

Leave of Absence

Thursday, September 17, 1998

SENATE

Thursday, September 17, 1998

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Carol Cuffy-Dowlat from sittings of the Senate from September 16—22, 1998.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I understand that a temporary appointment is to be made but we have not yet received the instrument of appointment. I would like your permission to revert to this item later on in the proceedings.

TRINBAGO UNIFIED CALYPSONIANS' ORGANISATION BILL

Special Select Committee Report Presentation

Sen. Agnes Williams: Mr. President, I have the pleasure to present the report of the Special Select Committee appointed to consider and report on a Bill for the incorporation of the Trinbago Unified Calypsonians' Organisation and for matters incidental thereto.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the Senate to deal with "Bills Second Reading" under "Private Business" and then proceed to Motion No. 1 under "Government Business" followed by Bills Second Reading.

Agreed to.

ABUNDANT LIFE MINISTRIES (INC'N.) BILL

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I beg to move,

That a Bill for the incorporation of the Abundant Life Ministries and for matters incidental thereto, be now read a second time.

Mr. President, a Special Select Committee of the House of Representatives was appointed to consider and report on the Bill. The Committee's Report was

*Clause 6.**House of Representatives amendment read as follows:*

- 6(1) A. Delete the words “suspected or” in paragraph (a)
- B. Delete all the words after the words “police officer” where they first occur and insert the words “together with any supporting evidence that may have been submitted by the Tribunal, and the police officer shall apply for a provisional warrant of arrest for the arrest of that person”.
- (2) A. Delete the word “shall” in line 2 and substitute the word “may”.
- B. Delete the words “suspected or” in paragraph (a).
- C. Delete the full stop at the end of paragraph (c) and substitute a comma, and insert in the line immediately below the following words:
- “and on consideration of any other evidence as in the opinion of the Magistrate, justifies the issue of the warrant”.
- (3) Delete the words “eighteen” and “forty” and substitute the words “ten” and “twenty-eight”, respectively.

Mr. Maharaj: Mr. President, I beg to move that this Senate doth agree with the House of Representatives in the said amendment.

*Question proposed.**Question put and agreed to.**Clause 8.**House of Representatives amendment read as follows:*

8

Renumber as clause (1) and insert immediately after subclause (1), the following subclause:

“(2) This section also applies to a person who has been remanded in custody on a provisional warrant, save that the provisional warrant shall be discharged from the time of the issue of the warrant for this arrest.

(3) The Magistrate shall issue a warrant under this section where he is satisfied that the evidence before him justifies the issue of the warrant.”

Delete the word “direct” and substitute the words “apply to”.

Mr. Maharaj: Mr. President, I beg to move, that this Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

New Clause 10A.

House of Representatives amendment read as follows:

New Clause 10A Insert after clause 10 the following new clause:

Consent order
for return

10A.(1) Where the return of any person is requested under this Part and such person is arrested in pursuance of a warrant issued under section 8, he may request the Attorney General to order his return without any proceedings before a Magistrate under section 11.

Form 4
Second Schedule

(2) Where the Attorney General consents to the request made by a person referred to under subsection (1), and is

satisfied that the person understands the consequences of the request, the Attorney General shall, without the proceedings referred to under section 11, and in the form set in form 4 in the Second Schedule, order such person to be committed to custody to be kept for the purposes of his surrender to the tribunal unless submitted to bail.

Form 5
Second Schedule

(3) At anytime after the Attorney General commits the person into custody shall, with the consent of such person, by warrant in the form set in Form 5 in the Second Schedule, order him to be surrendered to the tribunal.

(4) Where a person whose surrender has been ordered under subsection (2), withdraws his consent to the order before his departure from Trinidad and Tobago, he shall be brought as soon as practicable before a Magistrate for the purposes of proceedings under section 11, and thereupon shall be dealt with as if the attorney General had not made the order.

(5) The provisions of sections 15(2), (3), (4), (5), and 16(3), apply to the return of any person under this section unless the contrary is expressly requested by that person.

Mr. Maharaj: Mr. President, I beg to move that this Senate doth agree with the House of Representatives in the said amendments.

Question proposed.

Sen. Montano: Mr. President, as I get up for the first time this afternoon, let me welcome you back. The country breathes a sigh of relief. The new clause 10 is of some interest. We have not as yet had the benefit of hearing the Minister make any cases as to why this new clause is being inserted, how it is supposed to work or why it is being worded in this particular way, yet what is happening is that it seems that clause 10A is suggesting that if the subject of one of these requests for a return to the tribunal requests directly to the Attorney General that his return to the tribunal be made without any proceedings in front of a magistrate, the Attorney General, himself, can direct that the person be held or incarcerated until such time as he is actually handed over to the tribunal.

It seems to me to be a rather extraordinary state of affairs that the Attorney General would be the person to receive the request directly when, up until now, the person would have been brought in front of a magistrate. Why would he not simply ask the magistrate to immediately do away with this thing and get on with it? Why is the request being made to the Attorney General, and how is it that the Attorney General is making an order for the committal of the person? I find that to be an extraordinary state of affairs under any situation where, even though the person has waived his right to be in front of a magistrate, the Attorney General, by virtue of clause 10A(2) shall, without the proceedings referred to in section 11, order such person to be committed to custody. He is locking up the person directly. I find that to be an extraordinary state of affairs and we really had no explanation.

There were certainly other parts to it in clause 4, that at any point before he is actually handed over to the tribunal, he can withdraw his consent. I would certainly like to be told by the Attorney General how he is going to withdraw the consent and to whom it must be given, seeing that the Magistrates' Court has been vacated from the proceedings. I would like to know how it is going to happen.

Mr. Maharaj: Mr. President, I am very sorry. I thought the hon. Senator would have been familiar with what was happening within his party. As a matter of fact, one would recall that this Bill came to this honourable Senate and when it came here, the Opposition voted for this Bill and the provisions in it. At one time, it was mentioned that the power should not be given to the Attorney General, then it was pointed out that under the Extradition Act and other legislation, requests for extradition are made to the Attorney General.

I think it was Sen. Martin Daly who got up and said that we should not personalize these matters. This Bill was passed here, it then required a specified majority. When it went to the other place, the Opposition stated that it was not

even going to consider or vote for this Bill unless the Government decided it was going to rejoin the two human rights bodies; the Inter-American Commission on Human Rights and the United Nations Committee on Human Rights. Based on that, the Opposition was not prepared to support the Bill. As a result of that, if the Government had not considered the matter carefully, the Bill would have failed. What the Government did was look at the Bill and decided it would take the opportunity of ensuring that the Bill does not fail, but to put certain provisions and to ensure that although it is not the model which the international community, including the United Nations asked for, we would then have to put it in line with the Extradition Bill.

Mr. President, I am sure the hon. Senator would remember that when I presented this Bill last, I made it clear that this was not really extradition. Extradition is returning a fugitive as a result of a request from another country. So, it is one country returning a fugitive to another country. These two tribunals were set up by the United Nations Security Council in order to prosecute persons who were charged and who were wanted for committing acts of genocide, crimes against humanity and war crimes.

The United Nations Security Council, which included an United Nations Assembly, voted that each country in the world, which is part and parcel of the United Nations, would take steps to implement measures like these which we brought to the Parliament. We approved it here and in the other place, the Opposition refused to vote for it. This is merely copying the similar provision of section 11 of the Extradition Commonwealth and Foreign Territories Act, No. 36 1985, which was passed under the PNM administration and it, in effect, says that anybody, where a request has been made, can decide that he would want to consent to go back without having all these proceedings, and there is a mechanism for that consent to be given. If he wants to withdraw the consent, that is the mechanism for it.

I hope that will be satisfactory. In any event, if my friend reads section 11A, he will see that where the return of any person is requested under this part by a declared Commonwealth territory or declared foreign territory, and such person is arrested in pursuance of a warrant under section 10, such person may request the Attorney General to order his return without any proceedings before a Magistrate under section 12. Where the Attorney General consents to the request made by such person under subsection (1) and is satisfied that such persons understand the consequences of the request, the Attorney General shall, without any proceedings before any Magistrate under section 12 in the form set out in "Form 4" in the

Second Schedule, order such person to be committed into custody, there to be kept for the purpose of the return unless admitted to bail, and at any time thereafter, the Attorney General shall, with the consent of such person by warrant in the forms set out in "Form 5" in the Second Schedule, order him to return to the territory by which the request for his return was made.

When there is an extradition and the person wants to consent to go back and that consent has to be withdrawn, this is the procedure under section 11, and it is merely copying the same procedure because their party, in the other place, did not want to vote for this Bill.

Question put and agreed to.

Clause 11.

House amendment read as follows:

- 11(1) Delete the word "(6)" in line four and substitute the word "(8)".
- (5) A. Delete the word "not" in line one.
B. Delete the words "not" and "or" in paragraph (a).
C. Delete the word "not" in paragraph (b) and substitute for the word "warrant" the words "warrant; or".
D. Insert the following paragraph (c)—
“(c) that a *prima facie* case been made out against that person in respect of the tribunal offence for which he is charged or convicted by the tribunal”.

2.00 p.m.

- E. Renumber subclause (6) as subclause (8) and insert the following subclauses:
- '(6) For the purpose of proceedings under this section a Magistrate shall have like jurisdiction and powers as nearly as may be, including power to adjourn the case and meanwhile remand the person under the warrant either in custody or on bail as when the Magistrate is acting at a preliminary enquiry.

- (7) Where the Magistrate makes an Order under this section, he shall, on committing the person to await the warrant of the Attorney General for his surrender to the Tribunal, inform that person in ordinary language of this right to make application to the High Court for judicial review and shall forthwith give notice of the committal to the Attorney General".

Mr. Maharaj: Mr. President, I beg to move that the Senate doth agree with the House of Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 19.

House of Representatives amendment read as follows:

- "19 Delete all the words beginning with the word 'authorise' and ending with the word 'take' and substitute the words 'apply in writing to the Magistrate for the taking of'".

Mr. Maharaj: Mr. President, I beg to move that the Senate doth agree with the House of the Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 26.

House of Representatives amendment read as follows:

"Renumber subclauses (2) and (3) as (5) and (6), respectively, and insert after subclause (1), the following subclauses:

- (2) Where the Magistrate is satisfied, by proof on oath, that there is reasonable ground for believing that there is in any building, vessel, receptacle or place, any evidential material, he may, at any time issue a warrant under his hand, authorizing the police officer to search such building, vessel, receptacle or place for such evidential material and to seize and carry it before the Magistrate, to be dealt with for the purposes of an investigation or prosecution, as the case may be, under this Act.
- (3) Where any evidential material is seized and brought before any Magistrate, the Magistrate may detain or cause it to be detained, taking reasonable care that it is preserved for the purposes of the investigation or prosecution, as the case may be.

- (4) For the purposes of this section, 'evidential material' means evidence that may be related to a Tribunal offence".

Mr. Maharaj: Mr. President, I beg to move that the Senate doth agree with the House of the Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Clause 31.

House of Representatives amendment read as follows:

- "A. Delete the full stop at the end of subclause (1), substitute a comma therefor and insert in the next line the following words:

'If he is satisfied that -

- (c) the person against whom the order was made, appeared in the proceedings and if he did not do so, that he received notice of the proceedings in sufficient time to enable him to defend them;
- (d) any other person affected by the order was given the opportunity to show why an order should not be made;
- (e) the order is subject to appeal; and
- (f) enforcing the order in Trinidad and Tobago would not be contrary to the interests of justice".

- B. Renumber subclause (2) as (11) and insert new sub-clause (2) to (10) as follows:

'(2) The High Court may by Order (hereinafter referred to as a 'restraint order') prohibit any person from dealing with any property specified in a forfeiture order subject to such conditions and exceptions as may be specified in the Order.

- (3) An application for a restraint order shall be supported by an affidavit which may contain, unless the Court otherwise directs, statements of information or belief with the sources and grounds thereof.
- (4) A restraint order -
 - (a) may be made only on an application by the Director of Public Prosecutions;

- (b) may be made on an *ex parte* application to a judge in chambers; and
 - (c) shall provide for notice to be given to persons affected by the order.
- (5) A restraint order -
 - (a) may be discharged or varied in relation to any property; and
 - (b) shall be discharged on the conclusion of the proceedings or application question.
- (6) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (7) Where the High Court has made a restraint order, the court may at any time appoint a receiver -
 - (a) to take possession of any property that is subject to a forfeiture order property; and
 - (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed,subject to such exceptions and conditions as may be specified by the court, and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (8) For the purposes of this section, 'dealing with property held by any person' includes, without prejudice to the generality of the expression -
 - (a) where a debt is owed to that person, making a payment to any person in the reduction of the amount of the debt; and
 - (b) removing the property from Trinidad and Tobago.
- (9) Where the High Court has made a restraint order, a police officer may, for the purpose of preventing any realisable property being removed from Trinidad and Tobago, seize the property.

Whereas a request has been made to the Attorney General by or on behalf of.....for the surrender to the Tribunal of A.B. who is charged for [or who is convicted of] of the offence of

And whereas A.B. has requested the Attorney General to order his surrender without any proceedings before a Magistrate under section 11 of the International War Crimes Tribunal Act, 1997:

And Whereas the Attorney General consented to that request of A.B. and ordered A. B. to be committed to the said Jail/Prison on the day of ,19 , to await his surrender to.....

Now, therefore, the Attorney General hereby orders with the consent of A.B. that A.B. be surrendered to.....in respect of the offence for which he was committed to custody by the Attorney General.

Dated the day of , 19 .

September 07, 1998

Attorney General.

Delete the words 'suspected or accused of occurring in Forms 1 and 8 and substitute the words 'charged' with".

Mr. Maharaj: Mr. President, I beg to move that the Senate doth agree with the House of the Representatives in the said amendment.

Question proposed.

Question put and agreed to.

Mr. Maharaj: Mr. President, I want to make sure we dealt with the amendment in the Preamble. I have been assured of that but I just want it for the record, to be absolutely sure so the record would so reflect, because we are deleting it.

Mr. President: Yes it was dealt with.

ARRANGEMENT OF BUSINESS

Mr. President: Before we do "Bills Second Reading", we will revert to "Oath of Allegiance of a new Senator".

Agreed to.

SENATOR'S APPOINTMENT

Mr. President: I have received correspondence from His Excellency, the President, Arthur N. R. Robinson, as follows:

OATH OF ALLEGIANCE

By His Excellency Arthur N. R. Robinson, T. C., O. C. C., S. C., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

President.

TO: Mr. Dave Cowie

WHEREAS Senator Carol Cuffy-Dowlat is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, Dave Cowie, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Carol Cuffy-Dowlat.

Given under my Hand and Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 17th day of September, 1998.

Sen. D. Cowie took and subscribed the Oath of Allegiance as required by law.

INDICTABLE OFFENCES (PRELIMINARY ENQUIRY)**(AMDT.) (No. 2) BILL**

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr President I beg to move,

That a Bill to amend the Indictable Offences, (Preliminary Enquiry) Act, chap. 12.01, be now read a second time.

Do hon. Senators have a copy of the Bill?

Sen. Mark: It was circulated a long time ago.

Sen. Daly: On a point of order, is he speaking on this Bill?

2.15 p.m.

Hon. R. L. Maharaj: Mr. President, the purpose of this Bill is to try to redress some of the difficulties which have occurred when preliminary enquiries

were completed and the magistrates did not make certain notations on the proceedings, and also to put in place machinery to deal with the problem where a magistrate does not follow the required procedures.

There have been four cases of rape, shooting with intent, sacrilege, and of possession of narcotics for the purpose of trafficking within the last four months in which the High Court has quashed the indictments because the enquiring magistrate, in their view, has failed to comply with section 18 of the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01. Section 18 of the Act states:

“After the proceedings required by section 17 are completed—”

Section 17 deals with the magistrate asking the accused whether he wishes to give evidence.

“After the proceedings required by section 17 are completed, the Magistrate shall ask the accused person if he wishes to call any witnesses. Every witness called by the accused person who testifies to any fact relevant to the case shall be heard, and his deposition shall be taken, signed, and authenticated in the same manner as the deposition of a witness for the prosecution.”

Mr. President, for the Senators who do not know, a preliminary enquiry is an enquiry by the magistrate to determine whether a *prima facie* case has been made out by the prosecution or by the state against an accused person for an indictable offence. If a *prima facie* case is made out, the magistrate would commit the accused person for trial in the High Court; if such a case is not made out, the magistrate will discharge the person.

Since many people may be listening or looking at American television, the preliminary enquiry is what the British or we in Trinidad and Tobago, after a while, replaced the grand jury with. In the American system there is a grand jury which consists of men and women of the community who would determine whether a *prima facie* case is made out against a person. In Trinidad and Tobago, because of its history, *et cetera*, at one time we had a grand jury, but in Trinidad and Tobago, a magistrate is given the power to determine whether a case is made out against an accused.

At the preliminary enquiry, the state called its witnesses first and when the state closes its case, the magistrate must then inform the accused—now sometimes, after the state closes its case, an accused person or his lawyer would

make out a case that there is no case to answer and the magistrate can determine the case on that basis. But where such does not happen, the magistrate must then, under section 17, inform the accused person that he is entitled to give evidence on oath or remain silent. If he gives evidence, then it is taken down in the form of a deposition.

What is a deposition? A deposition is really a statement of his evidence under oath and he signs it and it is regarded as a deposition. It is the evidence that he gives and it is referred to as a deposition. So the evidence that is taken down is in the form of a deposition. It is what the witness actually says. It is not a paraphrasing, it is not a summary, it is what the witness actually says.

After this, the magistrate must then, under section 18, ask the accused person if he wishes to call any witness. If he calls witnesses, then their evidence is also taken down in the form of depositions. When that evidence is taken, that is the whole evidence from the state and the accused, the accused person could then also make a submission—even though he had made a submission before and it had failed—that on the totality of the evidence, the prosecution has not made out a case, either because the essential ingredients of the offence have not been established even by the evidence or he can submit through his lawyers that the evidence adduced has made the prosecution's case so manifestly unreliable that it will be unreasonable and unsafe for the magistrate to commit the accused to stand trial.

What has happened is that when the magistrate asks the accused person if he wishes to give evidence and he says no, the magistrate sometimes does not go through the other aspect of it, that is to say, to ask him if he wants to call

witnesses, and even if the magistrate asks that, he does not write down that he has asked that. What has happened is that some accused persons, through their lawyers—and we cannot blame the lawyers—have taken the point that where the magistrates have not recorded it, there must be a presumption that he did not do it and that since a criminal matter is on the basis of certainty, that the magistrate must discharge the accused.

Some of the High Court judges have adopted the ruling or position that the fact that the magistrate did not do it is of no consequence, because if the man says that he is not going to give evidence, then obviously he did not intend to call witnesses.

On the other hand, where some of the judges in the High Court have said no, it is fatal, and the enquiry is null and void. So one has two conflicting versions at the High Court level.

Now this Bill is not to reverse any of those decisions. This Bill tries to put a remedy in place that in the event that such an enquiry is held to be null and void, that there is machinery for the state to go to a judge or to the Court of Appeal to look at the depositions and to determine whether there should be an indictment. If that procedure is not in place, it would mean that every preliminary enquiry would have to be held over.

So that, there are over 300 preliminary enquiries which can be affected. Therefore, let me see if I could explain this so that Senators can understand. Let us say that today Mr. "A" is charged for rape and a preliminary enquiry was conducted by Magistrate "B". There is a committal—meaning that the magistrate found that there is a case—but the magistrate did not make the endorsement that I just talked about, and the matter goes to the High Court. At the High Court, Mr. "C", who is the lawyer for this gentleman, makes the point that the enquiry is null and void and, therefore, the indictment should be quashed.

The state, at the present time, under the existing law, cannot go with those depositions. A new preliminary enquiry has to be held. When that new preliminary enquiry is held, the witnesses have to be called over again, they have to be cross-examined again and there is no procedure for that deposition or anybody's written deposition to be put into evidence in the Magistrates' Courts.

So that, what this Bill tries to do is that in respect of those matters, any matter that comes about, whether now or any time in the future, the DPP can make an

application to the High Court or the Court of Appeal, the Court of Appeal can determine, on the basis of those depositions, whether an indictment should be filed. This is known as what is called a Voluntary Bill of Indictment. That exists now in Jamaica, the United Kingdom; it used to exist in Trinidad and Tobago. But in effect, what has happened is that it can only be sanctioned by either the High Court or the Court of Appeal. In other words, the DPP on his own cannot do it.

Now we have a similar provision when a magistrate discharges an accused person. Under the existing law, when a magistrate is conducting a preliminary enquiry, and the magistrate discharges an accused person, the state believes that the magistrate was wrong, there is no right of appeal. The DPP has a period of

time—I think it is three or six months, I cannot remember offhand—that he can go before a High Court judge and the High Court judge can review the evidence and determine whether to issue a warrant. Under the set-up, the court was asked to hold that a High Court judge must call in the lawyer. What the Court of Appeal has ruled in those circumstances, that there is discretion, and what happens now, the judge calls in the lawyer depending on the facts and circumstances of the case in order to hear the other side or sometimes he does not and he calls and a warrant is issued on the direction of the judge. So that is one set-up.

The other part of the Bill deals with the aspect of making it mandatory for the magistrate to endorse that he has said this, he has done that.

So, Mr. President, the source of the present problem therefore, is the failure of enquiring magistrates to record their compliance with section 18 of the Act, even where they may have informed the accused person of his right to call witnesses. As I said, sometimes the magistrate may not ask the accused person if he wishes to call any witness, because after the close of the prosecution's case, the accused person in most cases, merely informs the magistrate that he reserves his defence. Magistrates imply from that that he does not intend to call witnesses.

The High Court has pointed out that the absence of a written record in relation to section 18 means that in keeping with the general law, any doubt has to be resolved in favour of the accused person. The High Court, in four of the judgments, have ruled that the result is that the accused person is denied a major procedural safeguard that renders the indictment a nullity.

Sen. Rev. Teelucksingh: The magistrate's failure: does he consider it trivial, is it deliberate or is it out of ignorance? That same matter that you are deliberating on.

Sen. Daly: Can I ask a question while you are seated. Let us assume this Bill is passed and there is a breach of the new 17A and the new 17B, if I understand what you are saying, that breach will be covered by the new 25, so that 25 rectifies breaches of the old Act as well as the amendment?

Hon. R. L. Maharaj: Yes. Mr. President, in relation to the question posed by Sen. Daly, the new section 25 redresses the problem that would occur in the future and also any problem which would have occurred under the old Act.

In relation to the question which has been posed by Sen. Rev. Teelucksingh, it is very difficult for an Attorney General to know what is in a magistrate's mind. Mr. President, it has been the practice for magistrates to record these matters, but

what has happened over the last few years is that magistrates have not been recording them.

2.30 p.m.

Mr. President, one knows that it is very difficult for the executive arm of the state to dictate to magistrates what to do but, one believes what the Chief Justice spoke about yesterday, that there might be need for judicial education in some areas.

It has reached a situation where, if these things are not recorded and there is no procedure to redress some of these matters, the public's interest could be adversely affected. As Members know, sometimes if a preliminary inquiry has to be held over, one of the arguments could be, the witness is not available, he may have forgotten what had happened; he may not be prepared to testify again; or the witness may be dead. The other aspect of it is that the point could be raised that there could be such great delay that the prosecution would be an abuse of the processes. So it is in that setting that the Government thought that if there is a machinery where there can be judicial intervention through the High Court, or the Court of Appeal—and the provision we have here is one which we took from the United Kingdom and Jamaica—you can apply to the court and give it the power to determine whether on the deposition you would be able to issue a warrant, or have an indictment.

Mr. President, clause 3 of the Bill says:

“Where, pursuant to section 17(1), a Magistrate informs an accused person that he is entitled to give evidence upon oath or remain silent and the accused person—

- (a) replies that he reserves his defence or uses words to that effect;
- (b) makes any statement; or
- (c) chooses to remain silent,

the Magistrate shall record, in writing and read to the accused person, the latter's response or record the fact of his silence, as the case may be, and the record shall be read to and signed by the accused person, if he will, and the Magistrate, and it shall be kept with the depositions.”

So there is a procedure for requiring the magistrate specifically to make a note of the record, it becomes a statutory duty for him and if he fails to do that it would

not be the end of the matter, there would still be the machinery to go before the High Court, or the Court of Appeal.

“17B. Where, pursuant to section 17(1), a Magistrate informs an accused person of the latter’s entitlement referred to in sections 17(1) and 17(A) and the accused person replies that he reserves his defence or uses words to that effect or remains silent, then the Magistrate shall not comply with the requirements of section 18.”

We are now saying if he says that he reserves his defence or uses words to that effect, or remains silent, then there is no need for the magistrate to go through that other aspect.

Clause 4(2) says:

“After the Magistrate has inquired of the accused person whether he wishes to call any witnesses, the Magistrate shall record in writing—

- (a) the request; and
- (b) the response, if any, of the accused person to the request, and the record shall be read to and signed by the accused person, if he will, and the Magistrate, and it shall be kept with the depositions.”

In clause 5, section 25 of the Act is amended by including the new subsection:

“(4) Notwithstanding subsections (1), (2), and (3), an indictment charging any person with an indictable offence may also be preferred by the Director of Public Prosecutions on the direction of or with the consent of a judge of the High Court or the Court of Appeal where any procedural defect has occurred during the course of a preliminary enquiry.”

Mr. President, there was an amendment circulated this afternoon to the effect that the Criminal Procedure Act shall apply to an indictment granted under subsection 4, and that is the Act which governs the hearing of indictment.

This Bill is necessary and is something which could not have been really anticipated. It came about because of some of the recent decisions of the High Court. There are conflicting decisions, and this Bill is not an attempt to reverse any of them, but to create a legal framework whereby the public interest would be protected even where magistrates do not comply with the procedure in the

Preliminary Enquiries Act. The power is given to the High Court and the Court of Appeal to determine whether an indictment should proceed and to prevent the process from being misused, or the criminal justice system subverted in any anyway.

Mr. President, I beg to move.

Question proposed.

Sen. Nafeesa Mohammed: Mr. President, before I speak on this Bill, I wish on behalf of all my colleagues to say how very relieved we are to see you back in the chair and I am sure the nation is certainly breathing a sigh of relief.

May I also take this opportunity to wish the hon. Attorney General a speedy recovery from his recent illness. I thought that whatever happened last week that he would take stock and really adjust things accordingly, and I trust that he would be listening to the experts who may be advising him, especially when it comes to a matter involving one's health, one ought to be very serious and take stock.

Mr. President, I have to take issue with this Government as we proceed to debate this piece of legislation involving an amendment to the Indictable Offences (Preliminary Enquiry) Act. I say so because over the last few weeks, we have been experiencing a certain kind of confusion and disorder in the way our parliamentary affairs are being conducted.

When I look at the Order Paper for last Tuesday, and I look at bills which are due for second reading, one would see that this particular Bill with which we are dealing here today is listed as number 12 on the Order Paper for Tuesday. It was late on Tuesday night when the Leader of Government Business announced that today we would be dealing with, amongst other things, amendment to the Indictable Offences (Preliminary Enquiry) Act. I have to take issue because this kind of legislation requires time for very careful and close scrutiny, and granted it

may have been on the Order Paper, it is only about two weeks ago that it had been circulated.

The fact of the matter is, our agenda has been over-burdened, and we have been operating trying to accommodate the Government as far as possible with the number of committee meetings which have been taking place, some on Saturday nights at 8.00 p.m., on Friday nights, on Monday nights. It is the same parliamentary staff, the Hansard reporters, the police officers, other members of staff and everybody, together with us, who have to make these enormous

Indictable Offences (Amdt.) (No.2) Bill
[SEN. MOHAMMED]

Thursday, September 17, 1998

sacrifices to address things just to please the Government. Because of whatever agenda it seems to have, it wants to rush through a number of pieces of legislation which would have far-reaching effects in the affairs of our country. Over the last few weeks they are determined to rush through certain bills. Out of the blue on Tuesday night, we were informed that we would be dealing with this Indictable Offences (Preliminary Enquiry) (Amdt.) (No.2) Bill. I am very deeply concerned about this sudden capsizing of the Order Paper in order to proceed with this debate today.

The very short space of time, with the very limited notice we had that this was going to be dealt with today, has prevented me from doing the kind of research I would have liked to do because I am an attorney-at-law, but certainly not a criminal attorney-at-law. Notwithstanding that, we have a duty and a responsibility to discharge, and against all these adverse circumstances, I would attempt to examine these provisions given the limited time we had to deal with it.

A matter of this type involving amendments to the Act is a very serious matter because it involves our criminal justice system and we know that in Trinidad and Tobago we are plagued by certain problems. We know there is a backlog of cases and there is a need for reform, but when the hon. Attorney General presented this Bill, he said it was necessary, it could not be anticipated, and it came about because of certain recent decisions which were given in the High Court of justice and I have to wonder why he has really brought a Bill like this here today. What is the need, what is the rush and the urgency? I want to know if a call had been made, or if the Criminal Bar or other members of the profession or the Judiciary had been clamouring for this particular piece of legislation.

If there were recent decisions in the High Court, as far as I understand it, there is a court system in the country where it is a hierarchy of courts with which we operate and if a decision is given in one particular court, or one level of the court

system, there are provisions when an appeal can be lodged with the higher court until it reaches the highest court and there would be a decision which will, in fact, be binding on our legal system. This matter is already before the court, and it is a matter where, by virtue of our case law and system where precedence in our legal system is recognized, that it could have easily been addressed. It was just a matter of time. Why is the Attorney General so eager to tamper with our system in this manner? What is the big rush? What is the agenda? Is there a hidden agenda? We

always have to wonder especially when this particular Attorney General is involved.

Mr. President, this Bill is coming against a background where this Government is presently on a political campaign trail where it is turning a very important issue involving the death penalty into a political issue, into an election issue which I am sure whenever an election is called, the intent is to go around the country and say: "You see, we told you we would deal with crime, look how we are dealing with crime, we are hanging people." That is the kind of campaign upon which they have embarked to divert attention from the very serious issues which are affecting the nation today and they are going all over the place and bragging and boasting about what they are doing for crime. The fact of the matter is, there are still serious crimes taking place all over the country. So when the Attorney General rushes to bring a Bill like this in the Parliament before "plan B" comes into effect, whatever that may be—

Mr. Maharaj: Talk about the Bill.

Sen. N. Mohammed: I have to talk about the hidden agenda behind it, because the next thing is that the Attorney General wants to go around and talk about how many loopholes he has plugged.

With all due respect, I do not know whether the Attorney General was in the country at the time or not, because we cannot seem to keep track of their whereabouts because they are flying all over the world. I just wondered whether the hon. Leader of Government Business came back from the Commonwealth Games.

2.45 p.m.

Sen. Mark: Mr. President, on a point of order, will you rule please, under Standing Order 35(1)?

Mr. President: Will the Senator deal with the issues, please?

Sen. N. Mohammed: Mr. President, I am dealing with the Bill in the context of the rush to bring it. I was on the contents, which seek to bring an amendment to the Preliminary Enquiries Act, Chap. 12:01.

I talked just now about plugging loopholes. We recognize that there are certain loopholes which need to be plugged, especially in our criminal justice system. We need to do things to expedite the hearing of matters and I have no doubt that an amendment to allow for the recording of the response of the accused, as provided for in the amendments, would assist in some respect.

However, when we look at the amendment to section 17 of the Act, it says:

“Where, pursuant to section 17(1), a Magistrate informs an accused person that he is entitled to give evidence upon oath or remain silent and the accused person—

(b) makes any statement;...

the Magistrate shall record, in writing and read to the accused person...”

This question of the magistrate having to record the response in writing is a very serious matter because if someone were to visit the Magistrates’ Courts throughout Trinidad and Tobago, I am sure that person would agree that we are operating with some very serious constraints, in the sense that in these courts, to date, the note-takers continue to take notes in long-hand. When a matter has to be argued in court, it takes a long while to record what is being said, so we have to slow down to accommodate the magistrate and the clerk. The point is that in terms of a measure like this, do we have the physical infrastructure in place to have the amendment fully implemented?

Quite apart from the facilities and the ability of these clerks to take notes, we have to recognize that for some years now attempts have been made by successive governments to improve the physical infrastructure of our courts. We know that much more emphasis has been placed on the High Courts. I know that in the High Court of Justice, under the former administration, the CAT system was introduced and a number of persons in the registry were trained. There is a computerization process taking place in the High Court.

There was the Gurley Report in which recommendations were made to improve the system. With all due respect, in the Magistrates’ Courts, they have not reached that level of sophistication. Only yesterday, the hon. Attorney General

turned the sod for the construction of a new court. We know that the building next to this is being improved with a view to transferring the Magistrates’ Courts. However, in terms of this kind of amendment, we certainly need a different emphasis. There is even a need for a basic thing like paper for these note-takers and clerks in the magistracy. It is clear that we need to train them to keep up with the times. I would like to know what the Government is doing in this respect.

Quite apart from this, there are other constraints. In the absence of the Attorney General, I heard a comment being made on the radio in which the hon.

Attorney General was referred to as “Billy” Maharaj. That was because he is presenting bills, bills and more bills, so that he can go out there and talk about all the loopholes that he is plugging. [*Interruption*]

The hon. Attorney General seems to be in awe of the President of the United States, but we will not get into that issue.

In terms of the number of new bills that have amended aspects of our criminal justice system, the reality is that in our court system, and particularly in the Magistrates’ Courts, our magistrates are severely handicapped. I would like to know what proper library facilities exist. The Attorney General, who has practised in these courts for a number of years, will know some of the problems under which the practitioners have to operate. A classic example is that today, in the Port of Spain Magistrates’ Courts—the hon. Attorney General can enquire—matters had to be postponed because no prisoners were brought to court due to a lack of water.

Yesterday the Honourable Chief Justice of Trinidad and Tobago made the comment about certain basic physical amenities which were lacking in the Hall of Justice. I plead with the hon. Attorney General to see what he can do to improve this situation so that our court can function properly.

Whilst, on the one hand, the hon. Attorney General has brought this Bill that seeks to provide for magistrates’ recording the responses of accused persons, there are several problems to be dealt with. I question the need for this legislation at this time without having dealt with the physical problems of which I speak. There is a need in terms of our magistrates and so forth. There is a need for continued training for our magistrates and other persons because there are a number of other developments taking place in our legal system and we have to keep abreast of things.

Clause 5 of this Bill seeks to amend section 25 of the Preliminary Enquiry Act by inserting a new subsection that will now provide for a voluntary Bill of

Indictment. The hon. Attorney General sought to explain what is a preliminary enquiry and how things operate, but whilst there would be some positive consequences to the introduction of a voluntary bill of indictment, there are other aspects that need to be looked at.

2.55 p.m.

In fact, sometimes it is felt that—there is a view that a voluntary bill of indictment can in fact be oppressive. This clause speaks here of the Director of

Public Prosecutions preferring, on the direction of, or with the consent of the judge of the High Court, or the Court of Appeal where any procedural defect has occurred during the course of a preliminary enquiry that you can have the matter referred directly to a trial before the jury. But, when you look at this amendment here, Mr. President, there are no provisions.

For example, in making this application, is it going to be an *ex-parte* application by the DPP alone?. Should there not be some safeguard or some provision where the accused person as well would have the right to be heard? Is it not going contrary to that basic principle of law where the other side has the right or the opportunity to be heard? Because, the person has not yet been convicted, and we know that a sacred principle in our legal system is that a person is taken to be innocent until proven guilty. It is just a reflection of how things are done by this Government.

It is the same kind of concern that we have with this whole death penalty issue that they are going around the country talking about. But, you know Mr. President, the problem here as well, is that I have to ask the question to the hon. Attorney General, why do you need this? Because under the Supreme Court of Judicature Act, Ch. 40:1 of the laws of Trinidad and Tobago, there is in fact a section 63, that gives the Attorney General the power to refer a matter to the Court of Appeal on a point of law following acquittal on indictment. So, against that particular provision, I would like to find out why do you need to come and tamper and interfere like this; especially with this kind of haste?

The Attorney General already seems to have that power under the Supreme Court Act. Why is he doing this? It can in fact be an oppressive kind of position, yes—but with this Government, we have to be concerned about the oppression of our people.

Mr. President, the hon. Attorney General is saying now, that we caused it, that we amended it in 1990. Well with all due respect, hon. Attorney General, some of your colleagues were in government at that time.

Notwithstanding that, Mr. President, the fact of the matter is, this kind of amendment especially involving our criminal justice system, is something that requires further discussion; and I want to know if the hon. Attorney General has consulted with the Criminal Bar for example, in coming up with these amendments. Who has been clamouring for it? While some of it, the intent may very well be good, it is the haste and the manner that we have to express our concerns about, especially where we are seeing that already under the laws of

Trinidad and Tobago the Attorney General has the power of going to the Court of Appeal on matters involving indictment following acquittal.

So that, I would really like the hon. Attorney General to rethink this situation, and it is really regrettable, Mr. President, that we did not have more time to look at this particular Bill so that we could have presented a more detailed analysis of the proposed amendment.

Mr. President, I would just like to ask that the hon. Attorney General tries his best—the present Minister of Public Utilities said that there will be water for all by the year 2000. Today, there is no water in several parts of our country. We are seeing where court matters are being adjourned. Preliminary Enquiries today had to be deferred. The matters could not go on because of the fact that prisoners could not have been brought to court.

The problems continue to exist, notwithstanding all the public relations of the Government, we continue to have basic problems and we would like him, please, to focus on alleviating some of these problems instead of rushing into the Parliament to bring Bills as though he can legislate every day. He wants to legislate for everything even the behaviour of people.

I wish he could really try to introduce some legislation to improve the morality of his present administration, Mr. President.

I thank you. [*Desk thumping*].

Sen. Martin Daly: Mr. President, may I join in the expression of joy that must accompany your return. I am sure through the medium of modern communications you would be aware of the considerable alarm that was inflicted on the country, and it is very good to have you back, Sir; not only because we love you, but because you personify the calm that we need. [*Desk thumping*].

While I am about to protest about the violence that is being done to my professional and private life by the ineptitude of the organization of Government business, I would have to be somewhat two-faced and say, that I hope that before

you proceed abroad again, God spare life, that you consider the difficulties that may be imposed on the country in your absence.

Now, Mr. President, I am going to do my best, unaccustomed as I am to having the luxury of saying, “Mr. President”, to make a few comments on this Bill. Really, I am doing something which no self-respecting person should do, and that is speak on a brief about which you are unprepared. And, I am unprepared,

Mr. President, because despite all our entreaties, and indeed on one occasion this week despite our baring our parliamentary fangs, those who arrange Government business continue to be completely disrespectful of intelligent participation by Members of the Senate who are not Government Senators.

I have said it repeatedly, and I will say it again, the Standing Orders of the Senate provide for the Senate to sit from 1.30 p.m. to 6.30 p.m. once a week. Nobody has a problem with sitting for longer periods or more periods, but, essentials of doing that are these:

- (a) we must have adequate notice that we are doing it;
- (b) since it is something unusual, it ought to be done by consensus and not by being imposed.
- (c) when we have Sittings, whether they are the regular sittings, or whether they are additional sittings, whether they are done courteously by consent, or whether they are imposed, we must know what is the agenda for the day. We must know that.

In every little All Fours club in Trinidad, if they have a meeting with their members, they know what the agenda is. But apparently, we cannot have the simple, well-established courtesy of an agenda. There is simply no credible parliamentary agenda. As long as I am able to continue to discharge the functions that have been imposed on me constitutionally, I am going to protest this.

This Bill is clearly urgent. I do not share the misgiving of Sen. Mohammed. I think the Bill is fairly urgent, because when I began to read it, and when I began to listen to the Attorney General, I recalled that on the issues that have given rise to this Bill, three, possibly four, judges of the High Court have dealt with the point, and as far as I know, they have split on either side of the line. Of course, because of the discourtesy of the Government, I have not had the opportunity to go and refresh my memory about the problem. But as far as I know, three judges have

pronounced on this and they have come down on different sides of the line, and I do not accept that any responsible Government would wait for the matter to be determined in the Court of Appeal before intervening by legislation.

Despite what was said by Sen. Mohammed, I think that activism in law-making is very important; and if there is a problem you can solve by introducing legislation sooner rather than later, that is a good thing to do.

First of all, it introduces certainty into the law which is a key requirement; secondly, it saves time and money; and thirdly it means that you would not get substantial miscarriages of justice by means of what are called technicalities.

3.05 p.m.

I do not accept that there are any such things as “legal technicalities”. My view is, if the law prescribes certain things, they must be done and if they are not done, they are not technicalities.

So I think this Bill is very urgent. I also think it is a good thing that the Government would intervene by legislation now, rather than waiting for more judges to disagree and more matters to churn their way through the courts.

My problem is, that I do not know whether the provisions of the Bill are sound:

- (a) whether they will achieve the objective; or
- (b) whether they have been drafted in a sound way.

I cannot know that, or cannot turn my mind to that, unless I know that it is on the agenda for a particular parliamentary day. This is why I am unprepared—not because I have suddenly become irresponsible.

The Government—the way the Government is organizing the business—is forcing us to do slipshod work on behalf of the country. They are forcing slipshod work. [*Desk thumping*] In fact, the real view that the Government has of us slipped out on Tuesday night—since it was a matter that took place in committee and the proceedings in committee are not supposed to be reported, I am going to be good and not say what transpired on Tuesday.

May I say this? I hope Sen. Montano would forgive me. The situation did get very bad. I believe the PNM were extremely responsible—I hope he does not mind me repeating this—and apparently contacted Sen. Montano, who had to leave the Chamber for what I would consider an appropriate reason. Apparently the PNM were very responsible and they telephoned Sen. Montano, and he was willing to return.

I am putting the Government on notice, that since you have caused the Independent Senators considerable embarrassment in the discharge of their duties, we now have arrangements in place that, at any time, you in an autocratic and undemocratic way, try to embarrass us, we are going to deal with you. We now have arrangements in place that if any of us has to leave—because you have embarrassed us by forcing an agenda, without our consent, if our families are dying, they will call us from the death beds of our families.

This situation has now become ridiculous! I am going to give a personal example. My mother is aged 91. She had an arrangement to go to the dentist at 11.45 on Tuesday morning. I am the only child; I am expected to take her. I can make an assessment of whether I can carry out that obligation—and maybe the Chamber of Commerce, or somebody, will say that is not an obligation which I must carry out if I am a Senator. If they say that, I say “fingers up to them, I must carry out that obligation.” I will know if I can carry out that obligation and not be absent from the Senate, when I see the agenda. If I know we are in the middle of a Bill, and the speeches are going to take up a substantial part of the morning period, I can say “Yes, mother, I can take you.” But if somebody stabs me in the back and I do not come here—on the basis that the agenda is what it says it is, I do not come here—and while I am in the dentist’s office a vote is called, or an amendment which I have put up is considered, that is a treacherous stab in the back! It is time we start calling a spade a spade.

What did I do this morning? This morning, the Minister of Health—whose bedside manner should be adopted by many of the Ministers on his Government’s side. [*Desk thumping*] He has taken the trouble—he has a difficult problem to deal with: he is being besieged by reasonable and unreasonable voices on both sides. At every turn he has consulted; he has let us have his amendments in advance—he has made it plain that he is not going to just write down anything we tell him—and he has given us every opportunity to make an input into the vexed question of the dental profession.

So in the highest standards of courtesy, the Minister of Health sends me, this morning, his amendments. I spent the morning going through his amendments, Sen. Prof. Spence’s amendments, my amendments, the original Bill; I photocopied—I mean, we prepare. Do you understand? I suppose if you are an empty-headed political speaker, you do not have to prepare; you just get up and talk rubbish about the IMF, NIPDEC, the airport, and you do not prepare.

So I spent this morning—I gave up time—going through all the amendments. I telephoned Sen. Prof. Spence to discuss a certain aspect of the matter. Knowing

that now treachery is the order of the day, I spent the morning phoning around to find out who is going to be in the Chair—I have to do that: suppose I do not get here on time and then we have another “Occah” coming to go in the Chair, what is my position? So I spent the morning going through the amendments. I took the trouble to have my secretary photocopy the relevant sections of the Dental Profession Act so I would not have this book falling down on me when we come to do it. This is how you prepare for the Senate.

Someone telephones my office—and my secretary takes a message—“We are dealing with three Bills today. This is the order in which we are dealing with them.” Surely, the Indictable Offences Bill was mentioned as a Bill we were doing today, but it was either second or third on the list. Therefore, I will approach my preparation on the basis of the order which I have been given. I will make a realistic assessment of whether—if the Indictable Offences Bill is the second or third on the list—we are going to even reach it. I will know, from being here all the time, how many more speakers we have—we know who speaks for an hour; who speaks for 10 minutes—so I can make an assessment of how long the debate will take, and when I will be able to do some work on the Indictable Offences Bill.

I am going to be implacable on this question of the agenda! Recently, we have been forced, by the complete disorganization of the Order Paper, to take short cuts—for which we are being criticized elsewhere—we have been forced to take shortcuts. This is no way we conduct the nation’s business!

I am going to repeat aloud what I said to the Leader of Government Business earlier, when he was telling me about “behaving badly”—I am “behaving badly” because I want an agenda? Because I do not want to be stabbed in the back, by being told one agenda and being given another? I am “behaving badly” because I want to prepare my work for the Senate? As far as I am concerned, the people who are organizing the Government’s business, whoever they are—I do not know whether they are here, in the Chamber, or somewhere else—they could not run a barbecue in a coal shop!

So against that background, Mr. President, I will do my best; it is my duty. I cannot sulk. I cannot walk out. I will do my duty to say something about this Bill. However, I am going to be implacable about this—I was implacable about the cubbyhole and eventually they “took me on” and fixed it. They did not fix the roof, but at least they fixed the cubbyhole and made it into a nice room, and they do not stuff us in there again to do our business. We endured all the insults about who came from a rich background and who grew up where—of course, very many

of those insults were racist because they made certain assumptions about where people grew up, depending on how they looked. We endured all of that. Today, when it is dry, we have a lovely room—when it is dry.

3.15 p.m.

So, we do not mind. You could insult us. We are not taking stab in the back. Let me make it clear. And, if an agenda is arranged and it is changed at short notice without consensus, that is equivalent to a stab in the back. Because, there is no way that anyone here who is part-time, can always put down making their living or put down other social obligations. [*Desk thumping*]

There is a Senator here on our Bench and I hope he will forgive me for saying it, who has to act, not according to cosmic forces, but according to the will of God, and God does not give advance notice when people are going to die and his close parishioners said to him. “You know, we have to bury Bill at 5.00 o’clock this afternoon, and we do not want anybody else. You knew Bill best. You are the family priest for a long while and we want to bury Bill at 5.00 o’clock on Thursday.” He has one of two options. He can say, “No”, and not do it, or he can say, “Make some assessment of the parliamentary agenda and figure how it could be fit in, depending on whether he would be required to speak, or required to vote at a particular point in time.” If you tell me that a Reverend, who is a Member of the Senate, is derelict in his duty if he goes to bury a dead parishioner, then we are living on Mars.

So, please understand, people’s professional lives are not only disrupted; not only is their ability to earn a living disrupted; but, their social and family commitments are disrupted when a proper agenda is not had, because no one can plan and, in effect, everybody is asked to put their lives on hold. That is absolutely unacceptable.

We tried to resolve this amicably. It was not so amicable the other evening when, apparently, it was everybody learned a lesson, and “whap”—what happens today?

Mr. President, I am probably going to talk rubbish, because there is something in this Bill that baffles me. I understand in the proposed amendment to section 25, what the Attorney General is doing. I refer everyone to page 3, clause 5. It is being said that if the magistrate, in the conduct of a preliminary enquiry, makes a procedural defect, then the High Court can rectify it. That is what I understand this to say.

In other words, if the indictment has to be quashed because the magistrate makes a procedural mistake, then the High Court could rectify it by saying, notwithstanding that the indictment has been quashed, you can prefer an indictment—we will make an order saying that you can prefer the indictment. So

that, in effect, the preliminary enquiry which was defective, is brought back to life by an Order of the High Court, or the Court of Appeal. I hope I am understanding it correctly. Now, there is nothing wrong with that, first of all, because someone who is charged with a serious crime should not get the benefit of getting off as we say, scot-free, because the magistrate made a procedural error.

That brings me to another point. We are not able to fill all the posts of magistrate. The terms and conditions need to be looked at and the magistrates are younger and younger, and less experienced. We do not have any formal judicial education, about which the Chief Justice spoke yesterday. So, Sen. Rev. Teelucksingh, as usual, asked a very penetrating question. I would suggest that these mistakes are coming about through people who are excellent and bright, who are full of integrity but, they do not have sufficient experience and make these mistakes, therefore, it is not right that someone should gain an acquittal because of a procedural mistake being made.

The point is that procedural requirements are there for the safeguard of all citizens' rights and, therefore, it would not be right for the Director of Public Prosecutions, or anyone else, to be able to bring a fresh indictment—if I can put it like that—without the High Court, or the Court of Appeal, supervising or overseeing what it is. So that, as far as I am concerned, assuming it is correctly drafted, clause 5 is a very good thing.

In the short time it has been available to me, I simply do not understand new clauses 17A and 17B and clause 18. I simply do not understand them. Maybe it is because I have not had enough time to read them. Because, if it is that there is already a procedure in the Act that the magistrate must follow then, presumably, there needs to be two amendments—one which says if he does not follow it, subject to the supervision of the court, the indictment can be preferred again and, if it is that a provision is needed to record it, then a recording provision is put in.

But, I am completely flummoxed at the moment and, as I say, in the discharge of my public duties I am humbled—it does not come to me easily—and I might be talking rubbish. To me, this is a complete roundabout here that this has to be done but, if it is not done, section 18 does not apply but, when section 18 is looked at, it refers back to the old section 17. To me, this is a whole muddle. And I

would

like some explanation, by reference to practical example, if the existing section 17 is breached, this is what the Bill will do; if the new clause 17A is breached, this is what the Bill will do. To me, section 17 and new clause 17A are simply piling one

Indictable Offences (Amdt.) (No.2) Bill
[SEN. DALY]

Thursday, September 17, 1998

ritual on top another. That is what it seems to me, because I do not see what is in new clause 17A which is not already in section 17, albeit that it is in archaic language.

It seems to me, on a superficial reading of this Bill—which I have been permitted only because the Government cannot arrange a barbecue in a coal shop when it comes to the parliamentary agenda—that this Bill is going to make things worse, in the sense that new clause 17A is introducing a new ritual in addition to the ritual. That is what it is, if the language is looked at. New clause 17A is introducing an additional ritual which is giving the magistrate more things from which to choose, therefore, likely to lead him or her into greater error.

That is my misgiving, Mr. President, and I hope that my misgiving can be put to rest. It seems to me to be giving the magistrate more things to do and, if the defect in the existing section 17 is the making of record, then we should have a short subsection dealing with the making of record and not all this other ritual. To me, it seems circuitous, giving the magistrate more, rather than less things to do. But, I have not been able to study it carefully; I have not been able to consult people who practise at the Criminal Bar; I have not been able to share my misgivings with the Attorney General because, even though I am pleased to see him here and pleased to see that he is in such good voice, especially when the crosstalk starts, I did not expect to see him here doing this, certainly not at this hour.

I was told we were doing the Dental Profession (Amdt.) Bill first. I spent time preparing for it. I came here to deal with it. Apparently, the Minister and his team came here to deal with it and, apparently, there is some interest amongst the strangers in the Senate in respect of this Bill.

So, what have we done? We have just cat spraddled everything. People's ability to make a contribution has been cat spraddled; people's ability to do any amendments to the Bill has been cat spraddled; people's ability to have a consultation with their colleagues is cat spraddled; people's ability to have a consultation with specialists who know this area of the law is cat spraddled; people's ability to have any talk with the Attorney General is cat spraddled; and, God forbid, had anyone organized their business on the basis that the agenda was going to be truthfully and faithfully followed, people might cat spraddle their business and personal life, and their social and family commitments

Mr. President, that is the best assistance I can give the Senate this afternoon.
[*Desk thumping*]

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I would first like to deal with the comments made by Sen. Nafeesa Mohammed. I would have thought that the hon. Senator would understand that this is not a matter in which there can be an appeal. As a matter of fact, under the Administration of Justice (Miscellaneous Provisions) Act which was passed by this administration in 1996, it was only on an error of law after a trial had started. When an indictment is quashed, the trial has not commenced.

So that, the position at present is that unless there is some law—and it is only Parliament which can pass the law which has to come to Parliament by a bill, whether it is Bill Ramesh, or Bill Nafeesa, or Billy Maharaj, it is a Bill. The fact of the matter is, Parliament is basically to pass legislation and it is because of this problem which has occurred with no avenue of appeal being available, because if there is appeal, the court would be entitled to say that there is no appeal. I referred to Act No. 28 of 1996 and it is really a decision of the trial judge which is related to when the trial has started.

So that, in relation to going to the Court of Appeal and going to the Privy Council, that is out of it, because as is known, a preliminary enquiry is not a trial. It is not an adjudication in the normal sense of the facts and it is purely a preliminary step before the trial.

Sen. Mohammed: It was mentioned that it is as a result of High Court judges giving decisions.

Hon. R. L. Maharaj: Yes.

Sen. Mohammed: It is not from the preliminary enquiry. I wish we had the opportunity to see those cases.

Hon. R. L. Maharaj: I am very sorry if Senators did not have the time but, I would probably try to see whether, before I close the debate, I could give Senators some time to read it.

Why I mentioned High Court was, as is known, when a preliminary enquiry is completed, and the man or woman is committed to trial with the indictment filed in the High Court, the indictment comes up before a High Court judge and, before the trial actually starts, the lawyer of the accused person, before he actually pleads, can say that he moves to quash the indictment. That is how the High Court judge comes into the picture.

Sen. Mohammed: Is there no appeal there?

Hon. R. L. Maharaj: No. There is no appeal from the order of the High Court judge to the Court of Appeal because the trial has not begun. So that, as it

stands, wherever a judge quashes an indictment because of a procedural defect not followed by a magistrate, there is no appeal process. The only way that situation can be rectified, as has happened in the past, is if the state believes the judge is wrong, there can be a new preliminary enquiry. Because the law is also, that it is as if the preliminary enquiry was never held, so it does not prevent anyone from having another preliminary enquiry.

What has happened in recent times, because of the development of law and, because of the importance of states taking steps to have an expedited system of justice, there has been a principle that delay caused as a result of neglect of the state, whether it be the executive arm or the judicial arm, can operate as a bar to the prosecution. It can be an abuse of process.

So, what will happen here is that if Parliament does not intervene, these 300 indictments—whether they are murder, rape, incest or whatever—for some reason or the other, are quashed by a High Court judge, the state would now have to conduct all these preliminary enquiries again to the best of its ability, to see if it can get a committal. I have mentioned all the difficult hurdles. That is the difficulty we have had.

I really do not think that the hon. Senator was serious when she was saying that yes, there are these problems at the Magistrates' Courts but that these problems would prevent a magistrate from having to record these matters if he is required to record them, because all that it means and, perhaps, the witness is in the witness box; the witnesses have completed giving their evidence; the accused person is asked the questions and this proposal is for it to be made mandatory, then the magistrate merely writes it, or the clerk writes it down and it is signed.

3.30 p.m.

I do not think the problems with the court and the conditions and so forth can really obstruct. The infrastructure the Senator is talking about is probably lead pencils, pens and paper and I do not think we have that problem.

Mr. President, I know all is not right with the infrastructure and the physical amenities in the administration of justice but these are not problems that came overnight. When the Chief Justice spoke yesterday about the problem that the hon. Senator referred to about the water, the Government which was responsible, at that

time, for building the Hall of Justice took no steps to ensure that they put another kind of pipe except galvanise pipe. One must know that galvanise will rot at some time. They did not put PVC or aluminium, they put galvanise.

Mr. President, all these problems that the Senator talked about and the Chief Justice had to lament on yesterday and the imminent difficulties that could be faced and the great expense of the Hall of Justice which has cost so much money and which had so many cost overruns—*[Interruption]*

I am not saying it is not a very useful building although sometimes when you go into the court you cannot see. They probably said justice is blind so there must be no lights. The court rooms are so small that I sometimes wonder whether the people who designed that court catered for the media and public to be in the court and how many lawyers they catered for in the court. A big building, large passage ways, big set of room with plenty space outside but inside the court it is like a cubbyhole.

Sen. Mohammed: I wonder how the Attorney General would compare the new Hall of Justice in San Fernando?

Hon. R. L. Maharaj: I did not know that we had a Hall of Justice in San Fernando. I know we had a building—

Sen. Mohammed: The one which the People's National Movement built around 1994 or 1995. I am sure the hon. Attorney General had the pleasure of practising there before he went into Government.

Hon. R. L. Maharaj: Since the hon. Senator asked me about this building, I did not know it as a Hall of Justice. I thought we only had one Hall of Justice in Trinidad and Tobago. It is the San Fernando Supreme Court but I really do not see much of a difference in space. All I can say is that there is more light in San Fernando but if I may say there is always more light in South than in North. I meant sunlight.

Mr. President, I do not think that the hon. Senator can be really serious. I take Sen. Daly's point and I think he has recognized that it is a matter which needs legislative attention. I can understand Sen. Daly's difficulties because if he has not had time to read the Bill it is not something that one can digest easily. I wish to assure him that it is necessary but what I would propose is that I defer the committee stage for later this evening so that I would be able to give Senators more time if they want to complete reading it and they can raise any points with me and I can try to explain it to them. I will be available to come back to the Senate in order to complete the matter. *[Desk thumping]*

Mr. President, I have not completed my contribution but I would make an effort to try to accommodate the situation. I would like to say, however, that I ask Senators to understand that sometimes it is very difficult for a government to keep

Indictable Offences (Amdt.) (No.2) Bill
[HON. R. L. MAHARAJ]

Thursday, September 17, 1998

to a very tight schedule, especially when there are three matters on the agenda. Sometimes it is not easy to do the matters in the same order. I wish to assure the distinguished Independent Senators and the Opposition Senators that there is no deliberate intention on the part of the Government to make it difficult for Members on the other side. What has happened is, in the enthusiasm to get the work done and because of the fact that we do know that we probably want to come to an end of the present session, there are some Bills which are more important than others, some have to be dealt with here before it goes to the other place in order to meet a certain time-frame. If any Senator was offended, we are very sorry but we will ask Senators to take it in the way it is being done. The whole purpose of it is to try to serve the public interest in the best way that we can.

We know we are not perfect. We will all make mistakes and if we do make a mistake and offend anybody, we are very sorry but it is all in order to serve the public interest. If it is convenient for the Senate, I would defer the completion of my contribution for later this evening and I would make myself available in order to have discussions with the Senators in relation to this Bill.

Question put and agreed, That the Bill be deferred to a later stage of the proceedings.

Mr. President: The debate on the following Bill which was in progress when the Senate was adjourned on Tuesday, September 1, 1998 will be resumed.

DENTAL PROFESSION (AMDT.) BILL

[Second Day]

Order read for resuming adjourned debate on question [September 01, 1998]

That the Bill be now read a second time.

Question again proposed.

Sen. Rev. Daniel Teelucksingh: Mr. President, I would like to extend a most gracious welcome to you. I am sure you must have been following the escapades of all of us which have been very interesting. We are glad to have you here. You have given us a little more confidence in ourselves.

One of the repeated concerns in the course of this debate on the Dental Profession (Amdt.) Bill is the question of Government's involvement. I have

heard that from the Independent Bench, the Opposition and the public. In fact, some have gone so far as to say that this is interference in the work of the Dental Council and the dental school; a very common point of view. I want to respond to that.

Teething problems at our dental school have been very painful for the past nine years but have intensified particularly since about 1994. This society has been concerned about the protracted stand-off between the Dental Council and the School of Dentistry. On the one hand the council is highlighting the clinical inadequacies of students while the school and the administrators and so forth think otherwise. The students are mauled in the melee and the public is confused and this has been going on for many years.

Now I am hearing, since the Government has planned to possibly amend the Act, comments and charges of governmental interference. Mr. President, there have been charges of injustices and victimisation and charges concerning the protection of turf. Meanwhile, do you know that some of the graduates, our bright students, after they have spent a quarter of a million dollars on their education, have left the country in disgust? The others have not left because they cannot afford it. Need I say more? You know the stories. It is a very complicated and old story and I will say I believe that it took government too long to get involved.

In the light of this kind of chaos the population is asking, "well, who is in charge? I submit today that the Government is quite correct to intervene in this impasse at the dental school and I want to personally congratulate the Government. [*Desk thumping*] If this is interference by the Government of Trinidad and Tobago, then so let it be. In fact, I see it as a necessary and appropriate kind of intervention. If Government cannot do this in a situation that has been chaotic for many years, then who will lead?

The Dental Council seems sure of its position and I know this very well. The students are also sure of their position and I know we have persons who have served on the staff of the University of the West Indies. I am Chaplain for one of the groups there. In all of this, over the years the University of the West Indies has been silent. I wonder why. This is a faculty of the University of the West Indies and it has been silent. It is a fight that is going on with a professional body and the School of Dentistry; a faculty or department of the University of the West Indies. Where is the Senate of the University of the West Indies? Where is the Council of the University of the West Indies all these years?

Today we are talking about governmental interference. That is a necessary interference. I would say involvement and intervention. It is Government's

Dental Profession (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Thursday, September 17, 1998

obligation, they owe this to society. It is the Government's obligation to take steps to correct such irregularities with the public interest in mind. The buck stops with the Minister. That is our system of government. I criticise it very much but we have to live with it.

The Director and faculty members of the Dental School, the professional body, that is the Council and the University of the West Indies administration have all failed over these years to resolve those difficulties that beset the school.

Mr. President, I also want to add that I support the principle of the autonomy of the University of the West Indies. I support that, I believe in that. But that question of the autonomy of the University of the West Indies in a matter like this should not be a barrier for governmental intervention. I am not going to say the university must be autonomous and independent and nobody must intervene. Somebody ought to if the university authorities have failed.

My second point relates to the composition of the Dental Council and this has been a moot point which has been severely criticized in the debate and also in public.

3.45 p.m.

I do not want to continue in the trend of Sen. Daly, but I just received Government's amendments to the Bill. It would take me a little while to get involved in looking at that, I was distracted by the Bill just now on the situation in the courts.

Let us look at the Bill we have been debating for a long while. The present Dental Council, one would remember, consists of seven members, all of whom are dentists. Government is proposing in the amendment that the new council will comprise members, nine of whom will be dentists. All of the executive, all of the office holders will be dentists. That is Government's Bill before us. I believe that the profession will be well represented on the new council, and I fail to see how the professional interest and professional management of the council will be seriously affected by Government's amendments.

I want to add, about the amendments, that it is an excellent provision in the new council that two members are appointed from the medical faculty as representatives of the University of the West Indies (UWI). I think if this has been so and they had liaison persons, such as proposed in the new Bill, from the University of the West Indies on the Dental Council, there might have been better communication and closer collaboration and understanding between the dental school at the University of the West Indies, and the Dental Council. Do make any

amendment, Mr. President, but leave that right there. I support the Government; excellent position. Here they have work being done between the council and a faculty or department, and the university is not represented. That has been a major lacuna, a major fault in the composition of the present council.

Mr. President, I read in clause 8 of the Bill, which proposes a new section, that the Minister of Health—I say “of Health” because it is very important—may, in collaboration with the Dental Council, advise—I want to put “advise”, I do not like the word review (as though one is giving the Minister the powers to review—a review of the curriculum and training programme of UWI dental school and make recommendations. I think this is a good provision in light of the state of affairs at the dental school, but my hope is that later on, the dental council, the dental school and the University of the West Indies will be able to review its own curriculum. That is what I hope. I will not interpret this to mean a continuing intervention, interference and involvement by the Government, but I think we need this for now; at least for a few years. In my opinion, curriculum review, must, of necessity, include UWI administration. Once again, I come back to that very important provision in the Bill before us: the composition of the new council with two UWI representatives who will meet this very important requirement.

Mr. President, my next concern is about the present students at the dental school, some of whom will graduate at the end of this academic year. I want to ask about those eight students who have failed the Dental Council licensure examination in November of 1997. They did not sign up for the April 1998 repeat exam. They all have their DDS from the dental school after five years of study, plus one year clinical exposure in their post-degree internship, and this is inclusive of experience, I have been be told, at the Arima Health Centre, the Dental Polyclinic, and the oral surgery unit at the Eric Williams Medical Sciences Complex.

I have a feeling there might be more in the society who will be asking the questions. After five years of study and the one year of clinical exposure post-degree work, who says they are quacks? Why is that word even being used? Long ago, that word was used for those who never had university experience, and they sat in their own little laboratories and made dentures. Why are we using the same word to describe this kind of student and yet, they are showing me a list?

Many of us know the United States and other countries of the world as though they are our own backyards. The Dental Council has approved a list of dental

Dental Profession (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Thursday, September 17, 1998

schools, and some of us have never heard of those places before—and we go to the United States so often—and graduates from those schools will be recognized by the council and will be registered, but not our own. I have a very serious problem with that, because we continue to punch cavities in the careers of our own young men and women.

Out of all the material circulated to Senators, I want to read a letter from Prof. John Kerr from the University of Glasgow dental school. That is a respectable, world-renowned school. He writes:

“I was very disappointed to read the copy of the results of the above examination...”

That is the Dental Council examination.

“...which was sat by the DDS graduates of 1995. I remember the names of many of the candidates well...”

He wrote the name of one, and he said:

“This person sticks in my mind as being particularly outstanding.

The whole credibility of the above examination must be called into question. On the first occasion when I examined in 1995, observers were present from the Dental Board, but none were subsequently present in 1996.

It seems to me sensible that there should be only one examination, the DDS, and that whatever concerns the Dental Board may have regarding the training of dental students should be brought out into the open and addressed to the satisfaction of all.

At the same time, it should be appreciated that obtaining a DDS degree does not specifically train undergraduates for general dental practise...

The students whom I have examined at UWI have been a talented, capable group who have received a training comparable to students in the UK.”

Mr. President, whatever the outcome of this debate, I believe that the Minister of Health and the Government must ensure that there be justice done to these students who stand before the registration board that is closed. In fact, I want to add that any further financial burden on these students leading to registration should be borne by either the Government or UWI.

The present situation is that these dental students do not have the confidence of some of those who are in charge of the council’s examination and they have

said this. They are our sons and daughters. They belong to the population, and we know this. It is no secret. When students of that calibre write examinations and have no confidence in those who examine them, then we wonder what is happening to justice, because there is a fear of victimization, and this fear is no longer hidden.

There is a pervading bitterness that makes me very uncomfortable. I heard the public say that the public needs the best type of dental care, and I wholeheartedly agree with that, but is this the real issue? I am very troubled with the present system that allows for two types of examinations, particularly where one examination almost nullifies six years of full-time study. I cannot understand that! I do not believe that it is just, and I do not believe that it is fair. In fact, I will go on to say that regardless of what kind of Dental Council we have in the future, I believe that all examinations of the dental school should be the business of the University of the West Indies. I personally believe that. I believe that is the way to go. It is done so in engineering, the humanities, in almost everything.

I think that in the future, on the completion of all requirements, if the Dental Council is in charge of registration of our graduates, it should be done within a particular time-frame. I am very uncomfortable with this open-ended business about registration. Possibly within a three-month period, there should be registration. I say this because we have had a debate on a few occasions—hon. Senators will remember—about the case of the graduates in surveying from the university. That matter came before this honourable Senate on several occasions. Graduates in surveying with their B.Sc. from the department of engineering had been qualified. There is a professional body in surveying and the graduates must meet certain requirements. They must write some little examinations.

We know well that these graduates in surveying, with their B.Sc. from the University of the West Indies, have had to do internship. They graduated and served with qualified surveyors under probation for as long as six years. Some of them have not been licensed as yet, because of the Board of Surveyors, or something of the sort.

4.00 p.m.

They do not have to meet but they could stay right there and pressurize our students, and they have been doing that. You talk about protection of turf! This

kind of injustice against students has been going on! I know some people who got their B.Sc. in surveying because they loved it and because of the pressure working for \$1,500 a month and being denied registration they left to do

Dental Profession (Amdt.) Bill
[SEN. REV. TEELUCKSINGH]

Thursday, September 17, 1998

something else. They did another degree and ran away from that kind of surveying. They left the country too. We do not want that to happen.

This is why, Mr. President, I believe there should be a time-frame for registration and it should not be left up to the board to meet any time. If you say six times a year, it could meet six times between January and June; and the next year it could meet depending on who it wants to squeeze and who they want to pressurize. You cannot rule that out because we live in a small country.

I close by saying that I firmly believe and I am convinced that we need the UWI Dental School. I heard people say otherwise, but the Government needs to go beyond this piece of legislation in light of all our experiences. It must commission a special task force after this exercise—today or whenever—to examine the question of upgrading the school of dentistry where and if necessary, with a view to formulating an appropriate curriculum that would put to rest all doubts and uncertainties that have plagued this institution. This task force should not comprise any and everybody, but I most respectfully submit, it should comprise representatives of UWI, the Dental Council, the director and other faculty representatives of the dental school, possibly other UWI advisors and of course, the medical board; others could be co-opted. I think this is needed immediately. [*Interruption*] It should certainly have an independent chairman. This is very important.

Thank you.

Sen. Cynthia Alfred: Thank you, Mr. President. First of all, I join my colleagues in welcoming you back. I am sure my colleagues would permit me to also warmly welcome you back on behalf of the people of Tobago.

In respect of this piece of legislation before us, I preface my remarks by saying that if and when a situation of this nature exists, it might not be in the best interest of the country to see legislation on such matters. Most times when a precedence is set, it is very easy afterwards for others to follow in like manner. One would have thought that with the impasse—which this obviously is—between the University of the West Indies and the Dental Council, some form of commonsense would have prevailed and a degree of sanity so established that this matter would never have reached this stage. Having reached this stage, however, I make my submission.

I believe it is not so much a question of cutting one's coat according to the cloth, but rather a matter of designing the coat to fit the cloth. The Minister of

Health in his opening remarks said that the purpose of this Act was to achieve mainly two things. Firstly, to allow for the recognition of the University of the West Indies Medical Faculty, dental school degree—I notice in the amendments that this rather verbose expression has been amended—to be recognized by the Dental Council for the purpose of registration of the holders of these degrees; secondly, to amend the composition of the Dental Council itself.

I have three main concerns: firstly, are the standards of the UWI Dental School sufficiently high so that the graduates can practise anywhere in the world? Secondly, the position of the Dental Council and what appears to be an impasse between the council and the dental school. My third concern is the students themselves. I would attempt to share my thoughts on these concerns and give my conclusions.

To address the first concern about whether or not the standards of the UWI Dental School are sufficiently high, it says in the Minister's submission that school offers a five-year training programme leading to a doctorate in dental surgery. He goes further to say that it has sought to address these problems and even though the situation is not perfect at the dental school it has reached the stage where international external examiners have expressed satisfaction with the performance at the school and the graduates therefrom.

What it is saying is that, in fact, the students go for five years for this particular course and at the end of it they expect to get a degree and that the external examiners are happy with the standards set. But we understand from the position being taken by the council that it is not in agreement with the external examiners, so there is some discrepancy.

We also look at the qualifying final dental examinations. All students are assessed by experienced university examiners from the United Kingdom, the United States of America and Canada, many of whom currently occupy posts as deans of prestigious dental schools. If that is the case, why is there concern about the standards?

I come now to the second concern which has to do with the Dental Council. We have seen the composition and amendments have been brought to amend the composition. The council has an option, there are two things it could do.

"In order to be satisfied that the qualification of an applicant for registration is sufficient to assure the possession of the applicant...the Council shall grant

Dental Profession (Amdt.) Bill
[SEN. ALFRED]

Thursday, September 17, 1998

temporary registration and make recognition of the qualifications conditional upon satisfactory performance during the period of temporary registration or the Council may make the recognition of the qualifications conditional upon the passing of an examination."

It seems to me that with respect to the council it is the whole question of an examination.

The University of the West Indies is saying that the standards are sufficiently high because external examiners have attested to this fact. The council is saying it does not consider the standards sufficiently high until an examination is passed by these students. We have seen in the records where, because of this ongoing altercation between the UWI Dental School and the Dental Council, attempts have been made to correct the situation by actually instituting the year of internship as has been said here. If that has, in fact, been done, why is it that the council is still insisting that these students have to take an examination posed by them, when in universities in the outer world this examination is not necessary? Why do we have this sort of impasse between the council and the dental school?

While this is going on, who are the ones suffering? The ones suffering are the students. [*Desk thumping*]. I am sure when the students got their prospectus they looked at all the information and said to themselves, "Yes, I can go to the University of the West Indies, do this course and at the end of it having passed all my examinations I shall be able to practise as a dentist."

In fact, what is happening, they are being told that they have to take an examination and do internship. They have done their internship, but they still have to take an examination. There are hosts of them out there. We know for a fact that there are so many people in this country who need proper dental attention and many of those persons are, indeed, afraid to just go to anyone who says he or she is a dentist. Having been given the necessary recognition by the council they would be able to practise, but if they never get this recognition then they will not be able to do so. Thus, the graduates are confused, angry and of course, fearful of what their position should be.

What I suggest therefore, is that, someone be appointed. As Sen. Rev. Teelucksingh said, there should be some person or a body to get both the University of the West Indies, Dental School and the Dental Council board to come to some sort of agreement. We have seen where in Barbados something was

written to the effect that if the council in Trinidad and Tobago does not recognize its graduates then, of course, they cannot either. Therefore, there has to be some

sort of marriage of minds so that the students, having spent five or six years to go through all this training, will be in a position to practise their profession.

Mr. President, finally, I see from the amendments that certain things will indeed be put in place to alleviate the situation and more than that, to get this issue in a rational fashion so commonsense would be exercised by the council. If the university is not satisfied that its programme is up to a certain standard, then it should say so, it should be big enough to take the necessary steps. If the dental council is being autocratic and implacable about the situation, perhaps it needs to revisit its position. In the end, the graduates will be in a position to practise their profession and the people of Trinidad and Tobago will be relieved of their problem, which is, when they have a toothache they know they can go to someone who is properly registered and qualified to see to their needs.

Thank you.

4.15 p.m.

Sen. Selwyn John: Mr. President, I would like to join with all my colleagues on this side, and with the other Senators in welcoming you back. I see you look fresh and well relaxed. I suppose that we would want to see you in the Chair for a long while.

I rise in support of the Dental Profession (Amdt.) Bill which is before us. In doing so, I want to agree with some of the comments made, that it is not a good thing for Government to intervene in issues like this. But when one looks at the difficulties which have come up because of an arrogant, professional, controlling body, the Dental Council, one would understand that no Government could decide to stay on the sideline and allow victimization, frustration and the practice of very unprofessional conduct by a body that is supposed to control and look after a profession.

Sen. Rev. Teelucksingh made reference to the case of the surveyor. It is not merely a question of just the graduates of the dental school in Trinidad, but it seems to be a trend that our professionals, and some of them who may have graduated in schools outside of Trinidad and Tobago, particularly those who might come through schools in the United Kingdom and Canada, and to a lesser extent the United States, seem to want to cast aspersions on our local institutions and moreso, the University of the West Indies.

I was present in the other place when this Bill was debated and to my shock and surprise, a Member of Parliament got up and was expressing that he had no

Dental Profession (Amdt.) Bill
[SEN. JOHN]

Thursday, September 17, 1998

confidence in the University of the West Indies and the degrees issued by University of the West Indies. I am not surprised at all that today, we have to deal with issues like this and moreso, with a Dental Council which is on record as having made representations to Government that the school, when it was to be established, was unnecessary in this country; they said we were too small and the population of this country was too small to accommodate a dental school. They protested from the very beginning against the establishment of the dental school.

Some of us, our memories are short, and I am a little surprised that certain members of the Opposition Bench could get up and make some of the statements that we have heard. The very PNM, when it was in government, attempted to resolve the very issue that we are discussing today. I recall the former Minister of Planning and Development in the then PNM government, Mr. Lenny Saith—a gentleman, none of you have reached his standard, I am telling you—as the minister in charge of tertiary education, took steps to deal with the council on issues that affected the graduates way back in 1994 and even before that. I think you all do not know that he was the person responsible for assisting the students by getting Government to subsidize the fees. You do not know that, you all are new. I am telling you that so you can have credit for something that the PNM did. The former PNM Minister of Health, Dr. Linda Baboolal, took an interest in the very matter.

Here it is you have a council—and some people say protecting their turf, they went further than that. The Secretary of the Council, in 1995, told the students at the school that the only way the Dental Council would register any of them is if they were graduates from the United Kingdom, Canada or the United States. It is not merely a question of the professionalism or the ability of any of the students, but also the fact that the council had decided and, in fact, showed that they would not do anything to accommodate any influx of dentists in the country that could interfere with their ability to earn. Maybe we could examine some of the points that have been made.

In the other place, the former Minister of Works, Mr. Imbert, accused the Government of bringing the legislation because, he claims, a high-ranking member of the Government has a son who failed his examination, so they brought legislation so he could be licensed. I do not think that anybody on this side is trying to license any students. I want to make reference *Hansard* to the speech Mr. Imbert made when he said that: “Selwyn John, the Government Senator, son failed the exam”.

Sen. Daly: Do not go there.

Sen. Yuille-Williams: Do not go there.

Sen. S. John: Mr. President, let me withdraw that. But let me say on the record, that this Government did not bring legislation to cause any student who did not pass the DDS examination to be registered. Far from it. I want to say Mr. President, that—

Sen. Daly: Point of order, Mr. President, are these remarks relevant to anything in this Bill? Has anybody raised any individual case? I would ask you to rule that these things are irrelevant.

Mr. President: Senator, would you confine yourself to the Bill, please.

Sen. S. John: I will confine myself. I will refrain from making any individual attack. But right here in the Senate when Sen. Danny Montano spoke, the very issue was raised by him. All of you seem to forget these things! Let me say, he came and apologized to me after. He said, “You notice I did not call names”. But he did raise the issue! He did say that the Government brought the legislation because of a Member of Parliament’s son who did not pass, he said so!

Mr. President: Sen. John, please refrain from calling names and getting personal in the debate. Please.

Sen. S. John: Mr. President, I accept your ruling.

If we could also deal with the issue of the proposed change of the constitution of the council. One would accept that there has been no attempt to take control from the profession, and that the dentists themselves remain in the majority in control of the council. What was attempted, and I think the Minister explained, that the Bill would provide: one, for a layperson, which is now removed, but it is very important that we have someone who could look after the public interest on any body that controls to the extent that a professional body controls in this country. Particularly in the situation that we are dealing with now, where some people feel that the council went beyond the requirements in pressurizing or preventing persons who have graduated with their degrees from being registered; and two, that it was also proposed to have a representative of the Medical Board on the council.

I agree with some people that it would look strange to have somebody from the medical profession controlling the dental profession, but I do not know how many people would know that even on the Medical Council there is need to have persons such as dentists who could represent the interest of the body. If anybody

that has been through heart surgery, bypass surgery or so, who has to go for dental attention, they would tell you that before they sit in the dentist’s chair they have to attend their medical doctor for them to be sure that they could receive treatment

Dental Profession (Amdt.) Bill
[SEN. JOHN]

Thursday, September 17, 1998

from a dentist. It is not what people feel, that one is getting people outside of the profession to control a profession, but there is a need and we must pay attention to these things that if, for any reason, the patient of a dentist happens to have had this type of surgery, before he could receive attention, he must and by right, get his doctor to examine him and to ensure that he is fit and could undergo dental treatment. So, I think Senators should know this.

The Minister did not take this out of a hat to decide, well in putting up the amendments, a representative of the medical profession was just there as a cosmetic representation, there was a reason for it. But let me go a little further.

4.30 p.m.

Mr. President, the fact of the matter is that in 1994—and I am talking from what I have heard from the other side—a letter was read from a member of the team appointed by the council to conduct the examination which they had given to those students, and one of the examiners wrote that he was surprised that an examination had to be given to them. The team which was appointed by the council comprised foreign specialists from Canada, the United Kingdom and the United States, but because of the comment made, that was the last time the council endeavoured to have any representative from outside Trinidad and Tobago and the Caribbean area as their examiners.

The strange part of the proceedings was that in continuing the examination, they began appointing representatives from within the Caribbean; Jamaica, Barbados, and Trinidad and Tobago, and in the case of Barbados, that Government had issued a statement that there were no dentists in Barbados who were competent to judge the standards in Barbados, yet, our council in Trinidad saw it fit to bring a Barbadian each time after 1994 as part of its team of examiners to decide whether the graduates were competent to be issued with registration. We have to question this, moreso, since that time the record would show that in one case of the 11 students who took the council examination, 8 failed. Of the 13 who took the examination in 1996, I believe 11 failed, and in the last year, of the 14 who took the examination, 11 failed.

One has to really wonder what is behind all this. Firstly, there was the protest of the Dental Council against the establishment of the dental school. Secondly, the

students would attest that the secretary of the Dental Council told them that the only way they could be registered is if they were graduates from universities in metropolitan areas. Thirdly, they went on in 1998, not only to stand up and defy

reasons to register them—the Government decided to bring legislation to level that playing field—but to go on a campaign to discredit any of them by saying if they are registered after now, the public would have no confidence in going to them.

I heard on the radio just two nights ago, that the president and the secretary of the council are continuing to say that they are ill-trained, not fit to practise, and that they ought not to be registered or licensed. The point is, I doubt whether any of them on that council, or those persons who had kept these dentists with their degree from being registered could stand up to scrutiny.

The training of the new professionals is so different from what had been in the past and I am submitting that any of these members of the council, or most of our dentists who are on record, if called and given the examination which the council had set, would hardly be able to pass it, if any of them could pass it at all. I had been to a dentist who had three chairs in his office, I was in one and two other persons. He had on a pair of gloves attending to the first person, having his hand in the person's mouth and came to the second one with the same gloves and then coming to me. I told him, "No, I am not prepared for that." and I left. This is what we have to face today.

In the Trinidad Dental School at the University of the West Indies, the standards which are required are far different from what we see being practised by our local dentists. I have been to the polyclinic for the last year or so and have been attended to. *[Interruption]* I cannot be like you to go to the highfalutin dentist. I have been a patient of the polyclinic and when I hear people talk about not having sufficient patients, I want to let them know that it is very difficult to get an appointment there. Sometimes one has to wait for a month or two to get a date. It is a busy place, and the dentists have a thriving practice where they gain much experience.

Mr. President, I suggest that the provisions of the Bill are good and I support it.

Thank you.

Mr. President: Hon. Senators, we shall break for tea and resume at 5.10 p.m.

4.37 p.m.: *Sitting suspended.*

5.12 p.m.: *Sitting resumed.*

Sen. Prof. Julian Kenny: Mr. President, I wish to join my colleagues in welcoming you back to this Senate.

Mr. President, if at times this afternoon I may seem incoherent, it is because the organization of Parliament's work has done violence to my constitution. I was awakened this morning at 1.15 to take delivery of a draft report of a select committee of this Senate, which I was led to believe, had I put my signature on it, would have been tabled.

When police call on someone at 1.15 a.m.—and I have not slept since—that person does not know whether they are real police and, because I happened to be baby-sitting grandchildren, my first thought was that my daughter was dead. This is what has been done to me. [*Interruption*] The system has done it to me, Sen. Mark.

I might add that Sen. Mark does not think he has done it to me, but for the past three weeks I have been in Parliament every day on a most complicated piece of legislation, as well as at the two sittings of Senate. Here we have a select committee on a bill that is incredibly complicated and on which we are told to report in two weeks. We are then given an extension. We have been going on like this, even called out on Saturday.

Among the papers I received are the minutes of the meeting of last Saturday, where I am noted to be absent. Yet, when I left here on Friday night, I was told that we were meeting on Monday morning at 9.30. Then I am listed as absent. It is becoming rather difficult. It became especially difficult on Tuesday when we endured the grossest of insults, for which I think an apology is due.

I will not labour the point too much, but whenever there is an important piece of legislation, I make it my business to prepare a text—which I do not read, of course, like many other people. Not long ago, I prepared a written text—as I did the one on sawmills and forests. Now the bills on forests and sawmills have lapsed.

On Monday, I was told what we were doing on Tuesday. Seeing that the Dental Profession (Amdt.) Bill was not going to be debated, I left my notes at home. I came back here to the Squatters Bill to be told that the Dental Profession (Amdt.) Bill would be debated. I left the Senate and ran home to pick it up.

All this has really placed incredible stress on my sanity but I will try to convey the thoughts that are embodied in this preparation, which is about 2,000 words

plus some figures. I am not asking for permission to read it, but I will try to explain my position on the Bill.

This Bill does violence to common sense and reason. It really ought to be sent to a select committee or be allowed to lapse and reviewed at a later stage in a proper parliamentary agenda, when we know what the major bills will be for the year and we take them, bearing in mind their importance. For example, this Bill that we are rushing to get into law really ought to have been debated at the start of the session. It is the Planning and the Development of Land Bill. It is a complicated Bill of about 160 pages.

To be given this Bill and suddenly selected to report within two weeks; to be given another two days; to be awakened at 1.15 a.m. and more or less told to be a good boy, sign and come and participate in something I consider very important, is unacceptable.

5.20 p.m.

When I say this thing does violence to reason and common sense, I would like to first of all, look at the problem in a slightly different way.

Many of the Senators look at the Bill, and they put things in certain order. My first concern, is the violence done to the students, and to their parents. People who have made immense sacrifices to put their children through a professional school. Now, while we are talking about fixing it, I wonder whether the Government and the university appreciate the public perception, and when I say public, I do not mean the insular perception, but the public perception of the state of the dental school. I would come back to that point later.

The first concern is, really, the people who have gone through five years of training and who at the end of it have no unreasonable expectations that they could practise their profession. What are the words to use—they have been had, they have been shafted, they have been sold a pig in a poke—you could stop me, Mr. President, when I become too unparliamentary. But, this is the essence of it.

If the Government, and the university, and the Dental Council address the issue, it should be finding a formula to address that; because the whole future of the name of the dental school is at stake.

Do you think after this, do you think after all we have read and are saying that any person from another country is going to send their child to the dental school? Or, let us put it this way. If any of you here had a child interested in dentistry, are you going to consider paying \$55,000 a year for five years, and have this

uncertainty hang over you? Clearly, you get a little extra mortgage or something and you send your child to a recognized dental school. So, the core problem, the main issue which must be addressed, is what do we do about those young people and their parents?

Now, to my simple mind, reading all the documentation which was given to us by—I think the Dental Council sent us some information, I think Sen. John sent us some packages of information. When you read through all this, you realize that there is a problem. What are the facts about the Dental School? They failed two accreditation exercises. Whatever else you may read, you can see the statements there, from the UK Dental Council, and from another *ad hoc* group looking at the school. The issue is not legislation. The issue is finding a formula where you can bring those who are graduated up to the necessary skills at no cost to them.

I think, this is the heart of the issue. I hope that wiser counsels prevail amongst the entire dental community to ensure that those who have graduated are brought up to standard, and those who are in the stream who are coming up to their clinical work, are given the same opportunity of completing a comprehensive clinical programme at no additional cost again.

So, Mr. President, I will focus on what to me is the issue, the moral obligation which we have to these young people, their parents and to those coming up. I am convinced that going the legislative way does not achieve anything. There are still boils bubbling, there are still forces at play that do not admit of a complete solution to the problem.

Now, I would like to ask the Minister in his winding up to answer some questions—I am not speaking on behalf of the Dental Council, I happen to know the Secretary of the Dental Council who was a student of mine, he did zoology and chemistry I think, and then he went on and did dental training. In fact, I have taught a few of the dentists in this country at their elementary levels—the Minister of Education among others. My incoherence at 1.15 in the morning; and one of the things that puzzled me, is that the original Act was passed—I think in 1980, and I am told by Dr. Lera that since 1984, a number of initiatives have been taken by the Dental Council to have the Dental Act amended.

I am told in 1984, 1985, 1990 and so forth. There are a series of approaches made by the Dental Council regarding beefing up the legislation. Now, if this is in fact so, and I have no reason to doubt it, I think perhaps we are owed an explanation of why does the Ministry of Health now bring legislation and does not refer to previous attempts at amending the legislation.

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

Now, our hon. Minister of Health we know is an eminently approachable person. It is not his doing. I do think that we must really know how many attempts at amending of the legislation have been made on the part of the Dental Council, and what is the nature of these proposals for amendment of the legislation.

Mr. President, the Bill worries me in that its original form has been amended, various amendments which are incredibly confusing. If you are awakened at 1.15; and I find it very difficult with the bits of paper to understand what is going on; and, if you wish to push this legislation through now, the only intelligent, reasonable way of doing it is to get the thing put together properly so there is a single document you can read.

One of the things that disturbed me about it is, the issue which Sen. Prof. Spence raised, and this is the “role of the professional in society”. In all societies, professional groupings have grown, have evolved and they have evolved from medieval times, from craft guilds merely to protect the individual skill—and it has grown into a body of professionals, be they dentist, lawyers, medics, land surveyors, and there is a basic fundamental principle, that professionalism is best managed by professionals. And this is the point that Professor Spence was making; and I have strongly supported this. In fact, in a small society such as ours, I would think that any Government would wish to strengthen the professional societies.

5.30 p.m.

Now, in the original draft, the dentist would have been a minority in the council. This, again, is a violence to reason and common sense. I may be wrong, but my original reading of the paper was that council would be appointed. I think, in one of the versions, there is some provision for election.

Clauses 7 and 8 are equally disturbing because they are requiring the Minister to do something that the Minister—not personally, but a Minister of Government—has no business of becoming involved in: the curriculum of a professional school—or, for that matter—first degrees. So this, I found, a bit disturbing.

The other thing is, the automatic recognition of the UWI degree. I think it is rather premature, bearing in mind that as recently as 1996, we have had an accreditation failure—there is nothing wrong with failing accreditation. One assumes that the organization listens to what the particular accrediting body says and mends its ways.

Now, Mr. President, I am placed in the position of having to refer to UWI. I would prefer not to have to do this—from past experience. But I have learnt one thing from Sen. Daly who is a champion of freedom of speech, that once you get into this sort of forum—and we are protected by parliamentary privilege—that outside, if we say something in here, it is not unreasonable that someone may make some remarks about one's presentation. However, I have the peculiar position, if I ever speak on the university, there are responses from the administration. Sometimes these things are, frankly, libellous; but as a believer in free speech, and at my age and with my individuality, it does not really matter what these people say.

When Sen. Prof. Spence was proposing his establishment of a national technical university, I spoke in the Senate, I supported it, and I made some general remarks about UWI which I thought were perfectly valid.

The remarks I made—specifically, that there is a problem with the duration of the degree; things have slipped. A three-year degree takes an average 4.4 years. The university itself recognizes this and is trying to get this thing down. So when a three-year degree, on average takes 4.4 years, or a four-year degree, on average takes 6.2 years, there is obviously a serious problem and I referred to it because it is a waste of resources. I will give you an explanation why situations like this develop.

Mr. President, this elicited an *ex cathedra* statement, that I imputed—sorry, there is one other thing. I mentioned that there was a serious under-performance problem at the senior members of science, and science is supposed to be the main thrust of the University of the West Indies. The *ex cathedra* statement—I will not read out the whole thing, but it was published in the *Trinidad Guardian* on February 9, 1998—says:

“...Kenny's contribution, in which he imputed that UWI academicians did not enjoy international recognition...”,

and so forth—I never said this. I said there was a serious under-performance problem, and I gave the figures.

Similarly, the *ex cathedra* statement went on to say:

“...people who live in glass houses should not throw stones.”

Now, coming as a serious statement from the top intellectual institution of the country, this suggests to me that there is a bit of a problem.

The *ex cathedra* statement went on to say:

“He added, ‘Kenny needs to be reminded of his own failures in certain projects of the past, when he was associated with the university’ ”.

It then went on to say,

“He described Kenny as always being caustic, cynical and critical, ‘even during my tenure at UWI’ ”

—I might have added: “contemptuous.” [*Laughter*] What do these people expect of an independent mind? What do you expect? Complacency? Conformity? Well, I know no other way of speaking bluntly.

There is one which is even more hilarious. Again, it is libellous—not that I am going to take action against anyone. But quite a remarkable thing was that it said—this is in the *Express*, Saturday 18:

“Writing in the *Express*, Julian Kenny severely criticized the University of the West Indies for its poor throughput...”

Now, the university has told us that there is a poor throughput; but this learned gentleman went on to say:

“...It represents in fact a classic case of the use of numbers without understanding what they mean.”

—I was using their numbers. Mr. President, this—when you tell a scientist, especially one who the records will show has been rather more successful at doing the university’s work—when you tell him that he is using numbers without understanding what they mean, it is a great insult—not that it matters to me in the slightest. In fact, I never actually wrote in the *Express*.

I mentioned these things because I have to speak a bit about the university, and if the *Guardian* and *Express* wish to see the content of what I say here, rather than a reporter writing something which then they send to the university to get a response, I will make it easy for them: I have two copies of my written statement for the *Guardian* and *Express*, if they are interested—not that I imagine they are.

Now, Mr. President, we must talk about the university—unfortunately, because this is one pimple; there are many others—it is not a pimple, it is a boil. Let us look at the history. There is a regional university, which I strongly support. There are good arguments, always, for a regional university. The regional university avoids duplication.

When there is a small community and there are limited resources, one does not duplicate facilities. The second thing is, in a small community there is limited intellectual manpower and you want to integrate this. You do not disperse it over

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

several duplications. Thirdly, if we seriously want to talk about being a West Indian nation, we have to take the young people and move them to centres of excellence. In this way, we bring all our young people together, in one place, in their own discipline. And herein we have had the failure—not of the University of the West Indies—failure of the West Indian political system.

The failure started with a break up of the Federation—and we must learn from our history—and we commenced insular duplication. Now, in the lower cost faculties, for example, Humanities and Social Sciences, where people are only concerned with their brains and their ideas and they do not require vast equipment and so forth, there can be some degree of duplication. But if you go into the technical fields, like science, engineering, medicine, dentistry, one has to avoid duplication, at all costs.

As I say, the political failure led to duplication. So that we started duplicating Faculties—Medicine was duplicated at Cave Hill, Barbados, and Jamaica. The only faculty which remains a truly regional faculty is the Faculty of Engineering. We have duplicated medicine at all the campuses and herein lies the problem.

5.40 p.m.

The money was flowing at a certain time—the petroleum boom—“Let us build Mount Hope”, and the money stopped flowing and Mount Hope was not functioning. It still does not function today. Not only that, the wood work is rotting. There is equipment which has never been used. There is a superb electron microscopy unit. It is still there and has never been used in 15 years, because they cannot afford to get the thing moving. They do not have the manpower.

Mr. President, I am told the expenditure on Mount Hope was somewhere around \$800 million. Now, had we done the exercise properly, we would have spent about \$100 million on upgrading one medical faculty at Mona, out of which there might have developed a dental school. Hopefully, we would have spent some of this money on upgrading engineering and agriculture at this campus. Instead, the money was flowing; we just built this great, big thing which we cannot really afford to run; and it is reflected in the problem which we see at the dental school.

Now, I have no solution to the problem that the university faces, but if we are to develop the dental school properly, international salaries will have to be paid to bring in top people to run a top dental school, in which case the resources will have to be taken away from the Unemployment Relief Programme, or the airport, or the health ministry.

Sen. Montano: Airport.

Sen. Prof. J. Kenny: Or Tobago. [*Laughter*] But, my point is, a highly specialized dental school is going to require a complement of staff that is going to be incredibly costly. It is not as if a Humanities Department is running where there are two professors; a dental school is going to require five or six full professors and, remember, in the Medical Faculty and the Dental Faculty, the salaries are way beyond the rest of the people at the university.

So, the issue is: What do we do? Or, what can be done? It is not for me to suggest the measures. One end of the spectrum tells us that what is done is that the necessary steps should be taken in recruiting staff right across the board—international standards—and an attempt is made to develop the school as an international dental school. I have no idea of the cost of this.

The other extreme is to face reality and cut your cloth. I do not recommend this. I mean, the millions invested up there cannot just simply be written off as somebody wrote off the Caroni Race Track. That cannot be done. Now, in between if we sit and we are rational, there is a possibility that one may approach this, not by legislation but, by an administrative effort, which means bringing together the parties involved.

I know that it is going to be difficult but much of this legislation is aimed at getting UWI staff from the dental school onto the Dental Council. I think it ought to cut two ways. I think that the chairman and secretary of the Dental Council ought to have automatic seats on the management of the dental school. In this way, both parties will be brought together.

Now, perhaps I am a little incoherent and I do not want to prevail on Sen. Daly to suggest that perhaps we ought to make an amendment. I think, in fact, it is far easier to forget the legislation, to let it lapse or send it to Select Committee and get down to the work of finding a management solution to this. One of the ways in which this can be done is my suggestion that people from UWI should be put into the Dental Council—those entitled to practise, of course—and people from the Dental Council should be put into UWI.

Mr. President, overriding this, is the issue of the practicality of using a managed approach to the solution of the problem, as opposed to the legislative one. The legislative one, I am afraid, is going to create an enormous number of problems, because the core issues have not really been addressed. I go back to the

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

University of the West Indies which costs an enormous sum of money. It is over \$300 million a year and an increase has just been given to the staff of 27 per cent, which is, in fact, going to make them happy. They already had three years ago, a like increase. It is not going to produce any more product.

What is the product of the university? If it is calling itself a university, the product of the university is research and quality research; the second product is teaching and quality teaching. So, an extra \$30 million a year is paid and it is not going to have any effect. They will be more comfortable up there, and this is one of the problems.

Now, there is a core issue facing tertiary education which we must address and this illustrates part of the problem. The university is actually regional only in that its bureaucracy is regional. There is very little contact between the people on the factory floor here and those at Cave Hill and those at Mona, but the bureaucrats are flying backward and forward at great cost and herein lies the problem.

Do you know that UWI has the largest number of pro vice-chancellors in the English-speaking universities—not the American—that use that system? We have more pro vice-chancellors than Manchester which is more than twice the size of UWI. And, every pro vice-chancellor has to have a Volvo, or something like that, which does not, in fact, produce a thing; and they have to have a fancy office which does not produce a thing.

I have tried to enter the bureaucratic mind, which is very difficult for me, and the bureaucracy sees the university as the expanding universe. Mr. President, in this expanding universe, I would just quote a bit to illustrate the problem that we are facing. I take it from the university's annual report of 1997 where it gives some idea of expenditure. Of the \$276 million up at St. Augustine which is not counting the central bureaucracy, Agriculture and Natural Sciences cost \$49.3 million; Education and Humanities cost \$14.9 million. I assure you, Mr. President, we get far more value from those people for the expenditure. Engineering costs \$38.1 million; Medical Sciences cost \$57.9 million; Social Sciences cost a mere \$17 million; the Library costs \$17.1 million; and the Administration costs \$60.3 million. It is there; I do not invent it; and I see the media—the *Guardian* and *Express*—are not up there, but this is an official document of the university.

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

Now, I tried to get into the mind of the bureaucrat to see if I could understand what they are after. They are after the expanding universe, whereas the academics—

those who produce the product of the university—are more concerned with maintaining the standard, both of research and of teaching.

Mr. President, while I have this document in my hand, I might just point out that this is the new style UWI. This is UWI Incorporated. Before, we used to have an annual report which told us things. One looked at departments and was given information as to how many departments and what were the subjects. I am sure that Senators remember this. This is now UWI Incorporated. There are lots of pretty pictures of bureaucrats and so forth, but it tells us nothing. It is suitable to a commercial organization that is trying to impress and, I might point out that nobody up at UWI actually reads this, including the proof-readers.

To me, it is quite intriguing that an honoured citizen of this country, William Demas, is down as William Dumas. Not only that, the university cannot even spell the first name of its vice-chancellor; it is sometimes spelt with two “L”s, sometimes with one. When one reads through this, one wonders.

This is really through you, Mr. President, to the Minister of Finance. On page 90 of this document, it talks about the staffing and so forth and there were 122 non-academic persons. Then it goes on about:

“It is cause for concern that a disproportionately high number of academic staff vacancies are among professors, 41 per cent. This signals that the University must revisit the structure of the inducements for very senior academics.”

In other words—more, more. I mentioned this because, when I was told that I was a failure and that I was imputing improper motives—well, not motives—but, that I was maligning the brilliant academics at St. Augustine, I decided that in all fairness I would have a longer period of time covered and I looked at a faculty which I know only too well.

I paid a research assistant who is an M Phil. graduate of the University of the West Indies to do what we scientists call a search. One of the places we search is in the science citation index which is an index that covers about 35,000 scientific journals of which there are 33,000 or 34,000 issues a year. It looks only at the citations of people, so that, if Sen. Daly were a publishing scientist, every one of

his papers would have a list of references and he might have referred to something which I wrote, so my name would have appeared in the citation index.

Now, why I mentioned this is to note that when the Americans, the Canadians, the English and the Europeans are recruiting science staff, they use the index. I again observe that I am only talking about the Natural Sciences which include medicine.

5.55 p.m.

When I did the search I had my graduate assistant cover a 10-year period from January 1988 to August 1997. This covers a total of 15.4 million citations. The important thing when you look in the science citation index you see the statistics for the year and the average number of citations to cited authors like Sen. Daly or Sen. Prof. Kenny is 9.83. In other words about 10 times your name appears in somebody else's work. I mention this not to malign the people up at the University of the West Indies but to emphasize a problem which has arisen at the university because we have had this mad bureaucratic expansion of student numbers; irresponsible growth which cannot be maintained.

The study which my post-graduate student did took the University of the West Indies Faculty of Agricultural and Natural Sciences and the average citations for a full professor at St. Augustine is 1.3 and for the readers and senior lecturers is 1.4. This is the average per year. The average for the world of science is 9.83 so it tells you that there is a serious under-performance problem.

It was stated clearly that I have been suggesting that our scientists have big international reputations. They do not, some do. In my study without—

Mr. President: The speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Prof. J. Spence*]

Question put and agreed to.

Sen. Prof. J. Kenny: Thank you, Mr. President, and fellow Senators. I hope that I am being reasonably coherent.

To come back to the study, there are some departments that are performing extremely well. I am not going to malign anyone by going into names because I do not think it is necessary, but there are some departments which are not performing and there are some professors who are not performing. They may be

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

attending various functions and they may be giving lectures and so forth but in the world of science they have no name; they do not exist.

I just point out that of the professors of which there are seven in Natural Sciences, two of them are untraceable in the science citation index. If I were not in

the science citation index I would want to crawl into a hole. I am still occasionally cited although I have stopped doing serious scientific work. I mention this because we have a serious problem and the problem is caused by a number of factors: over extension of the university, lack of facilities, a watering down, and yet the bureaucrats want continued expansion and this has a cost.

When I was supporting Sen. Prof. Spence I was suggesting that a national technical university is quite a different beast and this national technical university would be in very select areas. The University of the West Indies, since 1990, has been planning expansion on the basis of this plan for expansion. Money was borrowed as the Minister of Finance knows only too well; IADB funding, massive buildings and so forth. The original plan was to double the numbers by the year 2000.

The more recent document which is their strategic plan which we obtained in 1997 has downgraded the target to 21,000 students by the year 2002. If you combine the failure to attain the target with the extended duration of the three-year and the four-year degree you realize that we have a serious problem.

I mention this, Mr. President, particularly to emphasize that this is not merely a dental school problem. There are lots of other problematic areas within the university. The basic conflict is between the bureaucrats who see this in one way and the academics who see it in quite a different way. The vision of people like Sen. Prof. Spence, Sen. Prof. Ramchand and myself is a University of the West Indies which is a really superior university, hopefully one day being able to stand by other top international universities.

Instead, we seem to have moved away from this toward the mass university in which everybody goes there. It is difficult, under those circumstances to maintain standards and the standards are reflected in what I have been telling you. When you are no longer internationally competitive you are unable to attract quality staff. When you do not have quality staff you do not have a quality degree and you do not have quality research. I thought that I would take a risk of speaking about the university and hope that this is missed. I will return to the issue of the Bill.

Mr. President, I do not think that it is wise to force something like this through. It is a legislative solution which will not solve the problem. The really intelligent and mature approach to this is to sit back, reflect on it, think of university and the dental school and where we are headed. Think of the Dental Council and the dental profession, the association and the council, and see how we can strengthen them. But these things let us keep them there not on the back burner but keep them as issues which we must address.

Any administration worth its salt will find a means of addressing the issue. The problem is what happens to our graduates and we must address this. My view is that surely in this country we can find people of goodwill who can sit together and who can look after the interests of the young people to ensure that they can enter the profession as any other professional in the country.

With these words, Mr. President, I terminate my incoherence and appeal to the Government to let wiser counsel prevail. Not that I am a particularly wise person but sometimes with age you get a slightly different perspective especially if you have been involved, as I have been, with teaching undergraduates for 30 years; successfully I might say.

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

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, on a Procedural Motion may I seek leave in accordance with Standing Order 9(8) to move that the Senate continue to sit until the conclusion of matters before this Senate. I refer specifically to the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill and the Dental Profession (Amdt.) Bill.

Question put and agreed to.

Mr. President: Hon. Senators, earlier on in the proceedings we had agreed to defer the debate on the Indictable Offences (Preliminary Enquiry) (Amdt.) Bill to a later stage of the proceedings. I would now like to revert to that Bill in order to allow the Attorney General to leave the Chamber due to circumstances of which we are all aware. We will revert to the Dental Profession (Amdt.) Bill after. The Attorney General has already spoken for 13 minutes.

INDICTABLE OFFENCES (PRELIMINARY ENQUIRY) (AMDT.) (NO. 2) BILL

Dental Profession (Amdt.) Bill
[SEN. PROF. KENNY]

Thursday, September 17, 1998

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. President, I do not intend to be very long. I must thank you and hon. Senators for their indulgence.

May I report that the discussion between Sen. Daly and the team of the Ministry in relation to the matter has proven to be useful, in that based on the discussions not only was the Bill seen in the context of the particular provisions which were giving Sen. Daly some difficulties, but based on the discussions there were some improvements made to the Bill. In relation to the proposed amendments which were circulated in relation to clauses 3 and 4 there was the renumbering of the section but also there was the question of where the accused person refused to sign the record that the magistrate shall record in writing the refusal and such record shall be kept with the deposition. That applies to both clauses 17 and 18.

There was also an important amendment in that 17(B) of the Bill was deleted because that really should not have been there in the light of the changes which had been made to clause 18 because clause 17(B) was saying that where the request, under clause 17, the accused replies he reserves defence or uses words to that effect or remains silent, then the requirement of clause 18 shall not be complied with by the magistrate, whereas we were amending clause 18 in order to make it mandatory for certain things to be done. So clause 17(B) was inconsistent with the amendment to clause 18.

Mr. President, the discussions were useful and we would like to thank Sen. Daly for his contribution. We on the Government side wish to give the assurance again that we will try our best to see whether we can give more notice in relation to some of these matters.

Mr. President, I beg to move that a Bill to amend the Indictable Offences (Preliminary Enquiry) Act, Chap. 12:01, be now read a second time.

6.10 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 3.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 3 be amended as follows:

- 3
- A. Delete the proposed section 17B.
 - B. Renumber the proposed section 17A as section 17A(1) and in the proposed section 17A(1) as renumbered, delete the words “section 17” and substitute the words “section 17(1)”.
 - C. Insert after the proposed section 17A
 - (1) as renumbered the following subsection:
 - “(2) Where the accused person refuses to sign the record referred to in subsection (1), the Magistrate shall record, in writing, the refusal and such record shall be kept with the depositions.”

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

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

Mr. Maharaj: Mr. Chairman, I beg to move that clause 4 be amended as follows:

- 4
- Insert after the proposed subsection (2), the following subsection:
 - “(3) Where the accused person refuses to sign the record referred to in subsection (2), the Magistrate shall record, in writing, the refusal and such record shall be kept with the depositions.”

Question put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5

undermines the confidence of the public in the UWI graduates practising as dentists at present. It brings hardship upon students with degrees who are now unable to register after five years of training, five years of expense, and five years of hope.

Mr. President, if the Teaching Service Commission refused to register some of my students from the Faculty of Humanities and Education—refused to register them as teachers—those graduates would be able to find some other job that makes use of their qualifications, but if the Dental Council does not register a dental student, there is very little he can do with his skills, except perhaps, if he is from another country and comes as a professor in the dental school.

The immediate issue to be addressed is the fate of the students and the fate of the waiting graduates, and I do not think it can be addressed by inventing a legal dodge to register them. We have to decide whether the training is insufficient as the Dental Council alleges, and if the training is insufficient, how to train these students, how to upgrade these students, without additional expense to themselves and without too much loss of time.

I want to move away from the issue for a while and look at the things that lie behind the current impasse. The real issues behind the disagreement have to do with the nature and proper function of the Dental Council and the limits of its powers, and it has to do with the quality of the degree being offered by the dental school. The pity and the perversity is that the Dental Council and the dental school have not been able or willing to establish a working relationship that would benefit dental education and the practice of dentistry in this country. The proposed legislation may bring relief to those graduates waiting to be registered, and it may revive the students who are at various stages in the degree programme, but I have been paying very close attention to the debate, because I want to find out whether the proposed legislation goes anywhere towards solving the deep-seated problems that have come to light in recent weeks.

Mr. President, I want to go back to a beginning. If we go back to a beginning, we may see some of the seeds of the confusion that has now arisen. In 1961, a Dental Registration Committee was established under Part II of the Medical Board Act. This committee consisted of a chairman, three members of the Medical Council, and three dentists. It started off with four medical doctors and three dentists.

6.25 p.m.

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

Mr. President, when you look at the regulations and the establishment you see that the function of the committee was what its name implies, it was a dental registration committee. That was its job, to register dentists. It had no examining or accreditation function. It was not asked to decide which university was approved or not, it was simply a registration committee.

I would read a bit of the regulation concerning it. It says:

"38. Any person who shows to the satisfaction of the Committee that he is of good character, and—

(a) holds any diploma or licence from any university, college or incorporated society in the United Kingdom or Eire having authority to grant the same, and that he is by law entitled to practise dental surgery or dentistry...

shall on application to the Committee and on payment of a fee of fifty dollars, be entitled to be registered as a dentist."

In effect, there was a schedule, and on it were the United Kingdom and Irish universities.

Part (b) allows that the Registration Committee may recognize other certificates but only "for the time being". It states:

"...a certificate from a Commonwealth country or foreign country recognised for the time being..."

Those countries from which a person's certificates were recognized were not going to be put on the Schedule but were only there for "the time being" and the committee was not going to examine those universities but decide, almost on an *ad hoc* or one by one basis, that this person was acceptable.

In effect, in 1961 the Dental Registration Committee operated a colonial schedule, UK and Irish universities and nobody else. The others would get it one by one if they had a friend on the Dental Council who would say, "You look good boy." There were no procedures outlined about how they were to be brought in, they only had to be "recognized."

Then in 1980 the Dental Board was established with a Dental Council to be elected from among the board members. Again, there was nothing in the legislation to do with the training of dentists. According to 12(e) the council was given no authority to order the inclusion of items in anybody's curriculum but they were given the power to appoint a board of examiners for the purpose of

conducting examinations required by this Act. In 15(b) the legislation goes into some detail about when an examination would be held.

"The Council may in order to be satisfied that the qualification of an applicant for registration is sufficient...

- (a) grant temporary registration and make recognition of the qualification conditional upon satisfactory performance during the period of temporary registration;..."

I would just point out that in the 1980 legislation the council had the power to grant temporary registration. A very easy solution to the problem might have been, that if the council was not entirely satisfied with the UWI graduates—who passed the exam three months later on the second sitting anyway—it could have granted them temporary registration, let them proceed to work in certain areas and then a few months later if they passed the exam, or the council was satisfied with the way they did their jobs, it could grant them full registration.

I do not know why this part of the legislation has been ignored. In 15(b) the existing legislation states that the council may:

"make the recognition of the qualification conditional upon the passing of an examination conducted by the Board of Examiners appointed by the Council..."

Therefore, the council may set an exam, and the council decided to set exams.

I want to insist and point out that when this legislation was passed there was no University of the West Indies Dental School, so the legislation did not have in mind the UWI Dental School. What it said was that if dentists from other countries who were trained to operate and deal with the kinds of patients who lived in those countries and whose training had been localized in other countries, were to come here, then the Dental Council has a right to scrutinize that training and say, "Listen, you are only accustomed to doing gold teeth, we do not have gold here". There could be some kind of interview or mini examination based upon the particular diploma and the particular details of the person's degree. You could say, "Listen, we would like to register you but we would like to be assured that you could do this or that particular thing."

From the very beginning, the notion that the Dental Council holds an examination or tests anybody was a regulation that had to do with graduates of foreign universities. If you check the definition of "diploma" in the 1980 legislation you would see that built into the definition is that a regional institution

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

can or does have the authority to allow its graduates to practise in the country where the degree was granted. "Diploma means any diploma degree, fellowship, membership,

licence or certificate granted by any university, college or other institution conferring authority to practise dentistry in the country or place granted."

In other words, by the conferment of a degree upon you by your university, you are granted automatically the authority to practise in your country. But when you come into my country the Dental Council has to recognize you and not necessarily examine you. It can scrutinize your transcripts and the lists of courses you took, and that seems to be perfectly acceptable, wise and right.

We started in 1961 with a kind of schedule, we went to 1980 to the removal of the Schedule and now we are coming in a proposed amendment to reintroduce a schedule which I oppose tooth and nail. The schedule grants automatic registration to graduates of foreign universities! I do not care whether it is the greatest medical school in the world, we have no right to grant automatic registration. It is not a question of the quality of the degree, but the appropriateness of it to local conditions. Therefore, I have to oppose the whole section that introduces a schedule.

I want to know, all those strange universities that are in the Schedule, how did they get there? Did anybody scrutinize those dental schools in the way the dental school of the UWI has been scrutinized? Has the Dental Council attempted any type of accreditation exercise on those institutions? Does it have the skill and competence to mount an accreditation exercise in relation to those hundreds of universities from where their partners come, that they put on the Schedule?

The insertion of the Schedule in the proposed legislation is the first example of what is going wrong. It is very clear this piece of legislation, the invention of the Schedule is a ploy to put UWI on the Schedule. You cannot solve the problems I am going to talk about by this kind of legislation. These problems have to be solved by other means and by the competent authorities. Let me repeat what some of my colleagues have said, you do not want a legislative solution, you want the Dental Council and the dental school to learn to live with one another, and if you have to put them in here and force them, that is what we have to do.
[Desk thumping]

The Dental Council is authorized to administer an exam, not even set an exam. The legislation is very clever; setting an exam is different from administering it. For a long time at A' levels and O' levels we were just

administering other people's exams, we are now setting our own exam. Of course, we are doing it a bit foolishly but still we are setting our own exams. What they are saying in this piece of legislation is that the Dental Council may administer an exam set by God knows who, but not the kind of exam that the UWI students have been forced to take.

The exam they are given is a 3-day exam. On day one it is a written exam dealing with the basic sciences. On day two they have to do two fillings which I am told a proper dentist could complete in one hour, but they have from 8.00 a.m. to 4.30 p.m. On day three, they have to do gum treatment, clean four or five teeth and carry out all the preliminaries to send a package to the lab saying, "Make this denture." The written exam is almost testing all that they have learnt by short answers.

Dr. Rafeeq: Are you referring to the dental school exams or the Dental Council exams?

Sen. Prof. K. Ramchand: The Dental Council exams. I would really find it very impertinent if I have graduated from the Faculty of Humanities and Education and the Teaching Service Commission said, "Come, we want to see how good your degree really is; we will give you a 3-day exam." That is wrong, impertinent, and that is duplication. That is insulting the institution that gave the degree. What you can do is interview the students. You may bring in a panel in the Teaching Service Commission and say, "You said that you wanted to be registered as a teacher of English, how would you handle a class of unruly boys who do not want to hear anything about Chaucer."

Thus, it is not a written or accreditation exam to see how good the institution is. It is an exam to see whether graduates can do the job they say they want to. I find it very wrong that the Dental Council which previously would deal with individuals in a looser way, should suddenly formalize a 3-day exam for graduates of UWI. That does not mean that I do not have problems with the dental school or that it may not be true that there are lots of deficiencies in the dental school or that the Dental Council may not be quite right in some cases. I am not trying to deny the truth of some of the reports of the accreditation teams which came out and found deficiencies in the dental school.

The reason we have got into this type of bind is because the school and the council ought to have co-operated and found some sort of method for eventually registering the students. I cannot understand why a set of big men and women—

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

Sen. Dr. Mc Kenzie: There are no women on it. Leave us out of that! [*Desk thumping*].

Sen. Prof. K. Ramchand:—after the five years graduation could not decide together, council and school, that we are giving temporary registration to these students, a year of internship, and after that year of internship, we, the council and the school, would adjudicate whether they have picked up enough practical experience and it is time to let them loose.

6.40 p.m.

What is wrong with a temporary registration and an internship year supervised by the Dental Council and the dental school after which these young people get their registration? Why could that not be worked out?

Mr. President, the establishment of the dental school in 1989 as I have been suggesting, created a situation which was not envisaged by the legislation of 1961 or 1980, and it would have been necessary to amend the Act to say that there have to be representatives of the dental school on the Dental Council. The Dental Council was constituted at a time when there was no dental school, now a dental school is set up, it is obvious there must be representatives of the dental school on the Dental Council.

Before the arrival of the dental school, the Dental Council functioned as if it had the intellectual authority to decide on dentistry in the country. They were not usurping anybody's authority, but now with the creation of the dental school, something had to happen to the Dental Council. A relationship had to be established. The Dental Council came into existence by legislation, so I would not have minded legislation working to deal with it. But it was necessary at that point to stipulate a relationship between the Dental Council and the school and it was not done.

There were all kinds of questions raised by this new development. Should the Council extend its testing procedures from foreign persons to the graduates of the local university? And the answer, in principle, is no. But, of course, they should be involved in helping to devise the examining process. Should the council have a say in the curriculum? Not by law necessarily, but surely by co-operating with the school. Should it have a say in the examining process? Of course they should, but by co-operation. We have to ask, was the council ever entitled by law to perform

accreditation exercises, and was it entitled to perform what they did perform—an accreditation exercise on the University of the West Indies? The answer is no.

Once the school was established, I have to say, from the evidence, that the council tried to get into the act. They started to ask questions. In 1990 they asked to see the curriculum, in 1991, they asked to see the curriculum, and again in 1992 they are begging to see the curriculum. The curriculum was sent in, they say it had not reached until at last in February 1993, they were told to sit on the curriculum committee. On June 1, 1993 it requested a curriculum again and at last on September 23, 1993 the council acknowledges receipt of the curriculum. It had asked for it in 1990, and it was received in 1993.

Unless the dental school can answer why it behaved like that and say it is not true, I have to say it is very strange. What is the attitude of the dental school to the Dental Council, that a perfectly normal or acceptable request saying—we had been the party involved in registration of dentistry for a long time, now you are there we feel we should have a say in it—could we see the curriculum please? There is nothing wrong with that.

As graduation approaches, someone in the dental school must have said “You know those fellas could zap us because they have to register the students, we better make one or two moves to make them feel we recognize them.” But by this time, there is contention, there is some antagonism, there is hostility. The council begins to mutter things about accreditation in December 1993 and it looks as if the University of the West Indies is going to say yes, you can accredit because we have some graduates coming out just now, do not make trouble for us. The University of the West Indies is very conciliating at this point. I do not know why the council did this, they looked around at the dental school’s staff and said you have fellas from countries we do not recognize, some of the professors are not registered to practise here, why do they not come and write the examination? To me that is provocation. There are people licensed to practice in their country, they get selected here as assistant professors or whatever and the council says they could operate and pull teeth on the campus, but if they come outside they are breaking the law. That is provocation.

Mr. President, it is obvious that concessions began to be made just around the time when the University of the West Indies realized they were about to graduate the students. That is not a way to start to come together. It is a very sad and sorry tale that one must tell about the relationship between the council and the school.

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

In one or two interviews I have done with persons on the council, I have been told that there is no problem with the curriculum but with the delivery. It cannot be

a problem with the curriculum. We talked about the students who failed the examinations. In 1995, 13 wrote, nine of them passed. Of the four who failed one was a Seventh Day Adventist who wrote the first two days of the examination, but the third day was on a Saturday so he did not go. Another one did not turn up for the examination at all, he went abroad to further his studies. The Seventh Day Adventist wrote the examination in April and passed. In the first year, the Dental Council is not asking anything that the graduates cannot answer. Eleven out of 13 is not bad, but in 1996, 11 persons wrote the examination, three passed and eight failed. The eight resat the examination and seven passed. What is wrong with the curriculum? What is wrong with the training that after such a short time, you are not even in the university anymore, you are studying on your own and you pass the examination? Nothing can be wrong with the curriculum.

In 1997, 10 persons wrote the examination, two passed it and eight failed and on the resit—I do not know if all eight resat—three passed, so there are five of them waiting. All this talk about the Dental Council failing the students black is white and so forth is not true, people are failing, but the examination is not an impossible examination and the Dental Council has told me they do not have a problem with the curriculum. The evidence shows that. The examination is not beyond the reach of the students, but there is a problem with the delivery at the school.

Mr. President, the University of the West Indies invited the general Dental Council to visit it in March 1996 and the General Dental Council of the United Kingdom which, as good colonials, we recognize as a major institution, put in a report on the dental school which supports some of the allegations made about the slackness or failures of the dental school.

The *General Dental Council Report* had this to say about staffing.

“One of the major problems which has affected the school almost from its inception, has been the difficulty in attracting and retaining academic staff. We were told that on a number of occasions the authorities had had to resort to crisis management to ensure that essential teaching programmes were given. As a consequence there had been a succession of short-stay visitors who had given courses. This resulted in lack of continuity of the teaching programme and lack of consistency of the teaching message. There had also

been occasions where the students had to be diverted from clinical work in order to pick up theoretical teaching when it became available.”

That is not the way to run a school.

“We can well appreciate the concern expressed for the lack of academic and clinical leadership in a number of important disciplines, the lack of stability in senior positions and the inevitable knock-on effect that this has on research, postgraduate study and development of younger members of staff. We believe these concerns to be well founded.”

Those are some of the things which they said and it is true. They also spoke about the inability to have patients on whom the students may practise.

“At this early stage in our report we must highlight another major cause for concern which affects the quality of teaching and experience gained by the undergraduates and interns—the number and attendance of patients. A number of members of staff drew our attention to the shortage of patients at the Mount Hope Complex. “

They say one of the reasons for this is that the patients had to pay.

Mr. President, when I was a student at Edinburgh University, I had partners in the dental school who used to come around asking those who want fillings or cleaning and whenever they are trying out something they would ask us to come. I had free dental service from students in the dental school for three years.
[Interruption]

Mr. President, I have to read what they said about the clinical work on pages 11 to 12 of their report.

“We have noted that the schedule of clinical work that the school expects each student to complete before graduation, unfortunately this schedule does not appear to be achieved in very many cases. We received evidence that students well into their fifth year of study had treated only two edentulous patients and not completed treatment for a single partially edentulous patient and had no experience in crown and bridge work, and limited experience in endodontics. In periodontology the aim is for each student to complete the treatment of three patients by the time of graduation. We understand that not all students achieved this quota.”

6.55 p.m.

It goes on, but I will not go on. The report is there. They have found that because of the staffing problems, the lack of patients, the lack of facilities, the

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

lack of co-ordination, there were serious deficiencies in the clinical part of the course.

Finally, they looked at the internship year. They came to the conclusion that this year of internship was very unsatisfactory. They do not believe that year equates to a United Kingdom vocational training year and should, therefore, be considered a continuation of the undergraduate course. So, there is something wrong with the internship exercise. They were saying that in the United Kingdom, those students would be attached to dental practices where they would gather experience, working with patients. We have not done that here. So, the so-called internship year also needs to be better managed.

Mr. President, I am arguing that the dental school, which began with great hopes, could not get right staffing—I think they had the money but could not get the staff—and did not organize itself properly. There were all sorts of tensions with the experienced people—the Dental Council—who might have been able to help them. They did not make use of it. However, in spite of that, they have done reasonably well. I do not propose that they be shut down and our students be sent overseas. I do not think the situation irreversible.

The Dental Council made a serious point which has to be picked up. They stated that they understood that the dental budget amounted to only 0.5 per cent of the total budget of the Ministry of Health. They pointed out that there just was not enough money going towards dental care in the country.

I think that there is need for proper budgeting, proper management, a continuation of the curriculum improvement, better orchestration of the teaching, and especially separation of the dental school from the medical faculty. There is need to allow the dental school to be free of the doctors that are running it. At the moment, they are all under one umbrella. The dental school needs to be set on a course to run itself. Let dentists run the dental school.

We do not want imperialists. We want efficient units of people who know what they are doing—people who can fight with the Dental Council on its terms and not come with any highfalutin speeches like: “I am in charge. I am from the university. You never went to university. You have never written or set an examination before.” We do not want any of this kind of arrogance. Let there be a dental college or school responsible for managing itself.

Mr. President, I join my colleague, Sen. Prof. Kenny, in saying that the problem of mismanagement that goes on at the dental school is a university-wide

problem. The administration of the dental school has suffered from a ruling University of the West Indies' philosophy that a good academic is bound to be a bad administrator and a bad academic is a good administrator. If bad academics are allowed to fulfill their need for upward mobility by grabbing power for themselves and their cronies in the academic institution, all that the institution will manage to do is what the dental institution has managed to do—just keep its head above water.

One day I went on Denis Solomon's boat in the wrong shoes and he said: "Hey, hey, hey. You are in the wrong shoes. You cannot behave like that on a boat, you know. You can behave like that at the university. A boat can sink. The university cannot sink."

Mismanagement has not sunk the university. It is there, lumbering along with its head above water. *[Interruption]* I have tenure. I have had tenure about three times. Before they fire me, I will resign. When bad academics take over the administration, the university will not sink, but the good academics, like Sen. Prof. Kenny, will abandon ship.

The question is: Do we have a workable or improveable institution? Can the council and the school work together? How can we help the graduates and those who are in the middle of their programmes? How can we upgrade without further expense and without too much loss of time? These questions cannot be solved by legislation and certainly will not be solved by the present legislation, whether it is the legislation we received at first and which I can read, or whether they are the amendments which have come so thick and fast that I cannot read them.

In closing, I offer some comments on the proposed legislation. First of all, with respect to the composition of the board, it has become obvious to the Minister—and I think he is taking steps to do it—that there should be representatives from the dental school on the council.

It is very interesting that section 12 of the 1980 legislation is being deleted. I wonder if people realize the significance of that.

"The functions of the Council shall be—

- (d) to publish for general information a list of universities, colleges or other institutions, the diplomas of which are recognized by the Council."

In some of their statements the council has said that one of its functions is the accreditation of institutions. Nowhere in the legislation is the council given the

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

power or the means to accredit institutions, so (d) is meaningless. All they should do is publish a list to make it known to dentists. They are not equipped to accredit.

It is very interesting that, in the proposed amendments, section 12(d) is being deleted. If 12(d) meant the power to accredit, it would never have been deleted. The understanding of those drafting the legislation is that it is cosmetic. It was never a licence to accredit, so I welcome that deletion.

7.05 p.m.

We now come to the sections, Mr. President, that I really cannot agree with. I think I have said enough to suggest that I cannot agree to the inclusion of a schedule. A schedule gives automatic registration to graduates of foreign universities whose ability to work and serve in our region we cannot be sure about; and therefore while we may not ask them to sit a three-day exam, we have to undergo a process of scrutinizing their credentials. The schedule will deprive us of that opportunity.

You buy the right to make UWI automatic, by making a whole set of other people automatic, who should not be automatic. Now, you can make UWI automatic by getting a working relationship between the council and the school and then, the UWI degree would be automatically recognized by the council. Once the council and the school work together—in any country, the degree granted by the institution in that country, should authorize the person to practise in that country. It is when he wants to go to Australia or Canada or England that he has to go through some kind of scrutiny as to whether he should be recognized. That happens in the United States too.

You are a dentist in California, you graduate, you do not have to go through any trouble to practise there.

Mr. President: The speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Prof. J. Spence*]

Question put and agreed to.

Sen. Prof. K. Ramchand: Thank you, Mr. President, and fellow Senators, I would not take more than five minutes.

I think that schedule should be deleted—No. 7:

The Act is amended by inserting after section 5, the following new section:

“The Minister may by Order after consultation with the Council amend the schedule by adding “thereto”, or deleting “therefrom” any university, college or other institution”.

I do not see, why the Minister and the council should have that power. But, in any case I hope we would not have a schedule.

Finally, Mr. President, the Act is amended by inserting after section 45 the following new section:

“The Minister may in collaboration with the Council review the curriculum and training programme of the University of the West Indies Dental School and make recommendations thereon”.

I would consider that an affront. I would consider that an assault on the integrity of the university.

The university is the body which sees to the making of the curriculum. If the university wishes the council to make an input, there should be a relationship where they are invited to so do; and surely, if the Minister wants to make an input there should not have to be a law which says he can do it.

The Minister is a respected figure, he would say “look fellas, I need this kind of dentistry done, could we talk about whether the syllabus can be modified so as to produce this for me? Because I want to set up free clinics in all the country areas—we need a set of men trained to operate pliers to do some extractions and they would tell him he is mad or whatever. *[Laughter]* The Minister would have the prestige to go to the school and go to the council and say “look the Government thinks it needs this”.

So, I think, that this piece—you could say the university looked for that because of its bad administration. Was it Sparrow who said “Big belly you must take your grind for your bad administration?” We should take the grind for our bad administration. *[Laughter]*

Mr. President, let us first take it as a rebuff verbally, but let us not enshrine it in the law that a non-academic section of the community could claim the right to tell the academic institution what it must include in its curriculum; because if you do that, when I become Prime Minister, I would tell the English students to study Ramchand’s novels and his collected poems. *[Laughter]* And that might be good for them, but I feel it would be unjust.

Dental Profession (Amdt.) Bill
[SEN. PROF. RAMCHAND]

Thursday, September 17, 1998

So, Mr. President, to summarize, I am really sorry that the council and the school have washed all this linen in public and have brought themselves into disrepute, and have undermined the students, and have put doubt in the public's mind; and I hope that the Government will find a way to scrap this piece of legislation, and work towards bringing the council and the school together to improve dental teaching and the practice of dentistry in the country.

I would like it to be regarded as a separate problem which it can deal with in a practical way, the problem of the students who are at present in the school, and who have just graduated.

Surely, there is enough wisdom and money in the country to find a way to relieve those students who have been left in jeopardy and who will probably be in jeopardy for the two or three years that the school may take to insert a new curriculum, and a new internship practice that could redound to the benefit of the school and to the good name of the country and the institution.

Thank you. [*Desk thumping*]

Sen. Nizam Baksh: Mr. President, I, too, like the other Senators would want to welcome you back to this august Chamber and, in news to the contrary that was circulated in the news media, we are happy to have you back here.

I take this opportunity to add my two pence worth to this Bill. But, I want to do it in a little different style taking into consideration the lateness of the evening here. Of course, I would want to lend support to the Bill—"An act to amend the Dental Profession Act, Chap. 29:54.

Mr. President, I see two objectives in this Bill.

- (1) To make better provisions for the composition of the Dental Council of Trinidad and Tobago.
- (2) For the registration of the UWI graduates to practise dentistry in Trinidad and Tobago.

Now, we all recognize that this Bill comes against a background of some confusion and conflict between the Dental Council and the UWI School of Dentistry. I recognize that it is like a boxing game going on now. A lot of action in that area, and that it is not limited to rounds, but is a fight until a technical knock out (TKO), until somebody dies. So you leave with a winner. What I see here really, with this fight going on between the Dental Council, and the UWI School of Dentistry, is that it will continue forever. But, the victims will be those

people sitting across there—the students, the graduates of the school; and I think this is an important factor for all of us to focus on.

I also see this boxing match coming into this august Chamber as well—and you will recognize that when I give you some of the headlines we have been receiving in some of the newspapers over the last few weeks—Opposition has reservation on amendments of the Dental Act.

Mr. President: Please Senator, identify

Sen. N. Baksh: Yes.

“Opposition has reservation on amendments of the Dental Act”—*Newsday*, August 20, 1998.

“Dental Council insist on dental exam”—*Express*, August 28, 1998.

“Minister pulls teeth on local Dental Council” —*Newsday*, August 20, 1998

“Opposition pulls Raffique’s teeth on Dental School”—*Express* August 20, 1998.

So you realize what is happening here, Mr. President. It says here:

“Dentistry at the Crossroads” —*Newsday*, Tuesday, August 25, 1998.

So, right away we get an idea of what is happening at two levels, the kind of battles taking place. I describe it as a boxing match going on.

Now, I would like, since we are involved maybe as a patron or whatever—sometimes when the match is getting exciting you have a lot of shadowing. I take this opportunity to perhaps throw a little punch here and there obviously in whatever corner it might, but when it comes to supporting those graduates and the people who would benefit in the long run, the public—citizens of Trinidad and Tobago, I take centre swing to throw those punches. [*Desk thumping*]

I take the opportunity to read from the *Newsday* of Tuesday, August 25, 1998, and this is actually giving the background of which we are all aware, but it is good to remember these things. The history here is that—I read from the *Newsday*:

“There is a population of approximately 1.3 million people in Trinidad and Tobago, and approximately 50 per cent are under the age of 18, the age most at risk for dental disease.

Dental Profession (Amdt.) Bill
[SEN. BAKSH]

Thursday, September 17, 1998

The number of dentists registered with the Trinidad and Tobago Dental Council gives a ratio of approximately one dentist to 12,000 people.

The World Health Organization recognizes that there should be one dentist to every 2,500 people”.

7.15 p.m.

“...In simple terms, this means that there are 20-25 per cent of the dentists available to fulfil the required demands. Alarming, there are over 500 unregistered, unlicensed ‘quacks’ purporting to practice some form of primitive dentistry in Trinidad and Tobago, with no controls or supervision...”

I continue a little further down.

“...It is evident that the demands imposed on the available financial and manpower resources are excessive and at the present time, simply cannot be met.

Preceding governments, and in particular the present Minister of Health had the insight to promote the development of a University Dental School, with the specific aims of providing undergraduate training, higher training, special services, research and training for ancillary staff.

In their qualifying Final Dental Exams, all dental students are assessed by experienced University Examiners from the UK, USA and Canada, many of whom currently occupy the post of Deans of prestigious dental schools. Since 1994, there are approximately 40 UWI dental graduates practising safely and competently within the Caribbean. Furthermore, eight UWI graduates are pursuing specialist training in both the UK and USA, without the necessity to undergo pre-entrance examinations. This represents Trinidad and Tobago’s investment in future specialists...”

I would like to read another section, from the *Express* of August 20, 1998, which quotes the Minister of Health as saying:

“...The school, which has been in operation since 1989, has produced 63 graduates but the Dental Council, which registers dentists, has continued to refuse to recognize the degrees.

The Minister said the Council had expressed concern about the inadequacy of the physical and practical teaching, as well as the syllabus, and had set its own exams for students.

The students had to pay a fee of \$2,000 to the Council to write the exam and a request has since been made by the Council to double the fee.

He said that since taking up office he had tried to have this matter of recognition of the degree resolved..."

I go a little further down:

"...The Minister quoted a letter of endorsement from a Prof. Williams, Dean at the Royal London School of Dentistry and Surgery, in which he stated that 'I was impressed by the standards of your undergraduates and I would like to have them as students of my own school.'

Prof. Williams praised the staff for their 'dedication' and high standards in certain areas of the course and he regretted the stand-off between the school and the Dental Council.

Another letter from Dr. Lorna McPherson, senior lecturer and consultant at the Glasgow Dental School, described the course as 'very comprehensive' and also 'of a very high standard' and added that the examinations were well organised.

Dr. McPherson also found the standard of the students very high and comparable to the standards in Glasgow..."

So, Mr. President, this gives us a background of what is happening and how far we have reached in this situation.

Now, we have heard that these people have been denied registration to the Dental Council which will facilitate them to practise. Now, we know with a figure of 150 dentists in this country, it gives one the idea, and me in particular, that it seems to be a little group holding on to some ground that they would not want others to embark upon. This is why people are putting the terms: "they are safeguarding their turfs" or "they are actually holding a monopoly in this area." To me, this is good business. And perhaps if I had the opportunity to be accredited to that council, I would want to practise there as well because you can see what will happen in terms of 150 dentists in a population of 1.3 million. Certainly good business!

Now, we know that the fight here is to keep away the UWI Dental School from being recognized. It tells me therefore that these 150 people, if they have friends and relatives who would want to get into the field of dentistry, obviously would want to send them to the schools that are scheduled. We have been hearing

Dental Profession (Amdt.) Bill
[SEN. BAKSH]

Thursday, September 17, 1998

of quite a long list of schools. There are 89 of them. And some people, like myself, want to know what criteria are being used to accept those schools.

Mention was made of “Oral Roberts”. Since I was a little guy, I heard about Oral Roberts as a preacher; I used to hear him on the radio. So when I hear, or come and read now, that Oral Roberts has a school of dentistry, without knowing too much about the background of the school, I get a different type of picture.

Recently, we have been hearing about another “Oral” person. You know, if that person loses office, he might want to...

Sen. Mohammed: Who is that person?

Sen. N. Baksh: I will tell you afterwards. *[Laughter]* You see another “Oral” school coming up again.

So this is the type of thing: our own, home grown school; one to which we should be lending support to see it gets off the ground. We should be doing everything to support the school.

Sen. Shabazz: I thought you were an Imam. You are lying.

Sen. N. Baksh: Imams must have experiences, too—good ones, that is.

So I want to take the opportunity to look at the Dental Profession Act, examine the regulations, and see what are some of the duties that this council is supposed to perform. I will just read one or two of those on the list here:

To register dentists and enroll dental auxiliaries;

To regulate the training of persons enrolled as dental auxiliaries;

To define the dental work which any class of dental auxiliary may undertake and the conditions, if any, under which a dental auxiliary may undertake such work;

To ensure the maintenance of professional standards by dentists and dental auxiliaries;

To hold inquiries into allegations of improper or unprofessional conduct by dentists and dental auxiliaries and to discipline those found guilty.

So I ask myself here, to what extent is this Dental Council focussing on these items that I just read out?

You know, I get the feeling that only once a year we hear about dental activities, during Dental Health Week. Not much is done, other than that week, to promote or to sensitize the citizens of this country about dental health care. So I think this is a challenge for the Dental Council to embark on, in this area. I understand the fees which they are collecting are supposed to be used in this area, as well.

We need to see a proactive Dental Council, rather than putting up a front and aiming your guns toward the graduates or the UWI School of Dentistry. I think we should do this in a friendly atmosphere.

One expects the council to ensure that standards are maintained in the profession—not just relating to patient care, but also to safety standards in practice; in infection control policies; waste disposal policies for the special materials in dentistry, storage policies, and guidelines for the same materials; guidelines for the care of medically compromised patients. These guidelines, policies and standards must be laid down by the Dental Council of Trinidad and Tobago, not only for the guidance of practising dentists but also for the knowledge and awareness of the general public.

7.25 p.m.

Mr. President, as I mentioned before, in this country, we only have 150 dentists recognized as qualified dentists in a population of 1.3 million. Those of us who visit the dentists would recognize the kind of frustration that is involved just to make dental appointments, especially if one is going for the first time, or if one has missed one's appointments over a period of time and needs to make another. It takes a person three to six months to get an appointment.

In addition to that, when one goes for an appointment, if one is given a 2.00 o'clock appointment—I am sure Senators would agree—it takes a person one, two or three hours before getting into the room to be attended to by the dentist. This creates a kind of frustration whenever one considers making an appointment to go to the dentist unless, of course, one does crochet and walks with needle and thread to do some crocheting while waiting.

This is the scenario in this situation which is so urgent and critical that this Government feels it cannot allow this charade to continue forever. It must take some positive action to ensure that this is brought to a halt. This is what the Government is doing.

Dental Profession (Amdt.) Bill
[SEN. BAKSH]

Thursday, September 17, 1998

Senators have suggested different actions to be taken but we feel that this is a positive way, by forcing the hands of both parties involved to come together and, certainly, the other aspects of development will follow as well to bring them together to iron out their difficulties, to ensure that things move swiftly and as quickly as possible because, since 1989, this has been allowed to go on without much headway.

We know that this Bill seeks to include the local dental school, the University of the West Indies Dental School, and the Minister has, in his consideration and I quote from the *Newsday* of August 20, 1998 under the headline “Minister pulls teeth on local Dental Council”:

“As an added measure of protection, he said, government had proposed to introduce an amendment to the Bill which would require dental students to undergo an internship of one year after graduation—under supervision of a registered dentist—before they could be registered.

Admitting that the Dental School had its teething problems following its launch in 1989, Minister Rafeeq was confident that most of the problems had been resolved and stressed that entrance requirements for gaining admission to the school were very high.”

I would like to repeat this particular section where he admitted that there were problems but he assured us that he:

“... was confident that most of the problems had been resolved and stressed that entrance requirements for gaining admission to the school were very high.”

That means that we have reached that point, where that kind of consideration could be given to the UWI Dental School. We want to get away from this monopoly, this closed club.

We heard, too, that in this country there are approximately 500 unqualified and unregistered practitioners—those whom we refer to as “quacks”—operating and the council admits that it can do very little to keep these people out or to improve them.

I live in the countryside and I am sure people would know or have heard about the travelling dentists who used to come around at weekends and on public holidays visiting homes. If someone had a bad tooth, they would come to extract

it and so forth. Somebody described the kind of tools they used and moved around with—the pliers from the car—so that we recognize it was not the best situation.

I know of a situation with a neighbour of mine who had a tooth extracted by one of these travelling dentists—a tooth that was in advance decay—and he was unable to take it out completely. He got the upper part out and spent quite some time trying to get it out but was unable to do it. Before he left, he told the gentleman that he would have to see a dentist, but when he went there, he should tell the dentist that he was travelling in Port of Spain when he had cause to take out the tooth and he did not know who did that to him. So, when the man eventually went to the dentist, the dentist was fuming mad, because he saw a problem in that he had to do surgery on the gum before he could extract the tooth. One, it cost the guy a little more, plus, he was in pain; the travelling dentist was in a little fear, and the dentist who had to do it was fuming mad, because other people were trespassing on his turf.

These are the problems being experienced out there, and I think Government's efforts will eliminate the need for the unregistered and unqualified practitioners. You will ask me how this is so. I feel that if we work to get these organizations—and I speak here of the Dental Council and the UWI School of Dentistry—to have these people registered and accepted, certainly, the differences and all the bullets and arrows that have been flying over the years, would stop. So that the people should get together, work and iron out the problems.

In fact, what I see the Dental Council should have been doing is having discussions from earlier on because I think somewhere it claimed that it is supporting the UWI School of Dentistry. Of course, something cannot be supported by shooting bullets and arrows at it. There would be need to get together and if it is felt that there are shortcomings, they need to be pointed out in a very amicable way, so that things would progress. The trainees, or the graduates, or the students there, are our children. This is something we need to encourage and it is for our own good.

If we recognize those people who are trained, it means we are going to have more than this 150 people who are in this closed-group situation. It means that the service will be able to reach out to the larger community easier than it is at this point in time. This is where my concern lies as well, to ensure that services of dental health care reach out to the public and, what this will do as well, is help to

Dental Profession (Amdt.) Bill
[SEN. BAKSH]

Thursday, September 17, 1998

reduce the cost. Because, if people do not have money, they cannot see the dentist as well. This is a fact about which we have to take note.

I regard myself as a public servant-cum-businessman and I see this as a business opportunity as well. If the Dental Council and the UWI School of Dentistry could work together in harmony, as a businessman, I see them promoting this outside our shores. What we will be doing in the long run is encouraging students from abroad to come here to study, which will bring in hard currency; it will bring in the required number of students needed to run the school properly; it will give us the kind of funding to be able to employ the best people in the profession. This is the challenge I see we should be taking up, rather than fighting and bickering amongst ourselves, trying to hold on to turf.

If we train those foreign students, they are not going to remain here, but they will return to their respective countries, so that, in a way, we still maintain numbers according to the terms here. This is something I hope the Dental Council members would listen to.

I am one who likes to keep my ears on the ground. I had the opportunity to speak to one or two people as I drove around, those whom we label as toothless—and I am not talking about the toothless bulldogs and so forth; I am talking about those people who are missing their front teeth—just to find out why they did not look for treatment. Some of the first responses were that it was too costly. They could not reach it and we know in this country, some of those people who are described as being without teeth in the front gives the picture of a goal post. That is the appearance. I am not degrading them, but this is the mental picture one gets. Today, in the age of computers, it could be described as Windows 98. This is something with which people have to be helped.

Today, we are talking about trade liberalization. So many foreign goods coming into the country. If the situation on dentures were not as it is, there would be a lot of foreign used ones coming in, too, to help out the situation. But, we recognize that this cannot happen. So, what we have to do is take remedial measures to improve the situation.

We know and have been given figures like 35 per cent of the population being below the poverty line. This tells me right away that percentage of people will not be able to get dental care. Then, we have a percentage a little above the 35 per cent as well, who barely makes money to survive. They, too, will not be able to reach out to that. Something has got to be done.

We need a government that is concerned with the services brought to the people. We need to ensure that the actions are taken to encourage people to study dentistry and, since we already have a School of Dentistry in Trinidad and Tobago, we should do everything to promote it.

I was going to take a little jab at the medical profession, where similar kinds of things happen when one goes for appointments and so forth. One of the problems I see is where people hold two jobs. They are holding jobs in the public service and in private sector which means that the kind of service needed, is not given. We need to ask ourselves: What kind of solution would be arrived at?

We see the urgent need for additional dentists to meet the present demand in the country and to cater for future population growths. We need also to take the opportunity to upgrade the services for the schools and the health centres. We know they have been starved of this kind of facility for years and, since this is recognized, steps should be taken to improve the situation and this is the route to go now. I see this as a national problem in terms of delivering service to the people of this country.

I see we have been having these people in the public gallery who have interest in this particular Bill, who have over the years been dejected, frustrated and been pushed from pillar to post. Today, as we discuss this, we see a kind of glow on their faces and we hope with the successful conclusion of this situation this afternoon, they would be able to leave here happy and satisfied that someone who is concerned, is taking action.

Sen. Prof. Kenny has given us views about putting the Dental Council at the University of the West Indies. We all have the same objectives. It is just that we are recommending different routes. The goal is to get there, the objectives are the same.

Mr. President, I hope that today the graduates we see sitting in the public gallery will leave here happy and content that this Government and the people in this country who have the authority to do something, have done it for them. I commend this Bill to all Senators and I wish that it comes to a successful conclusion to all who will benefit.

Thank you very much.

7.40 p.m.

Sen. Dr. Eastlyn Mc Kenzie: Mr. President, let me, like those before me, welcome you back to this Senate and tell you, Sir, that we were very well taken

care of in your absence which means that you would have set a standard that we could not have fallen under. So, we want to tell you that although we missed you, we did have good care.

I want to start my contribution with one of my customary local sayings. It is a familiar one to all of us. It says, “when two elephants fight the grass suffers.” From what I have been hearing, like my good friend Sen. Baksh, we have a fight between two elephants big and mighty, powerful, strong and heavy; the Dental Council and the School of Dentistry, and the grass—the students—is suffering.

Mr. President, we also have the situation where people feel that this is not an amendment that should have been brought here. But I give you another one of our local sayings. It says, “if bundle wood nuh loose, it cyar tie good”. I will explain what we mean by that in Tobago. If you have a bundle of sticks on your head and it is not well tied up, something is loose, one stick is dropping down in front of your face, one is dropping behind you and it is uncomfortable to carry, our recommendation is you throw down the whole bundle, loose it, fix it properly and tie it up. This is what I think we should be doing today. Loose the bundle. “Bundle wood nuh loose, it cyar tie good.” We are going to loose it today and tie it properly.

I am looking at this thing very calmly and soberly. I see from the reports that Government seems to have been selling to the students a substandard product. I know that we need dentists in the country. We know of long lines and waits before appointments. We know also that the training is extensive, it is expensive and it is a terrific sacrifice. We also know that we have very bright people, we have scholarship winners attending the institution. We also know that Government is supposed to intervene because the Government has children going to that school. If you are paying for people who have won scholarships to go to that school the children become yours, so Government is supposed to intervene.

I also recognise that if we spread the kind of information that we are spreading we are going to scare away our young, bright people who would like to go into this profession, prospective students and those who are there would tend to go elsewhere and would not support the institution. As a consequence, what we might be tempted to do would be to lower the criteria for selection and fill the places in the school and this will not be good because it will come to a situation where we say rather than none, any. Mr. President, we would not like that to happen.

I have read from the hon. Minister's presentation where the shortcomings found by the examiners have been taken into account and attempts have been made to correct some of these problems. We have heard of lack of clinical experience because of lack of people on whom to practise and we have heard the recommendation for the need for feeder groups for the supervised clinical practice—our schools, volunteers and pensioners, we hear them talking.

I have also noted the talk of the monopoly of the old dentists, like the surveyors, and where foreign trained dentists are very sceptical about having locally trained dentists coming in. The need for dentists yes, the end to “quacks”, yes. But I also looked at the failure rate of the university. We are concentrating on the Dental Council alone but I look also at the failure rate at the University of the West Indies. In 1994 there was a 10 per cent failure rate; in 1995, 53 per cent failure rate; in 1996, 35 per cent failure rate; in 1997, 47 per cent failure rate; and in 1998, 57 per cent failure rate. Something has to be wrong. If we have a selective group of students entering an institution going through the same process—if you want to call it that—and then at the end of the day we seem to be increasing our failure rate rather than having the school come up, it tells me that something has to be wrong with our staffing. I am not going to blame the students at all. Something has to be wrong and probably it is the fast turnover of staff why we cannot have continuity and a levelling off of standards. Something has to be wrong.

We also come to the situation with the failure of the students who do the dental council examination and it brings me to the point of the main laws. Section 15 of the laws says:

“The council may, in order to be satisfied that the qualification of an applicant for registration is sufficient to assure the possession by the applicant of the requisite knowledge and skill for the efficient practice of dentistry—

- (a) grant temporary registration and make recognition of the qualification conditional upon satisfactory performance during the period of temporary registration; or
- (b) make the recognition of the qualification conditional upon the passing of an examination conducted by the Board of Examiners appointed by the Council under section 12.”

To me, Mr. President, the council only embarks on section 15(b). There seems to be no consideration to (a) and I want to strongly recommend that this is where we should go. After the students have passed the dental school examination that they be given the temporary registration and be put under this temporary performance under the same Dental Council dentists, because as it is here the Dental Council will have to monitor this period under which these students will be actually out on their clinical experience. Section 15(b) is an easy way out. It says, "I give you an examination and that is all I do. I get a board to give you an examination and that is it." Section 15(a) says, "I register you temporarily and I put you out to do your clinical work. You are given an assessment and then I register you."

I am saying that this is the way I think we should go. Then the Dental Council will have to see to it that these students are placed under dentists who can monitor, help, guide and train them as if they were their own children; proud to have them under their wings, and then they would be responsible for teaching and helping them and then assess them. Let me see a Dental Council member having a student under him or her and at the end of six months or whatever the period may be you send that student out and say that person is fit or is not good.

Mr. President, we can find ways of assisting because this whole situation has to do with the credibility of an institution and the recognition of this institution. I want to make a few recommendations apart from this one. If the students have to redo the examination it must be at Government's expense. Government must pour more money into the school by way of getting tenured staff, seasoned people who will spend some time there with standards of qualifications suitable for teaching. The expense that these students have to undergo should be borne by the Government because they are selling them a substandard product. If the Dental Council cannot certify them or have them under their wings, attach them for a six-month period at Government's expense or, as Sen, Prof. Ramchand said, have a sort of external practical just as we do with Cambridge and London examinations where there is a practical test and it is administered by an examination board.

But even the amendment to clause 5(b) that came from the House of Representatives I do not agree with. I do not agree that a person who has registered under paragraph (a) is entitled to full registration upon presentation of a certificate from the University of the West Indies Dental School. Just as I am not agreeing that the Dental Council should be solely responsible, I am also saying that the dental school should not be examining its own students. If you are going to do that let us have a foreign examination or examiners so that the

thing would seem fair because the Dental Council, in the end, has the authority to register and certify. If they are going to do an examination by the same dental school that they are denying has the sort of standards, it is nothing for them to fail the students again.

Mr. President, I totally agree that Government must intervene. I totally agree that we should do some sort of amendment and I think that sections 15(a) and (b) of the parent Act should be looked at and let us insist that all the criteria should not be just 15(b). Why are we not doing 15(a) and give the Dental Council a hand in the training of our people? I wonder. I do not know if I am misunderstanding what I am reading. Why are we not saying let us go with 15(a) now that we lack clinical experience and cut out 15(b) because we already have a dental school examination? I think the students feel satisfied if they do the dental school examination and are referred in a subject, they prefer to do it over. But after that they have to do another examination and we are pinpointing the problem as one of clinical experience. This is where I think we need to go. Therefore, the training in totality would be shared between the dental school and the Dental Council and responsibility will be shared. The school will be responsible for that five-year training and the council will also be responsible. They cannot have only power and no responsibility; just the responsibility to register, certify, give an examination, charge a fee and to put your name down. Let us share it.

I also will not support us certifying people who are not up to standard. I would not subscribe to that. I am saying we can ensure that we have both bodies coming together for the good of these students and the good of this country and to satisfy a need that all of us recognize. I am sure that at the end of the day we are all going to be satisfied.

We have professionals sitting on both bodies why are we fighting? I want to advise the hon. Minister to find some females to put on this thing. We do not like to fight. [*Desk thumping*] There are too many men and they like to fight. Put some women on the council to temper and soften the whole thing and let us sit and talk rather than have this type of antagonism. It is not good for us and it is not good for our young people because they are the ones who are trampled; elephants are fighting and the grass is suffering.

Today we have loosened the bundle of wood. "If bundle wood nuh loose it cyar tie good." Today we are loosing the bundle wood. Let us sit, Mr. Minister, in sober calm ways. Get around the table with the council, school and the students

and let us work out a solution to this that does not put us fighting and forcing legislation to resolve a problem that is not only a legislative one. It is a legislative problem to a certain extent because we have given powers to groups of people and we have to ensure that those responsibilities are carried out fairly and that the people who do not have the power, like the students, are not left suffering and battered over the years.

7.55 p.m.

I advise that they take all that we have said into consideration. He is such a soft, affable Minister, that when he presented the Bill, I thought that the Minister is so soft and “jellybean”, he does not even seem able to raise his voice to put across his point. I even spoke to him and said, “Mr. Minister, you speak so softly and so “cooky cooky” that you do not speak forcefully enough to convince us that you are convinced of what you are saying”. I believe that this type of personality he has is one that makes people feel that they can take advantage of a situation, but it is a nice way. In that nice personal way that he has, he should call his troops together, sit around the table, discuss the thing in sober, nice terms, and come with the type of amendments that will be fair to all, but that will do justice to the young people whom we are encouraging to go out.

I support him with the intention, but probably the phraseology, I think, is beating all of us, because we have approximately six amendments. My toes are in my shoes, I cannot count. It means that we are bobbing and weaving and changing, and it means that we see the need for change but we are not very settled. I want to urge the Minister, with the good nature and understanding that he has, that he listen to all of us and sit with his troops and work things out. Let us come to a solution from which the school will benefit, the council will be able to do its work, and our young graduates would add to the professional human resource cadre that we have in the country.

I want to commend the Government for intervening, because by intervening it is saying to these young people that all of them are our children, and if we are paying for some of them and subsidizing some of them and we have put a school to satisfy a need that the country has, they are our children and we care about them. We cannot leave them out there defenceless, but in our effort to help, let us ensure that the quality we put out there is the very best.

Dental Profession (Amdt.) Bill
[SEN. DR. MC KENZIE]

Thursday, September 17, 1998

I want to commend the Minister and I give out my humble solution. When I look at his face, I am sure that he is listening and he will listen to all of us and do what is wise and good for this country.

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

Sen. Nafeesa Mohammed: Mr. President, after God and a dentist, the only other beings I am afraid of are the Members of the UNC Government, so if the Minister of Health is described as being soft, I would like to urge him to continue to be that way, because he has a very humane touch. I know the hon. Minister has been blushing throughout Dr. Mc Kenzie's contribution.

Having sat through this debate that has been going on for some time now, it is not my intention to go into any detail at all, because like Prof. Kenny, not only do I feel disoriented, but I have to say exhausted as well, because over the last two or three weeks, nearly every day, we have been in this Red House building, rain or no rain, and it takes a toll on one's body despite age.

Having listened to all the various contributions, I would just like to say that initially when this debate started, we were on one particular gear and today, I have seen where this gear has now shifted. From all that has been said, I think it will, in fact, redound to the benefit of the country at large, because at the end of the day, we have been able to put under the spotlight, and to bring into focus, this whole question of our dental care and dental services in the country.

I am very glad that Sen. Haji Nizam Baksh took the opportunity to quote some figures from the newspaper where he referred to the World Health Organization's (WHO) figures that say there should be one dentist to 2,500 people. At present, there are about 150 registered dentists to a population of 1.3 million. He also made mention of the 500 general dental practitioners. The fact of the matter is that in our country, it is clear that we need more dentists.

As I have listened to the debate, we have heard the arguments on both sides of the fence. We have heard the concerns that have been raised by the Dental Council over time, and I think at the end of the day, the main issue seems to be linked to that question of the clinical training at the dental school, and hence the reason there is all this discussion about the quality of the graduates coming out of the school. On the other hand, we heard the other side where the university and the dental school authorities are in disagreement with the council's position, but, what saddens me, most of all, is the fact that the student population has to pay the price

for this apparent fight that is going on. As Sen. Nizam Baksh said, it is like in a boxing ring and punches are going on both sides, and it is the student population paying the price.

I stand here this evening, if only to indicate that I—in fact all of us on this side—empathise with the plight of our UWI students. [*Desk thumping*] More than that, Mr. President, because I, myself, am a graduate of the University of the West Indies, having passed through the Hugh Wooding Law School, I can well appreciate and understand the kind of stigma that is sometimes attached to students coming from our local institutions. I say so because in the legal profession there is that kind of sentiment existing because there are many lawyers who may have trained elsewhere who sometimes refer to us graduates from the Hugh Wooding Law School as locally assembled lawyers. It is a pity the Attorney General is not here at this point in time, but that is a real issue.

When one looks throughout the length and breadth of our country, one would see that our locally trained lawyers are serving in some of the highest offices of Trinidad and Tobago as judges, as the principal of the law school in Jamaica, and some of them as Ministers and other Members of Parliament, and many other fields. This is the reason I genuinely, honestly feel for the UWI graduates who are in the school of dentistry. As I said, the main issue or the main concern seems to be related to this question of the clinical or the practical hands-on experience or training of these students.

I would just like to make a comparison, because as a student at the Hugh Wooding Law School, there is a stage of our legal training where it was expected that one would get a more practical exposure to the legal profession and legal practice. There are courses that are specifically designed to really give that kind of practitioner's experience, and further than that, one of the requirements before we get our legal education certificate is that we were required to do a period of in-service training. What is interesting is that over time—because the law school is of fairly recent vintage—over the years, because of healthy communications and dialogue that has been taking place, the administrators at the law school have been able to work out arrangements with practitioners, and not just practitioners, even in the Government legal departments where every year they will send out letters requesting that they absorb students from the Hugh Wooding Law School.

Sen. Prof. Spence: Just on a point of correction. Hugh Wooding Law School is not a part of UWI. I think it is important we note this.

Sen. N. Mohammed: Thank you very much, Prof. Spence. I know it is a regional institution, but because of the physical arrangements where the Hugh Wooding Law School is based in Trinidad and Tobago, we have that kind of

dialogue taking place. In fact, with these arrangements, what happens is that they would send letters out and invite practitioners to take in students during the July/August/September period, and it is by going to these law firms—even if one has to walk behind a lawyer and hold a law book—when one gets to a courtroom, especially when one has access to the documents, one is able to get some kind of experience.

This is a situation that has developed, and over the years there have been many criticisms about it, because some people feel that one tends to get a more academic sort of training and not enough practical experience. That depends on what efforts have really been made to ensure that one gets that thorough practical training. So, when one is admitted to practice, they actually monitor one's attendance to court. I wish that with the dental school, some sort of amicable arrangements can be worked out between the dental school and the council to bring an end to this constant fight.

8.10 p.m.

On this point I urge the hon. Minister of Health to please exercise his influence and use his powers, because at the end of the day, you cannot legislate for every problem in the country. Many of the problems identified are administrative problems, so that with the proper intervention between the Government and the dental school I am sure they would be able to improve the machinery in the dental school so that the concerns of the council could be addressed.

Whatever the other side of the story, in the end it is imperative to find a formula that can really bring the parties together, so at the end of the day, students would graduate in dentistry and be able to maintain a very high standard in the practice of dentistry. This is what the core of the issue is, it is an issue of standards, and this is what we want to ensure.

In terms of the legislation, as I said, we came here last week or the week before and we were on one gear, but with all the amendments, we seemed to have shifted gears. I would commend all Senators who have participated in this debate. I have that confidence in the hon. Minister of Health that there would be a spirit of compromise so that a working solution would be found.

On that issue, I make reference to a point made by Sen. Rev. Teelucksingh in his contribution when he called for a task force to be set up to look at the

problems with a view to finding a solution. I endorse that call made by him because as I said before legislation alone would not solve the problem.

With that spirit of compromise, I hope we will really be able to sit back, take stock and come up with a formula that would truly redound to the benefit of all parties concerned and most importantly, to our bright, young intelligent students whose parents have made enormous sacrifices. I understand that it costs an average of TT \$55,000 a year to be at the dental school, and by the time you are through with your studies that is a real huge sum of money. In the legal profession I know it would probably take me a lifetime to make that money to repay, unless I have the business acumen of our colleague the Minister of Finance. [Laughter] But I prefer to make the struggles through a lifetime.

Mr. President, with these few words, I thank you.

Sen. Dr. Eric St. Cyr: Thank you, Mr. President. I, too, join in welcoming you back to the Chamber. On the proposed Bill I would address a few general comments. I would not repeat what so many others have dealt with before. My major point is to make a plea to the Government that it not be said whether in Latin or in English, *quantula sapientia nos regamur*, "with what little wisdom are we governed". I believe that the problem at hand calls for wisdom.

I know that we seemed to have had a relatively long run over this problem and the draft Bill rather came over as bringing out the heavy hammer. I make a plea for a more delicate instrument to be used in this case. We do need to train our dentists in this region. Access to dental places abroad is limited and dental training is quite expensive and there is a good case for the dental school here, especially looking down into the future. We want to make sure that we strengthen and build up on the foundation, shaky though it was when it was initially put in place. I think we must put some critical comment on the authorities who started the school in the way it was, in fact, started. But that is by the way, we have a school going and I am making a plea for us to ensure that it continues.

The second point is, let us not think of ourselves as "third world". We have always been an integral part of western civilization. In fact, the modern western world revolved around activities in the new world and in the Caribbean so we are a part of this civilization and there are many experiences in human government to which we are centrally a part.

Sometimes when I hear the Ministers answer questions in Parliament—sometimes quite evasively—I often wonder whether they are not aware of that fundamental principle in democratic practice, that the Executive is responsible to the Legislature. In other words, when a question is put, an honest, open, fair answer must be given, and that is a basic principle.

There are two principles in this draft Bill that bother me; both have been alluded to by previous speakers. Almost by definition, a profession to be a profession, must be self-regulatory and I do not think there should be room on a professional council for lay people. They really do not know the inner core of the profession, and well-intentioned as they might be, they really do not belong. Thus, in making the amendments, some of which are necessary, I do not think that lay people should be included on the Dental Council.

The second principle that I think the Bill as proposed would well violate, is that of academic freedom. This is a universal principle and to the extent that clause 8 suggests that the Minister and the council may review the curriculum, I think that is treading on dangerous ground. It behoves us not to go in that direction. But we do have an immediate short-term problem on hand, namely, there are a number of our graduate dentists who have not been allowed to register. That is an immediate short-term problem which must be solved. My fear is, that in attempting to solve it by legislation, we may be doing the proverbial "throwing the baby out with the bath water". Therefore, while we want to address that immediate short term problem, I do not think we want to undermine the professional council and we certainly do not want to do anything that takes any pressure away from the university to come up to the highest international standards in this field.

I am very surprised that wisdom did not prevail and the Dental Council did not offer to do the clinical attachments after graduation—so there would be a sort of semi-automatic registration of all dental graduates—the council and the dental school working together. I really believe—idealist as it may sound—we could work in that direction. It would be unwise to go for a heavy hammer solution. I do not think we should do anything that concretizes an adversarial position between the dental school and the Dental Council. We certainly do not want to expose our young dental graduates to an adversarial relationship with the Dental Council.

I would think that our dental graduates would be well advised not to come over as though they were unnecessarily and unduly being anti-authority. They have

to live in the profession in the future and they too should ensure that they do not win a battle but lose a war down the road. We want to be wise on this and we also want it to come over that our graduates do not want it to go into the records that because they could not get in the regular way they were legislated in, so that it

was a special case, because this could be thrown in their face subsequently. We are talking wisdom here.

I believe there is room for working out a compromise, and as a praying man, Sir, I do sincerely believe that this could be worked through. While I understand the problem and see the need for a solution, I fear that if we went the way of the Bill, even with some of the modifications, we could really make a bad situation worse. Whereas, with some of what Sen. Prof. Kenny spoke about, an administrative management type of solution, rather than a legislative solution, we could probably have the best in the long term.

8.25 p.m.

My final point is that we are in quite a dynamic situation. Our eyes are focussed on the immediate problem of registering those persons who graduated and who, for some months and in some cases, even years have not been able to register. We want to look at how the development of the dental school and the profession would function in the future.

I believe already a fair amount of damage has been done and we really want to start mending fences and pulling back from the brink, as it were. I gather from some of the correspondence which I have seen that some of the Caribbean territories might not have been inclined to continue to send their students here. So there is a big repair job which we need to do, always bearing in mind that we are in the time of our history when we are putting down fundamental institutional structures, one of which is the dental school and the development of the dental practice. Another is some major institutional planks in social building and I have referred to three of them in passing: professional self-regulation, academic freedom, and responsible Government, the Executive being responsible to the Legislature. I am saying that there are these well-tested principles on which societies build which we would not be doing ourselves good to violate at all.

With those remarks, I thank you.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. President, I want to join with all those who have spoken before me in welcoming you back to the Chair.

I begin my winding up by saying I agree with Sen. Dr. Mc Kenzie when she said if we had more women, things would be much easier. [*Desk thumping*] I

think I would have been in a much better position today if there were more women in the administration.

Mr. President, today I feel a bit saddened, because if I were a foreigner listening to this debate on the Bill, and hearing senior, very respected professors and lecturers past and present, from the University of the West Indies speak about it in the terms in which they have, I would not want to send my child here. Even though we all recognize that there are problems at the University of the West Indies, and probably serious ones, and even though one recognizes that there are problems at the Faculty of Medical Sciences, I think it is in our interest to seek the best for those institutions which are very important to us.

Mr. President, I am happy for the contributions which have been made by all Senators in this debate. It has been a very stimulating debate and much has come out of it and I want to confess that even though we at the level of the Government and the Cabinet give this issue much consideration, we got many valuable suggestions from Senators from the Opposition and Independent Benches. It is because of this, and the spirit of compromise that we have so many amendments circulated today.

Mr. President, I want to say to Senators that some of the things which have been said, and the suggestions which have been made have already been taken on board and we have done much of what had been suggested. It was suggested that we should have consultation, committees, that we should talk, and that kind of thing. We have done much of that already. We came into office close to three years ago and in response to the students and graduates from the dental school, and the dental school itself, we facilitated several meetings between the interested parties—the dental school, the graduates, students, and the Dental Council. In these meetings, the Ministry of Planning and Development was involved, being responsible for tertiary education, and the Ministry of Health and several suggestions were made as to how we thought the issue should be resolved.

We suggested at the beginning that the Dental Council should have an input into the curriculum of the university, and they told us in no uncertain terms that they had no difficulty with the curriculum, and it was a good one. We also suggested that they should have some monitoring role in the administering of the curriculum and in the training of the students. We suggested as well, that they should have an input in the examination at the end of it so they would be comfortable with the product that comes out of the examination. We also suggested that they should have an input in the internship period so at the end of it, the graduates who come out would be of an acceptable standard. Although there seemed to be a

willingness at that point on the part of the dental school to accommodate that kind of thinking and suggestions, somehow it did not work out, and there are many reasons for this.

We do not take any joy in bringing this measure to the Parliament today, but we feel that we have exhausted all the avenues for consultation, talking and for compromising. There are students who have graduated, gone through their five years of study, passed their examination at the level of the university, gone through the year of internship and still cannot be registered. As I said, it is not that we take any joy in bringing this to Parliament but we want to do two things; firstly, we want to give the students who have gone through their years of study and passed the examination and gone through their internship some comfort that they can register and go out to practise, and secondly we want to ensure that as we recognize that there are problems in the dental school that they are addressed and in time, we would be in a position where the dental school can be accredited by any organization from abroad or anywhere else. So we are dealing with the problem at two levels. One, we want to ensure that the students can be registered at this point in time, and at the same time we want to ensure that the school, whatever the deficiencies may be, would be addressed.

Mr. President, we have circulated many amendments and much has been said by Senators from the Opposition and Independent Benches on the proposed new composition of the Dental Council. Words like *coup d'etat*, disenfranchising the Dental Council, emasculating them, and interference and so forth came up. They are very strong words and we have taken the suggestions from Senators opposite and made proposed amendments to what we had proposed to do initially as far as the composition of the Dental Council is concerned. We are proposing in the amendment that there would be six members elected by and from the dental board, two nominated by the University of the West Indies Dental School, one person who would be the senior dentist at the Ministry of Health. Those are nine dentists on the board and we are suggesting that there be one lay person.

Mr. President, I do not think that having one lay person to represent the interest of the clients and users on a professional board can be of any harm. We talk about universal trends and the international standards and this is something that is happening in many countries in the world. A few months ago I was in Canada discussing with the Medical Board the composition of their board and there are two or three lay persons on the board and they have found it to be very worthwhile and working in the interest of the people whom they serve. Initially,

Dental Profession (Amdt.) Bill
[HON. H. RAFEEQ]

Thursday, September 17, 1998

while we had many differences between what we had proposed here and the Dental Council, that is one of the measures that it endorsed.

Mr. President, I would like to review some of the recommendations which have been made by both sides of the Senate and propose that I continue my submission at the next sitting and we would go into committee stage after.

Thank you.

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I seek leave of the Senate to deal with Motion No. 4 on the Supplemental Order Paper which deals with the adoption of the report of the special select committee of the Senate appointed to consider and report on a Bill for the incorporation of the Trinbago Unified Calypsonians' Organisation and for matters incidental thereto.

Agreed to.

TRINBAGO UNIFIED CALYPSONIANS' ORGANIZATION (INC'N.) BILL

Joint Select Committee Report Adoption

Sen. Agnes Williams: Mr. President, I must say that you may have felt that I did not want to have you back as I had omitted to welcome you back when I first spoke, but I am glad to have you back, along with all the other Members of the Senate. So do not think that I did not want you back, and as Sen. Dr. Mc Kenzie said, we were in good hands because you had set the trend and the example you left was followed.

Mr. President, I beg to move the following Motion standing in my name:

Be it resolved that the Senate adopt the report of the Special Select Committee of the Senate appointed to consider and report on a Bill for the incorporation of the Trinbago Unified Calypsonians' Organisation and for matters incidental thereto.

Mr. President, at a sitting of the Senate which was held on Tuesday, February 10, 1998, Sen. The Hon. Dr. Daphne Phillip, Minister of Community Development, Culture and Women's Affairs presented a petition on behalf of the

Trinbago Unified Calypsonians' Organisation seeking leave of the Senate for the promoters to proceed with the introduction of a Bill for the incorporation of the organisation. A Bill, the Trinbago Unified Calypsonians' Organisation (Inc'n.) Bill was introduced and read the first time in the Senate on Tuesday, May 5, 1998.

At a sitting of the Senate on Tuesday, May 19, 1998, the Bill was read a second time, and in accordance with the provision of Standing Order 76(8) of the Senate, Sen. Philip Hamel-Smith, Vice-President appointed the following Members to serve on the committee:

| | |
|--------------------------|----------|
| Mrs. Carol Cuffy-Dowlat | Chairman |
| Mrs. Agnes Williams | Member |
| Mr. Muhammad Shabazz | Member |
| Rev. Daniel Teelucksingh | Member. |

8.40 p.m.

Mr. President, your committee held a total of four meetings. At its first meeting, it examined the Bill clause by clause and as a result of concerns raised in respect of clause 3(d), (m) and (y) and clause 4, the matter was referred to the office of the Chief Parliamentary Counsel, Ministry of the Attorney General, for legal advice.

At the second and third meetings, your committee examined a redrafted bill and the following documents, which were submitted by the promoters:

- (1) constitution;
- (2) register of membership;
- (3) audited financial statements for the years 1994, 1995, 1996 and 1997;
and
- (4) minutes of meetings.

The fourth meeting was held on Monday, August 24, 1998 and at that meeting all evidence was taken from the president and the general secretary of TUCO. Your committee was satisfied that the requirements of the Standing Orders were met.

Prior to its introduction and first reading, sufficient notice was given to the public of the intended introduction of the Bill in the Senate. This was accomplished by way of notices appearing in the *Trinidad and Tobago Gazette*

Trinidad Unified Calypsonians' Bill
[SEN. WILLIAMS]

Thursday, September 17, 1998

and *Trinidad Guardian* on April 9, 16, 23, 1998. No objections to the Bill were received.

Your committee has made a thorough examination of the preamble and clauses of the Bill and, in light of the oral and written evidence, is satisfied that the facts and allegations presented in the Bill are true and correct.

Your committee wishes to report that it has completed its deliberations and has found sufficient proof in support of the incorporation of this organization by Act of Parliament. The committee therefore recommends that the Bill be accepted by the Senate subject to the amendments listed in the appendix.

I beg to move.

Seconded by Sen. Rev. Daniel Teelucksingh.

Question proposed.

Question put and agreed to.

Report adopted.

Question put and agreed to, That the Bill be now read a third time.

Bill accordingly read the third time and passed.

PLANNING AND DEVELOPMENT OF LAND BILL

Special Select Committee (Appointment of Senator)

Mr. President: Hon. Senators, I have appointed Sen Selwyn John to replace Mr. Vincent Cabrera as a member of the Special Select Committee appointed to consider and report on a Bill entitled, "An Act to provide for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof, for the grant of permission to develop land and for other powers of control over the use of lands and the design, construction and occupation of buildings; to confer additional powers for the protection of the environment, and the architectural and cultural heritage, and for the acquisition and development of land for planning; and to provide for purposes connected with the matters aforesaid."

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, sometimes I am a bit worried about outlining bills because once I begin to do that people take it that it is cast in concrete. I advise Senators that we have to be very flexible on matters. [*Interruption*] Yeah, yeah, yeah, but I am not God.

Adjournment

Thursday, September 17, 1998

We are attempting to complete our work next week, on Tuesday and Wednesday. In this regard, we will deal with the DNA report. We are taking that as the number one item on Tuesday. We also would like to proceed with cohabitants' rights and obligations and the debate on the Dental Profession (Amdt.) Bill, so I am serving notice. Prepare accordingly!

We have a report to receive from the committee on the Planning and Development of Land Bill. Once that report is ready and has been presented, we would like to conclude the debate. There is a possibility that we can deal with the report on the National Trust Bill. The Clerk has informed us that there are two Private Members' Bills that we should seek to conclude on Tuesday.

These bills that I have mentioned may spill over into Wednesday, but I am proposing that fellow Senators should take into account the bills that I have identified. We would like to deal first with the DNA bill as far as possible, and the Co-habitational Bill. We want to conclude the debate on the Dental Profession (Amdt.) Bill. We want to deal with the Development and Planning of Land Bill, National Trust Bill and Private Members' Bills.

8.50 p.m.

Sen. Mohammed: What about—

Hon. W. Mark: Well, Mr. President, depending on the support we get in the other place if we get support for the Bill in the other place, then we will also have to debate it upstairs either Tuesday or Wednesday with your consent.

Sen. Prof. Spence: Mr. President, I would just like to ask the hon. Minister if he has forgotten that we have pending the private members motion which would be very important to conclude before the budget.

Hon. W. Mark: Well, I have not forgotten, but of course, if we want to come on Saturday we can arrange to come after Wednesday, that kind of thing. The point is taken Professor, but we can always deal with that behind the scenes in terms of how we arrange to deal with it.

So, Mr. President, I am informing my colleagues to let them know to prepare themselves fully and adequately; and if we are able to conduct ourselves—when I say conduct ourselves, in terms of completing these debates on the various bills that I have outlined, we may not have to come on Wednesday at 10.00 a.m.; because I am proposing that we start on Tuesday at 10.00 a.m. and go until 10.00 p.m.; and we are also proposing that we start at 10.00 a.m. on Wednesday and go until 10.00 p.m. But, it all depends, Mr. President, on our ability to get through a number of bills.

Adjournment
[HON. W. MARK]

Thursday, September 17, 1998

Now, if we are able to be flexible on Tuesday, Mr. President, we may be able to start at 1.30 p.m. on Wednesday. It all depends on how flexible we are on Tuesday.

So, I am asking my colleagues to be prepared for 10.00 a.m. on Wednesday morning, but it all depends on how we conduct ourselves on Tuesday.

Mr. President, I beg to move that this honourable Senate now adjourn to Tuesday, September 22, 1998 at 10.00 a.m.

Mr. President: Hon. Senators, before putting the question, I would like to thank Senators for the warmth of their welcome and kind sentiments expressed to me on my resumption after an unplanned absence of almost seven months for reasons of which you are well aware.

I would also like to convey my very sincere appreciation to Vice-President Philip Hamel-Smith for holding the fort so effectively during my absence, and to thank Sen. Mahabir-Wyatt for chairing the sittings over the last three occasions despite her temporary physical impairment [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.55 p.m.