SENATE

Tuesday, June 06, 2000

The Senate met at 10.00 a.m.

PRAYERS

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

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. Dr. The Hon. Daphne Phillips from sittings of the Senate for the period June 03—11, 2000.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from the Office of the President of the Republic of Trinidad and Tobago:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency GANACE RAMDIAL, Acting President and Commander-in-Chief of the Republic of Trinidad and Tobago.

\s\ Ganace Ramdial
Acting President.

TO: DR. ANNA MAHASE

WHEREAS Senator Dr. Daphne Phillips is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GANACE RAMDIAL, Acting 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, ANNA MAHASE, to be temporarily a member of the Senate, with effect from 6th June, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Daphne Phillips.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 2nd day of June, 2000."

OATH OF ALLEGIANCE

Senator Dr. Anna Mahase took and subscribed the Oath of Allegiance as required by law.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move that this item, "Bills brought from the House of Representatives", be taken at a later stage of the proceedings.

Agreed to.

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Arima Corporation for the year ended December 31, 1985. *[The Minister of Public Administration (Sen. The Hon. Wade Mark)]*
2. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Arima Corporation for the year ended December 31, 1986. *[Hon. W. Mark]*
3. Republic of Trinidad and Tobago Draft Environmental Code—A consolidated Text of the Existing Environmental Laws annotated with recommendations for Rationalisation and Modernisation. *[Hon. W. Mark]*
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of Trinidad and Tobago Television Company Limited for the year ended December 31, 1998. *[Hon. W. Mark]*
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of National Broadcasting Service of Trinidad and Tobago Limited for the year ended December 31, 1998. *[Hon. W. Mark]*

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I seek leave of the Senate to deal with "Bills Second Reading" instead of "Motions" at this time. We want to proceed with Bill No. 1 on the Order Paper.

Question put and agreed to.

DANGEROUS DOGS BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I beg to move,

That a Bill to prohibit persons from importing and breeding dangerous dogs and imposing other restrictions in respect of dangerous dogs and for

regulating the manner in which dangerous dogs are kept by their owner or keepers; to make further provisions for ensuring that such dogs are kept under proper control and for connected purposes be read a second time.

10.10 a.m.

Mr. Vice-President, the contents of this Bill before this honourable Senate, are substantially what were passed in a Dangerous Dogs Bill which had come from the House of Representatives and which was subjected to great scrutiny by the Senate. The Bill was passed in this Chamber and there was also an amendment for the Bill to have the required preamble.

Mr. Vice-President, when the Bill went to the other place, it was considered to be absolutely certain that the procedure should be that a new Bill, containing the matters which were passed in this Senate, should be included in a new Bill and be introduced with the necessary preamble, so that there could be no dispute as to the proper procedure. It is on that basis that we have this Bill before the Senate today.

As it is known by hon. Members, in order for a Bill to be passed with a specified majority, there is a requirement that the Bill should have an appropriate endorsement. When the Bill came from the other place it was a bill with a simple majority, and when it went from this place, it was a bill with a preamble with a specified majority. According to the Standing Orders, the House would only have to consider the amendments which were done in the Senate. We were not sure as to whether if we had proceeded on that Bill it could not have been subjected to scrutiny, and it may have been declared unconstitutional. It was out of an abundance of caution we decided that we should redraft the Bill and introduce it in its normal form in one of the Houses and then bring it to the other House.

Notwithstanding that, it is my duty to indicate to hon. Members what this Bill is about. I would not be as extensive as I was on the last occasion, but hon. Members would recall that when the last Bill came to this honourable Senate it was a Bill based on a policy of not banning dangerous dogs, the importation of dangerous dogs or the embryo, but it was a Bill to regulate.

When the Bill came to this honourable Senate, hon. Senators felt that that was not sufficient at this time and that there should be a complete ban on the importation of dangerous dogs. So this Bill does as follows:

“Clause 4 of the Bill would make it an offence for anyone to import a dangerous dog or the semen or the embryo of a dangerous dog. A person found guilty of such an offence would be liable to a fine of one hundred thousand dollars or imprisonment for two years.

Clause 5 of the Bill would impose a requirement on the owner of a dangerous dog to ensure that the dog is neutered by a veterinary surgeon within three months of the coming into force of the Act. Further, breeding or breeding from a dangerous dog is prohibited. A person who contravenes any of these provisions would be liable on summary conviction to a penalty of one hundred thousand dollars and imprisonment for two years.

Clause 6 would require the owner of a dangerous dog to have that dog licensed annually, and before a licence is issued the owner must present to the local authority sufficient evidence in the form of certificates verifying that the premises on which the dog is kept have been inspected and approved and that a policy of insurance has been issued and the dog has been neutered. The local authority will also be required to maintain a register of all dogs licensed and the register shall include the full particulars of any insurance policies held in relation to the dangerous dog. A metal label or other badge shall be issued to every licensee and shall bear a Registration Number, the registration number is required to be branded onto the inner ear of the dog.

Clause 7 of the Bill would empower an authorised officer of a local authority to enter upon premises on which a dangerous dog is kept for the purposes of inspecting those premises to ensure compliance with the requirements for the security of premises.

Clause 8 proposes to make it an offence to keep an unlicensed dangerous dog and imposes certain penalties for keeping such a dog.

Clause 9 would make it unlawful for a minor to own a dangerous dog.

Clause 10 would place an obligation on owners of dangerous dogs to have liability insurance in respect of each dog in the sum of not less than fifty thousand dollars or such other sum as the Minister may, by Order, prescribe."

Bearing in mind that that sum can only be an increase of the sum.

"Clause 11 would place the onus on the owner of a dangerous dog to inform the local authority if the policy of insurance in respect of that dog is cancelled, has lapsed, or for any other reason, has ceased to be in force."

Mr. Vice-President, clause 12 would provide that where there is a civil action, that the plaintiff in such civil action can join, in the same action, the insurance company so that there would not have to be two actions in respect of establishing liability in respect of the damage.

"Clause 13 would require the owner of a dangerous dog to keep that dog under proper control in private premises.

Clause 14 would impose an obligation upon the owner or keeper of a dangerous dog to secure the premises on which the dog is kept by ensuring that adequate fencing is provided so as to prevent the dog from escaping.

Clause 15 would make the owner of a dangerous dog strictly liable where that dogs escapes and causes injury or damage.

Clause 16 would require the owner or keeper of a dangerous dog to ensure that a notice is placed in a prominent place on the premises on which the dog is kept warning persons that there is a dangerous dog on those premises."

Mr. Vice-President, clause 17 would make the owner or keeper of a dangerous dog liable on summary conviction to a fine and imprisonment, to a fine of $100,000 and five years where there is injury, or where the person is killed, to a fine of $200,000 and imprisonment for ten years.

"Clause 18 would create the offence of inciting a dangerous dog to attack a person. This section will not apply where a person is on the premises with the intention of committing a criminal offence and is bitten by a dangerous dog. The clause affords some measure of protection to persons who legitimately use these dangerous dogs to safeguard their premises.

Clause 19 would empower the Minister with responsibility for local government to designate as dangerous dogs other types of dogs.

Clause 20 would empower the Court, on the conviction of an owner or keeper of a dangerous dog for a designated offence, to order the destruction of the dog involved and to disqualify the owner from having custody of dangerous dogs.

Clause 21 would empower a constable or an officer of a local authority to enter premises to seize any dog which is in a public place or place where the dog is not permitted to be, or to kill such dog as required by the Act.

Clause 22 would empower a constable or officer of a local authority to obtain a search warrant to enter premises where an offence has been committed.

Clause 23 would exempt from liability a veterinary surgeon who in his professional capacity receives a dangerous dog for the purposes of section 5(1) that is for the purposes of neutering the dog.

Clause 24 would make provision for a person to pursue a civil action for an offence committed under the Act. It would also provide that the common law principle of scienter would not apply."

We had explained that on the last occasion, but if I may explain it again: there is a common law principle which exists now in the law that if a dog bites someone, in order for the owner to be liable, the owner would have to prove that that dog had bitten someone before. In other words, that there had to be knowledge of the owner that that dog was capable of biting someone, in that it had bitten someone before. That is the principle of scienter. "Scienter" means knowledge.

> "Clause 25 would provide for the repeal of certain sections of the Dogs Act.
>
> Clause 26 would give the Minister power to make regulations subject to negative resolution of Parliament for carrying into effect the provisions of the Act."

Mr. Vice-President, I am sure as I mentioned these matters that hon. Members would recall that these are the matters which they had participated in and to which they had agreed. I should mention, however, that in respect of what occurred in the Senate, there were also some additions in the House of Representatives. What I have just read is, basically, what the Senate has agreed to and which was in the original Bill.

I will now, Mr. Vice-President, give to hon. Members some indication of the amendments which were made in the House to what was originally the Bill with the contents, as taken from the Senate.

In respect of the contents of the Bill which was approved in the Senate the House of Representatives thought that the long title of the Bill should reflect, more accurately, what the Bill was doing. That is why one would see in the amendments from the House of Representatives that there is a document list of amendments made in the House of Representatives on May 12, 2000. I am sure hon. Members would have that list of amendments.

One would see that the long title was amended to insert:

> "An Act to prohibit persons from importing and breeding dangerous dogs and imposing other restrictions in respect of dangerous dogs and for regulating the manner in which dangerous dogs are kept by their owner or keepers; to make further provisions for ensuring that such dogs are kept under proper control and for connected purposes'."

What occurred is that in the previous long title of the Bill, it was the same long title that was used when it was a regulating mechanism, so it was thought to be accurate, that it was really prohibiting and restricting the importation and breeding and imposing certain other restrictions.

Mr. Vice-President, it was thought that there should be a definition of "keeper" and "owner" of a dangerous dog since these words were used in the Bill. Therefore, clause 3 was amended to include the definition of the words "keeper" and "owner":

> "keeper' means a person who is in charge, for the time being, of a dangerous dog.'
>
> "owner' means a person who owns or is otherwise in possession of a dangerous dog.'"

The other matter is that the Bill required the neutering of dogs but it was also thought that it should include spaying, so there was an amendment to clause 5(1) to include not only mandatory neutering but mandatory spaying of dangerous dogs.

There was also the suggestion that in addition to banning breeding of dangerous dogs, owners should not be allowed to sell, exchange or give as a gift, the dangerous dogs. Although that was in principle what we had agreed to here, clause 5(2) was amended to prohibit the selling, exchanging or giving as a gift a dangerous dog.

Then it was thought that dangerous dogs should be registered so a new clause 5(a) was inserted for mandatory registration of all dangerous dogs and to penalize persons for neglecting to do so. It was thought that there should be a time limit within which to obtain the annual licence for a dangerous dog, so clause 6(1) was amended to require the licensing to be done within a period of three months of the coming into force of the Act.

Mr. Vice-President, it was also thought in the other place that there should be a provision for other forms of identification other than label, badge or brand, so clause 6(10)(b) was amended to include "or such other form of identification as may be prescribed by the Minister".

Mr. Vice-President, the concern was expressed that some owners of dangerous dogs would have the attitude that their mixed breed dog is not a dangerous dog, and I gave the undertaking in the other place that when the Bill came to the Senate I would produce an amendment in order to deal with that situation.

10.25 a.m.

Mr. Vice-President, there should have been circulated, an amendment to clause 5(a) which would be renumbering subclause (2) as (3) and inserting after subclause (1) the following new clause:

> "In order to ensure compliance with this Act the Ministry may require an authorized veterinary surgeon to go to any premises to confirm the breed of the dog at those premises."

That is an amendment which we would ask in this honourable Senate because it was said in the other place that persons might take the position that their dog is not a dangerous dog and, therefore, the Ministry of Local Government should have some way of establishing this so that it gives the ministry the power to send a veterinarian to the premises to examine the dog.

It was also suggested in the other place that the Bill required owners or keepers of dangerous dogs to do certain things, but what if they were unable to do them, for example neutering them or safely securing the premises? So a new clause 6(a) was added to allow owners or keepers of dangerous dogs to transfer possession of the dogs to the ministry if they are unable to fulfil the requirement of the Bill so the Ministry would take steps to put the dog to sleep.

The other matter which was raised was what happens if a person under the age of 18 years keeps a dangerous dog in contravention of the Bill. A new subclause (2) was inserted in clause 9 to make the head of the household liable, and if there is no head of the household under subclause (3), the court may impose a lesser penalty on the juvenile.

Sen. Mahabir-Wyatt: Mr. Vice-President, through you, I wonder if the hon. Attorney General could explain what does it mean when there is no head of the household. Does this mean there is nobody over the age of 18 who lives in a household, or nobody who claims to be the head of the household?

Hon. R. L. Maharaj: Mr. Vice-President, the intention was if there was no adult living as part of the household; in other words, you may have an uncle or an aunt who is the head of the household. It may not be a father or mother, but anyone who is above the age of 18 and regarded as the head of the household.

Sen. Mahabir-Wyatt: Is a 17-year-old head of the household?

Hon. R. L. Maharaj: A 17-year-old cannot be considered head of the household. It was thought if there is a situation that there are only persons under the age of 18 years, then the court should have the power to impose a lesser penalty on that person. That was the reasoning in the other place.

Mr. Vice-President, I should mention that if one thought that the Bill took us a long time to formulate and reformulate it, I must say when it went to the other place it took us almost two days and the committee stage was very long. So this is really the product of many expressions of views and marriage of drafting and policy and we had to do this because it is not possible to take the English or the Canadian Bill and just copy it. It has to deal with a particular situation in Trinidad and Tobago.

Mr. Vice-President, the concern was expressed about keeping dangerous dogs in condominiums and I should say that the Opposition felt very strongly about this because it was felt if there were a set of condominiums, dogs could be kept there and it would be a danger to other persons. It was felt that it should not be allowed for dangerous dogs to be kept in those premises. I undertook that when the Bill comes to this place, we would do the necessary amendment and there is an amendment to clause 13 to ban the keeping of dangerous dogs in condominiums.

It was thought that one has to consider if there was that kind of building it really would not be safe to other occupants to have these dangerous dogs kept there even if they are inside the condominium.

It was asked what happens if a dangerous dog strays onto other persons' private premises, and clause 13 was amended to penalize the owner of a dangerous dog that strays onto private premises.

Mr. Vice-President, this Bill as I said, has taken some time and has been subjected to many amendments and it has also been subjected to a complete change of policy. When it initially came to the Parliament, the Government had indicated that it was going with that particular policy and would look at it again during a three-month period. I think hon. Senators would recall even whilst the Bill was in this place, there was this incident in which the family of Charmaine Rivas was seriously attacked and it was felt that these dogs are really dogs that should be kept apart from ordinary dogs.

Mr. Vice-President, I am told that the pit bull terrier is a cross-breed dog which is bred for fighting. It is strong, impervious to pain and capable of exerting enormous pressure with its jaws. I am also informed that experts have said that the only certain way to stop an attack by a determined pit bull terrier is with a mallet or a gun. In many countries including Trinidad and Tobago where the pit bull has killed people, it has proven impossible for even full grown adults to stop a pit bull from its attack once it has started.

Even after the Bill had been passed in the other place, there have been letters after letters from many persons in the society informing the Government that they think the Government took the wrong position and should have concentrated on responsible ownership instead of banning these dogs, but may I say that the Government is more and more convinced that it has taken the right decision and although dogs give pleasure and companionship to many of us, and some persons instinctively feel there is no such thing as a bad dog, but simply a bad owner, in respect of pit bulls, I think they are dogs apart. They are dangerous and unpredictable. Many of them are well-behaved and have played safely with children at one time and then shortly after, just attack and kill. The ferociousness of the pit bull terrier has labeled them devil dogs, superb killing machines and they are really a danger to life.

Mr. Vice-President, I am told that the pressure which is exerted by the jaw of a pit bull is the same pressure which closes and opens the landing wheel compartment of an aeroplane. I am told that it is about 2,000 pounds per square inch and when the aeroplane has taken off and the landing compartment has to close, the pressure of the jaw of a pit bull terrier is the same and one has to consider that compartment is being closed when there is other pressure coming, like the wind. So one can get an idea of the kind of pressure that the pit bull terrier exerts with its jaw. This is what I am told, but be that as it may, there can be no doubt that these horrific attacks by these dogs on adults and young persons can make it quite clear that if these dogs are not banned, they are likely to be a clear danger to the people of the society.

Mr. Vice-President, my attention has been drawn to the fact that with respect to the amendments which were made in the House of Representatives, I left out some of them. I am sorry. May I indicate that I was going through what was done in the other place. The Schedule was also amended in the other place to state that a dangerous dog is a pit bull terrier or any dog bred from a pit bull terrier or any dog of the type known as the pit bull terrier.

Mr. Vice-President, I would ask hon. Senators to take the Bill together with the amendments which were done in the other place. May I respectfully say that I know that hon. Senators may be feeling that they have dealt with this matter already, but it is a matter of such great importance and was not easy to formulate so I will ask hon. Senators to bear with us.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. Vice-President, I am happy to see this morning that we all appear to be on the same side, although when this Bill began its journey in the other place, it seemed that the two sides were bitterly opposed. In fact, I remembered hearing the Attorney General on the radio berating the Opposition for opposing what was its then policy.

Mr. Maharaj: Let bygones be bygones.

Sen. D. Montano: I am not going to let bygones be bygones, we are going to remember the posturing of the Government as it was on that occasion because it is not merely that we had opposed the legislation as it was, and the fact that we were publicly in favour of a complete ban. The fact of the matter is—and I have a copy of Dr. Rowley's contribution in the other place—what we arrived at in the Senate, is precisely what Dr. Rowley was suggesting, and precisely what the PNM was suggesting on the first occasion.

The Government decided to take a very hard line and brought the Bill in its original form to this place and it changed its mind, it has changed its policy and there is nothing wrong with that, but it begs the question: What happened, why did the Government change its mind? The Attorney General said that during the debate there was a particular incident, the Charmaine Rivas matter, and that was one of the issues that caused the Government to rethink the matter and I daresay that must have had an impact, although I would have thought that the man who lost his life on the premises of one of the well-known financiers of the UNC would have had an impact as well. Apparently, it did not. Maybe, coupled with all the other incidents it did have an impact.

10.40 a.m.

Sir, what I want to draw to the attention of this honourable Senate is that what did change—between the time the Bill was first presented in the other place and by the time it got here—was that well-known supporter and financier of the UNC was no longer in favour by the time this Bill reached this honourable Senate. *[Desk thumping]* That is what happened. And it is very clear that he has fallen out of favour. Therefore, there was no difficulty; there was no effrontery to him to bring this Bill. *[Interruption]* What am I talking about, Mr. Vice President.

Those of us who work in industry and who talk to businessmen think we know what is taking place in the country. We read the newspapers still and I think they are, for the most part, still fairly accurate. What happened is that a particular project that this financier wanted to bring down in San Fernando at a cost of some US $95 million to buy ethane from Amoco at seven cents, instead of 14 cents as—

Mr. Vice-President: Hon. Senator, I warn you that we want to have a debate on the Bill before us. I am not going to allow any extraneous matters to form part of this debate. I do not think what you are going into there has very much relevance to the Bill before us. *[Desk thumping] [Laughter]*

Sen. D. Montano: Mr. Vice-President, I shall be guided, Sir, but you know I would have thought that how something comes to this honourable Senate and the respect that the Government has for Senators in this honourable Senate has a lot to do with what we talk about. And the fact of the matter is it is *infra dig* to suggest that the government merely had a change of heart just because Charmaine Rivas was injured. Mr. Vice-President, maybe, you can be fooled by that but we, on this side, are not fooled.

We are perfectly happy and willing to support the Attorney General and the Government in this effort. We are not here to oppose for the sake of opposition, we are here for the purpose of good governance and we will act responsibly. *[Desk thumping]* We do support this legislation. After all, the form that it is in, was precisely what we had recommended in the first place, and we are very happy that the government has changed its mind—as it is wont to do so conveniently—which is a good thing. Because when it does not have a vision of the future; when it does not understand what should really be happening it has to change its mind frequently. *[Desk thumping]* We will be here. We will act responsibly and execute our duties properly and fairly and we would support this legislation.

Thank you, Mr. Vice-President.

Sen. Prof. John Spence: Mr. Vice-President, I would like to congratulate the Government having brought this Bill back to us in its new form, and I am very pleased that we are going to go forward with it. I hope this sets a precedent for other Bills that may have been passed in the House and come to the Senate to be similarly modified. *[Laughter]*

There is just one issue which I would like to call attention to and ask the hon. Attorney General for his comment on this. When the vet goes to a house to identify a dog as being a dangerous dog, it may be that the external characteristics of the dog may not be enough for him to make the identification. Does the Attorney General think that the legislation allows him to do other tests? Would the vet be able to carry out tests on the dog? Does the legislation permit that? Or, will he have to go entirely on visual identification?

Thank you very much.

Sen. Prof. Julian Kenny: Thank you, Mr. Vice-President. I agree with the Attorney General. I have also read all the letters and we are quite a different society when compared with the United Kingdom and other places. We know that, basically, we continue to be quite lawless and irresponsible; it becomes a natural thing to march around with a pit bull and so on, so there is no choice in it. We really have to solve the problem in the way it is being solved, and I support the legislation.

I continue to have a very, very, difficult problem of the identification of the pit bull. In the interpretation clause a dangerous dog is, what you say it is in the Schedule. If you go into the Schedule—I think that this is the updated one: Schedule (Section 3) says:

"Dangerous Dogs

1. Pitbull Terrier or any dog bred from a Pitbull terrier;"

It still does not define what is a pitbull terrier. I understand why it is framed in this way, that is, a dog bred from a pit bull terrier. Because in Trinidad and Tobago it is the natural thing if you have a pitbull and you want to have a bigger pit bull you cross it with a rotweiller. You would get a roughly bigger version. I continue to have this problem about what is—

Mr. Vice-President: There is an amendment that was passed in the House of Representatives which extends that definition to say:

"or any dog of the type known as the pitbull terrier."

I do not know if that has been circulated.

Sen. Prof. J. Kenny: Mr. Vice President, I have seen the amendment but to say that any dog known as a type does not have much meaning. I think the solution to the problem is to require everyone who has a dog, which might be regarded as a dangerous dog, to have it certified by a licensed veterinary doctor. I do not know how this can be done but we are dealing with a situation where a person may say that "I am not aware that this dog is a pit bull." We have had a case last week where, in answer to a question which I raised, there was an interpretation—it was not necessary to get planning approval. Did that not happen last week?

Assent indicated.

If I have a dog, is it not a defence to say, "I did not know it was a pit bull"? So we have to get this thing clear: Exactly how do we decide that this dog is a dangerous dog and it is a pit bull? You cannot use a term "it is known as a pit bull." It does not make sense.

I have read everything; I have discussed it with people and I cannot come up with a solution except the artificial one is saying, effectively, that you are going to have to have the dog certified as being a dangerous dog by a professional veterinary officer. There is no other way. How can you go before a Magistrate's Court and say that this dog was known to be a pit bull." What does that mean? It means very little. I do not know what the solution is except going through my mind is the possibility that we might, somewhere, require certification by a veterinary officer as to what is deemed to be a pit bull. I could support the rest of the legislation but I have a problem with this saying that it is a pit bull or known as a pit bull. It does not make any sense.

The other problem is that a simple thing like if you cross a pit bull with a rottweiler, the mixture that you get there is rather like the mixture that you get of the citizens of this country. Some are big in faces, some are small, some are coloured one way; some have a shape of face as—so we are dealing with a situation—as the Attorney General said—that is quite correct. We cannot deal with the British legislation, we have to deal with a situation where people have been mixing the so-called pit bull with doberman, rottweiler, hounds, and you name it.

10.50 a.m.

So, I think that in the discussion when we get into the committee stage perhaps we can just look at that in the interpretation clause and in the Schedule and see if we can come up with something. Possibly in the body of the legislation we might really need to put in something about certification by a professional veterinary officer. Thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Muhummad Shabazz: Vice-President, again I say, as we on this side have said already, we are supporting the Bill, however, there is something happening that we think should be taken note of and that the hon. Attorney General should look at. The fact is that, because of the fines and the insurance policies required for these pit bulls, many people are taking their pit bulls and letting them go on the streets and they are left to just go astray. As a matter of fact, we find that also to be a very dangerous situation because there are certain things that could happen as a result of that. These pit bulls that are released could do things to people. Not only that, they may run off into the forest and breed a whole colony of pit bulls in the next three or four years from now and we would then have another problem with the pit bull situation. [*Desk thumping*]

There is another problem I see, Mr. Vice-President. Even though we are not supposed to have any sorry feelings for the pit bulls, it is a very inhumane thing to allow a dog to just stray like that. Some of them might have been accustomed to nice treatment wherever they were. They are out there now and are really under pressure. We think that situation should be looked at. One of the ways that we think that should be dealt with is that somewhere in this Bill there should be some clause fining people who let their pit bulls go just so on the street. There should be something to cover that and to cover the society as a result of that. We think that is a very important thing and that the Attorney General should look at that in presenting this Bill. Those are the points I would like to make, Mr. Vice-President. [*Desk thumping*]

Sen. Martin Daly: Mr. Vice-President, I unreservedly congratulate the Government and the Attorney General on the leadership they have shown in this matter. It is very clear to me that there are people in politics who are closet pit bull lovers, so we now know, since the Government took such a firm lead, prodded of course by the Independent Senators. Let that be said. We took them off the hook because we were able to express the contempt of the majority of the population without getting them into any trouble. Since we passed this legislation, three arguments—well, I would not even like to dignify them as arguments—three points of view have surfaced.

A responsible point of view has been expressed by veterinarians and, in that regard, there was a letter by Dr. Pyke, for example, in the *Guardian*, last Sunday or Saturday. The point was made that if someone complies with the legislation and would like to keep their pit bull as a pet, we really ought not to penalize them in this way. If the dog gets sick, for example, it breaks a leg or something, and the vet cannot treat the dog at home—even if one can afford $150 for the home visit—we ought to make provisions for properly-cared-for pit bulls to be able to go to the vet.

I have proposed an amendment that takes care of that. It is a fairly simple amendment but basically what it does is it rewards the responsible owner who complies with the legislation. So if we have any closet pit bull loving politicians they can comply with the legislation and, when necessary, take their dogs to the vet. I think that is a very responsible objection to the Bill and that is precisely why

important legislation ought not to be rushed. Whether it provides equal opportunities for pit bulls or equal opportunities for human beings, important legislation ought not to be rushed. There is much to be said for the process of debating it in one House, sending it to another House, sending it back to the first House, even appointing a responsible committee and not denigrating constructive critics of legislation.

The second argument that had been raised, and Sen. Prof. Kenny has expressed it, is about the identification of the pit bull. We have discussed this privately and it is indeed a very knotty problem. I say at once, this is an occasion on which I do not care if someone makes a mistake because I would rather make a mistake that causes someone to lose his or her dog than lose a child. It is a very simple choice we have to make. I am sorry if they shoot your dog: buy another one. If your child is killed by a pit bull, you cannot buy another one.

As you know, I approach these things on a very common-sense basis. So, as far as I am concerned, we can define the pit bull as—and there is nothing wrong, in my view; we will have to discuss it in committee— "known as". There are many things that have one name and are commonly known as something else. Avocado is commonly known as "zaboca" and we know what a "zaboca" is when we see it. I agree it is an important point and if only because we do not want to leave any loopholes we can discuss, in committee, a possibility.

One thing that Sen. Prof. Kenny suggested is—because, unlike the framers of the Praedial Larceny Bill, he understands the difference between an evidentiary issue and a substantive issue—that we might have an escape clause that says the penalties would not apply if a certificate is obtained and the burden of proof is reversed. We certainly cannot expect a policeman in the playground in Belmont, while some child is being savaged, to get a certificate to say it is a pit bull eating the child. I mean, we have to get real and there are times in society when we sometimes have to make choices that are painful for some people. This is a simple choice. Are we going to keep the dogs or the children?

Then, there are critics who have said, "Well, you know, look at the trouble. People go let go the dog in the road and all this kind ah thing". First of all, as far as I know, in the other place they put in an amendment giving responsibility to a Ministry and, well, if the dogs are let go in the road we know how to deal with that too. The bottom line is, we have to protect people from the ravages of the pit bull and if only we could come to these mature and considered resolutions of

serious problems in the society, the Parliament would be much more respected. So I have absolutely no hesitation, for the second time, in commending the Government for taking the lead once we showed it the right direction and I suggest that, subject to making sure that we have not left any loopholes, we pass this legislation.

I would also ask Senators to take a careful look. I know it is tedious and if we make more amendments the Bill has to go back to the Lower House but we have to be responsible. We have to listen to responsible voices in the society and the vets seem to me to have made a sensible point. Therefore, insofar as the legislation still needs fine-tuning, I entirely agree with the Attorney General that if it has to take time it has to take time because it is important legislation, it has emotional consequences for people and, therefore, we have to take our time with it. However, at the risk of repetition I would unreservedly compliment the Government for taking a lead and making a choice.

The problem with politics is that people are always trying to do both things. They are trying to have a land phone licence and a cellular phone licence at the same time. They are always trying to do both things. That is the problem with our politics. People do not make choices and we have to make choices. We must have the guts to make the choices and that way you will soon find that our politics will become more focussed on issues rather than on personalities and who is filling their pockets. One thing about the Attorney General, he is not afraid to make choices. Sometimes he makes choices that are adverse to me, but I do not mind. Thank you very much.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, since I was absent at a previous sitting of this honourable Senate I join today with other colleagues in extending a most gracious welcome to Sen. Dr. Anna Mahase. She is a member of my congregation and I know that this will not be a problem on Sunday mornings.

Mr. Vice-President, about the Bill; I rise to support the revised format and new version of the Dangerous Dogs Bill. We have been heavily lobbied, both in the press and by private letters, about the possibility of us changing our stance on this piece of legislation. We have all been aware of the enormous public interest and response to this Bill—fantastic! Almost the whole territory has been involved in the study of this Bill and all its consequences. Those against the Bill, Mr. Vice-President, I must say, have been certainly persuasive and yet I am convinced this morning that the case as proposed in the new legislation is the better way out.

I would just add that I like clause 9, as a new amendment, concerning the matter of minors. It has been common for us in the past, maybe at least prior to the study or the introduction of this piece of legislation, to see young people on the streets with pit bulls. Clause 9 says:

> "A person under the age of eighteen years shall not own or keep a dangerous dog."

I think it is a good addition and amendment to the legislation.

At one of the sittings of the Senate in 1999, you will recall I raised the question concerning certain dangerous animals brought into this country, particularly the cobra, for display at certain exhibitions. Mr. Vice-President, you will remember the flippant response from a Minister of Government a few months ago when he said to me, and I will not forget it—*Hansard* will bear me out—that the cobra was created by God. He would not have responded that way to another person. Maybe he would have said that to Sen. Dr. St. Cyr or myself but God came in the picture and he saw no reason why there should be any prohibition against having the cobra here. However, up to this time, as far as I see and as I know, it is not in the will of God that the cobra should find a home in Trinidad and Tobago.

Mr. Vice-President, a few weeks ago there was another exhibition in Trinidad and Tobago and the star attraction was an African cobra, and other varieties too, imported and kept by personnel who have nothing to do with the zoo. Under private arrangements they brought these creatures in. Several experts agree that the cobra would be very much at home in the forests of Trinidad and Tobago and, also, that our climate is conducive to the livelihood of that reptile. Similarly, experts have said that our rivers in Trinidad and Tobago can be appropriate habitat for the deadly piranha. I wish to alert the hon. Attorney General to the growing concern of the public concerning such matters.

Since we are addressing the question of dangerous dogs with such extensive public and parliamentary interest, the time is now for Government to seriously consider the need to update our laws or introduce legislation to prohibit the importation of other dangerous creatures in Trinidad and Tobago. [*Desk thumping*]. Mr. Vice-President, I thought that I would introduce this in the debate today and I was so encouraged by an article in one of the dailies of May 26, 2000; and I would quote it. The title of it, very relevant for today, "Is the cobra now to replace the pitbull?" It is not an ordinary article. It is in the editorial. I quote:

"Even as the Government moves to ban the importation and to discourage the ownership and/or rearing of pitbulls and their issue, including cross-breeds…"

[*Interruption*]

Sen. Prof. Kenny: Thank you, Mr. Vice-President. I just draw to the attention of the hon. Senator that, in fact, there is already legislation regulating the import of animals into Trinidad and Tobago and it requires a permit. So that if someone has imported a cobra or piranha, somebody gave that person a permit to do this and the law is already there. It is old.

11.05 a.m.

Sen. Rev. D. Teelucksingh: Mr. Vice-President, I continue:

> "…there are individuals who have been importing the deadly cobra snake to Trinidad and Tobago.
>
> It is one thing to bring cobras into the country specifically for exhibition at registered zoos, but it must stop there.
>
> Already several of the venomous cobra snakes have not only been brought in, privately, but openly displayed…"

For those who are curious.

> "…And in much the same way that the importation of pitbulls is being banned, the dogs having been deemed hostile and dangerous, the cobras are dangerous, indeed very dangerous snakes and their importation, save for restricted purposes, should be made an offence by law."

Mr. Vice President, the article continues, I am skipping:

> "Trinidad already is home to coral and mapipire snakes and there is no need to add a new deadly dose of venom."

And listen to this, it is in line with the issue raised just now about the cross breeding of the dogs.

> "If the importation of cobras is allowed, or rather if there is no law on the statute books to, specifically, stop their importation, what is there to stop an entrepreneur from bringing in male and female cobras for the purpose of breeding and later for the trafficking of their young?
>
> In addition, as an example of irresponsibility, some years ago piranhas were illegally imported into Trinidad, and had they been let loose in our rivers, ponds and, heaven forbid, one or more of the Water and Sewerage Authority's unprotected reservoirs, human beings could have been killed…"

And a threat to our local fishes.

Mr. Vice-President, I too will join with my colleagues in congratulating the Government on this very significant piece of legislation. I thank the Government for the time spent in fine-tuning this piece of legislation, and also support my colleagues in adding that if there is need to even slow down to go back to the other place to make it perfect, then we are all in favour of that. I certainly hope that this Minister of Government, to whom we are speaking today, will treat the matter that I have raised and also the issue that is now becoming one of wide public concern—other dangerous animals—just as seriously as the Dangerous Dogs Bill.

Mr. Vice-President, thank you. *[Desk thumping]*

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I have a brief point to make. First of all, I want to join my colleagues in congratulating the Government on bringing this legislation; on agreeing to modify it; and staying with it in spite of all kinds of protests and in spite of the lobbying that might have taken place. That is the first thing I want to make clear. I congratulate the Government for sticking with this legislation.

I refer to the problem touched upon by Sen. Prof. Kenny. He spoke about how you identify a pit bull. I would like to approach that from a different angle although I am really dealing with the same problem. A number of people have complained asking why the Government is condemning pit bulls. One of them said: "I have a pit bull which is very docile and loving and the majority of pit bulls can be trained to be docile and loving; all pit bulls are not dangerous." Other people have told me that. They claim that on the basis of the bad behaviour of a few pit bulls the Government is condemning all pit bulls. My reply was, "Yes, but we are not making a statement that all pit bulls are dangerous. What we are saying is there is sufficient evidence that we cannot trust pit bulls in public places. [*Desk thumping*] It is not a statement about the nature of all pit bulls.

So, I was wondering whether in the definition, we should try and attempt to define "dangerous dogs" in terms of behaviour and evidence about behaviour and let that be the primary thing, adding that we also have a list of dogs for which evidence already exists that they are dangerous. This would solve the problem of stereotyping any particular dog; it would make it clear that law is based upon evidence; and it will allow us from time to time to add other dogs to the list.

Mr. Vice-President, that is all I wanted to say. Thank you. [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice President, I must thank hon. Senators for their contributions. I share their view that this is a very important Bill, which is not easy to formulate and re-formulate. I have taken note of the points which have been made, and I am sure that in the committee stage we would look at the whole question of the definition of "dangerous dogs".

Mr. Vice-President, may I say that same point that Sen. Prof. Kenny raised as to how you are going to detect a dangerous dog was raised, debated and discussed for a long time in the other place. One of the matters, which we discussed and I think I could mention, is exactly how you are going to determine that a dog is mixed with the pit bull terrier. It is in that context that we thought in the other place, that if we amended the definition but we also give to the Ministry the power to send a vet into premises where there is doubt as to whether someone has a dog that fell within that definition, that could have assisted in solving the problem because that dog would then be subjected to whatever scientific test that a vet can give.

Mr. Vice-President, I am told that in the United Kingdom where there is similar legislation and definitions to what we have, the breed is determined by an examination by a vet. I am told that the vet can determine whether it is mixed with a pit bull terrier. Now, the policy of this legislation is that any dog mixed with the pit bull terrier—whatever percentage—is banned. We had to make a decision and that decision had to be that you could not have a pit bull in any form, whether mixed or otherwise. So we took a policy decision and that was the view of the other place that as long as it is mixed with a pit bull terrier it is banned. So that if it is that in the Committee Stage it is felt that on the registration of the dog that you should also have a certificate, we can discuss that and find a way to strengthen this piece of legislation.

Mr. Vice President, the point raised with respect to the hon. Senator Shabazz, I think probably the Senator did not read the amendments this morning. In the new clause 14(A) it deals with obligation not to abandon the dog: "An owner or keeper of a dangerous dog shall not abandon the dog." and "A person who contravenes this section…" is liable to a fine. It also gives to the ministry the power to take charge of a dangerous dog.

In the new clause 6(A) it says:

> "An owner or keeper of a dangerous dog who is unable to fulfil the requirements of this Act shall notify the Ministry of that fact, transfer possession of it to the Ministry whereupon the Ministry shall take charge of the dangerous dog and thereafter destroy it."

Mr. Vice-President, so that in the other place we did address that point and we also put in a new clause dealing with impounding or destruction of a dangerous dog due to non-compliance. So there is the power that you can impound a dangerous dog.

11.15 a.m.

Mr. Vice-President, we shall certainly consider the points raised by Sen. Daly and his proposed amendment, at the committee stage. I do agree with them that the lobby has been very great; the letters have been very numerous and they have been very adamant about the insistence of having these provisions removed. That is a very good sign in that it is important for people to be able to express their views on legislation.

What I can say, representing the Government, is that we have seriously considered them and we are still prepared to consider any of the suggestions made here today but, in the final analysis, I think that one has to look to balance individual rights, or rights with respect to property in dogs, with the greater public interest. No human or fundamental right is absolute. Rights carry with them the obligation to have responsibilities and where there is cogent and compelling evidence in which a dog is dangerous and is dangerous to life, then there is no way, in my respectful view, that any responsible legislator could turn his or her eye away from that in order to give effect to some individual rights to property, when it is recognized that the right to property is also to be subjected to the overall public interest.

I think Sen. Rev. Daniel Teelucksingh raised a very important point and I am very sorry if, at any time, the impression was given to him, or to this honourable Senate, that the possession of a cobra is not a matter about which we should be concerned. I think that just as dogs and dangerous dogs ought to be prohibited, people should not own or have them because they, obviously, are a danger to the lives of the people who do not have them and also to the people who have them. I wish to give the undertaking that it is a matter which I will look into.

I am told that there is legislation. I may have to look at it again. It may be that it is a question of implementation of the legislation but, in any event, I think that we are *ad idem* on the principle that the cobra is dangerous; it is dangerous to life; it is not a pet and it should not be reared as a pet. Therefore, we should use some of the same principles with respect to cobras and other dangerous reptiles.

I am very sorry that I have to deal with what Sen. Montano said. I think it is important for me to put the record straight. The record will reflect that when the Dangerous Dogs Bill was first introduced in the House of Representatives, a bill was introduced on the basis that there would have been a total ban. There was a public statement made by the Chairman of the People's National Movement stating that the PNM may not support the bill because the PNM was of the view that the dogs should be regulated, and there was a question of fundamental rights.

In the other place, I read from that publication. When we were in that other place, he referred to the hon. Member for Diego Martin West, Dr. Rowley, who indicated that the Opposition's position was that it wanted to have a total ban, regardless of what the Chairman of the PNM had said.

We took the position that, in light of the fact that we had come with this Bill, having amended it, that we would go ahead with the Bill in that form and that we would come back to the Parliament in three months' time, if it did not work.

When the Bill came to this place in the form that we brought it, it is a matter of record that the Opposition supported the Government in this place with the principle in that Bill. In the other place, I read from Sen. Shabazz and other Senators from the Opposition who supported the Government's position. It was the Independent Senators who took the position that we could not support a regulatory framework, that we wanted a total ban, and it was because of the strong views held by the Independent Senators that I adjourned the debate in order to consider the matter again. Following discussions I had with the hon. Prime Minister and the Cabinet, we decided we would come back to the Senate and go with the total ban.

I do not think this is a matter in which we can say, "I was right" or, "You were right". I do not want to regard this in that way. I do not want to boast about the Government, but if the Opposition wants to say they were right, let them say that, but I would have thought that the Opposition would support the principle that it is a good sign when a government is flexible. That is what democracy is all about. [*Desk thumping*]

I would have thought that the Opposition, as the Opposition which is aiming to be the alternative government, would congratulate the Government for being so flexible because that is what the Parliament is about. It is not cast in stone. There is a responsibility and a duty of government when it comes with legislation, to listen to what the other side has said; consider it; make a decision; if the decision is wrong, it then faces the electorate at the appropriate time and it pays the consequences.

I make no apologies for being flexible. As a matter of fact, I wish to congratulate my colleagues for being flexible because I think it will be a sad day in Trinidad and Tobago if we do not have a flexible government. But, having heard what was said on the other side in respect of the Opposition's Sen. Montano, I am afraid, if by chance the Opposition gets into government, because what they are saying is they would not be flexible, that they would come here and not be flexible and because they took a view, they would say they are right. So, I hope that Sen. Montano would reconsider what he has said and, at an appropriate time, apologize to this honourable Senate, in the name of democracy.

Mr. Vice-President, notwithstanding the differences of views that the Opposition and the Government had and the fact that we look at them differently in respect to what Sen. Montano had said, I say that it is a very good and healthy sign when governments come with pieces of legislation and show they are amenable to considering the other side. I give Sen. Prof. Spence the assurance that in respect of any measure which would come to this place, the Government would consider what both the Independents and the Opposition say and would give serious consideration to the views.

Sen. Daly: Can I ask the Attorney General, since everyone is in such a good mood today, if that is a statement of equal opportunity? [*Laughter*]

Hon. R. L. Maharaj: Mr. Vice-President, I would have thought that it was very obvious. [*Laughter*] I would have thought this was not something new today. As a matter of fact, I think if hon. Senators on the other side want to be very candid, we have always taken the approach that we will consider, we will listen, we will reconsider and we will come back with things. Expressly, I wish to give the assurance to this honourable Senate that we know the Equal Opportunity Bill would be coming. It is a very important measure—

Sen. Mark: It is here already.

Hon. R. L. Maharaj: It is here already and when the time comes for debate, the Government would be very open to listen to what the Independent Senators have to say and would give consideration to what they have to say. The same applies to the Opposition. We would be failing in our duty if we did not do that.

Mr. Vice-President, I think I have responded generally to all the comments which have been made and we look forward at the committee stage to listen to what recommendations have been made and with the assistance of the draftspersons—I do not normally do this, but I think in respect of this Bill, I would like to put on record the great assistance we got in the Parliament from

both the Law Commission and the Chief Parliamentary Counsel's Department. In particular, there is a gentleman, Mr. Cuthbert Jolly and a lady, Mrs. Grant, who have worked tirelessly. They are in this Chamber and I am sure they would give us all assistance in this matter.

Mr. Vice-President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: We have before us the Dangerous Dogs Bill, 2000, the list of amendments made in the House of Representatives of Friday May 12, 2000 and we have circulated two sets of amendments, one by the hon. Attorney General to clause 5A and clause 13 and one by Sen. Martin Daly to clause 13. Does everyone have those before them?

Assent indicated.

Mr. Chairman: Can we proceed?

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

Clause 3.

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

Sen. Daly: Mr. Chairman, I am using the language of another place. Could we stand down this clause? Sen. Prof. Kenny and I are trying to work on something to do with identification which affects this clause among others. Could we defer clause 3?

Mr. Chairman: With the consent of everyone, we will defer clause 3, which is the interpretation clause.

Assent indicated.

Clause 3 deferred.

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Chairman: We have a circulated amendment by the hon. Attorney General which introduces a new 5A.

Mr. Maharaj: It is a new clause. We are amending 5A. There was an amendment—

Sen. Mahabir-Wyatt: Mr. Chairman, before we get there, there was subclause (1) concerning the words "spayed or" before "neutered". I think that comes before.

11.30 a.m.

Mr. Chairman: All the amendments that were made in the House are considered part of the legislation before us right now, so we are considering the consolidation of the Bill as drafted and the House amendments, and we are dealing with additional amendments.

New clause 5A.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 5A be amended as follows:

"Registration of Dangerous Dogs	5A.(1)	Within three months of the coming into force of this Act, every owner of a dangerous dog shall register that dog in the prescribed form with the Ministry
	(2)	A person who fails to register a dangerous dog in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars."

If you look at the House amendments, there is a new clause 5A. What we are asking is we renumber clauses 2 and 3 and insert after subclause (1) the following new subclause:

> "In order to ensure compliance with this Act, the Ministry may require an authorized veterinary surgeon to go to any premises to confirm the breed of a dog at those premises."

Mr. Chairman, you will recall the reason that I gave this amendment is that in the other place, the issue was raised as to what happens if the Ministry is of the view that there is a dangerous dog on the premises and, therefore, it should have the power to send a vet to examine the dog in order to determine if it is a dog bred from a dangerous dog.

Sen. Daly: For the same reason, can we defer this, because we are trying to link it with the Schedule.

Mr. Chairman: Subject to everyone's consent we will also defer clause 5.

Sen. Daly: Clause 5A(2)?

Mr. Chairman: We will defer the whole of clause 5.

Sen. Daly: Thank you, Sir.

Mr. Chairman: We will deal with clause 5 and we will defer new clause 5A to the committee after we have dealt with all the clauses.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

New clause 5 deferred.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

Sen. Valere: Mr. Chairman, I beg to move that clause 6 be amended as follows:

> "(4)(c) a certificate in the prescribed form verifying that the dog in respect of which the licence is to be issued is spayed or neutered."

Could we insert the word "spayed" to be consistent with the change made in clause 5(1) please?

Clause 6, as amended, ordered to stand part of the Bill.

Clauses 7 and 8 ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Sen. Dr. Mc Kenzie: Mr. Chairman, with respect to the amendments to clause 9—*[Interruption]*

Mr. Maharaj: Mr. Chairman, I think Senators would know that clause 9 is what is on the Bill, as amended by the House. It is already amended, but you could still amend that if you want.

Sen. Dr. Mc Kenzie: No, what I am saying is that the copy I am reading from does not have the incorporated amendments. Probably that is what is happening.

Mr. Chairman: The amendments are circulated. There is now a clause 9 (1), (2), and (3). That is what is before us right now.

Sen. Dr. Mc Kenzie: So we are disregarding the one on the Bill?

Mr. Chairman: Correct.

Sen. Dr. Mc Kenzie: Okay.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

New Clause 6A.

Mr. Chairman: It has been drawn to my attention that on the amendments coming from the House of Representatives we had a new clause 6A that we did not adopt. I think before moving forward we will revert to new clause 6A.

Sen. Dr. Mc Kenzie: Sometimes we can deal with new clauses— *[Interruption]*

Mr. Chairman: Senator, we have to differentiate between new clauses that are originating here and new clauses that originated elsewhere. The new clause 6A is in fact a clause that was adopted by the House of Representatives and, therefore, forms part of the substantive Bill that we are looking at. Maybe we could look at new clause 6A as a new clause, in isolation, before moving on.

Mr. Maharaj: Mr. Chairman, I propose a new clause 6A which reads as follows:

"Insert after clause 6 the following new clause:

'Ministry to take charge of dangerous dog	6.A. An owner or keeper of a dangerous dog who is unable to fulfil the requirements of this Act shall notify the Ministry of that fact, transfer possession of it to the Ministry whereupon the Ministry shall take charge of the dangerous dog and thereafter destroy it.'"

New clause 6A read the first time.

Question proposed, That new clause 6A be read the second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New clause 6A added to the Bill.

11.40 a.m.

Clauses 10 to 12 ordered to stand part of the Bill.

Clause 13.

Question proposed, that clause 13 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, both Sen. Daly and the Government have amendments for clause 13. I suggest we stand this clause down.

Mr. Chairman: Okay, with your consent we defer clause 13.

Mr. Maharaj: I do not think that Sen. Daly is aware that we are deferring clause 13.

Mr. Chairman: We have amendments in clause 13, we are deferring that also.

Sen. Daly: Mr. Chairman, may I just say for information that we have come up with some amendments which we have asked to be typed. They affect clauses 3, 5(A)(2) and the Schedule; the others are not affected by what we are doing. I have lost track, so if we are on clause 13—

Mr. Maharaj: It is your amendment.

Mr. Chairman: In clause 13 we have two amendments.

Sen. Daly: I have lost track; I am sorry. [*Laughter*]

Mr. Chairman: Sen. Daly I will invite you to present your amendments which you have circulated. I just want to draw your attention to the fact that there are three things that maybe you could consider altering. The definition we have been using is "veterinary surgeon" so we have that referred to twice, and the comment that was made earlier by extending "neuter" to mean "and spayed" should also be included.

Sen. Daly: I accept that, Mr. Vice-President; thank you. Shall I re-submit it later?

Mr. Chairman: No.

Sen. Daly: I would accept that unhesitatingly. I try to make it consistent by referring to "owner" or "keeper". What I have in mind, Sir, as I explained in the debate, is that you may have good citizens who do everything to comply with the law. In other words, they have had the dog neutered or spayed, they have the dog on controlled private premises, but the dog gets sick, breaks a foot or whatever; you may have a situation where their dog cannot be treated by the veterinarian going to the premises.

It may be necessary for them to put the dog in a car and take the dog to the veterinarian, so we need to have a small exception to permit the dog to be taken out of private premises to the veterinarian with the same conditions that we have for when it is going to be neutered or spayed, namely, the muzzle and so forth.

I have just tried to make another exception for treatment of a dog where the owners complied with the Act to go to the veterinarian on more than one occasion, that is, an occasion subsequent to the neutering or spaying, for treatment that cannot be done at home. That is what I have tried to do, I do not know if I have accomplished it. All the veterinarians have asked for this. There was a letter, for example, by Dr. Pyke, in the newspaper; that is what I had in mind.

Mr. Maharaj: I wonder, Mr. Chairman, if Sen. Daly could then direct his attention to clause 13(F) on the House amendments which says:

> "'Except for the purpose of complying with section 5(1), where it becomes necessary for a dangerous dog to receive veterinary or other attention such attention shall be administered in the private premises of the owner of the dog'."

Sen. Daly: I am grateful. I had missed this, may I say, but what I had in mind, at one stage, was that the veterinarian should certify that the treatment has to be done away from the home. For things like hernias, which are quite common—in fact, I just lost a dog as a result of a hernia—you cannot operate. There is the equivalent of doggie intensive care which you do not have at home, so we might have to amend that to say: "unless otherwise certified in writing by the veterinarian surgeon." So before you could take the sick dog out of the private place you have to get a certificate from the veterinarian, similar to the licence certificate that you get for carrying liquor.

Mr. Maharaj: And it would be subject to the same conditions as in 13A.

Sen. Daly: The muzzle and so forth; so we could tidy that up as well.

Mr. Maharaj: So do you want to defer this, let us redraft it and come back?

Sen. Daly: Yes, I am very grateful.

Sen. Prof. Spence: Mr. Chairman, may I ask whether there is provision in the legislation when you move from one house to another? There is provision for the licence address to be changed, but is there provision to allow you to take the dog from one house to another?

Mr. Maharaj: Those new premises would have to be passed, but it prevents you from selling the dog. You could take it from one house to another, but you will have to have the new premises pass the necessary—

Sen. Prof. Spence: But is the transport allowed in what we are doing, or is that prohibited too? Would we have to make special provisions to allow the transport?

Mr. Maharaj: I see what you mean; I understand what you mean.

Sen. Prof. Spence: Could we look at that when—

Mr. Maharaj: Yes, when we go to clause 13. We could stand down clause 13 and do 13A.

Mr. President: You want to do 13A? [*Crosstalk*]

Mr. Maharaj: We could stand down 13A too, because it may be related.

Mr. Chairman: The suggestion is that we defer clauses 13 and 13A, which are related, 13A being the transportation of dangerous dogs, so we will defer that also and go to clause 14.

Clauses 13 and 13A deferred.

Clause 14 ordered to stand part of the Bill.

New Clause 14A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 14A which reads as follows:

"Obligation not to abandon dangerous dog	14A. (1) An owner or keeper of a dangerous dog shall not abandon the dog. (2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for one year."

New clause 14A read the first time

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed that the new clause be added to the bill.

Question put and agreed to.

New clause 14A added to the Bill.

Clauses 15 to 23 ordered to stand part of the Bill.

New Clause 23 A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 23A which reads as follows:

"Impounding or destruction of dangerous dog due to non-compliance with Act	23A.(1) where an owner or keeper of a dangerous dog has not fulfilled a requirement in respect of a dangerous
	dog under this Act the Ministry shall impound the dog until the requirement is fulfilled. (2) Where seven days after notice for fulfilling a requirement under this Act has elapsed the Ministry shall inform the owner or keeper of the dangerous dog referred to in subsection (1) of that fact. (3) Where an owner or keeper of a dangerous dog has still not fulfilled the requirements three days after receiving notice under subsection (2) the Ministry shall destroy the dangerous dog."

New clause 23A read the first time.

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed that the new clause be added to the bill.

Question put and agreed to.

New clause 23A added to the Bill.

Clauses 24 to 26 ordered to stand part of the Bill.

Mr. Chairman: Hon. Members, we have some deferred clauses, which we will deal with first, and then deal with the Schedule. Are we ready with clause 13?

Sen. Daly: We did not get it back as yet. It is difficult to explain it without the draft. [*Crosstalk*] Would you like me to say what it is, Sir?

Mr. Chairman: So we have clauses 3, 5, 13, the Schedule and the Preamble outstanding.

Sen. Daly: We are going to take the opportunity to deal with the point raised by the hon. Attorney General about clause 13. We have sent it to be typed; it would be hard explaining without the writing. [*Crosstalk*]

Mr. Chairman: Would it be more than five minutes before these things come?

Sen. Daly: It is not in my control, Sir. [*Crosstalk*]

Mr. Chairman: Could we just wait? We have sent to check on the typing.

[*Members await drafts of the amendments*]

11.55 a.m.

Mr. Chairman: We shall reconvene now. We will deal with the deferred items sequentially starting with clause 3 and there is an amended suggested change submitted by Sen. Daly.

Clause 3 reintroduced.

Sen. Daly: Sen. Prof. Kenny and I.

Mr. Chairman: Did you say Sen. Prof. Kenny?

Sen. Daly: By both of us. It is a transparent joint venture.

Mr. Maharaj: I wonder if Sen. Prof. Kenny is also a Senior Counsel.

Sen. Daly: He is, when it comes to top soil. *[Laughter]*

Mr. Chairman: Who will be doing the primary presentation?

Hon. Senator: The one who signed.

Sen. Daly: Mr. Chairman, after discussion, Sen. Prof. Kenny and I have agreed to have a further amendment where we take out the words "…any breed or variety of dog which is known to have caused serious injury or death to humans or which…" So it will simply read:

"'dangerous dog' means a dog listed in the Schedule."

Mr. Maharaj: It is already there, so we could say "'dangerous dog' means a dog or a bitch of the type listed in the Schedule." The reason we want to put the word "bitch" is because we had used the word "spayed" and somebody could take the argument—not that it would succeed—that a bitch is not a dog covered by the Bill, so just to protect those points taken by ingenious arguments by counsel.

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

"'dangerous dog' means a dog or a bitch of the type listed in the Schedule."

Question put and agreed to.

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

Clause 5A reintroduced.

Sen. Daly: We would have to change that again Mr. Chairman, maybe in view of going back to the word "type" we should say:

> "(2) In order to ensure compliance with this Act the Ministry may require an authorized veterinarian…"

Mr. Maharaj: It should be "veterinary surgeon".

Sen. Daly: "…to certify promptly in writing the type of dog." Since we are using principal characteristics in the Schedule, you could say I have certified this to be a pit bull because its characteristics are.

Mr. Maharaj: Are you sure it would not be more precise to put the word "breed" instead of "type"?

Sen. Daly: If we use the word "breed" here, we would have to use it in the definition. Let us be consistent. If we use the word "type" in clause 3, we should also use it in clause 5A. We could either use the word "breed" or the word "type" to be consistent.

Mr. Maharaj: You are correct. We would use the word "type".

Mr. Chairman, I beg to move that clause 5A (2) be amended as follows:

"Delete subclause (2) and substitute the following:

> "(2) In order to ensure compliance with this Act the Ministry may require an authorized veterinary surgeon to certify promptly in writing the type of a dog."

Question put and agreed to.

Clause 5A, as amended, ordered to stand part of the Bill.

Mr. Maharaj: Mr. Chairman, clause 5A which is in the proposed amendment will be withdrawn.

Clause 13 reintroduced.

Sen. Daly: Mr. Chairman, I beg to move that clause 13 be amended as follows:

13	A.	In subclause (1) insert after the words 'with section 5(1)' the words 'or attending a veterinarian with a dog already neutered for any treatment of it.'"

Could you help by telling us whether the right word here is veterinarian or veterinary surgeon?

Mr. Maharaj: It is veterinary surgeon.

Mr. Chairman, to take into account what you have said, I wonder whether this may not be the better way of doing it. If you look at clause 13(6):

> "(6) Except for the purpose of complying with section 5(1), and where a veterinary surgeon certifies in writing that the treatment cannot be administered in any place other than at the office of a veterinary surgeon, where it becomes necessary for a dangerous dog to receive veterinary or other attention, such attention shall be administered in the private premises of the owner of the dog."

Is that all right?

Sen. Daly: That is perfect.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 13(6) be amended as follows:

> "(6) Except for the purpose of complying with section 5(1), and where a veterinary surgeon certifies in writing that the treatment cannot be administered in any place other than at the office of a veterinary surgeon, where it becomes necessary for a dangerous dog to receive veterinary or other attention, such attention shall be administered in the private premises of the owner of the dog."

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Mr. Maharaj: Mr. Vice-President, Clause 13A would also have to be amended in order to cover the situation.

New Clause 13A reintroduced.

Mr. Maharaj: Mr. Chairman, I propose a new clause 13A which reads as follows:

"Transportation of dangerous dog	13A.(1) An owner or keeper of a dangerous dog who desires to fulfil the requirements of section 5(1) shall ensure that the dog is— (a) securely fitted with a muzzle sufficient to prevent it from biting any person (b) securely held on a lead by a person who is not less than eighteen years old and who is capable of controlling the dog. (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment of one year.".

New clause 13A read the first time.

Question proposed, That the new clause be read a second time.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 13A be amended as follows:

"Transportation of dangerous dog	13A (1) :An owner or keeper of a dangerous dog who: (a) Is fulfilling the requirements of section 5(1) or (b) Desires to change his place of residence and wishes to take his dog with himor

(c) transports the dog pursuant to section 13(6),

shall ensure that the dog is-

(d) securely fitted with a muzzle sufficient to prevent it from biting any persons;

(e) securely held on a lead by a person who is not less than eighteen years old and who is capable of controlling the dog.

Sen. Daly: I really do not like the word "desire", because having a dog neutered is not an option. Could we find some other word? It really sends the wrong signal.

12.40 p.m.

Mr. Maharaj: An owner or keeper of a dangerous dog who-

"Transportation of dangerous dog

13A (1) An owner or keeper of a dangerous dog who:

(a) Is fulfilling the requirements of section 5(1) or

(b) desires to change his place of residence and wishes to take his dog with him or

(c) transports the dog pursuant to section 13(6),

shall ensure that the dog is-

(d)securely fitted with a muzzle sufficient to prevent it from biting any person;

(e) securely held on a lead by a person who is not less

than eighteen years old and who is capable of controlloing the dog.

Are you happy with that?

Question put and agreed to.

Question proposed, that the new clause be added to the Bill.

Question put and agreed to.

New Clause 13A added to the Bill.

Mr. Chairman: There is an amendment to clause 13A.

Mr. Maharaj: Clause 13A will be a New Clause 13A.

Mr. Maharaj: Mr. Chairman, in all that, I forgot to deal with my amendment to Clause 13, to cover the situation for that 13, can I ask you to revisit Clause 13?

Clause 13 reintroduced.

Question again proposed, That clause 13 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, you would recall, in the draft that I have circulated, to insert after the word "premises" in Clause 13(1A), the words "whether indoors or outdoors." This was to cover condominiums. It should read:

"A person shall not keep a dangerous dog on premises, whether indoors or outdoors, that accommodate more than one household."

Question put and agreed to.

Clause 13(1A), as amended, ordered to stand part of the Bill.

Schedule.

Question proposed, That the Schedule stand part of the Bill.

Mr. Maharaj: There is going to be—you wanted to amend the Schedule?

Sen. Daly: Yes, Sir, we have an amendment to the Schedule to describe the dog to use the concept of any of the principal characteristics, so that it would read—

Mr. Maharaj: Mr. Chairman, I think what Sen. Daly wants to say is that right now, it is "Pitbull terrier, or any dog bred from the Pitbull terrier;" and the same applies to the other three categories. In the House it was added to that, "or any dog of the type known as the pitbull terrier." You want to put "any dog bred from the pitbull terrier—

Sen. Daly:—and having any of the principal characteristics of that dog."

Mr. Chairman: Could it go in before the words "pitbull terrier?" "Pitbull terrier or any dog bred from or having the principal characteristics of the pitbull terrier."

Mr. Maharaj: I think we should say, "pitbull terrier or any dog bred from the pitbull terrier and having any of the principal characteristics of that dog."

Sen. Daly: Can I explain, Mr. Vice-President. In other words, if you cross it with a rottweiler—let us be more extreme—if you cross it with a small dog, a "cocker spaniel", and it comes out having the small stock of a "cocker spaniel" and whatever, it does not have the principal characteristics. In other words, if it ends up 90 per cent "cocker spaniel" and 10 per cent pit bull, it would not visibly have the—

Mr. Maharaj: All that I can say is that I can tell you what the pulse of this legislation is, as long as there is a part of the pit bull—otherwise it would be very difficult to administer because you would not be able to know exactly what percentage.

Sen. Daly: No. That is what we are trying to avoid. The only way you would know the dog is from the pit bull strain is because visually pit bulls have certain characteristics. Sen. Prof. Kenny can explain that.

Mr. Maharaj: All right, we agree on a pit bull terrier or any dog bred from the pit bull terrier.

Sen. Daly: Well, we are saying the dog that is cross bred should exhibit the characteristics, and it is theoretically possible to have throw backs. So you could have a dog that is bred from a pit bull terrier but no one could look at it and see. That is where the argument would come. The owner would say, "but this is not a pit bull, look at it—it is a cocker spaniel." The vet's response would have to be—the basis on which I am making my judgment is that it exhibits certain characteristics.

Mr. Maharaj: How are you going to decide that? Because somebody might say it looks one way and some might say, it looks another way. So it is in that context that you must have certainty because you are dealing with the criminal law.

Sen. Daly: Well, certified it by a vet. Remember we can resolve the argument now because we have that section that says the vet can certify.

Mr. Maharaj: There must be a policy and the policy must be as long as it is bred from a pit bull, otherwise you are going to have a situation—let us say the matter has to go to court, the magistrate will then have to decide how this dog looks and how it does not look: is it the principal characteristics? And there are criminal sanctions.

Sen. Prof. Kenny: There is still a problem with the dog bred from a pit bull. I know it is very nice to say it is anything—as soon as a pit bull touches it, it becomes a pit bull, but how do you determine this?

Mr. Maharaj: You had also said that you could take DNA testing. I think we must decide that—do you want to have any dog with pit bull in it? Otherwise, this is legislation in which people can be prosecuted; people can be jailed; people can be fined.

12.50 p.m.

So that, there must be certainty. Therefore, the law must send a signal that any dog with pit bull in it—and if a vet has to determine that, he will then be able to certify that a particular dog has pit bull in it. Otherwise, there will be situations where, when one looks at a dog one could say, "Well, it has some pit bull but it did not take much of the resemblance of the pit bull, it took the resemblance of the other dog with which it was bred".

Sen. Prof. Ramchand: Mr. Chairman, this is not really an academic exercise in classifying all dogs. Presumably somebody would have challenged. Somebody would have said, "That dog is a pit bull" and they would have based that either on the fact that the dog behaved dangerously or it looked like a pit bull. So wherever there is a challenge that is the case we are dealing with, so I do not think we have to legislate for cases where there is no challenge. In other words, some pit bulls will pass because they do not look and behave like pit bulls when, in fact, scientifically they may be pit bulls.

Sen. Prof. Spence: I am sympathetic to the Attorney General's point of view in this particular instance because, as has been pointed out, there might be a throw-back. So there might be, in our dog population in the country, animals that do not look like pit bulls but which could produce pit bulls because they have a strain in them and when they are crossed we may get—you know, there are two things coming together. I personally am more sympathetic to being extreme and saying the vet will certify on the characteristics and if anybody challenges then we can go to DNA testing. However, I would just ask the question, Mr. Chairman—I will ask the Minister of National Security to answer this—have we now established in Trinidad and Tobago the techniques for DNA testing?

Sen. Daly: We are really getting carried away here, you know. If you see a pit bull in the road it might be so obvious you do not need DNA. Why are we sending out the signal—[*Interruption*] Just now—that every owner who does not want to comply with this Bill will say, "Well, until I get a DNA I do not have to comply"? That is why we must leave it open to the vet. The vet could certify it on the basis of visual characteristics or, in his discretion, if he thinks it is doubtful, he could then go for DNA or something more expensive. Leave it open to the vet. The Government has proposed an amendment which we modified saying that the vet—I cannot find it but it is here:

"In order to ensure compliance with this Act the Ministry may require an authorized veterinarian…"

So the vet will say, in the case of a bit pit bull that is obvious, "I certify this is a pit bull because it has all of the characteristics of a pit bull, the jaw, the this, the that and the other". For the one that is not obvious he will say, "I certify it because I have carried out X or Y or Z test". We make a nonsense of this if all of the people who have written to us say, "Okay, until they give me a DNA this is a pompek". Let us get real. We are dealing with a recalcitrant group of people who do not want to comply and the more loopholes we give them and the more we get fancy and clever they will not comply with the Act. So leave it to the discretion of the vet and in a disputed case he can act under 5A (2).

Sen. Prof. Spence: I agree with that entirely. If you put in, "in directing the vet and having the main characteristic of", then you will tie the vet's hands. If you give the vet complete discretion I agree entirely.

Mr. Maharaj: Mr. Chairman, I think that all of us are saying the same thing but what we want to ensure is that we do not put a definition which will leave room for loopholes.

Sen. Daly: My position is, let us go with, "a Pitbull Terrier or one bred from a Pitbull Terrier" and then if there is a dispute it will be resolved by 5A (2).

Mr. Maharaj: I agree with that.

Sen. Daly: In other words, I am backing off from "characteristics".

Sen. Prof. Spence: I agree with that.

Sen. Daly: It is a lot of work for the vets.

Sen. Prof. Ramchand: Mr. Chairman, I have a question about this. If I have a dog and I am quite happy with it walking around in the park and so on and somebody who does not like my head says, "That dog is a pit bull", and then tells the Attorney General, "Ramchand has a pit bull", what would happen?

Mr. Maharaj: Well, the Ministry of Local Government will have the power under this Bill to send a vet to determine if it is a pit bull.

Sen. Prof. Ramchand: Then there will be all these spurious accusations—pit bull hunting.

Mr. Maharaj: No, but there must be some—[*Interruption*]

Sen. Daly: Everyone knows what a pit bull looks like.

Mr. Maharaj: So do we go with "Pitbull Terrier or any dog bred from the Pitbull terrier"? It is suggested that we put "directly or indirectly". Do we put that? [*Interruption*] "Pitbull Terrier or any dog bred…". So we delete, "of the type known as a Pitbull terrier". What we had done is put in the House, "Pitbull Terrier or any dog bred from the Pitbull terrier", and we had borrowed from the English legislation and put in this part, "or any dog of the type known as a Pitbull terrier".

Sen. Daly: Where is the cross-breed?

Mr. Maharaj: Well, the cross-breed is "A Pitbull Terrier or any dog bred from the Pitbull terrier".

Sen. Prof. Ramchand: I hope you all know that many white creole families got into serious trouble because three generations ago they got a touch of the tar.

Sen. Daly: They were not biting anybody at the time. [*Laughter*] Let us "get real nah man"?

Mr. Chairman: Do we have a proposal to indicate that?

Mr. Maharaj: Do we leave:

"Pitbull Terrier or any dog bred from the pit bull terrier."

Or:

"Any dog bred of the type known as the Pitbull terrier"

So we would leave it as it is, then?

Sen. Daly: So we have green, ripe and overripe.

Mr. Maharaj: I would like to adopt that, Mr. Chairman, "green, ripe and overripe". [*Laughter*]

Schedule ordered to stand part of the Bill.

Preamble approved.

Question put and agreed to, That the Bill as amended, be reported to the Senate.

Senate resumed.

Bill reported with amendments.

Question put, That the Bill be now read the third time.

The Senate voted: Ayes 28

Mark, Hon. W.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Gangar, Hon. F.

Gillette, Hon. L.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, Hon. N.

Gray-Burke, Rev. B.

John, Miss J.

John, W.

Cowie, D.

Dhanny, Dr. G.

Cabrera, V.

Mahase, Dr. A.

Montano, D.

Jagmohan, M.

Alfred, Miss C.

Yuille-Williams, Mrs. J.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

Valere, Mrs. L.

Question agreed to.

Bill accordingly read the third time and passed.

Mr. Vice-President: At this point we will take our lunch break and I propose that we resume at 2.05 p.m.

1.02 p.m.: *Sitting suspended.*

2.05 p.m.: *Sitting resumed.*

SEXUAL OFFENCES (AMDT.) (NO.2) BILL

House of Representatives Amendments

[Second Day]

Order read for resuming adjourned debate on question [May 16, 2000]:

That the House of Representatives amendments to the Sexual Offences (Amdt.) (No.2) Bill be now considered.

Question again proposed.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I intervene in this debate in order to explain the amendments which came from the other place. The reasons for the amendments in the other place are that there have been reports by the police of sexual abuse of minors whose parents or guardians refuse to allow them to assist the police in bringing the perpetrators to justice, and the result of such refusal is that the matter comes to an end, and the accused person escapes the judicial process. The police have reported that in some cases, parents forbid abused children from speaking to the police and often refuse to cooperate with the police in procuring the necessary evidence.

Clause 18 of the Bill which repeals section 31 of the Act, substitutes a new section which would make it mandatory for a parent, guardian or person with custody, charge, care or control of a minor, a medical practitioner, a registered nurse or midwife who has reasonable grounds for believing that a sexual offence has been committed in respect of the minor, to report the grounds of his belief to a police officer, as soon as reasonably practicable.

Mr. Vice-President, although that amendment would compel a person to report a sexual offence committed on a minor, it does not assist with the expediting of the matter through the judicial process if, for example, the person is prevented from assisting the police. What the amendments, which were made, would do is to provide for that kind of assistance.

Clause 31(A) would make it an offence for a person to prevent a minor from giving a statement to the police or testifying in proceedings relating to a sexual offence, and clause 31B would admit in a trial of evidence a written statement made by a minor, or by another person on behalf of a minor, upon the dictation of a minor. This would therefore allow the matter to proceed even when the minor is

prevented from testifying at the trial. I will come back and deal with that in more detail in a short while. Clauses 31C and D contains certain procedural provisions which are designed to facilitate the proceedings relating to the admission as evidence of a statement made under clause 31B.

Mr. Vice-President, if we look at clause 31A it says:

"Where a person prevents a minor from—

(a) giving a statement to the police; or

(b) testifying,

in proceedings relating to a sexual offence, he commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for a term of ten years."

Mr. Vice-President, that is quite straightforward. Then it states in 31B:

"Without prejudice to any other written law, where the Court is satisfied that a minor is being prevented from giving evidence and where a statement is made in any written form or manner by a minor, or written in any form or manner by another person on behalf of the minor, and upon the dictation of the minor, that statement may be admissible in a trial as evidence of any fact of which direct oral evidence of the minor would be admissible.

(2) The Court may admit into evidence the following statements made by a minor:

(a) statement made to and written by the police;

(b) a statement made in the form of a statutory declaration;

(c) a statement written by the minor herself;"

It should be "himself". We will have to amend that and noting that wherever there is "he" it also means "she" in the Interpretation Act.

"(d) a statement written by another person on behalf of a minor who cannot write.

(3) The following provisions shall have effect in relation to any written statement of a minor tendered in evidence under this section:

(a) the minor shall state her age and that an adult of her choice was present with her when it was made;"

We will have to change that to the masculine to include the feminine.

> "(b) if the statement is written on behalf of a minor, it shall be signed by both the minor and the person who wrote it and it shall be dated;
>
> (c) if the statement is written on behalf of a minor who cannot write, the person who wrote the statement shall read it to the minor before she puts her mark or thumbprint on it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and that she appeared to understand it and she agreed to it;
>
> (d) if the statement is written on behalf of a minor who cannot read, the person who wrote the statement shall read it to her before she signs it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and she appeared to understand it and she agreed to it;

Mr. Vice President, if I may pause here a minute, the reason that we must have all of these precautions that it will reflect on the statement that it was a statement made by the minor, is that the ordinary rules of evidence in a criminal trial do not permit a written statement of the person to be admitted in evidence as evidence of the facts contained in the statement. That documentary evidence is not permissible normally, in a criminal trial.

A criminal trial is where we have an adversarial process where the accused person is presumed innocent in law, and the prosecution has to prove the guilt of the accused beyond a reasonable doubt. How does the prosecution prove the guilt of the accused? The prosecution must prove that by evidence, persons who witnessed the evidence or if there are certain reports which are provided in the law, one could have the documents of it, but normally the witness has to go into the witness box; he or she has to give the evidence; and he or she has to be cross-examined. So that the judge, magistrate, or jury would assess the evidence by looking at the demeanour of the witness, in order to determine whether he or she can be relied upon.

Mr. Vice-President, what we are doing here really, is that we are saying that as an exception to that rule, you will be able to have statement of the person tendered in evidence. So with that in mind, we could then continue looking at the law.

"(e) if the statement refers to any other document, the copy of the statement given to any other party to the proceedings shall be accompanied by a copy of that statement or by such information as may be necessary in order to enable the party to whom it is given to inspect the document or a copy of it.

(4) The prosecution shall give a copy of the statement to any other party to the proceedings ten clear days before the prosecution tenders it into evidence."

Mr. Vice President, so that all these formalities must be complied with on the statement and the prosecution will have to give to the other party, ten days before it is intended, a copy of the statement.

"(5) Any document or object referred to and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the witness.

(6) A minor whose written statement is tendered in evidence under this section shall be treated as a person who had been examined by the Court.

Mr. Vice-President, what happens is that when the statement is tendered, it is as if the person had already given the evidence as examination in chief. Then clause 31C says:

"Without prejudice to any other written law, where a statement, referred to in section 31B, appears to the Court to have been prepared for the purposes of—

(a) pending or contemplated criminal proceedings; or

(b) a criminal investigation,

the statement shall not be tendered in evidence in a trial without leave of the Court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice."

I will pause here.

2.15 p.m.

Mr. Vice-President, I know sometimes it is difficult for lay persons to understand this because sometimes one reads in the newspapers how a judge or magistrate would not allow statements to be admitted in evidence and an accused person would go free because the evidence is left out.

In a criminal trial, the law is that the judge or the court determines the fairness or unfairness of a trial. It is a rule or principle of constitutional law that parliaments cannot dictate discretion of a judge as to what should be admitted in a trial. So, if you have a statement given by a witness, if we legislate and say that that statement is automatically put into evidence—let us say we say that any statement given by a minor can be automatically tendered in evidence—that would not meet the requirements of the principles of constitutional law, because it would mean that whatever statements are made, whatever the conditions of the statement, whatever the risk of unfairness, the statement would be admitted on trial.

That is why the court is always given a discretion. For example, under the existing law now, if you have a preliminary inquiry and let us say witness A gives evidence at the Magistrates' Court that he witnessed the murder. The person then signs what is called a deposition and when the trial comes, that person normally has to go before the judge to give evidence of what he saw and what is contained in the deposition.

But, suppose between the Magistrates' Court hearings and the trials, the witness dies, there is a provision in the law that that deposition can be admitted in evidence by the trial judge but that the trial judge has a discretion whether to admit that evidence. Even though it is proven that the person is dead, the judge still has a discretion. What discretion does the judge have? The judge has to consider, by looking at that deposition and at the overall evidence in the case, whether any unfairness to a trial would be committed by admitting that evidence.

For example, if the only evidence the judge has is this deposition, but at the Magistrates' Court, the witness was not cross-examined at all and the defence counsel did not cross-examine the witness if the defence counsel had the opportunity of cross-examining him, that might be a factor but if, for example, the man was unrepresented and assuming this is the only evidence against the person, it would mean that a jury and a judge would not be seeing a witness, would just be seeing the paper and would be reading what it said. Therefore, the judge, in those circumstances, normally would say he or she would not admit that evidence.

But if, for example, there is other evidence in the case, evidence that the hair at the scene matched the hair of the accused, then you would have, linking that statement, a piece of independent evidence and the judge would then say, "Well, this is not the only evidence. You have some other evidence", and the court would admit the evidence.

It used to be and perhaps that is why we would have heard of cases gone by in which there was a doctor, Dr. Bhotra who had given several opinions in murders. He went back to India and a number of cases were thrown out because the judges did not accept those depositions. But I should tell you even that law, that is to say, if there were no other evidence in the case, that principle has been developed further and the Privy Council about four or five years ago ruled that even if the deposition is the only evidence in the case, the judge can have a discretion to admit it depending upon what the case is about and what other evidence you have or do not have.

So, right now, the judge has the absolute discretion to determine whether, in the given facts and circumstances of any case, he would admit a written statement or deposition of a witness.

I have tried to explain it because one would see that the fact that the statement is made, it is not automatic that the statement would be admitted into evidence because it is clearly put here:

"…the court shall not give leave unless it is the opinion that the statement ought to be admitted in the interest of justice.

(2) In considering whether the admission of a statement under subsection (1) would be in the interest of justice, the Court shall have regard—

(i) to the contents of the statement;

(ii) to any risk of unfairness to the accused, or if there is more than one accused to any one of them, if it is likely that the statement can be controverted and the person making the statement does not attend to give oral evidence in the proceedings;

(iii) to any other circumstances that appear to the Court to be relevant."

Now, let us say that the statement that is supposed to be admitted refers to somebody who is alive and who can be called to support what the statement says, then that would be a strong reason why the statement should be admitted in evidence. Otherwise, let us assume the Parliament passes a law and says that statements are to be automatically admitted, you can then be having trials of persons without persons giving evidence and only on a written statement. That can have injustice. In some cases, witnesses have to be probed.

As I anticipate it, what will happen in most of these matters is, there will be the statement from the victim but you would have the medical evidence of the victim. Now, you would have DNA and other kinds of evidence, so in most of these cases, a judge or a magistrate will not have any reason not to allow the evidence to be tendered.

Sen. Mahabir-Wyatt: Mr. Vice-President, I hope the Attorney General would forgive me, but he just made a statement in reference to the taking of the evidence and with a glance at the hon. Minister of National Security, he said that we are taking DNA evidence now. Are we not? It is my information that the Forensic Science Centre does not have the adequate equipment and training of people to be able to take DNA evidence in cases of child sexual abuse. I am just wondering if we can get some comment before the end of this debate about when we will get the adequate equipment to deal with these kinds of cases in this kind of instance because it is a special instance. Thank you.

Sen. Brig. Theodore: Mr. Vice-President, my information is that the Forensic Science Centre has the equipment. It has the reagents and all the necessary equipment to carry out DNA testing. There are two people at the Forensic Science Centre who are trained and capable of carrying out DNA testing. If, as you say, the particular type of testing has to be done where children are involved, I am afraid I cannot comment on that, but I would like to assure the Senate that the facility exists. If it has to do with children, perhaps you could explain.

Sen. Mahabir-Wyatt: Thank you, Mr. Vice-President.

Hon. R. L. Maharaj: I must thank the hon. Minister of National Security, Mr. Vice-President.

The point I am trying to make is that having regard to how a criminal trial is conducted, recognizing that due process of law requires that any person who is charged for a criminal offence to get a fair trial in the system that we have been using and which we are committed to use, is that the person who is charged is presumed innocent and he has a right to cross-examine his accusers. So that where you are putting statements into evidence, it is an exception to that rule, therefore, there must be safeguards and the safeguard that is used, apart from the statement complying with certain formalities, is the situation where the judge will have a discretion to determine whether the statements should be admitted in evidence after considering all these matters.

What happens is, the statement would have to be tendered—when one looks at subsection (3) which says:

> "A written statement mentioned in this section shall be tendered in evidence by the prosecution anytime before the prosecution closes its case against the defendant—"

—because at a certain stage—

Sen. Valere: Sorry, Attorney General. I was trying to catch your eye. I wanted to go back to clause 31B(3)(d) which says:

> "if the statement is written on behalf of a minor who cannot read, the person who wrote the statement shall read it to her before she signs it…"

That whole of (d) there, it crossed my mind: Would there be a witness to this? Because, if the person cannot read and this statement is so important being taken as evidence, I would imagine that a witness to that would help in that situation, especially if the person cannot read. Because it says here that it has to be read:

> "…to her before she signs it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and she appeared to understand it and she agreed to it;"

Should there not be a witness to ensure that this takes place? Because here it is just two people involved, the person who is writing and the minor. If that statement is so important, would a witness to that procedure not be important?

Hon. R. L. Maharaj: Well, the witness is really the person who is taking the statement, because if you put another rule, then it would make it more difficult. It would mean that any time—

Sen. Mahabir-Wyatt: Mr. Vice-President, I wonder if I could help the Attorney General here. It is not very often I get a chance to do that.

Under clause 31B(1) which is talking about the "Admissibility of a minor's statement", you get to 31B(3) which states:

> "The following provisions shall have effect in relation to any written statement of a minor tendered in evidence under this section:"

I think that is worrying Sen. Valere. Subclause (3)(a) says that:

> "(a) the minor shall state her age and that an adult of her choice was present with her when it was made;"

In other words, that there was an adult witness when she was making it, other than the person to whom it was made.

Sen. Valere: Oh, I see, so there were three people present then.

Sen. Mahabir-Wyatt: Subclause (3)(b) says:

"(b) if the statement is written on behalf of a minor, it shall be signed by both the minor and the person who wrote it and it shall be dated;"

So that you will have a witness automatically built in there.

Sen. Valere: Thank you very much.

Hon. R. L. Maharaj: I must thank the hon. Senator for coming to my rescue.

I was saying that if you had put an additional requirement, I assume that the minor would have to have a person who is an adult there, because you would not want to take a statement from a minor without the person, either the mother, the father or some family member present, but apart from that, you have this person who is recording the statement. If you put an additional requirement, it would mean that the statement would not be able to be admitted into evidence because you may not have two policemen, for example, present at the time when the statement is taken.

The point I was making, Mr. Vice-President, is that the statement must be tendered in evidence by the prosecution before the prosecution closes its case. That is fair, too, because the defence must know what is the evidence. It cannot be tendered after the defence closes its case. I am trying to explain this because I know it is a matter with which hon. Senators had problems.

2.30 p.m.

Clause 31C(3) says:

"(a) if the statement is written by the minor, by the prosecution submitting the statement to the Court; or

(b) if the statement is written on behalf of a minor, by calling the person who wrote the statement to put the statement into evidence."

What happens is that the person who wrote the statement will give the evidence that this statement was taken, it was witnessed, there was an adult present, who would be able to identify the statement. The statement is read to the court, and the accused person is entitled to challenge its admissibility. When that challenge occurs, you would see clause 31C(5) says:

"Where the defendant exercises his right under subsection (4), the Judge or Magistrate shall conduct a *voir dire*…"

Now what is that? A *voir dire* is like a trial within a trial, in that in the absence of the jury you will have a sort of trial within a trial for the judge or the magistrate to determine whether the statement ought to be admitted or not.

Mr. Vice-President, what this really does is, it provides a machinery for minors' statements to be admitted in evidence even without them having to give evidence, if they are prevented from giving evidence, and to give the prosecution the discretion in order to do that, depending on the judge's ruling as to whether it is fair of unfair.

Clause 31D states:

"A minor who, in a written statement tendered in evidence under section 31B wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true commits an offence and is liable on summary conviction to committal to the Youth Training Camp or some other similar institution for one year."

Mr. Vice-President, I know that Senators were concerned, having regard to the fact that children as young as four and five years are victims of sexual offences, and are often intimidated by their family to make certain statements, and the child may make a statement that he or she does not believe to be true. In this situation, would a child of four of five be committed to the youth training camp?

A minor, Mr. Vice-President, is defined in the Sexual Offences Act as:

"a person under the age of 18 years."

Under the Young Offenders Detention Act, Chap. 13:05, young offenders are defined as: "persons not less than 16 years and not more than 18 years. This would clearly preclude minor child victims from being incarcerated at a youth training camp.

Additionally, the English case law is clear; the common law on the issue of Doli incapax. My Latin is not so good, Mr. Vice-President. In C v. Director of Public Prosecutions, 1995 [2AER] the House of Lords held that the presumption that a child between the ages of 10 and 14 was incapable of committing a crime and that the rules that the presumptions could only be rebutted by clear, positive evidence that the child knew that his act was seriously wrong and that the evidence of the acts, amounting to the offence itself, was not sufficient to rebut the presumption, was still part of English law. In Trinidad and Tobago, we took the common law from the United Kingdom.

Mr. Vice-President, I think when this Bill came to this Chamber we did not have this in mind, because it was after the Bill was passed here that the police made representations to the ministry. I know that Sen. Mahabir-Wyatt has also been involved in some of these matters. When the police made representations to us, we decided that we would have that amendment done in the other place.

I think we should recognize that sexual offences are really on the increase in Trinidad and Tobago. In respect of minors, there is, in effect, a situation where more and more minors are prevented from assisting the police and even prevented from giving the evidence. This is a problem with which the Government has to grapple. I am told that, in respect of sexual offences under the age of 14, in 1999 there were 115 cases: females from 14—16 there were 77 cases. There were 240 rapes and 41 cases of incest. One sees that it is a problem. We are hoping that with these provisions they would assist. We recognize that law alone cannot solve this problem.

There is the other matter in which a case has been drawn to my attention that in some cases screens are used to prevent children from having to face the accusers in the court. There is legislation that has been passed already for the use of video for giving of evidence by children. That is in the process of being implemented. The Ministry of National Security is in the process of implementing that. Based on what I read this morning in a case that has been passed to me and following discussions that I had with Sen. Mahabir-Wyatt, I thought that, knowing justice would be done, if we even do a further amendment; by giving to the court power to allow a minor who is appearing in a matter before it to be barred from the view of the accused even by the use of a screen. That has been done in cases in England and it has been held that that does not affect a fair trial. I have drafted the necessary amendment in order to effect that.

To insert clause 31E:

> "The court may allow a minor, who is appearing in a matter before it, to be barred from the view of the accused."

Again, giving the discretion to the court. The court will do that on the basis of even asking the accused counsel what he has to say. But at the end of it, the court would have been practising the rules of natural justice, hearing both sides, and then exercising its discretion.

Mr. Vice-President, I hope that I have been able to respond to some of the queries that have been asked. I would be prepared to answer any other question before I take my seat. Since I do not see any sign of anyone asking any further questions I must thank hon. Senators.

Mr. Vice-President, I beg to move that the Senate—*[Interruption]* Sorry.

Sen. Prof. Ramchand: Mr. Vice-President, I do have a question, I do not know if this is the time and place to bring it up, but I have information of a number of instances where schoolchildren, under-age, are in relationships with men over 21 years old. These girls are attending schools. The parents know about these relationships and condone them. When I advise the teachers to report this thing to the police as statutory rape, they say either that they cannot do it; that the principal must do it. When I tell the principal: "Why do you not do it?" The principal says that the parents approve of it, or the parents are the ones to report it. I want to know if that is covered by any legislation or if some kind of warning can be put out about this, or if schools can be told that it is their duty to report these instances of statutory rape?

Hon. R. L. Maharaj: Mr. Vice-President, I notice that the hon. Senator said that he knew, personal knowledge I suppose. But, under this Bill, when it is passed, there would be an obligation on the person, the parent, who knows about this to report it. If he or she does not report it, he or she would be committing an offence. It could also be that persons who know about it, and the matter has not been reported, would now have an avenue to be able to make reports to the police and the police, on investigation, would be able to take steps.

It is hoped that, with this legislation, persons who are in *loco parentis* of these minors would recognize that they have an obligation to do it. If they do not do it, they can be prosecuted. What happens in these matters is that normally people think that it would be embarrassing and would bring more shame and scandal to the family—if I use that expression—and they feel that they should not report it. This would obviously have to go with another public education programme to show that condoning these acts can really destroy the lives of these children, and encourage people to report it, and I am sure that the police would devise additional and new methods in trying to get to these culprits. But there is a limit to what the law itself can do; that is why the church and the non-governmental organizations and the religious bodies play a very important role in getting persons to have greater moral and spiritual values.

2.40 p.m.

Mr. Vice-President, I think Government should more and more encourage religious institutions and non-governmental organizations, and the consoling thing about all this, and I think I would be correct when I say I see more and more young persons going to church and religious institutions which is a good sign, so perhaps, with the combination of Government, church, religious bodies and non-governmental organizations and the necessary legal framework, we may be able to make some dent into this serious problem.

Mr. Vice-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 18.

House of Representatives amendment read as follows:

First Column		**Second Column**
18	"Insert after proposed section 31 the following new sections:	
	"obstructing prosecution	31A. Where a person prevents a minor from— (a) giving a statement to the police; or (b) testifying, in proceedings relating to a sexual offence, he commits an offence and is liable on summary conviction to a fine of twenty thousand dollars and to imprisonment for a term of ten years.
	Admissibility Of minor's statement	31B (1) Without prejudice to any other written law, where the Court is satisfied that a minor is being prevented from giving evidence and where a statement is made in any written

form or manner by a minor, or written in any form or manner by another person on behalf of the minor, and upon the dictation of the minor, that statement may be admissible in a trial as evidence of any fact of which direct oral evidence of the minor would be admissible.

(2) The Court may admit into evidence the following statement made by a minor;

(a) a statement made to and written by the police;

(b) a statement made in the form of a statutory declaration;

(c) a statement written by the minor herself;

(d) a statement written by another person on behalf of a minor who cannot write.

(3) The following provisions shall have effect in relation to any written statement of a minor tendered in evidence under this section;

(a) the minor shall state her age and that an adult of her choice was present with her when it was made;

(b) if the statement is written on behalf of a minor, it shall be signed

by both the minor and the person who wrote it and it shall be dated;

(c) if the statement is written on behalf of a minor who cannot write, the person who wrote the statement shall read it to the minor before she puts her mark or thumbprint on it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and that she appeared to understand it and she agreed to it;

(d) if the statement is written on behalf of a minor who cannot read, the person who wrote the statement shall read it to her before she signs it and it shall be accompanied by a declaration of the person who wrote it that it was read to the minor and she appeared to understand it and she agreed to it;

(e) if the statement refers to any other document, the copy of the statement given to any other party

to the proceedings shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect the document or a copy of it.

(4) The prosecution shall give a copy of the statement to any other party to the proceedings ten clear days before the prosecution tenders it into evidence.

(5) Any document or object referred to and identified in a written statement tendered in evidence under this section shall be treated as if it had been produced as an exhibit and identified in Court by the witness.

(6) A minor whose written statement is tendered in evidence under this section shall be treated as a person who had been examined by the Court.

Statements in documents that appear to have been prepared for purposes of

31C(1) Without prejudice to any other written law, where a statement, referred to in section 31B, appears to the Court to have been prepared for the purposes of—

(a) pending or contemplated criminal proceedings; or

criminal proceedings or investigations

(b) a criminal investigation, the statement shall not be tendered in evidence in a trial without leave of the Court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice.

(2) In considering whether the admission of a statement under subsection (1) would be in the interest of justice, the Court shall have regard—

(i) to the contents of the statement;

(ii) to any risk of unfairness to the accused, or if there is more than one accused to any one of them, if it is likely that the statement can be controverted and the person making the statement does not attend to give oral evidence in the proceedings;

(iii) to any other circumstances that appear to the Court to be relevant.

(3) A written statement mentioned in this section shall be tendered in evidence by the prosecution anytime before the prosecution closes its case against the defendant—

(a) if the statement is written by the minor, by the prosecution submitting the statement to the Court; or

(b) if the statement is written on behalf of a minor, by calling the person who wrote the statement to put the statement into evidence.

(4) Where a statement is tendered into evidence under subsection (2), it shall be read to the Court, and the defendant is entitled to challenge its admissibility before it is admitted into evidence.

(5) Where the defendant exercises his right under subsection (4), the Judge or Magistrate shall conduct a *voir dire* and decide whether the whole or any part of the statement is admissible into evidence.

False written Statements tendered in evidence

31C A minor who, in a written statement tendered in evidence under section 31B wilfully makes a statement material in those proceedings which he knows to be false or does not believe to be true commits an offence and is liable on summary conviction to committal to the Youth Training Camp or some other similar institution for one year."

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

Question proposed.

Question put and agreed to.

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, earlier on in the proceedings we had deferred item No. 4 on the Order Paper, Bills brought from the House of Representatives. We now seek leave to return to it now.

Agreed to.

EQUAL OPPORTUNITY (NO. 2) BILL

A Bill to prohibit certain kinds of discrimination, to promote equality of opportunity between persons of different status, to establish an Equal Opportunity Commission and an Equal Opportunity Tribunal and for matters connected therewith, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate. [*Hon. W. Mark*]

Question put and agreed to.

DANGEROUS DRUGS (AMDT.) BILL

A Bill to amend the Dangerous Drugs Act, 1991, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate. [*Hon. W. Mark*]

Question put and agreed to.

RELATED BILLS

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, it seems whenever I come into this Chamber I really have to work hard. I suppose the Leader of Government Business in the Senate is a hard taskmaster.

Mr. Vice-President, I am wondering whether the Senate would agree in light of the fact that the two Bills, the Supreme Court of Judicature (Amdt.) Bill and the Petty Civil Courts (Amdt.) Bill contain the same principle, that we can deal with them conjointly and take the vote separately. I do not know whether we could agree to that course of action.

Mr. Vice-President: Hon. Senators, the Attorney General has asked that the two Bills, No. 2 and No. 3 on the Order Paper: Bill to amend the Supreme Court of Judicature Act, Chap. 4:01 and the Bill to amend the Petty Civil Courts Act, Chap. 4:21 be dealt with together.

Assent indicated.

SUPREME COURT OF JUDICATURE (AMDT.) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I beg to move,

> That a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01 be now read a second time.

Mr. Vice-President, the Supreme Court of Judicature (Amdt.) Bill and the Petty Civil Courts (Amdt.) Bill contain a very narrow scope, but they are very important. In both Bills they are saying that every judgment entered up carries an interest at the rate of 12 per cent per annum from the time of the entering of the judgment and the same shall be satisfied and such interest may be levied under a writ of execution on such judgment. The Minister of Finance may, by order, subject to negative resolution of Parliament vary the rate of interest prescribed in subsection (1).

Why do we have to come with this? What has happened is, when there is a judgment to the court and the judgment remains outstanding, the court orders money to be paid. The statutory interest—if I remember my law correctly—is 6 per cent and normally the bank rate is 10 per cent, 12 per cent or even 14 per cent and it is thought it would be very unfair. Creditors or debtors would not pay this money because they would believe they can hold back that payment, but in the meantime the person who is supposed to get the money has to borrow from the bank and pays 10—12 per cent as the case may be.

The last administration appointed a committee to look into all the reports on the Administration of Justice and the Gurley Report came out. Pages 22 and 23 state:

> **<u>Statutory Interest on Judgments</u>**
>
> If a debtor is not required to pay interest on moneys due to his creditor(s), or if the rate of interest payable by law is lower than a commercial rate, that debtor will be inclined to avoid or delay payment for as long as possible.

Recommendation:

The statutory rate of interest should be increased to a rate that is more in keeping with the prevailing lending rates in the financial markets and it is thought that a rate of 12 % per annum is more realistic than the present 6 %. Provision should be made for this rate to be revised by the Attorney General with the concurrence of the Minister of Finance, such provision being along the lines of section 44 of the Administration of Justice Act, 1970 (UK)."

This Bill does not say anything about the Attorney General because it is really a Minister of Finance matter to consider. The Bill says that the Minister of Finance may, by order, subject to negative resolution, vary the rate of interest from time to time. So Parliament would obviously have an input in that by a negative resolution.

Mr. Vice-President, that is basically what these two Bills are about and I beg to move.

Question proposed.

Mr. Vice-President: May I remind you that you may speak on both Bills, but they will be dealt with individually. So the debate will encompass both pieces of legislation.

Sen. Danny Montano: Mr. Vice-President, I do not think this is going to be a problem. The Government is certainly pushing on an open door and we support the measure. I would think it is long overdue and I am certainly in support of the proposal that the Minister of Finance has the option to vary the interest as they do fluctuate. It is unfortunate that the rate has to be so high, but that is a debate for a little later on in the year when we are dealing with the budget.

In closing, may I say that we support both Bills, but I will ask the hon. Attorney General in his winding up to clarify the issue as to whether the judgment that has already been set down is going to have retroactive effect, or if it is only for judgment after the day of the legislation.

Thank you.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I thank Sen. Montano for his support and the support of all the Senators. It will only apply to judgments which are obtained after the Bill is assented to. It would be very difficult to make it retroactive and it is not the normal principle for legislation.

Sen. Montano: If a judgment has been rendered and the Bill has been passed at the rate of 12 per cent, if some time after that the Minister of Finance changes the rate to 13 per cent, would that be retroactive to the date of the judgment or would it only be from the date he changes it?

Hon. R. L. Maharaj: It would be from the date he changes it. You will get 12 per cent up to that date and from that date it would be 13 per cent, that would be the effect of it.

Mr. Vice-President, I beg to move that a Bill to amend the Supreme Court of Judicature Act, Chap. 4:01, be now read a second time.

Question proposed.

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 to 3 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

Question put and agreed to, That the Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

2.55 p.m.

PETTY CIVIL COURTS (AMDT.) (NO. 2) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I beg to move,

That a bill to amend the Petty Civil Courts Act, Chap. 4:21, be read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: We have before us the Petty Civil Courts (Amdt.)(No. 2) Bill comprising two clauses.

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

Question put and agreed to, That the Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

RENT RESTRICTION (RE-ENACTMENT AND VALIDATION) BILL

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. Vice-President, I beg to move,

That a bill to re-enact the Rent Restriction Act, Chap. 59:50 and to validate things done thereunder be now read a second time.

This Bill is to re-enact the Rent Restriction Act and to validate all things done thereunder after February 23, 1999. Members would recall that over a period of time under the Rent Restriction Act there is a provision which says that the Act shall continue in force for every three years and the Parliament will have to decide what the position is. Over a period of time Parliaments have, from time to time, extended the operations of the Act.

The Act was supposed to be extended on February 23, 1999, but it was not extended. It was discovered that the Parliament did not extend it before the expiry of the time, that is why this Bill is to re-enact the Act, and the operative clause is clause 3 which states:

> "The Rent Restriction Act, hereinafter referred to as 'the Act', is re-enacted save and accept for subsection (2) of section 1 which is repealed and replaced as follows:
>
> '(2) This Act shall continue in force until 23rd February, 2002 and may be continued in force for further periods of three years by affirmative resolution of Parliament.'."

It is to validate all things that are done in the exercise of the functions under the Act "notwithstanding that the Act ceased to have effect on the 24th February, 1999". Because of that, Mr. Vice-President, it requires a special majority.

One knows that there are certain premises which are subject to the Rent Restriction Act, therefore, if there are to be increases in rent there are the Rent Assessment Boards. Basically, this provision will continue to give life to the Rent Assessment Boards to perform their functions in order to assess what increases of rent there should be and other matters pertaining thereto.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Joan Yuille-Williams: Mr. Vice-President, I just want to make a few comments, mainly for the tenants involved, and a few comments on the Rent Assessment Boards, if you will permit. Whereas I have no difficulty in supporting the Bill at this time, I think I need to bring it again to the attention of the hon. Minister who just presented this Bill that there are problems with the Rent Assessment Boards. These problems are known because many of us would have read the number of complaints from the tenants.

There are just two of them that I would like to look at briefly this afternoon. One deals with the structure of the board and the personnel. I do not think it is a secret—and I stand to be corrected—that the Chairman of the board is himself a landowner—and not a small one at that—with a large number of tenants. There seems to be, therefore, always some conflict between the tenants and the board simply because it comes as a case of himself saying what he would like to do and doing it. Therefore, the tenants feel that their complaints to the board are not heard.

If this is a board that has to deal with rent restrictions and increases, and the same persons who are in charge of increasing the rents are the same persons who are landowners, one could easily see the conflict. One wonders why it is that in appointing members to these boards, with so many people in Trinidad and Tobago, one chooses the chairman of the board to be a landowner. I need to bring this again, because the tenants feel that somehow these landowners would seek their own interests rather than the interests of the tenants. As we say, justice must appear to be done as well. And whereas I am not saying that that is what the owners are doing, this is how the tenants feel, and this could very well be the case. I would like the hon. Attorney General to look at this case in terms of the appointment of the board.

I have read a whole lot about this in the newspapers as well myself. I did not bring the evidence here, but I am quite sure that that is so. Therefore, we need to make these people feel comfortable and feel that when they have a claim or a

cause they can justly go to the board and the person with whom they are speaking is somebody who will listen to what they are saying, rather than someone who is seeking his or her own interest.

The second point I would like to make—and it also ties up with this first point—is that recently there had been some increases in the rents. In some cases the increases were as much as 50 per cent; I understand that some cases were as much as 3,000 per cent. That is simply because the land rents were quite low—I do not need to call them—and they had not been raised for a number of years; then they were suddenly raised.

That meant that a number of people felt that they were no longer in a position to pay. Let us remember that in most cases some of these people I am talking about are pensioners themselves and this is why they were aggrieved. They felt that these persons who were now in charge of the board were doing this deliberately, because they had the opportunity to raise the rents. It has been said by these tenants that in some cases the landowners, in many other ways other than raising the rent, were getting at them. One person was even accusing a landowner of trying to set fire to his property, and this is part of the accusations.

Again, one would feel this way especially when the person who you are talking to is the person who has just raised your rent and that is the person to whom you are trying to appeal. We need to look at the fact that even though you were raising rents, even though it had not been done for 25, 10 or 15 years, you just do not suddenly raise the rent to 3,000 per cent or 50 per cent or whatever it is; bearing in mind that those who are paying are very poor people who could barely pay. I think these people felt that after all these years it was an unfair decision.

One also should consider, when you are increasing the rent, that you had to look at the land and see over the years who was responsible for improving the land. In fact, people felt that if the land was not improved at all over the years, then the landowners had no right to raise the rent; that is quite clear. The tenants also felt that if they were responsible for improving the land then the landowner should not be free to carry the rent to any increase that the landowner felt. Some of them felt, “Over these years we have done so much to the land; when we came here it was almost unclaimed land with no infrastructure; we worked here and did so much for it and at this point in time the landowner just simply raised the rent.” We need to consider, when any increases are made, what is the type of improvement and who actually made the improvement. This is a group of people that I really feel sorry for, because in some ways I feel that they have been discriminated against.

3.10 p.m.

When we are talking about improvements to land there is another claim that the tenants are making. In some cases they want to buy the land. The price they are being asked, at this time, is at the open market value. They have been on that land for 25 to 30 years and they feel that it is unfair. One must realize that these tenants are so poor they are unable to even go to the court to ask for a judgment. There is nobody they can appeal to and, therefore, they are unable to buy the land on which they have lived for so many years.

I understand there is a Land Commission which is to be put in place so that they can get some kind of help. I am saying this on their behalf because I think that somewhere along the line they need some kind of hearing. You could not expect me to be paying a rent for this land for 25 to 30 years, worked on it, improve it and now that I want to buy it, I have to pay the open market value, and there was no authority that I can appeal to except the High Court and I am not in a position to pay the High Court. Therefore, the Land Commission might be one way to go, and that needs to be put in place.

Could I just make a point here very quickly which deals with the Rent Assessment Board. I am quite sure this might have come to the attention of the persons responsible. A tenant going to the Rent Assessment Board needs to have a lawyer. I think the cheapest you can get a lawyer for, from what they told me, is $2500, which they just cannot afford. They were asking that a similar situation be looked at, in terms of—I think it is the Industrial Court, if I am not mistaken—where the unions can represent them at that court. They were asking whether the Land Tenants Association, of which they are members, cannot represent them before the Rent Assessment Board, and therefore make it possible for them to appeal to the Board. If they do not have the money to pay the increased rent, they certainly do not have the money to pay the lawyer, and, certainly when we are talking about opportunities and equal opportunities they certainly do not have that opportunity to make a case before the Rent Assessment Board.

In fact, right now they are complaining that the squatters are much more comfortable than they are because whereas the squatters have their certificates of comfort: that comfort is not afforded to them in any way. They are seeing a number of barriers to their situation. I think these have been on the books for a number of years, and, certainly, at this time, we need to look back and try to revise them.

So there is the Land Tenants Association; they are members of the Land Tenants Association and if the Land Tenants Association could stand up before the Rent Assessment Board and speak on behalf of their members, that would certainly do a great deal for them, because it will certainly cut the cost.

Finally, let me just look at the case of the group which we call the statutory tenants. The Act of 1981 got a lease for 30 years with an option to lease for another 30 years. Actually, there is a guarantee of being on that land for 60 years. But what they are saying is that if they want to erect a house on the land; or if they had a wooden house and want to change that house to a concrete house, they must get permission from the landowner: Town and Country Planning requires that you get permission from the landowner to erect a house or to change from a wooden house to a concrete house. They have a problem because the landowners are now saying if you want me to give you that permission—this is not on the books; this is below the table—you must pay me a premium for which you would get no receipt.

There again, they are exposed, they are feeling that if they have land with a guarantee of say 60 years, they should be able to get Town and Country Planning to agree that they can erect a house on the land—it is a 60-year lease—without having to get that permission from the landowner because it just seemed that they cannot pay the landowner. In some cases, I understand, these landowners try to extort large sums of money from their tenants in order to get that permission. So we need to look at it. I think this has gone on for quite some time but we have reached the stage where the tenants feel that they need some kind of support and legislation. This is just one of the problems that they are having, from these unscrupulous landowners who want to be given large sums of money in order for them to give permission in writing to the Town and Country Planning to allow the tenant to erect a house of which there is a guarantee for 60 years.

That also extends to places like T&TEC, WASA and TSTT. Any of those agencies, I understand, wanting to work on the land; in fact, any of these agencies with a tenant's approach to put in services. These agencies are now asking the tenants to bring permission from their landlords. I understand that sometime ago a landlord filed a claim against T&TEC for damages to the land as they went to put these poles for some of the tenants and T&TEC had to pay compensation in court.

As a result of that, these bodies: T&TEC, WASA and TSTT said, before they enter the land they need to get permission from the landowner. One, therefore, can understand the position now that the tenants are being placed in. Because, again,

to get that permission from the landowner you need to pay the landowner a premium. The tenants are also saying, at this time, that they were willing to sign an affidavit that if there are damages to the land they will pay. But they have not been able to do that, because these bodies insist that permission must come from the landowners. Again, as I am saying, places with a 60-year lease you must go through this as if it is on a month-to-month lease.

It is quite true today, we are trying to look at the Rent Restriction Act to validate what had been done, but at the same time I think we need to go a little above that and look at these areas in which, I understand, that there is a large number of tenants and these tenants are pensioners and among our poorer set of people. If these days we are thinking in terms of assisting those who are less fortunate, we should put ourselves as a Government, in a place in which we could remove some of these barriers and be much more sympathetic. I think it is not difficult to do, but as I said before, and as I said when I started, part of the big problem here is that the persons who run the show are the same persons who, I would wish to say, are taking advantage of the tenants.

Thank you, Mr. President.

Sen. Rev. Daniel Teelucksingh: Thank you very much, Mr. Vice-President. I wonder if the extension of the Act—and I used the word "extension"—that is how I understand it—for a further three years, are we treating this as merely routine? Let us rubberstamp this for another three years. Was there any serious study as to the advantage or disadvantage to landlord or tenant? How much study was done? Are we just saying: "Oh; we have reached the deadline."? I think this was the case three years ago. Yes, three years ago, we had one day to do this and hurriedly it was rubberstamped so that it can be revalidated. I hope this is not the case, and that the Government did a very serious study now for the next three years, so that nobody will be disadvantaged, either landlord or tenant.

I know this has to do with primarily residential cases but there is a related matter, if you will permit me to raise this, Mr. Vice-President, because it has been bothering me for the longest while. A few persons have spoken to me but I would draw the attention of the hon. Attorney General to an article in the *TNT Mirror* of Friday, April 28, 2000—that is only recent which states:

"The question about small businesses in the shopping malls."

Is there any proposed legislation? How soon will this be addressed? Mr. Vice-President, you know full well that in every town and city in Trinidad and Tobago shopping malls are now becoming significant centres of business. We

need to do something to protect the small businesses. In this article in the *Mirror* of April 28, 2000 the headline is, "Heartless behaviour by landlord". You would find complaints like this, and these have been verified. This article covered malls in the north, central and south Trinidad, a very detailed and respectable investigative report. In addition to that, so many have spoken to me, who are the small proprietors settled in these malls, and one is saying that in 1994 the monthly rental was about $6,150 for his place and today the rental for the same place is $12,500.

3.20 p.m.

I quote further from the article.

> "Some tenants lost their homes and everything they owned because of the hardship brought upon them by high rents here and the heartless behaviour of landlords."

There is so much to read from this. Let me close with this comment:

> "Tenants told *TnT Mirror* that they spend thousands of dollars…"

We know this is true, as goodwill:

> "tiling their shop floors, decorating the ceilings and walls, and putting up special lights, which must be done at their expense…"

only to find them evicted or possibly unable to meet the new demands of their bosses, that is, the landlord. I would like a response from the hon. Attorney General. Is there really a Retail Tenancies Bill in the works? How soon will we be getting this? It seems as though there is some validity and truth to the complaints of so many of these tenants that there has been unfair and unjust exploitation of their presence in these malls. I really believe that we need to protect our small businesses; very important. I thank you very much, Sir. *[Desk thumping]*

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): [*Desk thumping*] Mr. Vice-President, if I may start with what was last said by Sen. Rev. Daniel Teelucksingh, it is true that the small businesses in the mall have been having some difficulties as they allege, and there is a committee from the Law Commission that has been meeting with the mall owners and the business people and there has been draft legislation which is being considered. Having said that, it is not a simple issue because this involves the whole question of a contractual relationship, rentals, and people who own a

business would want to get the maximum amount for their premises. They can rent premises at a certain time to get a certain amount and when contracts have to be renewed the tenants would say that they have done certain improvements and they would not want to, in effect, pay that kind of rent.

However, there are measures which are being considered and there may not be consensus on all the issues, and I would have to look at them and take them to Cabinet. It is not something on which nothing has been done but there have been discussions and one of the officers from the Law Commission, Mr. Harrypaul, has been meeting with me regularly. He has come up with proposals, which are being discussed, and they have come back and gone back. So I hope that in the not too distant future we would be able to come up with some sort of proposal.

The other point raised, which is very legitimate and pertinent, is that it was the intention not to have these extensions as a matter of routine. It seems as though it is happening just as a routine. I have been assured by the Ministry of Housing and Settlements that a study is almost completed and, notwithstanding the fact that this measure is here, that study would be made public. Obviously, there would be a statement on it, but there would come a time when some decisions would have to be made. We cannot extend this thing all the time because one does not know whether the landlords or the tenants are being oppressed and there ought to be a complete assessment of the situation.

What I can say is, it is a fact that all the governments so far have not kept their promises with this. I think when we came the last time to the Senate and to the House we had promised that was the last time and that we would next come with a proposal. I therefore have to admit that we have not kept our promise on that and we seem to have followed the paths of the other governments. However, Mr. Vice-President, if I may say this, and having seen what it is, it is sometimes easier to assess when one is on the other side. It is not easy to assess, it is not easy to complete. So I want to give the assurance that it is not that the Government has slept on it. The work has been done, it is about to be completed and the Minister of Housing and Settlements will make a statement in due course.

Sen. Yuille-Williams has raised some very important points and, yes, there has been criticism about the Rent Assessment Boards and the chairmen of the boards being landlords. Again, I met with the Tenants Association and with the chairmen of the Rent Assessment Boards and, again, it is not an easy issue. One cannot, because someone owns land and is a landlord, disqualify him from being a chairman, because there are many judges and magistrates who are landlords and

own property, but they still decide cases involving tenants. So a person should not be disqualified from being a chairman because he owns a piece of property. What is needed is tenant representation on the boards. I take the point that maybe the boards should be increased. However, I am looking at that matter. Within a short space of time a decision would be made on that.

There is also the question of representation before the Rent Assessment Boards and that is a matter about which I feel very sympathetic to the tenants. There should not be the requirement that a person has to be represented by a lawyer. In the Industrial Court a person does not have to be represented by a lawyer. The whole trend in the world today with respect to these tribunals is to keep lawyers away from some of those tribunals. Lawyers perform a very important and vital role. I do not think a society can do without lawyers but I think that in tribunals, and some of these quasi-judicial tribunals, it may be that if lawyers are not encouraged there may be an easier resolution of disputes and it would be less adversarial. I hope I do not get into trouble for saying that. I am not attacking lawyers. All I am saying is that it is a fact of life that for things to be a little more conciliatory if you could keep away the lawyers it would not be adversarial.

Mr. Vice-President, yes, the Land Commission is on the way. Senators would remember that we did pass that package of legislation: the Land Adjudication, the Land Registration and the Land Tribunal Bills and these measures are in the process of being implemented. The Land Commission, obviously, would deal with all these matters, which would be a great relief, and there again you would not have the normal court atmosphere. There will be a tribunal instead of having judges and lawyers.

On the question of the connection of electricity and water, I have taken the position that water and electricity are essential to life. Electricity is now, in my view, something—people would need to have a refrigerator to store their meat, fruits or whatever it is, and it should not really depend upon a landowner to withhold water and electricity from persons. I can tell you that the Government has recently taken a decision that, even squatters on state lands, persons who are spontaneous settlers, would be entitled to electricity and water subject to whatever arrangements are made to pay for them. But water and electricity should not be denied persons.

There is a problem, however, when it comes to private lands and not state lands because there are cases on the point. There is a judgment in the courts of Trinidad and Tobago that the owner of the land must have a say in respect of any

electricity and water connections. What must happen, obviously, is that if that situation has to be changed it will have to come to the Parliament and be changed with a special majority. However, as far as state land is concerned, the Government has already made a decision, and I have given directives to WASA and T&TEC and Caroni (1975) Limited, or whoever it is, that people should not be denied water and electricity connections.

Mr. Vice-President, I hope I have answered all the queries which have been raised. I must thank the Opposition and Independent Senators for indicating their support for this measure; notwithstanding the fact that we have fallen a little short of the requirement in that we should have come today to give you some indication as to the status of the report and to say what we are finally going to do with the Rent Restriction Act. Suffice it to say, I hope this would be the last time we come to this House with this kind of application. So, Mr. Vice-President—[*Interruption*] Sorry.

Sen. Yuille-Williams: Thank you very much, Mr. Vice-President. On that other point, could the Attorney General comment on the fact that the Town and Country Planning needs to get a letter or a deed of ownership before they allow the tenant to erect a concrete structure? Even with a 60-year option, if the tenant would like to erect a structure the landowner must give permission. As I said before, another premium is again required. We wondered if it could be made easier. If someone has an option for 60 years why should they have to get permission from the landowner to erect a house or to change from a wooden to a concrete structure?

Hon. R. L. Maharaj: Mr. Vice-President, I must confess I was not aware of this. The Town and Country Planning Division does not fall under my ministry. What I can do is take a note of it and undertake to talk to the Minister of Housing and Settlements and bring to his attention what the hon. Senator has said. So, Mr. Vice-President, I beg to move.

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 to 4 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

3.35 p.m.

Senate resumed.

Bill reported without amendment.

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

The Senate voted: Ayes 27

Mark, Hon. W.

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Gangar, Hon. F.

Gillette, Hon. L.

John, Hon. C.

Tota-Maharaj, Hon. V.

Baksh, N.

Gray-Burke, Rev. B.

John, Mrs. J

John, W.

Cowie, D.

Dhanny, Dr. G.

Cabrera, V.

Mahase, Dr. A.

Montano, D.

Jagmohan, M.

Alfred, Miss C.

Shabazz, M.

Yuille-Williams, Mrs. J.

Spence, Prof. J.

Teelucksingh, Rev. D.

St. Cyr, Dr. E.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

Valere, Mrs. L.

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Public Administration (Hon. Wade Mark): Mr. Vice-President, given the way in which we have conducted all our affairs today, I think it is my duty to adjourn this Parliament or to move that we adjourn very early, Sir. *[Laughter]* In those circumstances, let me take this opportunity to remind all my senatorial colleagues of our order of business at the next sitting of this honourable Senate.

Mr. Vice-President, we are going to be dealing with Bill No. 5 on today's Order Paper as the first item or matter; a Bill to provide for the licensing, regulation and control of homes for older persons. The second Bill that we are going to deal with is a Bill to repeal and replace the Mines, Borings and Quarries Act, Chap. 61:01, in the name of the Minister of Energy and Energy Industries. Then we are going to proceed to a Bill to amend certain legislation of a fiscal nature and to provide for related matters in the name of the Minister of Finance, Planning and Development. If we do have the opportunity, we shall recall the Attorney General who will be here to deal with a Bill to amend the Community Mediation Act; a Bill to amend the Patents Act as well as a Bill to provide for the licensing of bailiffs and for other related matters. These are the matters that we intend to deal with at the next sitting of the Senate.

Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, June 13, 2000 at 10.30 a.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.42 p.m.