his family and will protect them from any threat.”

That is the American Staffordshire terrier, Mr. Speaker, and then we go to the English bulldog, Mr. Speaker.

“According to the American Kennel Club...a Bulldog’s disposition should be ‘equable and kind, resolute, and courageous (not vicious or aggressive)...”

Let me read that again.

“According to the American Kennel Club...a Bulldog’s disposition should be ‘...kind, resolute, and courageous (not vicious or aggressive)...and demeanour should be pacific and dignified. These attributes should be countenanced by the expression and behaviour.”

That is the American Kennel Club’s description of the English Bulldog.

So you have the English Bulldog, the French Bulldog, you have the Boston Terrier, all described in the literature as sweet, nice, friendly, kind, peaceful dogs but, according to our Attorney General, based on advice from God knows who, he has declared that these are class A dogs, Mr. Speaker. [*Crosstalk*] Well, I do not believe that. I do not know if anybody who knows what they are doing would say a French Bulldog—this little dog—is so vicious that you have to chain them up and put a microchip on them and put a muzzle on them. I do not believe that anybody who knows what they are doing would advise the Attorney General of that, so that I do not believe.

8.05 p.m.

Now, let us go to what is happening in the world, Mr. Speaker. I have an article here from the National Canine Research Council which gives some information on the “World-Wide Failure of Breed Specific Legislation”, in:

“Spain

A study published in the *Journal of Veterinary Behavior*—in—“(2007) showed that the Dangerous Animals Act (2000),”—the Spanish Act—“which targeted a number of breeds of dogs, had no impact on reducing dog-related injuries.

Italy:

In 2009, Italy abolished its breed-specific regulations, which applied to 17 breeds of dogs, in favor of legislation that holds individual dog owners responsible for their dog’s behavior. Italy’s Undersecretary Francesca Martini reported, ‘The measures adopted in the previous laws had no scientific basis. Dangerous breeds do not exist.’”

This is the opinion of Italy’s Undersecretary for Health, Mr. Speaker, who piloted the abolition of the Dangerous Dogs Act in Italy in 2009. We are talking just four years ago. In England:

“A consultation conducted by Britain’s Department for Environment, Food and Rural Affairs...confirmed that public sentiment overwhelmingly favors repeal of the UK’s breed-specific law. 88% of the respondents stated that the current legislation is not effective in protecting the public;...71% called for repeal.

In a related development, a bill introduced in 2010 to repeal the breed-specific provisions of the UK’s Dangerous Dogs Act has successfully passed its second reading in the House of Lords. Lord Rupert Redesdale’s ‘Dog Control Act’ will make individual owners responsible for their dogs’ behavior.”

In the:

“Netherlands:

Near the end of 2008, the Dutch government repealed a nationwide ban on pit bulls that had continued for 15 years. The government had commissioned a study of the ban’s effectiveness, which had revealed that banning a breed of dogs was not a successful dog bite mitigation strategy.

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

Canada:

In Winnipeg,...after the city enacted a breed ban in 1990, reports of dog bites...increased.”

In Ontario:

“The Province of Ontario enacted a breed ban in 2005....despite 5 years”—of this law—“and the destruction of ‘countless’ dogs, there had been no significant decrease in the number of dog bites.”

In the:

“United States

Denver, Colorado enacted a ban in 1989. Thousands of dogs have been seized and killed, some literally snatched from their owners’ arms. All of this government-sanctioned”—action—“has produced no increase in public safety. In fact, Denver’s citizens have suffered a higher rate of hospitalizations for dog bite-related injuries than neighboring...Boulder, which has half the population of Denver.”—and does not have a breed-specific ban.

“Miami-Dade County...also enacted a ban 1989.”—and there have—“been no significant decrease in dog bite related injuries.”

Now, Mr. Speaker, I want to make it absolutely clear that I am not echoing the sentiments of the National Canine Research Council. I am not identifying myself with these statements. I am simply putting them into the record so you will see the other side of this argument, because from all the literature I have read there is absolutely no scientific basis for determining that a particular breed would be more dangerous than another breed.

Now, Mr. Speaker, let me just give you some information on studies that have been done in the United States. This is, “The Top 5 Dog Breeds Involved in Fatal Attacks on Humans in the United States & Canada”, and this is based on a study up to the year 2012, from 2006—2012, based on all the statistics of fatal attacks on humans in the United States and Canada. The pit bull was responsible for 45.4 per cent of the attacks; 2,235 attacks, resulting in 233 deaths. The Rottweiler—now I noticed that in this Bill the AG is telling us, as I told you, that the little French Bulldog is a class A dog that has been bred to kill people, but I do not see Rottweiler here. But in the United States between 2006 and 2012, 15.7 per cent of all fatal attacks involving humans that resulted in death were committed by Rottweilers; 495 attacks, 81 deaths. And it goes down—4.6 per cent committed

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

by the husky; 96 attacks by the husky dog resulting in 24 deaths, 87 attacks by German shepherds resulting in 14 deaths, and 71 attacks by bull mastiffs, also known as the Presa Canario, which I believe is the dog that the Attorney General was telling us about, the Presa Canario.

So here we have the five dog breeds involved in fatal attacks on humans over a six-year period: pit bull, Rottweiler, husky, German shepherd, bull mastiff. Let us go to the Government's list: Pit bull, Staffordshire terrier—*[Interruption]*

Hon. Member: What are you quoting there? Worldwide?

Mr. C. Imbert: It is American. It is in America. This is in America. Yeah, I am just dealing with some facts here. The Government's list:

“American Pit bull terrier

American Staffordshire terrier

Staffordshire bull terrier

Alano Español

American Bulldog

Boston Terrier

Bull Terrier

Cane Corso

Cordoba Fighting Dog

Dogo Argentino

Dogue de Bordeaux

English Bulldog

French Bulldog

Japanese Tosa

Perro de Presa Canario

Fila Brasileiro”

No Dobermann, no Rottweiler, no German shepherd, but the statistics will show that the—and I am going to quote some other statistics—the statistics will show that the second largest number of fatal attacks on humans in most countries is

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

caused by Rottweilers, Mr. Speaker. That is what the science shows you, Rottweilers, not little French bulldog that I showed you, not the Boston terrier, the little house dog, but Rottweilers.

So, you know, I really do not understand this Government. I really do not understand. I listened to the AG, but he did not know what he was talking about. He said these dogs that he had called out, the Boston terrier, the French bulldog and so on, these little dogs, have the same characteristics and the same physical shape, and they [*Laughter*] look like a pit bull or one of these other dogs, and the pit bull is bred to kill. So the scientific conclusion he was trying to draw, that because the pit bull is a dangerous dog that is bred to kill, these other dogs are, because they look like a pit bull. But when you go to the science, which are the dogs that are killing people? Pit bull, Rottweiler, husky, German shepherd, bull mastiff, Mr. Speaker. So that is the information from this article.

Now let us go to another article I have, “The Breeds most likely to kill”.

As at “May...2013, the USA death count from dogs in 2013 is 14.”

So in the first five months of 2013, 14 people were killed by dogs.

“Of these”—14—“13...were killed by pit bulls.”

Thirteen of the 14 were killed by pit bulls, and:

“In recent years, the dogs responsible for the bulk of the homicides are pit bulls and Rottweilers:”

This is a second scientific study which tells you the dog most likely to kill a human after a pit bull, just based on empirical data, is a Rottweiler. No Rottweiler here. So one has to ask the question: what is the basis for the Government’s decision to expand the list of dangerous dogs—? Mr. Speaker, what is going on here? They are carrying on meetings and all “kinda thing” over so.” [*Crosstalk*]
Mr. Speaker, could you control the Parliament for me please.

Mr. Speaker: Yeah, I am in control of the Parliament.

Mr. C. Imbert: Are you sure?

Mr. Speaker: No, but Members are listening to you of course. I will ask the Members and so on to pay attention to the hon. Member. Continue, hon. Member.

Mr. C. Imbert: Yeah. Mr. Speaker, I hear hon. Members, through you, say I am not making sense. I am not making sense, so the scientific data shows the Rottweiler is the number two cause of death, a few months, from attacks by dogs,

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

but the Rottweiler is not on this list, and the French bulldog, and the English bulldog, defined by the American Kennel Club as peaceful, kind, sweet, gentle, dogs with a gentle demeanour—the French bulldog. Our resident veterinarian parliamentarian, has decided that a French bulldog is more dangerous than a Rottweiler.

So, Mr. Speaker, let me go on:

“Studies indicate that pit bull-type dogs were involved in approximately a third of human dog bite related fatalities reported during the 12-year period from 1981 through 1992, and Rottweilers were responsible for about half of”—the dog bite related fatalities—“reported during the 4 years from 1993 through 1996....The data indicate that Rottweilers and pit bull-type dogs accounted for 67% of human”—dog bite related fatalities—“in the United States between 1997 and 1998.”

[MADAM DEPUTY SPEAKER *in the Chair*]

Now, Mr. Speaker—

Madam Deputy Speaker: Madam Deputy Speaker.

Mr. C. Imbert: Sorry, Madam Deputy Speaker. “You see allyuh confusing me in this place.” I think I said that earlier. [*Laughter*]

Madam Deputy Speaker, the seminal study that most scientific people refer to with respect to the types of dogs involved in fatal human attacks is a study called, “Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998”, and this paper has been cited in all the literature. It is even cited in this same article that I was reading from. It is: “Breeds of dogs involved in fatal human attacks in the United States between 1979 and 1998”, published in the *Journal Veterinary Medicine 2000*, the citation is 217.836.840, Madam Deputy Speaker.

Now if you go to this article, because this is the article that most people use as a point of departure to determine whether you should ban breed-specific legislation or not, and let us go to the results of the study:

The objective was—“To summarize breeds of dogs involved in fatal human attacks during a 20-year period and to assess policy implications.”

The—“Dogs for which”—a—“breed was reported involved in attacks on humans between 1979 and 1998...”

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

Those are the animals that were studied:

“that resulted in human dog bite-related fatalities.”

The procedure:

“Data for human”—dog bite related fatalities—“identified previously for the period of 1979 through 1996 were combined with human”—data—“newly identified for 1997 and 1998.”

And so they went.

“During 1997 and 1998, at least 27 people died of dog bite attacks (18 in 1997...9 in 1998). At least 25 breeds...have been involved in 238”—dog bite related fatalities—“during the past 20 years. Pit bull-type dogs and Rottweilers were involved in more than half of these deaths.”

The conclusion is, and this is important:

“Although fatal attacks on humans appear to be a breed-specific problem (pit bull-type dogs and Rottweilers), other breeds may bite and cause fatalities at higher rates. Because of difficulties inherent in determining a dog’s breed with certainty, enforcement of breed-specific ordinances raises constitutional and practical issues. Fatal attacks represent a small proportion of dog bite injuries to humans and, therefore, should not be the primary factor driving public policy concerning dangerous dogs.”

Now, Mr. Speaker—[*Interruption*]

Madam Deputy Speaker: Madam Deputy Speaker.

Mr. C. Imbert: Sorry, Madam Deputy Speaker. When you read all the literature, when you look at what has happened in Italy where they repealed their Dangerous Dogs Act, when you look at what is happening in the Netherlands where they also repealed their Dangerous Dogs Act, when you look at what is happening in the United Kingdom, where in the House of Lords there is a private Bill—it is not a private Bill, a Bill has been introduced to repeal the breed-specific legislation in the Dangerous Dogs Act in the UK. When you look at what is happening there, Madam Deputy Speaker, you have to drill down to try and understand what is really happening.

8.20 p.m.

One of the reasons Italy repealed its legislation—let me give you the information—in 2003, Italy passed breed-specific legislation. The then new law

was passed by emergency decree, following several highly-publicized dog attacks in Italy. A staggering 92 breeds of dogs were classed as threatening and placed on a dangerous dogs list. Restrictions included muzzling and leashing in public places and third party insurance. The pit bull terrier, Dobermann, bull mastiff, German shepherd, Rottweiler, Newfoundland border collie, St. Bernard and corgi were just some of the breeds classed as dangerous and subject to specific restrictions. This list of 92 dogs was later narrowed to include 17 breeds of dogs, but from April 2000, the list has been repealed altogether.

Under the new law, owners have both civil and criminal responsibility for any damage which is caused by their dogs. And that is the point; that is the point the Government is missing. You could pass any breed-specific legislation you want, you are going to make mistakes—and, I mean, boy does this Government make mistakes.

I have just made the point that they have included breeds here, described by the American Kennel Club as lovable, peaceful, kind, nice dogs, little dogs, and they have avoided dealing with dogs that the rest of world has classified as being dangerous, threatening or potentially dangerous. But the point is, Madam Deputy Speaker, in any legislation like this, the focus cannot be on the dog. The focus has to be on the owner. All of these countries that are repealing their dangerous dog law and moving to more progressive and efficient legislation, they are taking the focus away from the dog, the breed, and they are moving it towards the owner.

Dr. Griffith: That is what Anand said. [*Crosstalk*]

Mr. C. Imbert: Madam Deputy Speaker, do I have to put up with this crosstalk? Do I have to put up with this?

Madam Deputy Speaker: Please, please, allow the Member to speak in silence.

Mr. C. Imbert: And the Member—the soon to be non-Member for Toco—does not understand what he is saying. [*Laughter*]

Dr. Griffith: Just like your leader.

Madam Deputy Speaker: Please, allow the Member to speak in silence.

Mr. C. Imbert: Madam Deputy Speaker, it is ridiculous and absurd in the extreme. We passed a law; we debated a law here. At the time the law came, how many dogs were there—was it three?

Hon. Member: Four.

Mr. C. Imbert: No, initially. I think we added dogo Argentino at the request of the Member for Arouca/Maloney. They came here with a Dangerous Dog Bill—three—at the request of the Member for Arouca/Maloney and also the Member for Port of Spain North, they requested that it be increased to four, the dogo Argentino. Now this was not whimsical, because in the United Kingdom, before the moves to repeal their law entirely, four breeds of dogs: pit bull, dogo Argentino, fila brasileiro, Japanese tosa. “They doh have no 16 breeds of dogs—17—and 93 breeds of dogs, and look alike dogs.”

I mean, you are going to look at a little French bulldog, small like a poodle, and you are going to say that dog, the little French bulldog which you could hold in your hand, is so dangerous that it is a class A dog? That the owner of the French bulldog or the Boston terrier—[*Interruption*] Mr. Speaker—Madam Deputy Speaker, I am going to have to ask you, could you kindly get them to stop talking.

Madam Deputy Speaker: Members, please, I am going to ask you for some silence, while the Member for Diego Martin North/East makes his contribution.

Member, I know you are very anxious to have me on this Chair. I realize that you have been referring to me as “Mr. Speaker” all the time.

Mr. C. Imbert: They are confusing me, Madam Deputy Speaker.

Madam Deputy Speaker: Continue, continue, Member.

Mr. C. Imbert: Who knows, that might be coming. [*Laughter*]

But the fact of the matter is, Madam Deputy Speaker, look at what this Government has done. You came here with a Dog Control Bill last year. They had three breeds, add one, based on logic and common sense and science and data—empirical data. Where is the empirical data to tell us that the English bulldog, the French bulldog and the Boston terrier are killing and mauling and tearing people to shreds all over the world? Where is the data to support that? Where is the data to support the assertion that the French bulldog is just the American pit bull terrier in another form? Where is the data to support that? There is none. There is no scientific data to support that.

The focus of this legislation is to define dogs as dangerous—[*Interruption*] no, I am not saying put it in at all—define 16 dogs, an arbitrary list, a completely arbitrary list dreamt up in somebody’s imagination. These 16 dogs are deadly, dangerous animals. They are like wolves; they are just waiting to pounce on people. But the statistics tell us that there are other breeds of dogs, based on

empirical evidence, that are far more likely to bite people and far more likely to cause a dog bite related fatality. But let me move on—[*Interruption*] Members—[*Laughter*]

In Italy, Madam Deputy Speaker, a register of dogs will be compiled, and these are dogs that are considered to be potentially high risk, and the dogs would need to be muzzled in public places. That is how they are dealing with it. So you are dealing with the control of the dog. You are dealing with the way the owner controls the dog and protects the public from the dog, not the dog itself.

You could do all of this, you could ban these 16 dogs, including the four or five species that are not considered to be dangerous by anybody, except some little fringe group, you could ban those dogs and leave out all the other categories of dogs, and the following day after you pass this law, one of the other category of dogs kills somebody. What are you going to do? The Minister is going to come to the Parliament and pass an order, and then put some other variety of dog on the list, and then the following day some other dog kills somebody, you come and you put another dog on the list—you are completely missing the point. The whole world is moving away from breed-specific legislation. They are moving towards dealing with owners of dogs.

Madam Deputy Speaker, let me digress. I heard the Attorney General say that based on representations from the veterinary surgeons they are repealing section 7(18) of the Dog Control Act. What does subsection (18) of the Dog Control Act that was passed in this Parliament tell us? What does it tell us? They are repealing subsection (18) of section 7. What does it say, Madam Deputy Speaker, what does it tell us? It tells us:

“Where a veterinary surgeon issues a certificate pursuant to subsection (5)(a)(iv) or section 6(3) which he knows or believes to be false or does not believe to be true, he commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.”

So that was in the Bill, that if a vet issues a certificate in accordance with section 6 or in accordance with subsection (5)(a)(iv), he would be guilty of an offence and liable to a fine of \$50,000. [*Crosstalk*]

Madam Deputy Speaker, what does section 6(3) of the Bill say? [*Crosstalk and interruption*] Madam Deputy Speaker, what is going on?

Dr. Khan: They have dinner. Tell them you have dinner.

Mr. C. Imbert: Everything is a joke for you?

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

Madam Deputy Speaker: Please.

Hon. Member: No, no, no.

Mr. C. Imbert: “Is a joke?” This is what is going on in here, Madam Deputy Speaker?

Madam Deputy Speaker: Members, Members, Members, please; allow the Member to speak in silence. Member for Diego Martin North/East, you may continue.

Dr. Gopeesingh: You are not gracious? [*Crosstalk*]

Mr. C. Imbert: So everything is a joke for you all? “Yuh passing bad law every day. Every hour on de hour yuh passing bad legislation.” [*Desk thumping*] Your LRC is dysfunctional. It is the absent Member for St. Augustine’s responsibility, as Chairman of the Legislative Review Committee, to look at that defective nurses Bill that we debated a little earlier, to look at this deficient Dog Control Bill amendment, to look at that ridiculous Bail (Amdt.) Bill and to point out to the Government the foolhardy path on which they are trodding. But this Government does not care; it just does not care.

Your Legislative Review Committee does not function. The Chairman of your committee is absent or incompetent, and all of the Government has no interest in what they are doing. All they are doing is enacting legislation that is defective. It is faulty; it is not properly thought through. There is no intellectual content. You do not know what you are doing, but you are just going on regardless.

Thank God that in about 14 months from now the population will deal with that situation, so we could have a restoration of order in this country—[*Desk thumping*]—a restoration of order.

Here we have a situation, a Cabinet Minister, the Member of Parliament for Caroni Central, a veterinary surgeon—a Cabinet Minister—decides that a vet who certifies that a dog is a class A dog falsely, knowing that certificate to be false, should not be subjected to any penalty. That is what the AG said. The AG said on consultation with his colleague—[*Interruption*]

Dr. Ramadharsingh: Madam Deputy Speaker, 36(5). [*Crosstalk*]

Madam Deputy Speaker: Member, you may continue.

Mr. C. Imbert: Thank you, of course.

Let me repeat what the Attorney General said, that after consultation with his colleague, the Member for Caroni Central—the only veterinary surgeon in the

Parliament—he decided to delete subsection (18) from section 7 of the Dog Control Act. And what does subsection (18) says? [*Crosstalk*] That is what the Attorney General said. After consultation with his colleague—[*Interruption*]

Dr. Ramadharsingh: Madam Deputy Speaker, the Attorney General said after consultation with the Veterinary Association.

Mr. C. Imbert: No, no, no; you, you; he said you. He said you.

Dr. Ramadharsingh: There are other areas where he mentioned my name. [*Crosstalk*]

Miss Mc Donald: And he turned around and watched you.

Madam Deputy Speaker: Member, Member, Members, please, please, please. Member for Caroni Central, I know that you will be coming up next. I want to ask you to take some notes, and in your contribution you will be able to address some of the matters raised by the Member for Diego Martin North/East. You may continue, Member.

Mr. C. Imbert: Yes, Madam Deputy Speaker. That was not the only section that the Attorney General said he was assisted by the Member for Caroni Central, you know. He also said that the Member for Caroni Central, in addition to the lady whose name he mentioned, assisted him in determining these 16 breeds of very dangerous dogs, including the English bulldog, the French bulldog and the Boston terrier. He said that he relied upon his colleague, the Member for Caroni Central, for that too. [*Laughter*] But let us go to this specific clause.

We are dealing with a situation where a veterinary surgeon, a medical practitioner, issues a certificate which he knows or believes to be false or does not believe to be true. In the current law, he commits an offence and is liable on summary conviction to a fine of \$50,000, and that has been deleted, based on representations.

Let us see what section 6(3) of the Dog Control Act had to say, because section 6(3) is where the mischief can be found:

“In order to ensure compliance with this Act, the Ministry may require a veterinary surgeon to certify promptly in writing, the type of a dog.”

So 6(3) is the core of this legislation where, in order to determine whether a person is guilty of the offence of having a class A dog on their premises that is not licensed, that is not insured, as the case may be, in order to determine whether that person is guilty of that offence—which carries with it severe penalties—the Minister or the Ministry will require a vet to establish the type of dog in question.

8.35 p.m.

What does subsection 7(18) tell us, that in the original law once a vet was required to produce a certificate saying yes or no, because this dog may have killed someone, so you go to the vet and you say, “Tell us what kind of dog that is”, and according to section 6(3) the veterinary surgeon is required to produce a certificate saying yes, it is a class A dog; no, it is not a class A dog. And based on that certificate will determine whether the person is charged, whether the person will get away; whether the person is subject to some kind of sanction under the law. But the protection for the public was that if the veterinary surgeon did that knowing that what he was doing was not true, was false, in other words, he is setting up somebody, there was a penalty of \$50,000, but according to the Attorney General, based on consultation with his colleague and others he decided to take that out.

So, how are we going to administer section 6(3) of the Act now? Now that the whole Act rests upon a certificate—if a medical practitioner, a doctor, gives a medical certificate and knows that it is false, and it is proven in a court that when he issued that certificate he knew that it was false, he could be struck off the register, he could be prosecuted under our criminal laws. What is so special in this case that where you have a situation where a vet knowingly falsely certifies that a dog is a class A dog or is not, as the case may be, that he is not going to be subject to a legal sanction or he is going to be subject to self-regulation? That the only sanction he will face when he puts somebody else in jeopardy because he did not tell the truth is he will be subject to disciplinary proceedings from his organization.

What kind of insider trading is that? That is not what we would expect in a society that has a respect for the rights and freedoms of individuals. And the AG is not here but he really has to come and explain that, because I would like to know how you are going to enforce now section 6(3). Because section 6(3) requires the vet to certify the type of dog, but there is no sanction associated with it at all. So whether he is right, whether he is wrong, whether he tells the truth, whether he lies, whether he is in a conspiracy to set up somebody it does not matter; there is no penalty associated with it. This is what I mean by the kind of laws they are passing in this country, Madam Deputy Speaker. They are just pandering to interest groups.

Now it is nice to have good relationships with interest groups. Nothing is wrong with that! In fact, that is what you should do. It is to be encouraged that you should consult with the professional groups and the professional

organizations and get their views and rely upon them as a learned society and so on. That is what we should do! But you cannot pander to them just because they come and tell you that they do not want that, you take it out and there is nothing in the legislation now to protect an innocent citizen who is subject to a false certificate from a vet who has decided for whatever reason, whether in a conspiracy or acting on his own, that he is going to set up somebody, or lie, or present a false certificate knowing it to be false.

Madam Deputy Speaker, I am calling on this Government to look at that very, very carefully. This is important, and you may want to reduce the sanction, you may want to look at it, but, “nah”, you cannot take it out, because the entire law revolves around this certificate that comes from a vet as to whether a dog is a class A dog or not.

But, let us also go to the next section which the AG told us, again, based on representations from his colleague and representations from other people in the profession, they have decided to repeal section 24 and substitute the following section:

“Where a veterinary surgeon keeps a class A dog in a professional capacity for the purposes of—

- (a) administering medical treatment to the dog; or
- (b) compliance with this Act,

he shall not be liable for any damage caused by that dog.”

Again, we are told by the Attorney General this is based on a request coming from the profession. So, if a vet has an animal hospital and he has dangerous dogs in that place he is not liable for any damage caused by that dog.

Now, Madam Deputy Speaker, that is ridiculous. That is absolutely ridiculous. Where is the requirement if a dangerous dog, if a pit bull—the Attorney General told us how dangerous pit bulls were. I have just read out information telling you that, empirically, because they said scientifically it is not so, but empirically, pit bulls are responsible for the vast majority of fatal dog attacks in the United States, and I am sure all over the world unless there are other types of dogs in other parts of the world.

So you have a veterinary surgeon who is treating maybe five, six pit bull terriers at one time, and there is no requirement under this law if those pit bulls get away, if the vet’s place is not secured, if it does not have proper gates and

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

locks and barricades, no security. There is no requirement under this law for the veterinary surgeon to keep these dogs in a secure environment, because, according to this Bill, the vet will not be liable for any damage caused by that dog. So, the dog could get away and bite somebody, tear off their arm and the vet will not be liable because it is based on representation from the profession to the Attorney General. This is absolutely ridiculous.

If a vet is keeping dangerous dogs on his premises, why should he not be made to comply with minimum standards? Because, you see, I do not want to confuse anybody, you know. The original policy where we had these four breeds of dogs was the correct policy. Where you had the pit bull, you had the Dogo Argentino, you had the Fila Brasileiro, and you had the Japanese Tosa. That was the correct policy. Because empirically when you go around the world you would see there is a preponderance of empirical evidence that tells you that these four breeds are associated with the majority of fatal dog attacks.

So, I am in support of maintaining a prohibition of some type on these four dogs. I am completely opposed to this ridiculous expanded list of 16 [*Desk thumping*] because on this list of 16 are lap dogs, house dogs, pets, friendly nice little dogs, and on this list of 16 are not the other dogs that empirically, all over the world especially in the United States where a lot of the research has been done, have been responsible for fatal dog attacks like the Rottweiler, like the German Shepherd and so on, Madam Deputy Speaker. And there is absolutely no justification for putting the French bulldog on the list and leaving out the Rottweiler.

So, my advice to the Government, it is far better to creep before you run, because one of the problems that happened in Italy—[*Interruption*]

Madam Deputy Speaker: Member. Hon. Members, the speaking time of the hon. Member for Diego Martin North/East has expired.

Motion made: That the hon. Member's speaking time be extended by 30 minutes. [*Miss M. Mc Donald*]

Question put and agreed to.

Mr. C. Imbert: Yes, Madam Deputy Speaker. [*Desk thumping*] Madam Deputy Speaker, I want to tell you flatly, I cannot support this ridiculous list of 16 dogs. There are things in this Bill which are in response to points made in this House, in the other place, interest groups, that make a lot of sense. Quite a few of the amendments that are being proposed by the Attorney General are sensible and I support them.

For example, Madam Deputy Speaker, I support the correction of the anomaly with the insurance policy, where you have to be approved for the licence first before you could get the insurance. It is a catch-22 chicken and egg situation. I support that. That is certainly tightening up. And I support all of the provisions which allow persons who are willing to care for dogs and persons who are willing to comply with the requirements in the legislation, in terms of the kennels, in terms of training, in terms of all the security measures associated with keeping dangerous dogs, because what the amendments do, instead of all these dogs being abandoned all over the country, which was one of the problems that we had in the debate previously. Because it was a haphazard, slingshot kind of approach to legislation, you would have a situation where people were just abandoning these so-called dangerous dogs all over the country.

Now, if a dog is seized from a person because they are not keeping the dog in secure premises, that dog can be given to someone else who is compliant with the legislation or given to a society or an association that is formed for the purpose of taking care of dogs and so on. So, that is a significant improvement.

So, it is not to say that we on this side do not support several of the measures inside of here, because several of the measures are worthy of support. But I cannot support these ridiculous provisions that I just pointed to. I cannot support a situation where a vet who may have no security at his place—none!—just let the dog run wild, and the dog gets out and bites somebody, that that vet is not liable for any—certainly the same standards or similar standards must apply to a situation where these dogs are being kept by the veterinary professional.

Certainly, I cannot agree to a situation where a vet gives a false certificate, that is a criminal offence, and this Government has decided that they are going to ease them up and let them be subject to internal controls and self-regulation and disciplinary sanctions. There is no way I could agree with that, Madam Deputy Speaker.

Let me go on to what happened in Italy:

“...vets will...compiling a register of...dogs who they”—think—“may be potentially high risk, and”—these dogs will need to be—“muzzled in public”—places.

Dogs in urban areas would be required to be kept on a lead, owners will also need to carry a muzzle on them in case it is needed. And as I said before, the

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

Undersecretary for Health in Italy indicated in their opinion in Italy that there was no scientific foundation for the existence of what is called a dangerous dog.

Let us move on, Madam Deputy Speaker. *[Interruption]*

“A study published by the *Journal of Animal and Veterinary Advances* found that owner behavior”—and this is the point I am driving at—“has a direct impact on dog aggression and personality.”

You see in these countries what they are doing now is you must keep your dog on a leash; you must muzzle your dog. You are carrying your dog outside and—as the Attorney General said, “you shook it on somebody”. I mean, this is wrong, and when you look at what is being done in other countries, they are legislating this. You want to take your dog outside, put it on a leash, put a muzzle on the dog, if required. But let me go back to this:

“A study published by the *Journal of Animal and Veterinary Advances* found that owner behavior has a direct impact on dog aggression and personality. The study of approximately 50 purebred breeds concluded that the time an owner spent caring for and training a dog is inversely correlated to the level of aggressive behavior the dog exhibits.”

And that was on a paper called *Factors Links to Dominance Aggression in Dogs*, *Journal of Animal and Veterinary Advances* 336-342, 2009.

“...Director of Denver Animal Care and Control, stated in a 2006 interview”—in Arizona—“that the ban on ‘pit bulls’ did not decrease ownership of the breeds in the community. A study of the numbers over a six-year period showed that the number of ‘pit bulls’ seized and impounded”—*[Laughter]* in Arizona—“increased by...800 percent.”

And this is the title of the article in the *Arizona Daily Star*, “Dangerous breed ban in Denver yields few clear results”.

“A number of the breeds commonly placed on banned lists, including...Terriers, Rottweilers, and German Shepherds”—and so on, however, these dogs—“are used as therapy dogs, search-and-rescue dogs, police...dogs, and service dogs for the disabled.”

The point is, if a disabled person has a dog, how come that dog is not a dangerous dog? Because in this legislation you are allowing disabled people, you know, vision-impaired people to have a dog. So, why is the dog that is being used

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

by the vision-impaired person anymore safer than the dog that is being used by the sighted person? You see the inconsistency, Madam Deputy Speaker?

So, they are saying that a dog that is with a disabled person is going to be a peaceful, docile dog, but a dog that is with an abled person is going to be an aggressive dangerous—same dog, same dog—[*Interruption*]

Dr. Browne: A security dog.

Mr. C. Imbert: A security dog that is with a security guard is not going to attack anybody, but the same type of dog, a German Shepherd, a Rottweiler, et cetera, that is with an ordinary member of the public is going to attack somebody.

8.50 p.m.

It does not make any sense, and that is why the world has moved away from this breed-specific legislation and moved to the control of the behaviour of the owner of the dog. And let me go to another bit of research, Madam Deputy Speaker, which gives us some insight into dog behaviour. I am reading from an article written by a lady called Karen Delise. It is called “The Pit Bull Placebo: The Media Myths and Politics of Canine Aggression”. She makes this point, and it is common sense.

“The problem with guard dogs is that when the owner is not present, the dogs operate solely from a canine perspective...” [*Interruption*]

Madam Deputy Speaker—“go and sit in your seat, nuh!” Let me go back. [*Interruption*]

Mr. Cadiz: Repeat everything you just said for the last—

Mr. C. Imbert: “The problem with guard dogs”—including dogs that guard coffins—“is that when the owner is not present, the dogs operate solely from a canine perspective as to what constitutes threatening behaviour. The child approaching perilously close to the dog’s food bowl is a potential robbery, the woman entering a chained dog’s space is a home invasion, and a boy retrieving a ball into a fenced yard is a trespasser. The dogs may be taking appropriate actions from a canine point of view but are making serious and...unforgivable errors in judgment from a human perspective.”

Let me go back over this. Dogs are animals, Madam Deputy Speaker, and they act on instinct, and they act on their own behaviour, their own learned behaviour and the point that is made here is that the child approaching the dog’s food bowl is no

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

longer a child; is a potential thief stealing the dog's food. The woman entering the chained dog's space is a home invasion; the boy retrieving the ball from a yard is a trespasser.

So the dog, because the owner is not present—and this condition that is being described in this paper is based on a situation where the owner is not present. When the owner is there, the owner can control the dog, so the owner can tell the dog to sit, stop and so on, so it will not attack the child; it will not attack the woman, and so on.

But all of this takes us back to dealing with dog owners rather than trying to ban specific breeds of dogs, and the point I am making is that this legislation is going to fail; it is going to fail terribly, absolutely, because there is another point of view that I think also makes a lot of sense. Breed-specific legislation does:

“not decrease the appeal of owning dogs with a popular reputation...”

So you ban the pit bull. That is not going to reduce the appeal of owning a pit bull. Why do people own pit bulls? Why do they own these dogs that display aggressive tendencies, Madam Deputy Speaker?

So I repeat:

“...they do not decrease the appeal of owning dogs with a popular reputation and persistent media portrayal as aggressive. Some people seek out such dogs for protection...some for fostering a macho image, and some simply for financial gain by breeding”—dogs—“to sell to people with any of these motives. Banning specific breed(s) does nothing to deter people from satisfying these motives, as all people so motivated need do is shift their attention to another breed, and then selectively breed and raise the dogs for elevated levels of aggression and tendency to bite hard enough to injure.”

This behaviour-related breeding can be accomplished with any genetic line within a breed in a few years. In fact, a follow up to the breed fatality study revealed an entirely different composition of breeds involved in fatal attacks in the decade immediately preceding the period covered by the study.

The point is, when they decide that “pit bull bad”—which it is; Staffordshire terrier bad—which we are not sure; Alano Español bad—well who knows; American bulldog bad—not clear on that one; Boston terrier bad—not bad at all; Cane Corso, whatever that is; Cordoba fighting dog—well that sounds like a bad dog; Dogo Argentino; Dogue de Bordeaux; English bulldog—bad, although it is a nice house dog; French bulldog is a terrible dog although it is a nice little lap dog;

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

Japanese tosa; Perro de Presa Canario and Fila Brasileiro—“decide all ah them bad, so yuh call dem” class A and you have to now put a microchip and you have to secure your premises, and you have to get a licence, and you have to get insurance, and “tra la la, and tra la lee.”

You know what they will do? They will start to cross breed and train Rottweilers, Alsatians, German shepherds and other breeds of dogs that are not on this list, Madam Deputy Speaker, for elevated levels of aggression and hostility. And when will it end? When will it end? Because this legislation is focused on the breed; it is not focused on the behaviour of the owner. So this legislation, just like in Italy, just like in Holland, just like in England, just like in the United States—this legislation will be a colossal failure—a colossal failure.

After they run all up and down Trinidad and Tobago looking for French bulldog, going in all “little old lady house” and looking for the little dog “dey does put on dey lap” and say, “Class A, and we banning that; microchip for you”; all up and down Trinidad and Tobago for the next 10 years, trying to outlaw this ridiculous list of dogs. While all of that is going on, the criminals among us will be breeding other breeds of dogs which will be more aggressive and more dangerous.

So there is no way I could support this legislation. This legislation is foolish; it is foolish! And I am asking the Government, firstly, you must not pander to interest groups. You have destroyed the core intent of this legislation—*[Interruption]*

Hon. Ramlogan SC: Do not consult.

Mr. C. Imbert: You have destroyed the—“Ay, you come back? You come back?”

Hon. Ramlogan SC: Long time.

Mr. C. Imbert: Yeah, well when I was talking about you taking away judicial discretion, you “tell me I pandering” to the judges. So I could pander and you “doh” pander? Nonsense!

But Madam Deputy Speaker, now that the AG is back, what is your reasoning for repealing subsection (18) of section 7 of the Act? Subsection (18) of section 7 makes it a criminal offence for a veterinary surgeon to falsely issue a false certificate knowing it to be false, in accordance with section 6(3) of the Act or subsection (5)(a)(iv), I believe.

Dog Control (Amdt.) Bill, 2014
[MR. IMBERT]

Friday, February 07, 2014

What is your reasoning? I heard you talk about it will be subject to self-regulation and internal controls. Nonsense! Let me read section 6(3) of the Act for you. Section 6(3) of the Act states that:

“...the Ministry”—and I assume you are correcting that to Minister—“may require a”—vet to classify—“the type of a dog.”—in compliance with the Act.

AG, so section 6(3) of the Act says that the Minister is going to require a vet to classify the type of a dog and the whole—[*Interruption*] Attorney General. Madam Deputy Speaker, through you, Attorney General, the whole Act revolves around the classification of the dog. All the penalties with respect to a class A dog: not keeping it in proper premises; not having [Interruption] No. In your Dog Control Act, the existing law, if the vet falsely certifies that it is a class A dog. Now that can be done for two reasons: one, to let somebody get away, or to set up somebody. Because why is a vet going to be falsely certifying that this is a class A dog? Either in a conspiracy with others to set up somebody, or to allow somebody who has a class A dog to escape prosecution. Those are the only two reasons why a vet would falsely certify that a dog is a class A dog knowing it to be false because that is the wording of section 6(3) of the Dog Control Act.

So you have a situation where a vet is deliberately, falsely certifying that a dog is a class A dog and either subjecting somebody to prosecution or conspiring with them to avoid prosecution, and you, brilliant Attorney General, have decided that that is no longer a criminal offence and it is subject to self-regulation by the profession. That is ridiculous!

Hon. Ramlogan SC: It would be an offence elsewhere.

Mr. C. Imbert: Really? Well you tell me which other law it would be an offence under. The entire legislation revolves around the creation of that offence. The whole legislation revolves around certification by the competent authority, by the professional organization. The entire legislation flows from that; it flows from that.

As I was saying when you were not here, if a medical doctor did that; if a lawyer—a medical doctor—or any professional deliberately and falsely issues a certificate in breach of their professional oath—[*Interruption*]

Hon. Member: “Yuh said so already yuh know.”

Mr. C. Imbert: No, “ah tellin him”; he was not here.

Hon. Ramlogan SC: I was listening “tuh yuh, yuh know.”

Mr. C. Imbert: “Is all right”, okay. But let us extend it to other professions that take an oath and are required to produce certificates. An accountant—if an accountant produces a certificate knowing it to be false, under the relevant laws governing accountancy—prosecution! So what is so special in this case where the entire law revolves around that, you decide you will take it out?

The other point I have to repeat. Even though the Attorney General said he was listening, “ah ha tuh” repeat it because there are three aspects of this Bill that you need to look at—three. The list of dogs is ridiculous—absolutely ridiculous!

Hon. Ramlogan SC: I will run it by some vets again.

Mr. C. Imbert: Not just vets. Do your own research. Do your own research. It is easy.

Hon. Ramlogan SC: “Yuh have tuh learn tuh listen to experts too, eh.”

Mr. C. Imbert: That is quite all right. Well, I have read out all the learned articles for you, that the incidence of dog-related fatalities: pit bull and Rottweiler—Rottweiler not on your list. All the empirical evidence shows that the number two cause of death in the United States is from Rottweilers.

Hon. Ramlogan SC: “Yuh trying tuh get rid of de Rottweiler den.”

Mr. C. Imbert: I know, Madam Deputy Speaker—I know the Attorney General will take it as a joke—[*Interruption*]

Hon. Ramlogan SC: That is a matter of campaign strategy.

Mr. C. Imbert:—but the whole point is, I know that the Attorney General, the Government; I know that hon. Members opposite, have the tendency and the penchant—

Hon. Member: Penchant.

Mr. C. Imbert: Penchant. Penchant to be—[*Interruption*]

Hon. Ramlogan SC: “He cyar talk how he complexion look yuh know. They wouldn't vote for him.”

Mr. C. Imbert:—to be bullheaded, Madam Deputy Speaker. I know the Members opposite have the tendency to be bullheaded, but you do not have to be so doggedly stubborn!

Hon. Members: Ahhh! [*Desk thumping and laughter*]

Mrs. Mc Intosh: No pun intended. [*Laughter and crosstalk*]

Mr. C. Imbert: So you see that list? That list is ridiculous.

Hon. Ramlogan SC: No, I will look at it; I will look at it.

Mr. C. Imbert: Go with the four dogs, the original four dogs. Go with that. Start with that—[*Interruption*]

Hon. Ramlogan SC: “Yuh say dat four time now.”

Mr. C. Imbert: I will say it five times. [*Laughter*] Start with that and you could go from there.

Hon. Member: Adding Rottweiler.

Mr. C. Imbert: No, I am not adding anything because the focus has to be on dealing with the people who have control of the dog. And this is why I do not like this situation where you are avoiding, or excusing a vet from liability. If he keeps dogs in his premises and his premises are not secure; he does not have a proper lock on his gate.

Dr. Gopeesingh: But you go and give him a dog tomorrow.

Mr. C. Imbert: Well then do not accept it. You see, Madam Deputy Speaker, what kind of law is that? So you have a medical professional accepts five ferocious pit bulls for treatment, has no lock on his gate, has no secure premises, “leh de dog run wile; dey bite everybody in de village”, but according to you, in a situation like that, this vet has no liability. That is your amendment.

Hon. Ramlogan SC: That is not what the law says.

Mr. C. Imbert: Madam Deputy Speaker, let me repeat clause 19 of the Bill:

“The Act is amended by repealing section 24... .

Where a veterinary surgeon keeps a class A dog in a professional capacity for the purpose of—

administering medical treatment to the dog; or

compliance with this Act,

he shall not be liable for any damage caused by that dog.”

So he could let the dog run wild in “de street”. The dog caused—no, it is wrong.

Hon. Ramlogan SC: Which vet could do that?

Dog Control (Amdt.) Bill, 2014

Friday, February 07, 2014

Mr. C. Imbert: Madam Deputy Speaker, you “hear” what he said; which vet could do that? So you are telling me, all doctors are saints, all lawyers are saints, all members of every single professional class: all accountants, all—*[Interruption]*

Dr. Moonilal: Politicians.

Mr. C. Imbert: All politicians, we are all saints. We will never do anything that is irresponsible, negligent or wilful.

Hon. Ramlogan SC: What is your proposal?

Mrs. Mc Intosh: Not the Members on this side.

Mr. C. Imbert: No, you have to apply a standard of care to these vets. There must be a duty of care. It must be prescribed by legislation.

9.05 p.m.

I am asking the Attorney General, revisit that list, revisit this question of complete immunity for vets when they issue a false certificate and when they would recklessly allow dogs to go and injure somebody. Just look at those three things. Madam Deputy Speaker, I cannot speak for the other points because I am sure my colleagues have picked up other things. These are the three things that bothered me. I am sure my colleagues are going to talk about other things.

Hon. Ramlogan SC: “You take an hour to tell me dem three things, boy?”

Mr. C. Imbert: Yes, because they are very important. So, Madam Deputy Speaker, the AG has given an undertaking—I heard him. He can renege on it if he wants—that he is going to look at the immunity given to vets, and he is going to look at this ridiculous list of 16 dogs including—*[Interruption]*

Hon. Ramlogan SC: How many you want it to be?

Mr. C. Imbert: Leave the original four. Well, you see, you are complicating matters. You are making this thing unenforceable. Unenforceable! You are declaring a French bull dog to be a dangerous dog when it is not.

Hon. Ramlogan SC: I hope you come and talk in the Senate, eh.

Mr. C. Imbert: So, I am glad the AG has given a commitment to look at these things. We shall see if he is going to be true to his word, and we will wait and see what the Government does before we decide what we on this side will do with this piece of legislation.

I thank you, Madam Deputy Speaker. *[Desk thumping]*

Madam Deputy Speaker: The Member for Caroni Central

The Minister of the People and Social Development (Hon. Dr. Glenn Ramadharsingh): Thank you very much, Madam Deputy Speaker, and thank you for the opportunity to contribute on this very, very, very important Bill. After hearing the contribution of the Member for Diego Martin North/East, it is almost as if he forgot the reason why—*[Interruption]*

Mr. Imbert: “You cyar speak for vets, you take years to get your degree.”

Hon. Dr. G. Ramadharsingh: For you information, I completed my veterinary degree in five years, Sir. *[Desk thumping]* You keep on speaking untruth openly and vociferously as if you want to turn lies into truths, and that is very unfortunate that you would cloud your contribution with all these inaccuracies, you know, and throw it all over this Parliament—*[Interruption]*

Mr. Imbert: You know how many exam he fail?

Hon. Dr. G. Ramadharsingh:—and forgetting what is the *raison d’etre* of this Bill. And also, I mean, to be throwing comments for Members across the floor without any veracity at all is one thing, but to cast aspersions on an entire profession is another. *[Desk thumping]* Throughout his contribution, one gets the impression that he has some beef with the veterinary community, that he has some issue. Is it because he is affectionately referred to as a pompek in many quarters, with love?

Mr. Imbert: 36(5), Madam Deputy Speaker.

Mr. Sharma: No, no, no, that is with affection.

Mr. Imbert: Do not be ridiculous. 36(5), I did not call any of them a dog.

Madam Deputy Speaker: Member!

Mr. Imbert: Even though I wanted to, I did not.

Madam Deputy Speaker: Member, please!

Hon. Dr. G. Ramadharsingh: I will move on from there. I will move on from there. It is not a dangerous dog by any means, so I will move on from those distractions. Dogs, in fact, that is a compliment. Dogs are man’s best friend and, in fact, it is a great companion throughout history. History is replete with examples of man’s need for companionship and the companionship that dogs in fact give.

The Attorney General, it is not surprising that he gave a commitment to listen to the contributions of all Members. In fact, he went on to list that there were many consultations with ATTIC, the dog breeders, the kennel operators, the dog trainers, the Federation for Canine Registration of T&T, the Society for the Prevention of Cruelty to Animals, the Animal Welfare Network, the Trinidad and Tobago Veterinary Association, and we have a lot of thanks to the Law Reform Commission and Senior Counsel Samraj Harripaul, who undertook this very, very weighty exercise to have consultations but the consultation, Madam Speaker, does not stop here. We have dialogue, we have discussion in the Parliament, and there are so many clauses and there are so many points of views and learnings—global learning—that we can benefit now because this Dangerous Dogs Act was in fact passed in 2000 and since then the world has learnt a lot.

In fact, in Great Britain, the United Kingdom, they have learnt that although they passed a Dangerous Dogs Act—and this is from the report of Session 2012/13, Dog Control and Welfare on page 10—that the number of dog attacks demonstrates that the current legislation on dangerous dogs has comprehensively failed to protect the public from attacks by out of control dogs leading to horrific consequences, and we do agree responsible owner, responsible dog. So that is not something that we are in opposition to at all. But everyone in Trinidad and Tobago would see from time to time, the front pages of the newspapers literally smeared with blood and the carnage and wreckage of the human body. Innocent lives have been lost and it is the intention of the Government to deal with this matter once and for all.

The Attorney General came to the Lower House and we had debate, and we were able to hammer out a piece of legislation to take to the Upper House. In the Upper House, he was bombarded with requests for amendments. He took all of that on board. So the process of consultation continues in the Houses of Parliament, and that is no different from any of the countries that the Member for Diego Martin North/East quoted. In fact, at this point in time, the United Kingdom, it is already—the House of Lords has already agreed, and at the House of Commons there is serious debate going on because they want to come to terms with a solution for this problem that the previous legislation did not in fact deal with.

In Trinidad and Tobago when we see on August 25, 2011, a boy Jessie Boiselle, 11-year-old autistic boy from Clovis Trace, Maraval, found dead in a ravine at the back of his home after viciously mauled by a pit bull owned by his own family. According to the reports, Mr. Speaker, this boy was found with dog

Dog Control (Amdt.) Bill, 2014
[HON. DR. G. RAMADHARSINGH]

Friday, February 07, 2014

bites to his throat and other parts of his body. This is the *raison d'être*, this is the reason we have come here and we will take on board those well-thought-out comments and advice.

The way the Member continued and was almost in an attacking, menacing, growling manner, contributing to a debate where we are looking to safeguard the public interest. We do not want to get into any dog fight here over this piece of legislation. We want to come to an amicable resolution to a matter that concerns the public and the public interest. I was very proud of the work of the Members of this House, the last time, when we worked in the House of Parliament, in the Lower House, and the *Guardian* editorial the next day—not the next day, but a few days after, June 20, 2013 said:

“Dog bill rational and reasonable

There are dog associations and animal rights...advocate one or the other, fine or imprisonment. However, the jail term prospect must surely place even greater emphasis on the individual owner to practice higher levels of responsibility.”

And that is the thread that runs through our legislation, how to prevent these front pages as on April 04, 2012, in the *Guardian*, again, where a boy six was critical after being attacked by a pit bull. A six-year-old Jeremiah Harrypersad from Ashing Trace in Valencia, was playing in front of his own home—a child—when he was attacked by his neighbour’s pit bull. The pit bull lunged at him, threw him to the ground, pinned him to the ground and began biting him repeatedly on the neck causing severe life threatening injuries to this innocent boy.

May 16, 2012, “Neighbour’s pitbulls maul pregnant mom”. You know, I heard no sympathy, no empathy, no sort of human association with these tragedies from the Member who went on to quote academically from Italy, a totally different political system, different environment. He starts off with a quote in the UK and he ends up somewhere in Azerbaijan, and by the time he quotes he confuses you to think that he was talking about the UK.

As he tried to skilfully do, the Attorney General was saying he consulted with the Veterinary Association and he said what his talks were with them, and then he said, “It was very much in line with what the Member for Caroni Central told him.” Because after meeting with the association which he has to do professionally—because I am no longer actively involved in the profession—we had a discussion. I reflected and told him, “Well, that is the predominant view that is held in the profession.” The Member gets up and says, “The Member for Caroni

Central told him to do that.” I mean, this is disingenuous, it is inaccurate and it is falsification of what is said in this Parliament, but we will deal with that more when we get the *Hansard*.

“Housewife may lose leg after pitbull attack”, *Express*, January 07 2012. Sherry Ifill, a 48-year-old St. Madeleine woman attacked by five pit bulls. One of her legs may need to be amputated. May 10, 2011, “Deadly Dogs”. Denise Rackal of Indian Trail, in my constituency, was attacked and mauled by five pit bulls shortly after the animals escaped from the home of their owner. The dogs joined and began biting into different parts of her body as she writhed on the ground in agony and fought desperately for her life. Tragically, the mother of two succumbed to multiple bite and rip wounds. This woman died.

You could go on. December 17, 2012, Karen Lara of Santa Rosa—and you notice there is no discrimination geographically here. In all parts of Trinidad and Tobago, whether rural or urban, we have a problem that we need to confront. We have to deal with this problem as a society and we cannot deal with it by being overly political about this issue. This is one of the issues that goes beyond the cut and thrust of electoral politics in Trinidad and Tobago. This is about saving the next six-year-old, this is about saving the next pregnant mother, this is about saving the next child that [*Desk thumping*] is just playing in the front of their yard, this is about saving the unsuspecting citizen from the savagery and brutality of a dog that is out of control and an owner that has not taken full responsibility to care and to keep this dog in proper working order.

I could go on and on with the gripping stories that we have seen, the Facebook postings that the population has been exposed to, and I can tell you that the population of Trinidad and Tobago is waiting to exhale, waiting for all the stakeholders in the society to come together and say, “Let us get a local solution to a local problem.” We do not have to copy everything. We will copy that which works and we will look at our existing realities. We will look at our statistical realities, what is the empirical data, and we will deal with this problem that is confronting our nation, that is keeping us almost at threat at any moment from an owner that is irresponsible. That is the work of our Parliament.

ADJOURNMENT

The Minister of Housing and Urban Development (Hon. Dr. Roodal Moonilal): Madam Deputy Speaker, I beg to move that this House do now adjourn to Friday, February 14,—Valentine’s Day—2014. Madam Deputy Speaker, I beg to move that this House do now adjourn to Friday, February 14, 2014 at 10.00 a.m.—[*Interruption*]

Adjournment

Friday, February 07, 2014

Mr. Imbert: At 10.00 a.m.?

Hon. Dr. R. Moonilal: At 10.00 a.m. I repeat, and on that day to serve notice that it is the intention of the Government to debate the Standing Orders Report of the Standing Orders Committee that has been laid in the House, to continue and complete debate on the Midwives and Nurses Registration (Amdt.) Bill, and to continue and complete the debate on the matter before us now, the Dog Control (Amdt.) Bill, next Friday at 10.00 a.m. in the morning.

Madam Deputy Speaker, we also have a Motion on the Adjournment this evening. I beg to move. [*Crosstalk*]

Madam Deputy Speaker, bearing in mind that the Member for Port of Spain South is not in her seat at this time, I beg to move that the House do now adjourn, and with the consensus of Members opposite we will do the Motion on the Adjournment next week at the next sitting since the Member for Port of Spain South is not in the House at this time.

I beg to move that the House now adjourn to next Friday, February 14, 2014 at 10.00 a.m. in the morning.

Thank you.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.22 p.m.