

*Leave of Absence**Tuesday, July 17, 2007***SENATE***Tuesday, July 17, 2007*

The Senate met at 1.30 p.m.

**PRAYERS**[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Vice-President:** Hon. Senators, I have granted leave of absence for the period July 12, 2007 to July 27, 2007 to Sen. Parvatee Anmolsingh-Mahabir who is out of country and to Sen. Ronald Phillip from today's sitting only, as he is ill.

**SENATORS' APPOINTMENT**

**Mr. Vice-President:** Hon. Senators, I have received the following correspondence from Her Excellency, Acting President, Dr. Linda Savitri Baboolal:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency Dr. LINDA SAVITRI BABOOLAL,  
Acting President and Commander-in-Chief of  
the Republic of Trinidad and Tobago.

/s/ Linda Baboolal  
Acting President.

TO: DR. NEIL ADRIAN SINGH

WHEREAS Senator Ronald Phillip is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, LINDA SAVITRI BABOOLAL, Acting President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, 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, NEIL ADRIAN SINGH, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator Ronald Phillip.

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 17<sup>th</sup> day  
of July, 2007.”

*Senators' Appointment*  
[MR. VICE-PRESIDENT]

*Tuesday, July 17, 2007*

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency, DR. LINDA SAVITRI BABOOLAL,  
Acting President and Commander-in-Chief of  
the Republic of Trinidad and Tobago.

/s/ Linda Baboolal  
Acting President.

TO: PROFESSOR DAVID PICOU

WHEREAS Senator Parvatee Anmolsingh-Mahabir is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, LINDA SAVITRI BABOOLAL, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DAVID PICOU, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Parvatee Anmolsingh-Mahabir.

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 16<sup>th</sup> day  
of July, 2007.”

/s/ Linda Baboolal  
Acting President.

#### OATH OF ALLEGIANCE

*Senators Dr. Neil Adrian Singh and Prof. David Picou took and subscribed the Oath of Allegiance as required by law.*

#### FREEDOM HOUSE (INC'N) BILL

Bill for the incorporation of Freedom House and for matters incidental thereto, brought from the House of Representatives [*Sen. Prof. K. Ramchand*]; read the first time.

#### SPECIAL SELECT COMMITTEE REPORT PARLIAMENT BUILDING (Presentation)

**The Minister of Labour, Small and Micro Enterprise Development (Sen. The Hon. Danny Montano):** Mr. Vice- President, I have the honour to lay on the Table the following report standing in my name: Report of the Special Select

Committee of the Senate appointed to consider and report on “The Adequacy of the building that houses the Parliament of the Republic of Trinidad and Tobago with a view to planning for the long-term accommodation of Parliament”.

**ORAL ANSWERS TO QUESTIONS**

**NIS Pensions**

**73. Sen. Wade Mark** asked the hon. Minister of Finance:

- A. Would the Minister state whether his announced increase in the minimum amount payable by way of NIS Pensions from \$1,000 per month to \$2,000 per month was determined as a result of an actuarial review of the National Insurance Scheme?
- B. If the answer to (A) is in the affirmative, would the Minister provide Members with a copy of the actuarial review?
- C. If the answer to (A) is in the negative, would the Minister state:
  - (i) the estimated cost of this increase in payment to the National Insurance Board; and
  - (ii) whether the increase can be effected and sustained by the National Insurance Board without increasing the level of contributions of all workers in Trinidad and Tobago?

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):**  
Thank you, Mr. Vice-President. The announced increase in the minimum amount payable by way of NIS Pensions from \$1,000 per month to \$2,000 per month was determined as a result of an actuarial review of the National Insurance Scheme. In February 2006, the National Insurance Board of Trinidad and Tobago (NIBTT) engaged the International Labour Organization (ILO) to conduct the seventh actuarial review of the National Insurance System as at June 30, 2005.

The conduct of the review is aimed at assisting the Government of Trinidad and Tobago through the NIBTT in ensuring the long-term financial, fiscal and economic viability of the National Insurance System. The conduct of the actuarial review ensures that the NIBTT is in compliance with the statutory requirements specified in the National Insurance Act, in that an actuarial review of the NIS may be undertaken at five yearly intervals or such shorter intervals as the board may determine. Such a review is for the purpose of assessing the balance between the contributions and the rates of benefits consistent with section 70(1) of the National Insurance Act, Chap. 32:01.

Section 70(1) of the Act provides as follows:

For the purpose of assessing the balance between the contribution and rates of benefit, an actuarial review of the system of national insurance shall be undertaken within three years of the date on which the first contributions under this Act are payable and thereafter at five yearly or such intervals as the board may determine and a report of every actuarial review so undertaken shall be forwarded to the Minister.

The actuarial review seeks to determine whether or not the NIS is operating on a sound financial basis and recommends modification that may render the NIS a more effective and efficient mechanism for providing social insurance protection. The long-term aim is to ensure the solvency of the NIS while maintaining an adequate level of insurance protection to the insured population and their dependants.

The main objectives of the last review, the seventh actuarial review, are to:

- evaluate the present financial status of the NIS;
- evaluate the long-term future financial sustainability of the NIS in relation to present contribution rates and benefit rates;
- determine the financial condition of the NIS over the long-term, given the prevailing demographics, economic, social and investment trends and future changes in these trends;
- analyze the financial impact of possible changes to current NIS provisions and to recommend changes to the NIS in accordance with social insurance policies and tripartite stakeholder request.

Mr. Vice-President, that is the answer to part A of the question. As it relates to part B:

The NIB is currently in possession of the ILO draft report. Upon completion the final report would be submitted to the Minister of Finance. The Minister is required to lay the report before Parliament. In those circumstances, Mr. Vice-President, the answers to the rest of the question are not applicable.

**Sen. Mark:** Could the hon. Minister indicate to us when this \$2,000 is to take effect, firstly, and whether the statement by the Minister of Finance and Prime Minister to increase NIS from \$1,000 to \$2,000 per month effective from whenever, was based on the draft report which has not been finalized? Could you explain to us whether it was based on a draft report?

**Sen. The Hon. C. Enill:** The answer to the first question raised: The effective date is intended to be January 01, 2008. With respect to what was requested: The review is always predetermined by a policy position and in this particular situation that position was given to the board, which basically said this is what the Government would like to achieve and what is the best way to do it within the context of the size of the fund, interest rate, demographics and those kinds of issues.

**Sen. Dr. Gopeesingh:** I do not know whether the hon. Minister has omitted No. (ii) from the following page: “whether the increase can be effected and sustained by the National Insurance Board without increasing the level of contributions of all workers? While I am on my feet, can I just ask him one more? The ILO draft report, is that the actuarial review? Where is the actuarial review, the National Insurance Board review or, is it an ILO draft report which is the actuarial review?”

**Sen. The Hon. C. Enill:** Thank you, Mr. Vice-President. The requirement under the law is for the actuaries to ensure that there is one sustainability within the context of demographics, interest rates and all those kinds of issues. So the answer to your question is, yes; that is being dealt with in the actuarial review. Insofar as the actuaries are concerned, the NIBTT employed the actuaries of the ILO who are specialized in this kind of activity and who do it from time to time. So the answer is, yes; it is the ILO's actuaries who will provide the actuarial report to drive the results that we are looking at.

**Sen. Mark:** Mr. Vice-President, I would like to ask the hon. Minister whether he foresees an increase in NIS contributions, both, by employers and employees in order to sustain this increase from \$1,000 to \$2,000 from January 01, 2008. Is there going to be an increase in contributions by employers and employees?

**Sen. The Hon. C. Enill:** The recent changes to the NIB Act sought to allow the institution to use more of its funds more aggressively to reduce any impact that the investment may have on future benefits, but that decision is going to be driven by a number of factors which would be explained in the report. The fund mandate on the basis of preliminary information that I have seen, suggests that over time, based on the ageing population and based on a deficit of people coming into the workforce, that there is going to be over time a requirement to put more funds into the pool. Whether it comes from Government, employees, employers or a combination of all of that is still up for determination, but in order, over time, to ensure that those who are required to be paid the benefit have the required funding to so do, there are going to be interjections over a period of time.

**Sen. Mark:** Mr. Vice-President, one final question. I am trying to get from the hon. Minister, whether there are going to be increases as a result of the Government's decision to increase the NIS pension contribution from \$1,000 a month to \$2,000 a month from January 01, 2008; whether he can tell us as a result of that decision to implement this plan, there is going to be a concomitant increase in contributions by the employers and the employees to sustain this arrangement, or whether the Government is going to subsidize these increases in terms of NIS contributions. I am trying to get that clarified, Sir.

**Sen. The Hon. C. Enill:** Mr. Vice-President, I was at pains to say that the answer to that question will come to the Parliament in the final report. There is a draft report at this point in time and the final report will make that information specific.

### **Rapid Rail Procurement Process**

**75. Sen. Basharat Ali** asked the hon. Minister of Works and Transport:

- (a) With the termination of the contract related to the “Mass Transit Study System” in October 2006, what steps if any have been taken to provide advisory services for the Rapid Rail Procurement process?
- (b) If the answer to (a) is in the affirmative who is responsible for the retention of each service; and
- (c) In light of the deficient Comprehensive National Transportation Study and the terminated Mass Transit Study, what is the scientific basis for proceeding to commit this country to another contract based on rapid rail?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Vice-President, the answer to part (a) is as follows: The National Infrastructure Development Company has engaged the engineering and project management firm of Marshall Macklin and Monaghan, better known as MMM of Canada and the law firm of White & Case of the United Kingdom to provide advisory services for the procurement process for the Trinidad Rapid Rail Project. Both of these firms have considerable experience in the procurement of complex engineering projects. The answer to part (b) would have been subsumed in part (a), because it is NIDCO that did the retention of the consultants.

Answer to part (c): It is widely accepted that the decision as to whether a public transport system should be road based or rail based depends primarily on the traffic density during peak hours on the main transportation corridors.

Experience in developed and developing countries has shown that road buses can optimally carry 10,000 persons per hour, per direction and when traffic density on a corridor exceeds this figure the average speed of buses comes down; journey time increases, air pollution increases and commuters are put to increasing levels of inconvenience.

Once the traffic on a main corridor exceeds 10,000 persons per hour, per direction, therefore, serious consideration should be given to a rail based solution for mass transit. It is also widely accepted that once the traffic on a corridor exceeds 20,000 persons per hour, per direction, a rail based mass transit solution is inescapable. The transportation study done by the firm of EDM Cansult of Canada in 1996, determined that in 1996 the traffic density on the East-West Corridor exceeded 20,000 persons per hour, per direction at peak hours. The 2006 update of this transportation study confirmed that in 2006 the traffic density along the corridor had increased to over 30,000 persons per hour, per direction at peak hours. This means that in 1996, over 10 years ago, the traffic density in Trinidad was at the point where the introduction of a rail based mass transit system was required. Whereas in 2006 the traffic density was three times the international benchmark beyond which a road based or bus system becomes inefficient.

For these reasons the Government is of the view that it has a responsibility to the people of Trinidad and Tobago to proceed with the Rapid Rail Project.

**Sen. Ali:** Mr. Vice-President, to the hon. Minister, would you agree that all we have so far is some information that might be general as regards these numbers you have given, 10, 20, 30 for a mass transit system and not necessarily for a rapid rail system? And secondly, have we looked at the economics or the feasibility, the value for money for the implementation of a rapid rail project in the absence of any firm figures for such a system?

**Hon. C. Imbert:** To the first part of your supplemental, no, I would not agree. I have made it clear that the experience has indicated that once the traffic on a corridor exceeds 20,000 persons per hour, per direction, a rail based solution is inescapable and we are now at over 30,000 persons per hour, per direction at peak hours and therefore, common sense dictates that a rail solution is the solution.

In terms of the economics, there have been many studies on the economics of bus based mass transit versus rail based mass transit, and in many countries it has been found that once you get up to these numbers—and this is why I am saying, and this is why the information is, that a rail-based solution is inescapable—30,000 persons per hour, the railway solution is far more economical than the bus solution.

**Sen. Ali:** One more supplemental question. Could the Minister say what other country has had a similar kind of problem to which he can relate the findings of consultants like Cansult?

**Hon. C. Imbert:** That is a very difficult supplemental, but I do not have an encyclopedia in my head. However, India is implementing rapid railway system as we speak. China has examined the feasibility of a bus based mass transit system as compared to a rail based mass transit system and is implementing a rail-based mass transit system after having done all the studies. Several Latin American countries are doing this. Railway is the preferred mode of mass transit in Europe. In fact, it has overtaken air transport as the preferred mode of mass transit. There are many countries, Senator, where those studies have shown that a rail based solution is far superior to a bus solution.

**Sen. Dr. Gopeesingh:** Would the hon. Minister be kind enough to indicate whether the National Infrastructure Development Company is one of the 15 multi-purpose companies undertaken by the Government? That is the first question, but if that is so, in the absence of a procurement regime which had been promised almost a year ago for these multi-purpose companies, could the Minister indicate what procedure was used to select these two companies, MMM and I cannot remember the other one? *[Interruption]* Yes, that is a supplemental. Is National Infrastructure Development Company one of the multi-purpose companies which is looking after this? And what procedure was used for the procurement of these two companies?

**Hon. C. Imbert:** Mr. Vice-President, I mean, Sen. Dr. Gopeesingh is really stretching the concept of a supplemental question. *[Interruption]* That forms no part of this question, but I will answer you. *[Laughter]* NIDCO has its approved tender rules, approved by the Ministry of Finance like all other state enterprises and these two companies were engaged in accordance with NIDCO's tender rules. In the particular case of MMM, the Government of Trinidad and Tobago availed itself of an agreement with the Government of Canada where the Government of Trinidad and Tobago has a technical assistance arrangement with the Government of Canada through the Canadian Commercial Corporation, which is a wholly owned state enterprise, owned by the Government of Canada, and the Government of Trinidad and Tobago uses this agreement from time to time to obtain consultancy services. You have to realize that these are consultancy services. So the short answer to your question is: NIDCO has its approved tender rules which it uses for this. MMM was procured with the assistance of the Government of Canada; and White & Case, a law firm was procured in the normal manner.



**Sen. Mark:** Mr. Vice-President, could the hon. Minister indicate whether there is a link between MMM and Bombardier; if there are any links between these two organizations, both from Canada?

**Hon. C. Imbert:** Again, Mr. Vice-President, Sen. Mark is stretching the concept of a supplemental to infinity. However, I can answer the question. We took a long time before we selected a consultant. MMM is providing engineering advice for the procurement exercise. White & Case is legal advice. It took a very long time before we decided to select MMM because we wanted to ensure there was no conflict of interest. So we did a thorough screening of MMM, and as far as we are aware there is no connection, whatsoever, between MMM and any of the tenderers for the Rapid Rail Project, including Bombardier.

#### **Customs House (Details of)**

**76. Sen. Wade Mark** asked the hon. Minister of Finance:

With respect to the construction of the new Customs House in Port of Spain, could the Minister inform the Senate:

- (i) what was the original estimated cost;
- (ii) how much money has been expended to date;
- (iii) what is the new estimated total cost;
- (iv) what was the original scheduled completion date; and
- (v) what is the new scheduled completion date?

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):** Mr. Vice-President, the answer to that question is not yet approved. I expect that it would be approved by the next time we meet.

*Question, by leave, deferred.*

**2.00 p.m.**

#### **Trinidad and Tobago Electricity Commission (T&TEC) (Details of Importation)**

**79. Sen. Wade Mark** asked the hon. Minister of Public Utilities and the Environment:

With respect to the new street lights/lamps being installed by the Trinidad and Tobago Electricity Commission (T&TEC), could the Minister inform the Senate:

- (i) if these lights/lamps are being imported and if so by whom;
- (ii) whether the contract to purchase these lights/lamps was subjected to (a) public competitive tendering or (b) sole selective tendering;
- (iii) if the answer to (ii) is (a), could the Minister provide the details of the procedure involved; and
- (iv) if the answer to (ii) is (b), could the Minister explain the rationale for such an arrangement?

**The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith):** Mr. Vice-President, I have been advised that answers to questions Nos. 79 and 84, one to Minister Beckles and one to Minister Boynes, are not yet ready and I would ask that they be deferred for two weeks.

*Question, by leave, deferred.*

*The following questions stood on the Order Paper in the name of Sen. Dr. Tim Gopeesingh:*

**Brian Lara Stadium  
(Details of)**

- 84.** A. With respect to the award of the contracts for the construction of the Brian Lara Stadium in Toruba, South Trinidad, could the hon. Minister of Sport and Youth Affairs indicate to the Senate:
- (i) the tendered cost;
  - (ii) the cost overruns to date;
  - (iii) the expected completion costs; and
  - (iv) the expected completion date?
- B. Could the Minister also indicate:
- (i) the names of the companies that tendered for this project and their tender prices;

- (ii) the process used to evaluate the tenders; and
- (iii) the names of the individuals/firms that evaluated the tenders?

*Question, by leave, deferred.*

**National Carnival Centre  
(Details of)**

**85. Sen. Dr. Tim Gopeesingh** asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. With respect to the award of contracts for the construction of the National Carnival Centre in the Queen's Park Savannah, Port-of-Spain, could the hon. Minister indicate to the Senate:
  - (i) the tendered cost;
  - (ii) the cost overruns to date;
  - (iii) the expected completion costs; and
  - (iv) the expected completion date?
- B. Could the Minister also indicate:
  - (i) the names of the companies that tendered for this project and their tender prices;
  - (ii) the process used to evaluate the tenders; and
  - (iii) the names of the individual/individuals/firms that evaluated the tenders?

**The Minister of Community Development, Culture and Gender Affairs (Sen. The Hon. Joan Yuille-Williams):** Mr. Vice-President, I indicated earlier to Sen. Dr. Gopeesingh that I was unable to answer questions Nos. 85 and 86 this afternoon, but I want to assure the Senator and the honourable Senate that within two weeks I would have the answers for questions Nos. 85 and 86 ready for you.

**Sen. Dr. Gopeesingh:** [*Inaudible*] four weeks.

**Sen. Mark:** Mr. Vice-President, may I seek her assurance when we go to the appendix, written—[*Interruption*]

**Sen. Dr. Gopeesingh:** How many weeks?

**Sen. Mark:** I need the assurance from the Minister because she has about five to six questions that have been languishing for approximately six months now. Could you make my plea, Sir, to her, so that she can get those answers to us as soon as possible.

**Mr. Vice-President:** Hon. Minister, do you have a comment?

**Sen. Montano:** Who are you calling, “she”?

**Sen. The Hon. J. Yuille-Williams:** I still want to believe that it is a courtesy we do when we answer these questions, but I want to tell you that there is nobody with more questions on the Order Paper than this Minister, and therefore, it takes quite a lot of time from a very busy schedule to do it. I am doing all I can to get answers ready. I have assured Sen. Dr. Gopeesingh he would get his two questions answered. I cannot really tell Sen. Mark exactly when those will be answered. If you look at them you would see how extensive they are in writing, and please, I am trying all I can to get them prepared, but it is part of the entire programme.

Thank you very much.

**Sen. Mark:** Mr. Vice-President, I want to protest vigorously on this matter. This hon. Minister of Community Development, Culture and Gender Affairs has been disrespecting you and this Senate. [*Crosstalk*] It is almost six months and I do not think this is acceptable.

**Mr. Vice-President:** Sen. Mark, you have recorded your intention to protest, I am sure it is recorded, but I do not think you should be going on to accuse the Minister of deliberately disrespecting the Senate, the Chair and everybody. The Minister has given the assurance that she will answer the two questions by Sen. Dr. Gopeesingh in two weeks—

**Sen. Dr. Gopeesingh:** But would it be in August?

**Mr. Vice-President:**—well, whenever two weeks would have elapsed. I think given the explanation of the Minister, we have to consider what she said.

**Sen. Mark:** That is what [*Inaudible*]

**Mr. Vice-President:** Sen. Mark, we have to move on from there; you have protested, it is recorded and we are going to move on. Could you please?

**Sen. Mark:** Joan is hiding. You hiding, you hiding.

**Mr. Vice-President:** Sen. Mark! Sen. Mark, that is not Joan.

**Sen. Mark:** Well, Madam Minister, she is hiding.

**Mr. Vice-President:** Thank you.

**Sen. Montano:** You should apologize to her.

**Sen. Mark:** Apologize to whom? [*Crosstalk*]

*Question, by leave, deferred.*

*The following question stood on the Order Paper:*

**Performing Arts Centre  
(Details of)**

- 86.** A. With respect to the award of contracts for the construction of the Performing Arts Centre on the Princes Building Grounds, Port of Spain, could the hon. Minister of Community Development, Culture and Gender Affairs indicate to the Senate:
- (i) the tendered cost;
  - (ii) the cost overruns to date;
  - (iii) the expected completion costs; and
  - (iv) the expected completion date?
- B. Could the Minister also indicate:
- (i) the names of the companies that tendered for this project and their tender prices;
  - (ii) the process used to evaluate the tenders; and
  - (iii) the names of the individuals/firms that evaluated the tenders?  
[*Sen. Dr. T. Gopeesingh*]

*Question, by leave, deferred.*

**STATEMENT BY MINISTER  
Laws of Trinidad and Tobago  
(Online Version)**

**The Minister of Legal Affairs (Sen. The Hon. Christine Kangaloo):** Thank you very much, Mr. Vice-President.

Mr. Vice-President, in November 2006, the Government of Trinidad and Tobago, through the Ministry of Legal Affairs launched the Online Version of the New Revised Laws of Trinidad and Tobago on the Ministry's website. The Online version contained the consolidated laws of Trinidad and Tobago updated to December 31, 2004. Through the Ministry's website, these updated laws have been made available, free of charge, to every citizen in Trinidad and Tobago with access to the Internet.

Prior to the launch of this Online facility, citizens wishing to have a consolidated version of the country's laws were required to purchase the bound consolidated volumes, which were outdated by some two decades. The comprehensive consolidation of the country's laws came after a 20-year hiatus, the last such revision having been made in 1986.

The consolidation was the culmination of years of intensive and much needed work. Since its launch, the Ministry's web page has had more than 16,000 visitors. All Acts passed into effect since December 31, 2004 are available on Parliament's website. The result is that today, practically every law in effect in Trinidad and Tobago is, for the first time, available electronically, free of charge, to every citizen of Trinidad and Tobago with access to the Internet. [*Desk thumping*]

Mr. Vice-President, in Trinidad and Tobago, the foundations of a modern, technologically advanced, knowledge-based society in which e-Government exists are now firmly and unshakably laid. In yet another significant step on the road to e-Government, the Government of Trinidad and Tobago through the Ministry of Legal Affairs launched the Companies Registry Online service earlier this year. This service now allows company searches to be conducted via the Internet, upon payment of the applicable subscription.

Mr. Vice-President, to date, the Companies Registry Online service has been accessed by over 13,000 users. When the launch of the Online Consolidated Revised Laws facility was announced, it was indicated that the Ministry would be working assiduously towards making the Consolidated Laws available in digital format on CD-ROM disks as soon as was reasonably possible.

The Government of Trinidad and Tobago is pleased to be able to announce today, that following the engagement of the well-known legal publishing company, West Publishing Corporation, 2,500 CD-ROM copies of the digital version of the New Revised Laws of Trinidad and Tobago were delivered to the Ministry of Legal Affairs on July 05, 2007. With the availability of the country's updated, revised consolidated laws in digital format, the technological revolution in Law Revision in Trinidad and Tobago is now complete.

Among the very many benefits of this digital version of the Laws is that the CD-ROMs allow for interactive, user-friendly, full text search facilities, index hyperlinks and references to sections of the Acts. What this means is that the average citizen can simply type in a keyword or phrase and be directed to relevant sections of the Act. Whether through the use of natural language or what is known in legal jargon as terms and connectors search parameters, the Laws of Trinidad and Tobago can now be easily accessed and better understood by the citizenry. The CDs also come with built-in security systems to prevent against abuses such as plagiarism and unauthorized manipulation of the text contained therein.

Mr. Vice-President, the CDs come with a step by step manual which shows the user how to install the premise software upon which the programme is built and

how to access the Laws and use its search facility to quickly locate the piece of legislation that is needed. Cabinet has approved the selling price of the CDs as follows:

- A one user copy of the 2006 Revised Edition of the Laws for \$5,000;
- A 10 user copy of the 2006 Revised Edition of the Laws for \$5,500; and
- A 25 user copy for \$6,500.

The Government plans to embark on a rigorous sensitization campaign in the print and electronic media to educate the general public on the existence of and the use of the CD-ROMs. The Government of Trinidad and Tobago is pleased to be able also to announce that matters do not rest there. As I have indicated previously, the state of law revision is such, that such revision goes up to December 31, 2004.

Notwithstanding that all Acts since that time are freely available on the Internet as I have previously indicated, the Ministry of Legal Affairs in conjunction with the Law Revision Commission is at present undertaking a further review and revision exercise to bring the laws enacted in 2005 and 2006 into the fold, so that the revised consolidated laws will include laws in effect up to December 31, 2006.

The incorporation of the 2005 and 2006 enactments is well on its way and in the not too distant future, the Government of Trinidad and Tobago hopes to report to this Senate that this incorporation has been completed and is available on the Ministry of Legal Affairs' website. This Government's commitment is to ensure that a 20-year hiatus in the revision of laws does not ever recur in the history of this country.

Mr. Vice-President, the Government of Trinidad and Tobago continues to set the highest standards for development in the region and we have put the citizens of Trinidad and Tobago first and foremost in all our plans. In Trinidad and Tobago the use of technology in improving the efficiency and effectiveness of the Government is crucial to meeting the needs of the people we serve. Transparency, accountability and the rule of law are fundamental to our democracy, and in today's dynamic society, our laws must not only be relevant laws but readily and easily accessible to the Parliament, the courts, the legal and judicial officers, attorneys-at-law and the general public to ensure equity and equality in the administration of justice.

The Government of Trinidad and Tobago is doing all in its power to achieve this goal, as Trinidad and Tobago moves inexorably forward, towards realizing its vision of developed nation status by the year 2020.

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

**MEDICAL BOARD (AMDT.) BILL**

*Order for second reading read.*

**The Minister of Health (Hon. John Rahael):** Thank you, Mr. Vice-President. I beg to move,

That a Bill to amend the Medical Board Act, Chap. 29:50, be now read a second time.

Mr. Vice-President, I am pleased this afternoon to be in this honourable Senate to pilot the Bill that is before us. The Bill seeks to amend the Medical Board Act, Chap. 29:50 to inter alia change the composition of the medical council of Trinidad and Tobago, and to expand the responsibilities of the said council to include the establishment and maintenance of a specialist registry and the creation of standards for continuous medical education from medical practitioners.

Mr. Vice-President, clause 3 of the Bill seeks to define the term, "specialist". As such, a specialist will now mean a "person who has undertaken specialist training and has been awarded specialist qualifications in a specialty recognized by the Medical Board, and that specialist training is, or those qualifications are, or when considered together, found to satisfy the Medical Board's requirements for the specialty in question."

It is material to note that presently there is no specialty registry. As such, there is no evidence available to inform the public as to whether a medical practitioner holding himself out as a specialist is, in fact, a specialist in the particular field of medicine which he operates. As such, clause 6 is seeking to introduce the new clause 10A, which mandates the council to keep a book or register to be known as the medical specialist register which shall contain the name and the address of the specialist, the area of expertise, training, experience and qualifications in the area of specialization and the date of registration in the Register of the Medical Practitioners.

Further, there is no provision in the Act prohibiting someone who is not qualified as a specialist from holding itself out as practising as one. That is what obtains today. This Bill seeks to remedy this, as clause 10 provides that any person whose name is not entered in the medical specialist register, and who practises as a specialist or uses any name, title, additions or descriptions, implying or calculated to lead persons to believe that he is so registered, or advertises, or holds himself out as a person authorized or qualified to practise as a specialist, he would then be liable on summary conviction to a fine of \$10,000 and to imprisonment of two years.



Mr. Vice-President, what we are saying is that the medical council should in fact have a register with all the doctors who are specialists, that they are registered in that particular area of specialty. Also, the Ministry of Health has received numerous complaints from members of the public about the incompetence and shabby treatment meted out by some of the medical practitioners. Complaints range from incorrect diagnosis to inadequate investigation, and in some cases, over-investigating a patient, causing delay in treatment and wrong diagnosis where there is inadequate investigation.

I also want to make it clear that the majority of medical practitioners in Trinidad and Tobago, in fact, carry out their duty and are well respected within the fraternity, but there are those who are not and we must also address those who are not. So, in this case, we are referring to those who are actually operating outside of their area of specialty, and of course, because of that, we see many adverse events. Frequent complaints received include as I indicated: failure to take steps to confirm or refute a diagnosis, some of them also failed to fully inform patients of their expected chances of success or failure of the proposed treatment; wound infections following surgery; failure to remove material from patients before suturing the patient after surgery; poor post-operative monitoring and care; injury to surrounding structures during the course of a surgical procedure—for example, a patients who has been operated on the stomach may find out that during the course of the surgery, her bowel was damaged, but the surgeon failed to recognize the hole in the bowel, and as such, failed to take the necessary corrective action to repair the bowel.

Mr. Vice-President, we are now attempting to minimize the number of adverse events by providing the legal framework for medical practitioners which will only allow them to operate within their level of competence and expertise. May I also indicate that later this month, we would be laying in this honourable Senate a policy document which will provide the legal framework for the accreditation of all health care institutions, both public and private. Again, this is part of our legislative agenda to support the Ministry's objective to improve health care throughout the sector. We believe that a comprehensive legal framework is necessary to support the health environment.

The proposed health service accreditation programme will not only provide the framework for health care quality and accountability, but facilitate the implementation of decisions of Caricom in the area of shared services through a framework for common standards. The main purposes of the accreditation are:

- to improve the quality of health care by establishing optimal achievement goals in meeting standards for health care organizations;

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- to stimulate and improve the integration and management of health services;
- to reduce health care cost by focusing on increased efficiency and effectiveness of services;
- to reduce risk associated with injury and infections for patients and health care personnel; and most importantly
- to strengthen the public's confidence in the quality of health care in Trinidad and Tobago.

Mr. Vice-President, considerable preparatory work has been done by the Ministry in laying the foundation for a successful accreditation programme. Such work includes:

- the pilot testing and development of health service accreditation standards;
- the development of an assessment instrument;
- the dissemination of 3,000 copies of the standards manual to public and private health care facilities;
- the sensitization of key stakeholders in public and private institutions.

Other activities currently undertaken in this regard are:

- the development of procedure manuals;
- repeating sensitization sessions;
- accreditations self-assessment surveys, aimed at accessing state of readiness and empowering staff for full implementation; and
- provision of technology advice to private sector health facilities.

Mr. Vice-President, we are also in the process of implementing action plans in all of the Regional Health Authorities aimed at making health care facilities ready for accreditation. A key activity is also the development of care protocols and practice standards. This programme is being done through technical cooperation with a Canadian Health Services Accreditation Council which is one of the leading accreditation bodies in the world.

Clause 4 seeks to amend section 6 of the Act by deleting section 1 and substituting the following:

"There shall be a Council of the Board"

—referring to the medical board—

"which shall be appointed by the Minister and consist of—

(a) the Chief Medical Officer;"

That is the Chief Medical Officer of the country of Trinidad and Tobago. I continue:

"(b) two medical practitioners;"

These two medical practitioners would be appointed by the Minister. I continue:

"(c) four medical practitioners elected by the board;"

That is among their peers, four of them would be elected. I continue:

"(d) one person nominated by the Inter-Religious Organization;"

I hope Sen. Bro. Noble Khan will be pleased to hear this. I continue:

"(e) an attorney-at-law with at least five years experience;

(f) one person nominated and representing non-governmental organizations; and

(g) a medical practitioner nominated by the University of the West Indies."

Mr. Vice-President, again, if you would notice, we enlarged the existing board from seven to eleven. There are seven medical professionals on the council of the board; seven doctors. Four elected by their peers; two by the Minister of Health; one by the University of the West Indies and the chief medical officer, the other three persons are considered laypersons.

Clause 5 provides that the chairman, the deputy chairman, the secretary-treasurer shall be elected from among members of the council—and let me acknowledge and welcome, Sen. Dr. Neil Adrian Singh, who I think is presently the secretary of the board, to the Senate this afternoon. Nice to have you here. [*Desk thumping*—so that the chairman, the deputy chairman, secretary-treasurer will be elected from within that group of 11. Among them, I repeat, seven medical professionals who I believe hold their profession above anything else—or should hold their profession above everything else, so that among them they will elect their chairman, vice chairman and secretary-treasurer.

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Mr. Vice-President, the present provision provides that the council shall comprise that what is present now, as I said seven, and they are elected right now from within their peers. It is material to note that presently practitioners who hold full registration under the Act are automatically deemed to be members of the board—once they pay their dues, I suspect. As such, only medical practitioners who hold full registration are eligible to be elected to the council. So again, the council will have seven medical professional doctors.

We are of the view, that the time has come for the council to be reorganized, to include members of the medical practitioners and in keeping with international standard. This is not something new to Trinidad and Tobago. As we are all aware, the medical council is a regulatory organization which has the power to disbar medical practitioners and they will do so because of unprofessional conduct. I want to emphasize this because there is a misconception that the Ministry of Health holds such authority. Again, the Ministry of Health cannot discipline or disbar a medical doctor; it falls within the remit of the council of the medical board, and of course, that is going to continue. The council also establishes standards for the practice of medicine, regulates the profession by assessing the suitability of their being licensed as doctors and approves the institutions from which doctors are accepted.

So again, all these seven doctors would have met the standards of the council of the board, so that they can be registered as doctors. One objective of this expansion, is also to increase the presence of civil society in the council, in an attempt to get the views of the wider public factored into the decisions of the council. So the purpose of putting someone from the Inter-Religious Organization, an attorney, someone representing the NGOs is to also bring the view of civil society.

Mr. Vice-President, we believe that modern medical regulations must put patients' safety first. Be objective, fair and transparent, so as to command the confidence and support of those receiving and providing health care. As such, the proposal to change the composition of the council is to ensure a balanced membership reflective of those who receive and those who provide. So again, one of the objectives of this amendment is to ensure that on the council there would be the views of those who receive and those who provide.

The new council would now include as I said, the Chief Medical Officer in the Ministry of Health and a representative of the University of the West Indies. This mix will ensure that vital decisions taken by the State as the largest employer of medical practitioners will be conveyed and factored into the discussions and decisions of the council.

**2.30 p.m.**

So the Council now will have a representative from the University of the West Indies, the Medical Faculty and from the Ministry of Health so that in their decision making, that is the Council, it will have the views of the Ministry, which is the largest employer of health care providers in Trinidad and Tobago and, of course, a medical professional from the University of the West Indies, Faculty of Medicine.

Mr. Vice-President, in 2003 the United Kingdom (UK) amended its Medical Board Act by downsizing its council and also by including a greater number of laypersons. Consequently, by reducing the total number they now have on their council lay representation that was increased from 25 to 40 per cent. So in the United Kingdom you have 40 per cent of the council made up of laypersons. We are proposing about 30 per cent.

Last year discussions were ongoing in the United Kingdom to move lay representation up to 50 per cent. So, obviously, they have seen and have experienced the fact that by having these laypersons on the council it brought better representation and performance of the board. They are now talking about moving the 40 per cent of laypersons on their council to 50 per cent.

This recommendation was made by the General Medical Council, by the council itself. The council itself is now recommending to the Secretary of Health in the United Kingdom that they increase the number of laypersons to 40 to 50 per cent; again endorsing that what we are doing is the right thing to do to provide quality health care for the citizens of Trinidad and Tobago.

Mr. Vice-President, our aim is not to represent any interest groups. That is not the aim of this amendment or the Government of Trinidad and Tobago. Rather, we desire a governing body that acts in the public's interest and contributes to the safety and quality of health care. [*Desk thumping*]

It is also material to note that the Medical Council of New Zealand also consists of laypersons on their council. Also the medical and dental boards of South Africa which regulate both medical practitioners and dentists consist not only of medical practitioners and dentists, but also eight community representatives two of whom must be attorneys-at-law; one anesthetist assistant, one biomedical engineer, one clinical biochemist, one genetic counsellor, a health assistant, a medical physicist, a medical biological scientist and a supplementary medical scientist.

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Mr. Vice-President, throughout the world we are seeing the move that has already been made proving that it has been successful and that more and more countries are moving into that direction. I cited the United Kingdom, New Zealand, Australia and so many other countries, but let us get closer to home.

In 2004, the Jamaican Parliament amended its Medical Board Act by changing the composition of the council to include members from the fields of law and accounting as well as adding a consumers' right advocate. Moreover, the Medical Council of Barbados also consists of the Chief Medical Officer, four medical practitioners appointed by the Minister on the nomination of an association of medical practitioners approved by the Minister and one medical practitioner appointed by the Minister on the nomination of the dean of Faculty of Medicine of the University of the West Indies.

So that in Barbados, in Jamaica and most countries, we are seeing again the move to include persons who are not elected from within the council. You have other medical professionals on the council, you have laypersons on the council, you have an attorney-at-law on the council, you have someone representing the Ministry of Health and someone representing the Medical Faculty in the University of the West Indies, to bring more value to the deliberations of the council. I do not think anyone can deny that.

Clause 9 seeks to amend section 20 of the Act by inserting after paragraph one the following paragraphs:

- “(j) for establishing standards for continuous education and training of medical practitioners;
- (k) for determining whether a person is a specialist for the purposes of this Act.”

Again, I believe and I think I can say, that the existing council of the medical board supports this. Let me welcome Sen. Prof. David Picou to the Senate. Prof. Picou is well known and respected in the medical field, like other professors. I have had discussions with Prof. Picou with respect to continuous assessment and education for medical practitioners.

It is very, very, very important that when the council of the medical board is registering a doctor it must also register whether he qualifies in a particular specialist area.

We know fully well that Sen. Dr. Gopeesingh is an urologist. Am I right? [Laughter] A gynaecologist; but I do not know if he is an urologist as well. [Laughter]

[*Crosstalk*] I hope that all he does is practise gynaecology. [*Laughter*] Obstetrics and gynaecology; okay, thank you. He will be registered under that profession and will not attempt to do kidney transplants or urology. You would not do that, but you admit that there are those who would.

**Sen. Dr. Gopeesingh:** Very few.

**Hon. J. Rahael:** Like I said, this whole thing is for those who are very few, because those are the ones who are causing persons to lose their lives. The purpose of this Bill is to provide better quality health care to the citizens of Trinidad and Tobago. [*Desk thumping*] That is what it is all about; not for any special interest group or to put power in anyone's hands.

So with this registrar of professionals—Sen. Mark and I would not qualify in that area; we are not specialists. I know he would want to attempt it, but I am telling you from now. [*Laughter*]

Knowledge and techniques in the health field are rapidly expanding also. According to the distinguished Carl Lindsay, James Morrison and E. James Kelly, three renowned medical experts, it is estimated that the half life of knowledge acquired in medical school is approximately five years. Therefore, in just five years half of what a doctor learns in medical school will be obsolete. This is what these gentlemen have indicated. Apparently the point being made is that you have to keep pace with what is happening in the medical profession.

With such a vast increase in knowledge base, and I think that is the point, it is essential that health professionals, particularly doctors, dentists and nurses, constantly update their skills. In fact, their patients' lives and well-being often depend on health professionals keeping current on the latest advancement.

We are doing this now and we are dealing with medical doctors, but we are also looking at the Nursing Council to ensure that nurses also—We have put things in place so that they would have this continuous education. During the time of this PNM administration we have introduced, for the very first time, with the University of the West Indies, a Bachelor of Science degree in nursing. That was not available prior to this administration being in office; and we are going one step further. We are going to be providing a Masters degree in nursing. So there would be mobility in the nursing profession.

Mr. Vice-President, continual medical education is now mandatory in many countries. This is not something new. A survey conducted by the Ministry in 18 European countries reveal that 17 countries thought that continual medical education

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was necessary. Continued medical education consists of educational activities that serve to maintain, develop or increase the knowledge, skills and professional performance of a doctor. Beyond the medical school training, each doctor needs to keep himself current with changes in medicine generally and in areas relevant to his own practice in particular.

Technology and new techniques are unfolding daily. There are new illnesses being inflicted on many of us and, therefore, we need to have specialists who not only practise when they receive their degree as specialists, but who continue to be updated every so often. When we come to the regulations, we would determine whether it will be three or five years with consultation, of course, with all the stakeholders.

Mr. Vice-President, we are of the view that continuing professional education must be learner centred and accomplished in a climate wherein the professional begins to realize the value of continued education and engages in this type of professional development voluntarily. As such, wide consultation will be held with the medical practitioners before regulations addressing continuing education are finalized; so again, further discussions as to how we are going to do this.

We also recognize that one of the critical areas that must be addressed in order to booster the performance of the Ministry of Health's strategic objective is the human resource development. We have been able to provide equipment: new instruments, state-of-the-art equipment, modern electronic beds, and all the new types of procedures are being introduced into our public health sector. Only last week, for the very first time at the Port of Spain General Hospital, we did laparoscopy surgery. We did 10 in one week and each patient, if they had done the normal type of surgery, would have had to spend four or five days in our hospital. They spent one night, because of the new technique, which is not that new for Trinidad and Tobago. It is being done in the private sector and, to some extent, in San Fernando, but it was the first time in the history of Port of Spain General Hospital we did that.

You would also have recognized that we did open heart surgery, because of the fact that cardiac illness is the leading cause of death in Trinidad and Tobago. The number of surgeries we are doing at Mount Hope for the indigent is 240 for the year and still the waiting list is not acceptable. So we are looking to increase the numbers in our other public health institutions.

Again, we will gradually, hopefully, build up, and because of all these new techniques that are being provided by professionals and the equipment that we have, we are seeing that more and more of our health care professionals who are abroad are looking to come back to Trinidad and Tobago. The doctor who



performed that laparoscopy surgery came back to Trinidad and Tobago in February from the United Kingdom. We are wooing a number of cardiologists and cardiac surgeons and a number of them are now engaging the Ministry of Health and the Regional Health Authority (RHA) with respect to their package to come back to Trinidad and Tobago and provide the kind of quality health care that we want.

We have to be prepared in the public health sector to have them full time. I have said it before, I think that our vision is to have our doctors in our public health institutions full time with no private practice and pay them properly. That is what we are aiming for, that within our doctors in Trinidad and Tobago who wish to take up that challenge and who wish to come back and accept the conditions we have laid down with respect to their employment in the public health sector, where they will work full time on the condition that they have no private practice, they would be there for all our patients 24/7.

We are ensuring that training is available for all our health care professionals. This Government has recently announced that we have budgeted \$100 million for bursaries and scholarships for persons who wish and need to go abroad to have further studies in order to become specialists in the areas where we have a shortage of specialists. We are willing to assist and to provide scholarships and bursaries for those individuals. We are going to ensure also that they sign a contract which is airtight, with guarantees that they come back and serve in Trinidad and Tobago. It is not going to be a contract like what exists now; it will be an airtight contract. That is what we are aiming for.

All that we are doing in the Ministry of Health is to envisage a health sector that includes strengthening institutional capacity and building human capital. We are also sustaining greater international liaison to gain support for national initiatives and benefits from knowledge sharing and the transfer of staff, which is most important, from the Ministry of Health to the RHAs through the offer of a voluntary separation of employment package, (VSEP).

As I have indicated already, over 50 per cent of those public servants who are working in the RHAs have accepted VSEP; they moved across to the RHAs. I am not saying that the RHAs are perfect; we need to also strengthen and build on them. There are many things required in order to do so. One is to make sure that there is one employer in the RHA. You cannot have more than one employer; it is madness. So that is the first and most important thing we have to do.

Then we have to provide the professionals in the institutions, as I have already indicated, by having them there: doctors, nurses, pharmacists and, ideally, we

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want to train our citizens for those jobs. Those who are away, we are trying to woo them back. If there is any shortfall, then we will have to go out internationally and get whoever is willing to come to Trinidad and Tobago, in order to provide the kind of health care that we all want. That is what we doing.

We anticipate, of course, that this dual track issue will be eliminated shortly. There are options, but, at the end of the day, let me make it quite clear, there will be one employer in the Regional Health Authorities.

Mr. Vice-President, I cannot overemphasize the point of building human capital. It is extremely important for us. The Ministry of Health is moving assiduously to ensure that we have those kinds of professionals. In the quest to ensure the deliverables are timely and of a high standard, the Ministry has partnered with fellow ministries and international agencies in an attempt to build capacity and gain international recognition.

The Ministry of Health is the repository of numerous health initiatives, be it monetary or non-cash as in the case of transfer of expertise. The infrastructure has been laid to propel the Ministry en route to Vision 2020 and, at the same time, satisfy the millennium development goal of the World Health Organization. But we are doing more than that.

We are also exposing our school pupils to a career in the health profession. It was in April of this year that for the very first time the Ministry of Health hosted a career fair to promote professional opportunities and leverage in the health care sector among young people in Trinidad and Tobago. We had our health fair in the Centre of Excellence, where we had persons within the health sector from different disciplines and specialties exposing to these young minds: Forms 2 and 3 students, so that they were educated with respect to what the subjects are that would be required if they care to pursue a career in health.

We exposed them to what the techniques were, what was involved and what was required to become a health care professional. It was very successful. Thousands and thousands of young persons passed through the fair. It was in collaboration with the Ministry of Education that we had these young persons coming in. Some of them on their own came back, because of the interest stimulated. They were told that if you were a nurse or doctor or in a number of other areas in health, or if you have a degree, you are guaranteed a job. You are guaranteed a job if you are a nurse tomorrow. You are guaranteed a job in certain areas where we have a chronic shortage. Therefore, by exposing these young persons we are guiding and exposing them to these opportunities.

Emphasis was placed on building national stock and satisfying the future human requirements needed to complement the health sector reform programme through our ongoing and projected infrastructural enhancement and expansion of services that would deliver health care. Notwithstanding a number of impediments and challenges the sector faces on a daily basis, we continue to press on as we strive to improve the health care that we deliver to the people of Trinidad and Tobago.

I look forward to the support of this Bill by all Members of the Senate, because I think this is a step forward in ensuring that we move health to a place that would provide us with the kind of quality and professionalism that we want in Trinidad and Tobago.

Mr. Vice-President, I beg to move.

*Question proposed.*

**Sen. Dr. Neil Singh:** Mr. Vice-President, and hon. Senators, it is indeed a great pleasure to be given an opportunity by my colleagues in the UNC to be present this afternoon to represent the views of the medical profession with respect to the proposed amendments to the Medical Board Act.

I am both reassured and confused today after listening to the discourse by the hon. Minister. I had with me a prepared text and my issues were very critical with respect to the delivery of care and the protection of the public. Having heard some of the statements from the hon. Minister a while ago, I think I could probably sit back now and dissect much of his contribution and prove to this honourable House some of the inaccuracies presented.

However, my purpose this afternoon is not to talk about the Accreditation Act; it is not to talk about human resource management; it is not to talk about the Nursing Council; it is not to talk about continued medical education; it is not to talk about scholarships; it is not to talk about VSEP or the Regional Health Authorities. My purpose this afternoon is to convince this esteemed audience and hon. Members of the disaster pending if this amendment to the Medical Board Act is allowed.

Before I can get to the specifics of the Bill, I want to deliberate a little on the background of the medical profession. We see the role of a medical council being elected by its peers, having the benefit of self-regulation, which existed for the last 193 years and has sought, in many ways, to utilize a very archaic and limited Medical Board Act to expedite and deal with two basic issues: one, the preservation of the integrity of our profession and, two, the protection of the public.

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I want to allay some myths that have been propelled by some of our cognitive impaired pseudo professionals. I have been secretary to this Medical Council for four years. I have received over 50 complaints from the public. We have erased one senior professional. We have refused registration for another five professionals. We have conducted five tribunals. We have spent millions of doctors' registration fees funding in court; we have five matters pending in court at this point in time.

We need to understand that the Council is no boys' club; that the Council recognizes its role as being critical to the delivery of quality health care. Medical regulation is a discipline in medicine that provides for good quality delivery of health care. We deal with errant doctors. Because of our quasi-judicial role or authority, we have to observe due process, and we deal fairly and appropriately with matters before us. Allow me to read from my text. [*Interruption*]

**Sen. Joseph:** You said "we" talking about the way in which your council has discharged its responsibility, but you said in about four years. Are you talking about the fact that you have discharged this during your period or are you talking about since 1840-something or the 80-plus years since the council started?

**Sen. Dr. N. Singh:** Mr. Vice-President, I thank the hon. Senator for his question. I will answer him in a simple term and I will address his question in my summary. I can only speak primarily for the time I was elected, but I can speak for the rules and regulations that exist and that govern the practice of medicine and the code of conduct of the Medical Board that has been in existence for years. I am glad the Minister raised that issue.

Let us look at the reasons for an amendment. We have not heard from the hon. Minister the reasons for the amendment. We have heard of delinquent doctors and negligence. We have heard of doctors misdiagnosing and over investigation. We have not heard of the lack of supplies and diagnostic tools. We have not heard of the transformation of medicine into more technical rather than clinical skills and the lack of technical supplies and services. We have not heard of the overwhelming working conditions of doctors. But today is not the day to discuss that. Today is the day to discuss the *raison d'être* of why there is a need for this amendment.

We look at this amendment as ad hocism, as patchwork, as mending a sore. I would like hon. Members to understand the constraints the council has in dealing with the profession, based on an archaic Medical Board Act. We need to overhaul this Act. This Act provides very little at all, if any, to help us in terms of teeth to actually do what we would like to see happen in modern days of medicine.

By applying a handful of scotch tape and gauze to this Act, you will not see any improvement in the quality of health care. But by applying clause 4, I guarantee you that you would see, one, a migration of doctors; two, a decrease in standards of care; three, the increased prevalence of contract labour and the abolishment of public service and genuine employment for doctors; four, you will see victimization, nepotism, as presently occurring.

You may remember, Members, the Faith Williams case in which the medical matter was referred by the hon. Minister to the Medical Board. We are dealing with it; we have been taken to court again. Doctors have money; they will take you to court for everything. But you will not hear of the due process observed for Dr. Collin Furlonge recently when he was suspended and the matter was not referred to the Medical Board. We can only observe these forces, that is our learning from our legal colleagues.

This represents the spectrum of propaganda and victimization that can be construed from a minister appointing members of a council, from abolishing an electoral process, from denying a profession of its basic human rights which flouts the spirit of our Constitution, sections 4 and 5 of self-regulation.

On December 20, 1818, the then Governor Woodford by proclamation created the Medical Board Act. [*Interruption*]

**Mr. Vice-President:** What are you reading from?

**Sen. Dr. N. Singh:** I am reading from a document prepared by my President, which alludes to—I do not have the exact—[*Crosstalk*]

**Mr. Vice-President:** Senator, I was just trying to find out whether you were quoting from a document. [*Crosstalk*]

**Sen. Dr. N. Singh:** I am quoting from the President of the Medical Board in his research.

**Mr. Vice-President:** Please go on; let me see where this goes. [*Crosstalk*]

**Sen. Dr. N. Singh:** The then Governor clearly alluded three functions to the Medical Board in his conceptualization in 1814: a regulation function—[*Interruption*]

**Sen. Mark:** Forget him; he is a senile “fella”.

**Sen. Dr. N. Singh:**—a disciplinary function and an examination function. Currently, our Medical Board Act only provides two functions: a registration function and a disciplinary function. We have been reliably informed by senior

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counsel that our Medical Board Act does not allow us to conduct an exam to test doctors who qualify in areas we have no knowledge of and to account to their competencies to practise medicine.

In our recommendations to the Minister of Health two years ago, we provided a comprehensive overhaul of the Medical Board Act and we asked that he give it consideration, that in order for us to effect our functions as outlined by the Federation of State Medical Boards in the United States, what should be the role of a medical council. We needed to have a complete overhaul of this Act.

I will give an example to my learned colleagues and hon. Senators. It includes that we must have an examination function written into the law to allow us—the Dental Act has an examination function and as such can set examinations. The point I am trying to make is that it serves us no purpose to put a plaster on an Act that is leaking, in the presence of an ailing health care system. No one can deny that our health care system is ailing, in pain. I have evidence of infant mortality rates; I can show you. I have evidence of key indicators in any health care system, that this country is ailing.

I applaud the Minister. I might add that a couple of the inclusions here were recommendations from the Medical Board, which were included in our comprehensive overall view. In seeing the value of continued medical education, I agree with the Minister that when a doctor qualifies for medicine, what he has learned is outdated and he has to continuously learn.

Currently in this country, as you qualify for medicine and you finish your one-year internship you can put up a shingle and open an office. This is the only country in the Caribbean and, by extension, the world, where a doctor who is as inexperienced as that, can do that. We have asked the Minister of Health to put into the Act certain provisions. We have it in writing from the Dean of the Faculty of Medical Sciences that our doctors who qualify are not fit to conduct independent medical practice.

We told the Minister in very commonsense terms to give those doctors compulsory work in our hospitals for three years, so they can learn their practice. [*Desk thumping*] You will then have their services for three years before they migrate where remunerations and working conditions are far better than what exists here. We have asked the Minister to please give us that permission to have these doctors. Yet those suggestions, as included in our revised Medical Board Act, were not even addressed. I get back to the plaster and gauze that we are now applying to our current deficient Medical Board Act.

After three years you will get a doctor who has gone through—and just to simplify it, medical schools train doctors to work in a hospital. Working in a private care setting, a general practitioner as I have been for the last 17 or 18 years, requires an art and skill you cannot learn in a hospital. Therefore, when these hospital-trained doctors go out into the community, there is a disconnect and they do not and cannot supply the quality of service. We know that and they know that.

You would then go and say that there are sick leave doctors and so on, but if you provide them with the appropriate training and experience as is mandatory in Barbados and Jamaica, you would then be providing a better quality service to the public and our poor citizens out there. This is the essence of a medical council, a medical board, to do this.

Our discipline of doctors is another function, but continued medical education is an integral part. It just does not stem from having a doctor listen to a lecture; he must show competence and if he does not, there must be punitive damages. Our registration fee was just increased; the hon. Minister has agreed to increase it from \$100 to \$300. Our legal colleagues pay \$3,000. Right now if a doctor does not pay his fee, we cannot do him anything. *[Interruption]* It is a sliding scale.

I applaud you for that; it gives your association a lot of finance; we do not have any. Most of our funds go to the legal profession. *[Laughter]* *[Desk thumping]* It was \$1 million last year; because doctors have money so they take us to court. We have 2,500-plus doctors on the register; two-thirds pay their fee. I cannot do the others anything. They can practise medicine continually and I cannot do them anything. An efficient Medical Board Act would address that for us, would allow us to punish doctors who show disrespect to their council. We do not have that. That was introduced in our recommendations to the Minister.

When Governor Woodford gave life to the first ever medical board, that body as well was an examining body. I have alluded to that already. Both the Ministry of Health and our medical council, and the medical profession by extension, readily agreed that there was a need to address the issue of what we both perceive as deterioration in the standards of professionalism in medicine in our country.

We are not denying that we have bad eggs. We are not denying that there are standards which have not been kept or have not been adhered to by our colleagues. The Medical Council should not be used as a tool by the Ministry of Health to discipline its errant doctors. Hear me clearly: if the Regional Health Authorities were conceptualized to introduce management into health care and

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after all these years they cannot get a doctor to work more than three or four hours a day, that is a human resource and management problem. That is not the problem of a regulatory authority.

Therefore, if you cannot discipline the doctors in your employ, you should not attempt to hijack a council and use the law to discipline your doctors. [*Desk thumping*] [*Crosstalk*] I am dealing with the issues of clause 4 and the removal of election by board members to appointment by the Minister and the reasons for that. We have heard no reasons for this Medical Board Act being changed. I want the hon. Members to think.

This esteemed House, like the Medical Council, has a duty to protect the public. You have the presence of many stakeholders who are at liberty to express their views and are not oppressed, feared or cursed or are throwing lines. The Medical Council has the duty of preserving the integrity of our profession and protecting the public. We hear complaints from the public and our colleagues. We get complaints from the Minister of Health himself and we deal with alleged errant doctors; and I have evidence.

Our profession is based on scientific evidence; we are scientists. We do not respond to the innuendoes and outcries of demented individuals. [*Crosstalk*] We do not respond to the outcries of a handful of uninformed intellects. We base our decisions on best practice, international standards and on the collective agreement of our members. In the past, our decision to diagnose and treat was based on best practice. It is based on evidence, clinical guidelines, international standards and benchmarking.

I think Members of this House should really feel insulted. To come to this Senate and produce a document which purports to improve the quality of health care, with no evidence, tells us that we need to look carefully at what we are doing and whether this is evidence-based or whether there is scientific proof that it will result in a better quality of health care for our population. I will propose to show you that this cannot and will not do that; if you will permit me.

You would also agree, to be sure, that as a medical practitioner each one of us has a dual role; we are healers and we are professionals. Those roles are linked by what we call a code of practice, ethics, which the medical fraternity and the medical board have, which we give to each and every practitioner we register. Our code of conduct and our practice of medicine are archaic, old and not in time and it needs to be revised. For us to do any revision of a code of ethics or regulation, we need the Minister's permission.



I have submitted to the Minister and his legal assistant a document which contains over 70 new regulations, as compiled over the last 15 years. We have many ambulance-chasing lawyers now; I am making that very clear. They make a career out of doctors. If a lawyer decides to challenge any one of our regulations, we would lose because our regulations were not ratified by the Minister and not put in the *Gazette*. I am giving you an example of the requirements of a minister to the performance and function of the medical board, a simple requirement that could have disastrous financial effects as well as others to the function of the council.

The Minister did not see it fit to even acknowledge me with a letter approving these regulations. All he has to do is write me one letter approving these regulations and I pay for it to be gazetted and that would be in keeping with the law. [*Crosstalk*] That is something that needs to be addressed in a current Medical Board Act.

For us to deny doctors who do not speak English as a first language—doctors who are trained in a foreign language and do not possess the English language testing certificate, we do not consider them competent to practice medicine here. Therefore, if we introduce that regulation right now and we are contested in court, we would lose, because it has not been ratified by the Minister. I wonder why, because we need the cooperation of the Minister in many things.

If we want to give this Minister permission to appoint whosoever he chooses, obviously he is going to appoint those who will toe the party line, those who would seek his interest and those who would have something to benefit. [*Desk thumping*] That is very clear. The essence of self-regulation is for peers to elect the peers they respect and whom they have confidence in to conduct the role and functions of the profession.

Let me read from the Oxford English Dictionary some elements of the profession:

An occupation whose core element is based on the mastery of a complex body of knowledge and skills. It is a vocation in which knowledge of some department of science or learning or the practice of an art founded on it, is used in the service of others. [*Interruption*]

Mr. Vice-President, I am here on behalf of my colleagues and the statement I am about to read sincerely represents the views of my colleagues and my profession.

**Hon. Rahael:** Twenty of them in the gallery came to support him. [*Crosstalk*]

**Sen. Dr. N. Singh:** Its members profess a commitment to competence, integrity, morality, altruism and the promotion of the public good within their domain. These commitments form the basis of a social contract between a profession and society, which in return grants the profession autonomy in practice and the privilege of self-regulation. Professions and their members are accountable to those served and to society.

If you remove that contract between the profession and society by removing the privilege of self-regulation, what statement are you making to the members of my profession and what are you implying by your actions? My colleagues have written discourses on the consequences of your action. They have expressed concerns, fears and anxieties. They may be here in small numbers, but those are the ones available to be here today and share my concerns.

In order for the medical fraternity in Trinidad and Tobago to continue to exist and for the profession to continue to attract potential practitioners—and this is important, because over-regulation and politicized regulation would detract from your children and grandchildren entering a profession which is dominated by politicians—in much the same way that the legal and accounting professions must, it must be perceived to be a true profession. Indeed, medicine has been and still is regarded as the noblest of professions.

Inextricably bound to the perception of a vocation and a profession, is the reality that persons who comprise such a body must be seen as establishing a relationship of authentic trust between themselves, those whom they serve, the patients, and society at large. A significant part of that trust has to do with the fact that as professional men and women, we must be seen to be responsible enough to be self-regulating.

You take that self-regulating privilege from us, you whip us and tell us that we are no longer professionals, that we do not possess the qualities of that profession. You tell the public that we are not fit to be professionals and, therefore, we need to be whipped. [*Crosstalk*] We think this is the interpretation and the *raison d'être* for this amendment. [*Interruption*]

Should the Minister and Members here in their haste deprive the medical fraternity of the wherewithal of being a self-regulating and self-governing body, then to the same extent you will be stripping it of its status as a profession, to say nothing of its reputation as a noble profession. Whether you would like to believe

it or not, one of the more important reasons persons choose this profession as a career, has to do with the perception of it as the noblest of professions. Like it or not, the truth is that there is prestige in being a doctor.

Any attempt at control of the profession by the Minister, which is clear in clause 4—I have not reached clauses 4 and 7, of which I have other concerns—as is suggested by the amendments proposed here in this Bill, will inevitably result in a devaluation of a career in medicine. [*Desk thumping*] I put it to you that the amendments that you have proposed are clearly intended so that there can be control by the Minister and the Government of the medical profession. Caesar regulating Caesar.

The Minister himself said that he provided two-thirds to three quarters of the health care in this country. How can a minister-appointed board then not be in conflict with itself and fairly discharge the duties, as I described, of a council to regulate itself? Let me bring it down for you to a lower scale. [*Crosstalk*]

**Hon. Senators:** Yes, bring it down!

**Sen. Dr. N. Singh:** We have seen the Minister introduce a parallel board three years ago; not this hon. Minister though. They came to this same House and amended the Act to bring in doctors who were refused registration by the current medical board, based on standards that existed for years. [*Desk thumping*] We see doctors who were taught in Spanish, did not speak English and who did not provide any certification of competence, brought here to provide medical services.

**3.30 p.m.**

Mr. Vice-President, hon. Senators, our profession is based on a scale of communication; it is we who get the complaints, we hear from our colleagues. It is extremely critical that a healthcare professional, regardless of doctor, nurse, pharmacist, trolley attendant, whoever it may be understands the value of good communication skills. The University of the West Indies would have a whole semester taught on communication skills.

How can a doctor who speaks a foreign language, trained in a foreign language be trained to communicate in one month in a hotel room and then be sent out into the public, private, and government hospitals to work? That is inconceivable, but this is what a Minister-appointed parallel board did. Lowering of standards, maintaining of standards, setting standards and disciplining doctors, are key components of a council. If you gave the Minister that opportunity you will then lower standards to satisfy his needs.

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I want to bring in the issue of contract labour and this is a labour issue now, not necessarily a medical one. You can give the Minister the opportunity to hold a heavy hammer over doctors: You do not do what I say you must not do, you must work X, Y and Z for A, B and C, if not I will bring in sub-standard labour to do that. I will bring in Chinese to work in the construction industry. I will bring doctors to work here if you do not do as I say. [*Desk thumping*]

Mr. Vice-President, I want you to hear me because this is important.

**Hon. Rahael:** He listens, he listens.

**Sen. Dr. N. Singh:** I want hon. Senators to understand the power they have in protecting the public and establishing good quality care for our poor citizens, and if you politicize a profession—I have already explained what are some of the consequences—and you have this power in the hands of a politician, I again assure you there will be massive migration of doctors from this country, which continues as we speak.

The Minister spoke of doctors coming back, I will tell you I register doctors but every doctor who leaves asks for a letter of good standing so I know those who are leaving and I will tell you none are staying and, therefore, there must be a reason why they are not staying and we have to understand why. If you want to give the Minister the whip to discipline doctors like grandfathers and grandchildren you will then be contributing to a mass exodus.

You are already discouraging young, potential doctors from entering the field because you have a Minister controlling their career. You will now encourage a mass exodus of colleagues to go elsewhere, and will end up in a situation where there will be Cubans, and anyone, wherever you get a doctor from wherever he qualified.

There are 13 medical schools in the Caribbean—you may not know that—of which two are recognized by this council; the others are offshore medical schools. We had a request from the ministry to give employment to 11 doctors from Dominica who went to offshore medical schools. This Government is getting requests from other governments—and I want you all to listen—to bring in these doctors who have not undergone acceptable training, even by our standards, far less for international standards and who the University of the West Indies (UWI) does not recognize and the Accreditation Council of Medical Education established by the Caricom does not recognize. [*Desk thumping*] You have the Minister of Health asking the medical council to recognize these doctors. [*Interruption*] [*Crosstalk*]

How can that be so? Now you are giving him the power to bring doctors from Spartel in St. Kitts, Guyana, St. Martin. We have almost 13 medical schools in the Caribbean—

**Hon. Rahael:** There are 23, Antigua has three.

**Sen. Dr. N. Singh:** And, therefore, we have to be mindful and I want you to understand I have no objections with setting standards. If you want to practise medicine in Trinidad and Tobago, you must pass the United States Medical Licensure Exam (USMLE), the Caribbean Accreditation Medical Council Examination (CAMC), or the PLABS. If you do that, you show competence, we let you in. [*Desk thumping*] If you want to bring in Cuban doctors to work here, let them write the CAMC examination.

Jamaica has sent numerous citizens to Cuba to learn medicine and when they return they all have to write the CAMC exam. Our Minister is bringing doctors from Cuba and giving them freeway to work; whereas Jamaica has the wisdom when these doctors go to study in Cuba they wait for one year learning Spanish before they start the medical curriculum. Our importees here wait for two weeks in a hotel and are then declared quite competent. I am referring to this because it is one of the many examples of lowering standards and will affect the quality of care if we were to give the Government control of this profession. [*Desk thumping*]

Mr. Vice-President, I am not sure how much time I have left.

**Sen. Dr. Gopeesingh:** You have more than 15 minutes.

**Hon. Rahael:** He has as much time as he wants, you are burying yourself.

**Sen. Dr. N. Singh:** Thank you very much, hon. Minister, but I wish I could bury you with your discourse this evening but it will take me—

Let me deal with a few basic elements of any Medical Board Act and this again is referenced from the Federation of State Medical Board Conference which I attended. It is a governing body that oversees all medical boards in the United States of America and it has the best practice we have seen, and confirms that we look at international best practice.

It is well accepted in most democracies that any medical practice Act should provide for an independent medical board to regulate the practice of medicine including the licensure and disciplining of physicians in the jurisdiction. These provisions of the Act should be consistent with the following:

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Whatever the professional regulatory structure established by the jurisdiction area should bear the primary responsibility for licensing and regulating the medical profession with due safeguards to protect the public and individual physicians from the abuse of that responsibility.

**Hon. Rahael:** Quote your source.

**Sen. Dr. N. Singh:** Federation of State Medical Board. Let me make it clear that we wrote to the Minister of Health three years ago telling him, having gone to Ireland to the International Medical Regulatory Council meeting, and having gone to Boston to the Federation of State Medical Board meeting, I brought back to my colleagues international standards. We have written to the Minister saying we have no objection to the introduction of lay people on the medical board. [*Desk thumping*] As a matter of fact, we welcome it.

**Hon. Rahael:** But not the majority.

**Sen. Dr. N. Singh:** Civic society needs to protect itself and ensure that the medical doctors are doing their duties by protecting the public and we have made a counter proposal. We recommended several elected members, as it had existed for the last 193 years, in addition we want four appointed members of the lay public; seven and 4 that makes 11, and we have no problem with those recommendations. The current medical board allows the medical board members to elect their President, Vice-President, and Secretary. It is not in keeping with good democracy for a ministerial-appointed council to elect who runs the council. [*Desk thumping*] [*Crosstalk*] This hogwash plaster could result in a non-doctor being President of the Medical Council.

**Sen. Seetahal SC:** Can you give way? Sen. Dr. Singh, I am looking at the draft amendment and I see 11 persons, but from what I am reading here there are only two medical practitioners, four by the board, one Chief Medical Officer and one from the IRO, an attorney, an NGO and one from UWI. Can you tell us why you say it is Government controlled? I would like to know why, maybe it is something I am seeing wrong. Explain it.

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

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

*Question put and agreed to.*

**Sen. Dr. N. Singh:** Thank you very much, Mr. Vice-President and hon. Senators. In response to the question, I want to make reference to clause 4 which says:

“4. Section 6 of the Act is amended—

(a) by deleting subsection (1)...”

Which allows for the medical board which represents all doctors on the register to elect a president, vice-president and putting the following:

“(1) There shall be a Council of the Board which shall be appointed by the Minister...”

Whether we elect four members, the Minister may choose not to appoint them, whether the IRO says it wants— *[Interruption]* I want to make it clear there is no reason to amend this section except it is to protect the Minister's personal interest in regulating the doctors and using a heavy hammer which he cannot do with his numerous RHA employees and millions of dollars spent on human resource management. This will not result in any difference in the quality of care being delivered, this will not result in the doctors being better equipped to discipline their colleagues, it will not result in enforcing rules and regulations that have not been approved. What is the reason for the Minister of Health to remove? As far as we in the profession are concerned—

**Sen. Dr. Saith:** Senator, thank you very much for giving way. Like Sen. Seetahal SC, I am trying to follow your argument. Will this new board with seven doctors somehow not be professionals and will suddenly become minions of the Minister? What is the rationale for that argument?

**Sen. Dr. N. Singh:** The rationale for that argument, Mr. Vice-President, I will show you a letter sent to me by an honourable emeritus professor on August 26, 2006 before the conceptualization of this amendment to the medical board referring to me as a temporary board. Having been duly elected by my peers—and I am not going to mince matters here—this is my only opportunity to address this esteemed audience and I am going to get to the brass tacks. I will show you a letter to me dated August 21, 2006 from an emeritus professor calling me a temporary board.

**Hon. Rahael:** What does that have to do with the question?

**Sen. Dr. N. Singh:** It tells me who is piloting the question and as Sen. Dr. Saith says, how can I assume that the seven members nominated by the Minister will—

**Hon. Member:** No, not nominated. [*Interruption*]

**Sen. Dr. Saith:** The Act says that the CMO, whoever it is. It may be Dr. A today, Dr. B tomorrow. He is a doctor. The two medical practitioners who I believe are doctors, the four medical practitioners elected by the board, a medical practitioner nominated by the University of the West Indies, all of them are medical practitioners and I am asking what is in the argument because these medical practitioners come about this way, they will suddenly lose professionalism and become minions of the Minister? Why do you assume your colleagues are somehow not as professional as the rest? That is all I am asking.

**Sen. Dr. N. Singh:** Mr. Vice-President, I will try my best to address that question, but I think the Senator who is most guilty of naivety is me and I am shocked by the questions asked by the two hon. Senators here because I have tried to show what you would accomplish by removing the right of self-regulation of a noble profession in the eyes of the professionals and the public, and I have tried to show this esteemed audience why it is imperative that the perception of self-regulation must be inherent, and why our profession deserves to be like the law association, the pharmacy board, and like all the other professions where they will elect *inter alia* their peers who they think are worthy to represent them on this council.

**Sen. Dr. Gopeesingh:** Their peers.

**Sen. Dr. N. Singh:** Their peers, intellectuals whom they will choose; they have freedom of right to choose. [*Crosstalk*] They will have a right as a profession which is held in high esteem all over the world, and who have committed to an oath for the practice of medicine. I think it is insulting to tell these and my colleagues that we are not worthy of self-regulation. [*Desk thumping*] I hope I have answered the Minister's question.

Mr. Vice-President, allow me in my limited time—and if you so desire me to return I will be happy to do so—to conclude.

**Hon. Rahael:** You cannot return.

**Sen. Mark:** They are on their way out, that is why they are behaving so.

**Sen. Dr. N. Singh:** Mr. Vice-President, I would like to address some critical deficiencies. What are the qualifications of a public member? We have questions about this adhocism plaster that is presented here.

We believe that a public member with whom we agree and will recommend for the medical board—because it is overworked, and needs more members. I



have been inundated with work. We need more members and we need to expand our council.

We want the expertise of a lawyer, we want the IRO, we want the law association, we want to include public members who must reside in this country and be persons of integrity and good reputation who have lived in this country for at least five years immediately preceding the appointment, have never been authorized to practise the art of healing, and do not have a substantial personal business; professional or pecuniary connection with the healing art or with the medical education health care facility, except as patients or potential patients. This is the definition we would like to see introduced in this amendment for a public member, not just a public member.

What you are creating—I am the most naïve person here, this is my first day and you all understand that you can bring public members at the Minister’s will. And who do you think he will bring?

**Hon. Rahael:** [*Inaudible*]

**Sen. Mark:** “He friend, boy.”

**Mr. Vice-President:** Sen. Mark, do not refer to any Member here as a boy. Will you withdraw that?

**Sen. Mark:** I withdraw. “You know I doh mean that.”

**Hon. Rahael:** Why do you say things you do not mean?

**Sen. Dr. N. Singh:** Mr. Vice-President, physician members of this council must reside in this country and be persons of recognized professional ability, integrity and good reputation who have lived and actively practised medicine in this country with a full and unrestricted medical licence granted by this country for at least five years immediately preceding the appointment.

Members of this council must be citizens of the Republic of Trinidad and Tobago and I am not seeing any of these things being addressed and this is why when I speak of a holistic approach, a complete revamping of the Medical Board Act is what we require.

Members must be nominated without regard to sex, race, national or ethnic origin, creed, religion, partisan political affiliation or age. I think this is fair and I would like this to be the philosophy of what the expansion of our council would be. I have seen no thought put into this. No member of the council shall have offered himself or herself on any party political platform for election or be a sitting Member of Parliament.

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I am giving you the directives of my brethren. I have brought it before this esteemed House for you to understand that you are deliberating on a piece of law that affects our lives, our children's lives, and our patients' lives. I want you to understand the significance of what you are dealing with and we must not be sidestepped by VSEP, human resource and nursing council. This is an issue of doctors being regulated by politicians.

**Hon. Rahael:** Thank you very much, Senator, for giving way. I just want to make it abundantly clear and I have just consulted with the Attorney General. Clause 4 states:

- “(1) There shall be a Council of the Board which shall be appointed by the Minister and shall consist of—
- (a) the Chief Medical Officer;
  - (b) two medical practitioners;
  - (c) four medical practitioners elected by the Board;
  - (d) one person nominated by the Inter-Religious Organization;”

That means the person who the IRO nominates is going to be the person on the board, it is not that the Minister is going to determine who that person is and the same thing with the NGO and the medical practitioner from the University of the West Indies. I want to make that clear because I do not think you understand that.

Whoever the CMO is, the Minister of Health does not have to appoint him. The two medical practitioners in this whole scheme of things are who the Minister will nominate and they shall be members of the council. That should be clarified because I also wanted clarification on that. I do not want anything like that, I just want a board with representatives of laypersons who will be nominated and shall be appointed by the Minister.

**Sen. Mark:** John, you will get your time to talk, boy. Sorry, Mr. Vice-President.

**Hon. Rahael:** I was just trying to correct him.

**Sen. Dr. N. Singh:** Mr. Vice-President, I thank the hon. Minister for his learned advice and I beg to differ with him. I want him to offer me the opportunity to rebut what he has just said, but I want to ask the question to hon. Senators: Why change the current medical board's composition?

**Hon. Rahael:** Because it never worked.

**Sen. Dr. N. Singh:** Why refuse the noble profession, my esteemed colleagues' proposal to have our current seven members and add four appointed lay members? What are the reasons being purported by the hon. Minister for producing this scenario as opposed to what the profession was, or has agreed to? In our representation we would have achieved an expansion of the council, the inclusion of the civic society but obviously we would not have puppets. We would have had 12 elected by their peers who, for their high esteem being held and for their professional integrity, would discharge their duties nobly.

If the Minister can tell me why he has refused the recommendations of a group of professionals who spent almost one-third of their lives developing a career in medicine, why he has refused their opinion, and why is his superior whether his learning might be greater, I do not know, but why is his opinion superior to my colleagues and the medical doctors of this country? [*Desk thumping*]

**Hon. Rahael:** I will tell you.

**Sen. Dr. N. Singh:** In concluding, just a few of the essentials of any amended Medical Board Act that the council envisages that would suitably serve as an impartial instrument through which the profession of medicine can be justly and independently governed in this country.

The ill-advised transfer of control of the medical profession into the hands of a lay partisan politician to whom would fall the responsibility of adjudicating on his own performance defies any notion of transparency and accountability to the people whom such a person serves.

Such a move also offends against basic common sense. The Council of the Medical Board of Trinidad and Tobago and by extension the doctors of this country can only besiege you, hon. Senators, to reconsider the path you wish to carve out for not only the doctors in this country, but for the people and patients of this country.

Thank you very much for your indulgence.

**Mr. Vice-President:** Hon. Senators, permit me to congratulate temporary Sen. Dr. Singh for his very good contribution. Permit me also to go back a bit: When I proposed the question for debate, I do believe I said an Act to amend the Medical Board Act, Chap. 20:50. It is Chap. 29:50, so please have that corrected.

**Sen. Prof. Ramesh Deosaran:** Mr. Vice-President, distinguished colleagues of this upper Chamber, I think the most unfortunate aspect of the discussion and the public comment on the Bill, is the obvious part that a very noble profession, the medical profession, and a properly elected government in a democratic society could be at such loggerheads in a matter that is so crucial to the national community. That to me is the most unfortunate aspect of the matter we are deliberating upon.

**4.00 p.m.**

From what I have heard so far, there is some cleaning up for the Minister, the Ministry and the Government to undertake. I will comment on the medical profession and the Bill in the instant case as I proceed. I believe that it is quite possible that some of the claims to nobility might have been exaggerated.

Not only as a matter of duty, but also because I was so impressed, I congratulate Dr. Neil Singh on his passionate contribution on behalf of his colleagues. I do not think that anyone else could have done better with the fervour and commitment in which he has presented his profession. I was wondering whether he was turning into a mortician when he talked about burying the Minister.

Mr. Vice-President, if you will permit me, another important matter took place just before we debated the Bill. I congratulate Sen. the hon. Christine Kangaloo for having those laws so readily available to the public. In those laws you will find the medical board legislation and quite possibly, the amendments, so that the public can have ready and rightful access to the laws that govern them. I congratulate the Minister and the Government for undertaking this exercise.

I have some questions to ask just as the last Senator raised some questions. I will refer to some public commentary in the newspapers of the recent days and today, then, I will deal with some of the provisions in the Bill. I refer to the statement which was an advertisement in all the newspapers; a very prominent graphic advertisement taken out by the Council of the Medical Board of Trinidad and Tobago and signed coincidentally, by Dr. Neil Adrian Singh. I think it is the same gentleman. Mr. Vice-President, permit me to refer briefly to two sections:

This planned amendment to the Act would transfer control of the medical profession into the hands of the politicians. Such a change is viewed as undemocratic since it would remove any semblance of independence from the body politic of the medical profession. This type of action may well be extended to other professional bodies.

It is important for the public interest that a reasonable balance exist in the membership of the council in order to ensure the legitimacy and credibility of the people who are elected.

The word “elected” is another operative word which I will treat with in a short while.

In this democratic era it is crucial to ensure that Government does not exercise a major influence on the modus operandi of statutory councils, so as to ensure that decisions are made without undue influence and the Council of the Medical Board views this unprecedented backward step as a potential threat.

Another medical practitioner, Dr. David Bratt in the *Trinidad Guardian* dated Tuesday, July 17, 2007, described the provisions of this particular amendment. He said:

“The amendment would effectively transfer control over the medical profession to the political directorate and open up the possibility for a medical doctor to be disciplined, in the practice of his profession, by a politician.”

I will read another part.

“If this amendment is passed, in theory it gives the Minister of Health control of the Medical Council and therefore of the Medical Board because he controls the appointment of at least six members of the council:”

Permit me to refer to another letter in today's newspaper and extremely relevant, powerfully so, to the matter under discussion. This is by Prof. Courtenay Bartholomew. He refers to the advertisement put out by Dr. Singh on behalf of the medical board.

“Is Dr. Singh really referring to the present Council whose President... (is Dr. Victor Wheeler)? They have...done nothing about those doctors who issued false sick leave certificates to their colleagues several months ago.

Moreover, there are two members of the Council who I am told will soon be receiving lawsuits with respect to unethical utterances in the press. Are they to be re-elected?”

He went on in his peculiar way, rightly or wrongly, I am not saying that what he said is accurate. I am mentioning what is in the public domain and what people are reading. I am anxiously waiting to see what the Senate will do. He cited examples in Jamaica, Barbados and the United Kingdom to suggest that the precedents have been well set with respect to having laypersons, if not in the

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majority, but quite prominently, in these respective medical boards. To quote my distinguished colleague on the Bench in front of me, Sen. Dr. Gopeesingh, “nothing is wrong with that”.

Before I pose my few questions so as to guide my conscience and eventual vote, Minister Rahael made a series of important pronouncements with respect to public policy. I will mention just a few because I will like to treat with respect more of those by Dr. Singh. Minister Rahael opened by citing numerous complaints from the public such as bad diagnoses and people dying in the hospitals due to neglect. To me, that is the heart of the problem that faces us today, notwithstanding the dilemma which the amendment poses in terms of seeking a balance. The Minister said that he is providing a legal framework for looking after the public interest and more precisely, for having members of the medical profession practise properly within their expertise. If members of the medical profession of whatever expertise or experience had been taking their Hippocratic oath faithfully, diligently and consistently, the Minister might not have had occasion to make such remarks. Even if he did make the remarks, they would have been of a lesser amount than what the public knows. Dr. Singh is correct. Quite honestly, there are bad eggs in the profession. What have you been doing visibly and conclusively with those bad eggs over the years, not only those who fall within your election period? It is a critical question. We have to see whether the reviewed composition of this board would bring repair to that very serious and continuing flaw in the medical system of this country.

He mentioned the example of the increase in the proportions of laypersons on the board in the United Kingdom, New Zealand, South Africa and many other countries across the world. When Dr. Singh mentioned in the advertisement the phrase, “in this democratic era”, I thought that the composition of the board in those instances was a democratic exercise in this democratic era. If anybody has to challenge the extension of the board it has to be very persuasive by evidence. That is something which I found lacking, regretfully, on both sides.

The public will be very enamoured because when doctors grow old they would also need medical care. They will not always have the health and strength to practise medicine. Their families will need proper medical care. This is a national problem we are dealing with and not a problem confined to one particular interest group. This is a Bill about the medical profession, but it is for the general public, the issue to which I refer, and for which the public would be very grateful and even many doctors.

I can tell you many stories of the very good doctors that I know. I met one on Saturday in San Fernando. He heads a clinic and extended it. We were discussing the Bill and in his clinic there are some of the finest professionals you can find. You do not hear or see them in the newspapers and in the public, but they have taken their oath seriously and are servants in delivering health care. We know of such doctors but at the same time we cannot ignore the litany of complaints. I do not think that we can stand still in the face of such adversities in the system.

The issue to which I refer is having doctors full time in the public hospitals with improved salaries and working conditions. If you can reach that point in this country as I believe Jamaica has and many other civilized countries in the world, I think you would have achieved a significant improvement, in a long-term way for the citizens of this country. If you want to put that in your Vision 2020 pipe and smoke it, you should impress your Cabinet to set a time-line to reach that, either through attrition or negotiation with the respective medical associations. That has to be. We cannot continue in this way. Even though there is a lack of official empirical data on both sides, we have been patients at one time or another. That data would inform us to some extent as to what we think about the nobility of the medical profession or whether or not the Government is “overextending” its reach in political terms.

Last week I went to Ward 3 in Mount Hope at the medical complex. A patient who was sick with her heart gave me a story about what amounts to duplicity with the doctor who was treating her. He could not see her there but he could see her somewhere else. These things do not go down well in the medical profession. If you want to bring good reputation to a noble profession, these are some issues that you should convince the public that you have the integrity and commitment to deal with, otherwise the public would have a different view as they now have. I have asked the Government to heal the breaches and be more courteous. The Government should respond to the secretary of the board in proper and due time and that courtesy should not be ignored. The medical profession should also do some visible damage control.

Dr. Singh is quite eloquent and passionate and I can understand why. Doctors feel that they are now under siege and perhaps, it is happening with a rapidity that in their view is not fully justified. Every opinion poll of the national community that is taken in this country, whatever the sampling method, people always complain about the gross deficiencies in medical care. The deficiencies are not confined to the availability of hardware whether X-ray machines or medicine. Many of the complaints have to do with how the doctors treat the people. I know

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of cases and I do not want to upset members of the medical profession. I am making a plea because this work in the Senate is very stressful. If I end up in San Fernando General Hospital—if they do not hear it here and they congratulate themselves they would lose sight of some of the public concerns.

I am like the devil's advocate if you do not mind, but I am trying to be gentle as I could without obscuring the facts. Dr. Singh knows this and doctors know that. I do not want to call the name of the senior doctor to whom I spoke because he is a quiet gentleman. I do not think that he will want the unnecessary publicity. He mentioned the fact that the young doctors coming now lack the mentorship, dedication, attitude and ethos of the senior doctors. [*Interruption*] That is their feeling. On the other hand, we know that because of the rapid development in technology, research and knowledge the young doctors are bright and intellectually advanced in their fields, but it seems that what needs to be dealt with is what Dr. Singh mentioned. It is the question of ethics, communication and the role of continuing education.

What struck me as well with his contribution is the data that he cited in the number of doctors under investigation for different reasons which led me and should convince Parliament, the Government and the medical profession that we need an annual report from the council or some document where your concerns are documented incrementally for the benefit of the public and which should be forwarded to the Minister, just as the superintendent in the case of the private hospitals. In the private hospitals after they inspect the institution, they report to you regularly. [*Interruption*] You amend the law. You change the law. If you want accountability on both sides and you want to give the gentlemen and ladies of the medical profession a chance to address the Parliament regularly on issues that concern them—and in addition to their coming here as special guests of the Opposition Bench—by producing a report to the Minister which should be laid in Parliament, the machinery can be set up to invite them to discuss their problems and inform legislators on a continuous basis, so that proper legislation would be made and enacted. The very unfortunate confrontation between a noble profession and the service they have to give—to put it in a nutshell, life and death. There is no other profession that deals with such a serious matter as the medical profession.

When he spoke about the increase in the migration of doctors—if you are having a migration of doctors now with the board as it is, which is what the medical profession wants, if you change the board I do not see how that would be the cause of migration. You have it already. I think that a better way to look at it is to let the board, perhaps, in its reviewed configuration deal with the issue in a



broader way. Enact the laws to give the profession and the board more powers as the Senator was asking for, to deal with such matters of contract and period of stay to serve the country. When these doctors leave—and they do leave and do not come back—part of the reason is that the conditions at the hospitals are not of the very best. That is a fact and that is why with respect, I ask the Government to move quickly and heal those breaches. Give the doctors less reasons to complain.

On the question of victimization, we have to wonder as legislators and professionals in our private capacity and more so, Cabinet, has to examine this issue. Many people and professionals fear victimization. It is not a new story; it started a long time ago. The public always has this fear of politicians and political intervention whereas it should be the opposite. You elect people and they take an oath of office. Every elected Member of Parliament, especially ministers, take an oath of office to serve fairly, faithfully and without discrimination. Why is the fear of victimization so widespread in this country? It was raised by the hon. Senator. I would like the Minister to give the assurance in his inimitable style, that there would be no victimization, if only for reaffirmation of what exists. It will be a good principle because to accompany that affirmation, I suggest for your consideration that you meet with the medical profession and work out a protocol in terms of managing this revised board if it happens to pass the Legislature. You will have your board but a protocol which would not be in statue but based on an understanding, so that whether or not this Government or the medical board changes this protocol will be a guiding light that would fill the spaces where there are doubts, skepticism and fears of one kind or another. Have an annual report emerging by having some changes in the regulations to have them before Parliament. It is something that could bring benefit to both sides.

Dr. Singh spoke critically of the Bill but he was helpful in bringing some recommendations. The other one he put forward which I think should gain the attention of the Government is to have the new doctors undergo three years compulsory service in the hospital. [*Desk thumping*] That suggestion is worthy of consideration. It is not a nice event to have doctors trained at public expense and then take off on the next jet to London, the United States or other parts of the world. People have a right and freedom of movement. But when you are educated at taxpayers' expense it creates a civic obligation to some extent.

**Hon. Rahael:** Thank you for giving way. My understanding is that if you are educated by means of a scholarship and the Government pays for it, you have to serve three years in the public service. Sen. Dr. Gopeesingh may have a better understanding of it.

**Sen. Dr. Gopeesingh:** The Government gives a certain allocation to the university for a certain number of places, but they are not scholarships. Scholarship winners are supposed to serve the country for a period of time. You know that many of them get leave of absence. There are doctors who were trained without scholarships but the government pays a certain amount to the university

**Hon. Rahael:** Doctors we do not pay for are entitled to do what they want.

**Sen. Dr. Singh:** Mr. Vice-President, I was referring to the privilege of private practice. We do not think that doctors who are qualified from our university are competent enough to open office right after they get their degrees. You are unsafe out there. They must undergo three years of training either through a formal programme or post grad training before they can conduct independent medical or private practice. Working at a hospital is fine and they would learn. There are many colleagues who are a little unsafe and uncomfortable with doctors working privately.

**Sen. Prof. R. Deosaran:** Thank you. I am grateful for all those explanations. They have come from all sides. I hope that the same consensus proceeds in having this Bill in the best possible way it could be.

Dr. Singh raised another issue. A senior doctor was recently suspended and the Public Service Commission took such a step. I think that he is right. Many institutions and the State have lost many cases by not following due process. In this case, Dr. Furlonge should have been given the opportunity to respond to the allegations. I cannot see how in this day and age a public service commission could suspend a senior medical doctor who was also senior in San Fernando Hospital and now in Port of Spain without having the opportunity to be heard. That is standard natural justice. The board might have a role to play in this. I do not know if the legislation will ensure that these things are not repeated. Our concern as a Parliament should be that when these acts of omission happen by such service commissions as they have happened, it is the taxpayers' money that is used to pay damages and legal costs one way or the other. That is the responsibility we have to undertake and consider in such matters without belabouring the point.

Dr. Singh was quite relevant to the debate. I found him quite informative and interesting. As you did not agree with Minister Rahael, I would not agree with everything you said. I welcome you and admire your passion to come out here. This is not a place that you could escape unscathed. You get a little feedback here, now and again. When you tell us that the Government must not use the law to discipline doctors—

**Mr. Vice-President:** Sen. Prof. Deosaran, I have to ask you to continue after the tea break. We will give you time to continue your valuable contribution. We will suspend and return at 5.00 p.m.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

**Sen. Prof. R. Deosaran:** Thank you, Mr. Vice-President. In reference to what Sen. Dr. Singh said with respect to the limits of the council's powers, I refer you and the honourable Senate to several relevant sections in the Medical Board Act, Chap. 29:50. If you look at sections 20, 24, 27 and 31, I think these are rather extensive powers given to the council in its present jurisdiction and composition. The question we have to ask, as I have asked earlier, is how well have these powers been exercised? And since I have a great respect for Dr. Singh's presence here, I might, with your permission, repeat the point I was making.

It is quite enlightening to have him here to hear, from the horse's mouth, their concerns and the extent to which we can reach out to assist, not only the medical profession, but a country in need of better health services. We all understand the dilemma facing doctors. A doctor cannot really practise properly if he or she does not have the relevant machinery. I wish to emphasize that—if that is the only point that hon. Senators remember—Senators should remember that you cannot solve the health problems of the country if the medical profession and the Government are at loggerheads. That is like a one-legged race where all the others have two feet. You cannot compete with the demands. I ask the Minister to reach out in some way and form a bridge. The suggestion that came to my mind is a sort of working protocol where the grey areas can be tidied up, the skepticism removed and a mutual understanding be reached so as to implement the Bill, assuming it is passed.

As I was saying, if you look at sections 24, 27 and 31, there are several provisions that empower the council to exercise firm jurisdiction over its members. We are asking how well these powers have been implemented in terms of discipline. For example, section 24 in the original Act—to suspend, to censure, reprimand, erase from the register. How many times have complaints been received? This is not only how many times have you acted upon the complaints but, like what we have from the Police Service Commission and the Teaching Service Commission, a configuration of how many complaints received and the action taken in each respect, so people will know that the council and the board are acting quite responsibly, diligently and in the public interest, rather than, seemingly so, in the interest only of the medical profession.

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Then there is a provision in section 31, which says that:

“No conviction shall take place in respect of any prosecution for any offence against this Act unless that prosecution has been authorized in writing by the Council...”

You cannot really take a doctor to court unless the council apparently authorizes it, or the Director of Public Prosecutions, or any other authority purporting to be signed by the Secretary/Treasurer. So, there are limits to which you could take a medical practitioner to court according to this particular provision.

If you look at section 24 of the original Act, the board and the council have enough powers. They are quite circumscribed, that is they reside largely between the council’s jurisdiction, but we have to hear something more about how the operations take place. More than that, I think that this so far—and having heard from Sen. Dr. Singh—has been quite an informative discourse and perhaps the doctors, the board and the council could inform the public how to make a legitimate complaint against a medical practitioner, so that there would be not much recourse to having lawyers enter the fray if these complaints can be handled quite diligently and responsibly to have a proactive intervention by both the medical association and the complainant.

We allow complaints to reach the sharpened edge—the newspapers, responses and press releases—where everything ends up in the court and the beneficiary is, as you rightly said, the legal profession. Here again, as I have suggested between the Government and the profession, if bridges can be created, reestablished or reaffirmed if they already exist, so that people with complaints—and there are many citizens with complaints; I made one; a brother-in-law of mine died in peculiar circumstances; there was apparently no doctor at the Mount Hope emergency section and he was left there overnight and the next morning he died, having taken him there at 4 o’clock.

I dashed off a letter to the Minister of the previous government, Dr. Rafeeq, and I had an interview with the human resource this and counsellor of that. I knew where it was going to take me because Caesar was really answering for Caesar. So we know what the situation is. It is not to cast all the blame on the medical profession. There are gaps and there are breaches and unless the Government and the medical profession join hands with a genuine zeal to serve the public interest, there will always be little wars with nobody winning. People would leave the profession; the public would complain and the Government would always blame the doctors and vice versa.

Last week, we had to take a vote here which was agonizing, just as this is a very agonizing responsibility. We were asked to extend the life of the regional corporations in terms of the election and it was a very uneasy matter for us to decide. There were several issues that we had to clarify. Sen. Dr. E. Mc Kenzie made the point that we on the Independent Bench were put in an awkward position, but we had to come up with something. It was not easy. Similarly, this amendment is not an easy task that we face but, in the end, we will have to execute our responsibility in the most reasoned way and this is what I am trying to do. My complaint about the lack of evidence from that side and this side does not help us. What would have helped is evidence of clear political interference.

I alluded to one committed by the Public Service Commission. In my view, the Public Service Commission should have allowed Dr. Furlonge to respond properly, make a proper adjudication and then pass whatever conclusion they wanted to pass.

Before I refer to the Bill itself, in my last few minutes, let me say that the fear of the Minister could be a bit overextended because under the Medical Board Act and the Private Hospitals Act, he already has a lot of powers through the appointment of a superintendent to act and through the appointment of an inspector in terms of public hospitals where the medical board has some responsibility. The Minister still has some jurisdiction. Section 20(2) says:

“No rule or regulations shall come into force or have effect until it has been approved by the Minister.”

So the Minister already has substantial powers. The question is whether giving him this reach with the composition of the board is overdone. That is the subject matter today and is the key issue with which we are struggling today.

We come to the key provision in the Bill itself which disturbs the medical profession, and listening to Sen. Dr. Singh I think he is extremely disturbed by the way it has been extended. There are 11 persons now on this board. There have been seven. It shall be appointed by the Minister. Now on my first reading—and I am not that bad in Mathematics—I hear Government members and some other people talking about seven persons from the medical profession. My count is eight. There are eight persons from the medical profession on a board of 11 members. That is my first step in looking at the reasonableness of the extension.

The question arises: Where should the allegiance in the deliberations before the council lie; with the Executive, the political directorate, or with the medical profession? If I am an engineer and on a council looking after the welfare of

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engineers and of the public, my first duty should be, according to my Hippocratic oath, to my medical profession and the public welfare. The two are inextricably linked. The medical profession is nobly and inextricably linked to the welfare of the public. I would be disappointed if any medical practitioner on this board follows the whim and fancies of the political directorate way and above that of what is required by the medical profession and the public interest.

If such practice is committed, it should be documented and reported in what I will ask for, an annual report by the Medical Council. If that happens, it should be known, so we will have evidence upon which to make our decisions. So, I see eight medical practitioners and, with due respect to my distinguished Independent colleague, Sen. Bro. Noble Khan, why is the Inter-Religious Organization here? Is it to pray for those who might die? Is it to pray that this works? I am just asking; I am just as naive as Sen. Dr. Singh in this particular regard. Why not the labour union which is a public interest organization, or the Chamber of Commerce for several reasons—insurance, the funding of private hospitals and they have some say in a number of things that concern the medical profession.

I am not saying to remove the IRO; I am just asking why not another organization, given the case at hand. If you say an attorney-at-law with at least five years experience, at least five years experience in what? Traffic cases? Civil law? Malpractice? Criminal law? What kind of experience? This should be further defined; otherwise you are leaving a big area for someone not appropriate to the task at hand.

Clause 4(a)(f):

“One person nominated by a non-governmental organization;”

That is too broad. You want someone from the agricultural society? Do you want someone from Jabloteh Football Club? What do you want? I think you want somebody involved in disease prevention or medical education. There is the Trinidad and Tobago Diabetes Association and the Chest and Heart Foundation. This, too, should be more specific so that the people with passion and dedication at that voluntary level of public service should be properly brought in, rather than having it loosely as a non-governmental organization.

I thought that Sen. Dr. Singh would have persuaded us why eight medical practitioners could not do the job they are required to do in this extended council and why fears have so far been generated. Is the fear that the Minister will appoint two medical practitioners? That is the only direct appointment in terms of these medical practitioners. The Chief Medical Officer is already a public servant. Four

medical practitioners will be elected and, in my reading, the Minister will appoint them automatically unless I am wrong. I would ask him, but he is not here, or I would ask someone who could answer. The other one is nominated by the University of the West Indies. I am trying to ease the fears, if they could be eased at all, with my reference to this particular provision, which is so far quite disturbing.

Mr. Vice-President, thanks for the opportunity. I hope that I have brought more light than heat into this matter of grave public concern. I think the fears expressed by the medical practitioners, both in the private domain through letters to the editor and by Sen. Dr. Singh's comments, should be seriously considered and we have an amicable settlement. These comments, underlined by the public expectation that the Government and the medical fraternity, the Medical Practitioners of Trinidad and Tobago more precisely, endorse the fact that they should call a ceasefire, hold hands and work towards a resolution in the public interest

Thank you very much.

**MUNICIPAL CORPORATIONS AND SERVICE COMMISSIONS**  
**Joint Select Committee Report**  
**(Adoption)**

**Sen. Prof. Ramesh Deosaran:** Mr. Vice-President, I have great pleasure in moving the Motion that stands in my name, that the Senate adopt the Third Report of the Joint Select Committee of Parliament appointed to enquire into and report to Parliament on municipal corporations and service commissions with the exception of the Judicial and Legal Service Commission and the Police Service Commission.

I think that the report is self-explanatory. It has been circulated to all Members of Parliament, members of the service commissions and the police service and it has been discussed in the public domain to some extent. I wish no debate myself on the Motion, but I would be happy if the Parliament adopts the Motion and leave it for the Government to consider and act upon.

I extend my gratitude to all parliamentary staff, Mr. Neil Jaggassar, the Research Assistant and the members of the committee who have all shared the responsibility with me: the Vice-Chairman, Mr. Hedwige Bereaux, Mr. Anthony Roberts, Mr. Franklyn Khan, Mrs. Eudine Job-Davis, Mr. Mustapha Abdul-Hamid, Ms. Christine Kangaloo, Mr. Chandresh Sharma, Mr. Nizam Baksh, Dr. Tim Gopeesingh, Mr. Rawle Titus and Mr. Wade Mark. They have all been quite attentive and helpful as far as possible in producing this report. We have spent over two years in compiling the data.

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I beg to move.

*Seconded by Sen. Mary King.*

*Report adopted.*

**PUBLIC ACCOUNTS COMMITTEE REPORT  
(Adoption)**

**Sen. Basharat Ali:** Mr. Vice-President, I beg to move that the Senate adopt the Third Report of the Public Accounts Committee for the Third Session (2004—2005) of the Eighth Parliament.

Our report is very slim, unlike many of the other Public Accounts Committees reports which were voluminous. Our committee held 10 meetings during the period and eight scheduled meetings were not held, either being pre-empted by the Lower House or by the inability to raise a quorum. That remains a serious problem with us and I hope we will find a way of just barely making a quorum at any time.

The 10 meetings were quite significant, but I would like to highlight one which is a historic meeting, in that it was the first public meeting held, to which 27 entities were invited because, according to a report of the Auditor General, these entities were deficient in meeting their responsibilities with respect to the Exchequer and Audit Act.

The objective of the meeting was so that they could explain to the Public Accounts Committee and to the public why they had been in default. The meeting had one positive effect in that many of the entities sped up their submissions so that they could say that they had met the requirements. Those who had not, promised faithfully to address their deficiencies.

Other than that, the committee did have some general recommendations, the main one being that the committee should be empowered to report directly to the Director of Public Prosecutions on matters which, having regard to the Auditor General's or other reports, appear to be criminal in nature. Reference to that recommendation is that, in the interim, matters could be referred by Parliament to the attention of the DPP. The other recommendation was that the Auditor General should be mandated to report to Parliament annually on bodies that fail to submit their accounts within the requisite time frame.

Those were the principal meetings and the more salient recommendations of the Public Accounts Committee in this Third Report.

I beg to move.

*Question proposed.*



**Sen. Wade Mark:** Mr. Vice-President, I second the report.

I seek some clarification from the hon. Attorney General on the third report. These reports are being tabled in the Parliament and members of these committees work very hard as you know. You were a member of several of these committees. When they submit their reports and they are adopted by the Parliament, whither those reports?

The Government has a duty, through the Attorney General or the Minister of Finance, to report to this Parliament within 60 days. However, we find that, even though reports have been adopted, the Government has been slow in responding to and effecting several of these recommendations, at times making the work of the committees almost—people feel cheated.

I ask the Attorney General, particularly in the case of the Public Accounts Committee report, where they are making strong recommendations to go directly to the DPP, to tell this Parliament what mechanisms are in place to ensure that the recommendations which have been duly accepted are given effect. If one of the recommendations of the Public Accounts Committee is that when they are examining the accounts of state agencies, government departments and ministries and they discover financial irregularities, lack of transparency and accountability and corruption, they go directly to the DPP and we have accepted that as a Parliament, how do we effect this recommendation? How do we get the Public Accounts Committee to have this power if we agree, which we are doing, so that the next time they are examining the accounts of ministries and they unearth irregularities, they can send their reports directly to the DPP?

Will the hon. Attorney General tell this Senate what mechanisms are being put in place to ensure that these recommendations never become a wasted exercise? This is my brief intervention. Will the hon. Attorney General tell us what systems are being put in place when the reports are accepted by the Parliament for the Government to take action through the Minister of Finance and other Ministers to effect those recommendations and to come back with some account so that we could, from here on in, appreciate that the work of the committees are well accepted and that the committee is being armed and equipped with more powers to do the public work.

I agree with Sen. Prof. Deosaran, as it relates to the joint select committee, that they have a 60-day period, but in the case of the Public Accounts Committee and the Public Account (Enterprises) Committee, we make recommendations and we do not hear from the Government in terms of effecting those changes.

I thank you very much.

**The Attorney General (Sen. The Hon. John Jeremie SC):** Mr. Vice-President, I have not heard in the past of any recommendations going from the Public Accounts (Enterprises) Committee directly to the Director of Public Prosecutions. This is the first time, to my knowledge, that something of this nature would take place. I do not know exactly what is going to the Director of Public Prosecutions. Sen. Mark speaks of evidence of wrongdoing. What is that? I mean no disrespect to the committee because I know it would have discharged its mandate, but to bring a criminal case certain things are requisite.

**5.30 p.m.**

It might be that further police investigations are required. The Director of Public Prosecutions is not an investigative agency. He has no investigative powers. His only power under the Constitution is to decide whether or not, on the evidence that is before him, there is sufficient material to prefer a criminal charge. That is his power. He has no power to investigate criminal matters. If a report goes to him that reveals criminal wrongdoing what he has to do is to send it to the police and the police in turn will have to make investigations. That is on the assumption that the report is not one that could be acted on right away.

If it could be acted on right away, and it discloses, without sufficient evidence that a criminal wrong has been committed, then he can take action, but that is rarely the case. That happens, maybe in 1 per cent of the matters which go to him from a body as thorough as the Integrity Commission. Work goes to him and it has to go back out to the police. The point that I am making is that the Director of Public Prosecutions has no investigative power, but I will follow up with him and the police to ensure that the valuable work of the committee is not in fact lost to this Parliament.

**Sen. Prof. Deosaran:** Just two minutes, please because we might not be meeting for some time. I think what Sen. Mark is after is much more than the specific case for evidence-gathering. I think Sen. Mark's point was one of principle. Since you have these joint select committees, including the ones to which you refer, they are constitutionally empowered; they are in the Standing Orders and any government, whether it is this Government or any other government, I believe, should show some regard to the fact that their Members are also on these committees. They do turn out to meetings and spend a lot of time deliberating.

Sen. Christine Kangaloo did a tremendous submission on our last Police Service Commission Report; extensive debate. Members spend a lot of time, so it is very hurtful, to use a word, as parliamentarians giving of this time, energy,

expertise and competence and then having the report just being laid there with all the pomp and without any follow-up substance. I would expect the Government to perhaps set up a special machinery to look at all these reports and extract from them, what is useful for public policy and let the public know.

In a week's time I am meeting with the Teaching Service Commission and I want them to have some regard for the fact that this is a Parliament meeting a commission. They find out that we are merely putting the report there; it defeats and subverts the very important principle of transparency and accountability. I expect the Government's response to be a little more substantive, especially in terms of setting up a machinery to deal with all these reports and give the public its due. [*Interruption*] No, we are debating the report.

**Sen. Mark:** I see Montano doing that. It is a report that we are debating. He knows that.

**Mr. Vice-President:** Are you prepared to make a contribution to that now?

**Sen. Basharat Ali:** Thank you, Mr. Vice-President. I thank Sen. Mark for the comment on that particular recommendation. I note what the hon. Attorney General has said. I believe that the subsequent Public Accounts Committee had referred this matter for a ruling from the Solicitor General as to where the committee stood with respect to this matter. I do not think that we ever got a response from the Solicitor General's office up to very recently. It may be that the matter has lapsed within the committee as a result.

Mr. Vice-President, I beg to move.

*Question put and agreed to.*

*Report adopted.*

#### ADJOURNMENT

**The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith):** Mr. Vice-President, I beg to move that the Senate do now adjourn to a date to be fixed. We would go on our well earned rest for some time.

#### **Justices of the Peace (Terms and Conditions of Employment)**

**Sen. Wade Mark:** Mr. Vice-President, I raise the issue of the plight of the Justices of the Peace in our Republic. As you are aware, the JPs, as they are called, perform very important functions in the criminal justice system in Trinidad and Tobago.

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The JPs are very critical to the upholding of the criminal justice system in our country as well. I know that they have made several attempts to hold meetings with the Attorney General and the Minister of National Security. I know that in the case of the Attorney General—whether he ducked and ran, I am not too sure—based on information reaching me, that the Attorney General was never able to meet with the Justices of the Peace. Instead, I understand he delegated responsibility to his Permanent Secretary and Nafeesa Mohammed.

Obviously, disappointed, these JPs have now sought a meeting with our hapless Minister of National Security. We do not know if it would be better than the previous engagement.

**Sen. Joseph:** If I am hapless I do not—[*Interruption*]

**Sen. W. Mark:** He is meeting with them tomorrow, but we hope that he too does not duck and run and put the junior Minister of National Security to meet with them. They want to meet with the Minister of National Security, as they wanted to meet with the Attorney General of the country. But, again, disrespect never ends with the PNM.

These JPs, as they are called, are making certain requests of this Government. For instance, they are requesting a proper stipend. In a period where crime is extremely high in our country despite all the political gimmickry and public relations campaign, we see the Minister of National Security on our television screens and hear him on radio stations with taxpayers' money being spent. They are trying to fool the people. We know that is just tomfoolery, but I am not worried at all. I know it is a matter of time before you all are kicked out. Anyway, let me address you and deal with my matter. They are seeking a proper stipend. They are seeking an increase. Would you believe that in this day and age, a JP receives \$10 a day, \$300 per month? What is our Attorney General doing about this? I know he paid Cassel so much money that he has bought a big house, a bungalow, in Tobago worth millions of dollars.

**Mr. Vice-President:** Is that a JP?

**Sen. W. Mark:** I think he wants to be one. If the JPs, are demanding an increase, I think it is obligatory on the part of the Attorney General, to take measures to address this matter.

The JPs are in constant contact with their communities. You and I know that a JP plays a very important role in a community. If you want to eject a tenant you go to a JP; the poor people. If you go to the Attorney General who is a lawyer, or

his colleagues, it costs \$250 or \$500 just to see a lawyer. They go to the JPs if they have to go to court. If they lose their passport or driver's licence, or they want counselling they go to the JPs. They do not charge you, I know of this. They authenticate and sign statements and give evidence in the courts of our country. They are almost state witnesses for the prosecution and they also represent the accused, at the level of the police stations. Yet, these individuals are not provided with the facilities that we believe they deserve.

For instance, police security for the JPs and their families at their homes is an area that they want the Minister of National Security and the Attorney General to address. You would know Canon Knolly Clarke lost his brother recently. Asquith was gunned down near the police station sometime ago. He was a Justice of the Peace. They are calling for proper accommodation for themselves when they go to police stations and the Magistrates' Courts. They need protection, given what is taking place today in the country.

I am told when these JPs have to go to the High Court, the Magistrates' Courts or the police stations and they have to park their vehicles, they are towed away by the police. They are asking for parking stickers to put on their vehicles. They want to be treated with respect and dignity at police stations.

They have argued that they would prefer a private room when they are dealing with matters at the police stations; when they are interviewing accused persons, particularly in criminal matters. They do not have any privacy when they are at police stations. They are calling on the Attorney General and the Minister of National Security to come to their rescue.

At the level of the prisons, they do not have proper accommodation for these JPs, who attend to official business both at the Port of Spain prison and the Arouca prison. These very important individuals in our society, who perform yeoman service for this nation, are asking for basic amenities and facilities. When they go to the prisons they do not have proper accommodation. In order to deal with matters, they sit on a piece of concrete under a hot shed. I am calling on the Minister of National Security and the Attorney General to deal with some of these issues that confront the JPs of our country.

The bailing room is often crowded and stuffy with little or no seating accommodation for these JPs. There is need for urgent improvement regarding these rooms. I would like the hon. Attorney General to take these matters very seriously, both at the level of the prison service and the police service, in terms of police stations where they have to conduct interviews and deal with criminal

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matters. They need proper accommodation at the prisons and also when they go to the Magistrates' Courts to deal with matters.

They are witnesses in many state matters and, therefore, they are appealing to the Attorney General and the Minister of National Security who would meet with them face-to-face tomorrow. I hope the Minister does meet with them tomorrow, on a one-on-one basis and hear their cries and their voices.

In the case of the Attorney General, the question is proper remuneration for these JPs. It is within his remit and his purview to take measures to address this question. The former Attorney General did that, I understand. [*Interruption*] I think he said something funny. Did I hear him? I thought I heard something else. I would not repeat it. I think it is unparliamentary, Sir.

I call on the Attorney General, who is on his way out—that is why he is so relaxed these days—he is going back to the Faculty of Law as a senior professor. I know he is relaxed these days—before he is kicked out formally and removed from office, I would like him to do his final act, because on his epitaph there would be written something which I would not talk about now. I would like him, in his final days as Attorney General, to at least intervene and bring some justice and respect to the Justices of the Peace of our nation.

I call on the Attorney General of our country to take measures to improve the stipend from \$10 per day and \$300 a month. I believe the Attorney General and the Government of this country can do better. I call on the hon. Attorney General to make a commitment here today and for him to tell the country what steps and measures he intends to take in order to improve the lot of our Justices of the Peace in Trinidad and Tobago.

I have outlined the areas that they are concerned about. In my closing remarks, Sir, I want to reiterate that it is the terms and conditions, particularly as they relate to their stipend. It is the question of poor accommodation and of security. They need protection, because they are being gunned down in the land. The Minister of National Security has a duty to provide some security for these persons who operate in the criminal justice system.

I bring these matters to the attention of the hon. Attorney General, so that he can take some action in order to bring some relief to the Justices of the Peace and the Justices of the Peace Association.

I thank you very much, Mr. Vice-President.

**The Attorney General (Sen. The Hon. John Jeremie SC):** Mr. Vice-President, the issues involving the Justices of the Peace are issues that have plagued successive governments for decades and they ought not to be politicized this afternoon by the king of politics—[*Interruption*]

**Sen. Dr. Saith:** Who is on his way out.

**Sen. The Hon. J. Jeremie SC:**—who is on his way out, for the sake of scoring cheap political points. They require the collective goodwill of a number of stakeholders, some of whom he has identified, coming together to resolve some of the longstanding problems.

There is no doubt in my mind that Justices of the Peace perform a pivotal role in the criminal justice system. However, the historical background and evolution of the office of Justices of the Peace in Trinidad and Tobago has resulted in anomalies within the system that need to be remedied in a holistic and comprehensive manner.

First of all, there is no single piece of legislation. He was at his wit's end as to whom to address his Motion; whether it should be addressed to me or whether it should be addressed in part to the Minister of National Security. I thought he was going to, at one point in time, the Minister of Labour and another point in time to the Minister of Finance. In any event, I am happy to take the mantle. There is no single piece of legislation that sets out the role, function, jurisdiction and powers of Justices of the Peace.

Historically, Justices of the Peace originated in England as early as 1360, when the King appointed persons of good repute to be keepers of the peace. Being a former British Colony, Justices of the Peace were introduced into Trinidad and Tobago in 1847, when we did our Supreme Court of Judicature Act—it was grandfathered into our law in 1847—to function as in England, as lay magistrates with powers to hear and determine complaints of petty offences.

The Summary Courts Act, Chap. 4:20 of *The Laws of Trinidad and Tobago* dates back to 1918 and that is perhaps the most significant piece of legislation that deals with Justices of the Peace. Section 4 of this Act provides that:

- “(1) The President may, by warrant under his hand, appoint any person named in such warrant to be a Justice of the Peace for the whole of Trinidad and Tobago or for such district or portion thereof as shall be expedient.

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- (2) Any person so appointed may be removed from the office by a like warrant.”

Justices of the Peace have similar functions to their contemporaries at common law and there is where some of the difficulties lie. They have, and they are deemed to exercise, concurrent jurisdiction with the magistrates to issue summonses, warrants, and other processes of the court, to grant bail fixing the amount thereof, to take recognizance, to bind over parties and witnesses, and to administer oaths.

The effect of that provision and some of the common law provisions is to confer unto Justices of the Peace concurrent jurisdiction with Magistrates, in the performance of certain functions, some of which are judicial.

This, therefore creates some confusion in the system because to be a magistrate in Trinidad and Tobago, one must be an attorney at law, with at least seven years experience as a practising lawyer. The situation is quite different in England though, as they have a system of lay magistrates who are not required to be attorneys-at-law.

Over the years, several other functions and duties came to be performed by Justices of the Peace. They perform auxiliary functions under the Judges Rules. These are important functions and they also perform administrative directions issued under the power of the Commissioner of Police, which empowered them to authenticate the voluntariness of statements given by arrested persons to the police. These are their main functions today. They are also called upon to witness identification parades at police stations to ensure their propriety; to make sure that the police are not putting four persons of one description and one person fitting the description of the crime in the parade. They make sure that the playing field is level.

By Legal Notice 1504, published in the *Trinidad and Tobago Gazette* dated November 07, 1963, the then Cabinet gave the general authority to the Attorney General to appoint and remove Justices of the Peace. The appointment process has been scrutinized over the years by various committees and from the records available to me, it is clear that the system has to be streamlined and rationalized.

Whilst the majority of Justices of the Peace perform their functions over and above what is required of them, it is no secret that for the past several decades, this office has been tarnished by allegations of improper and corrupt practices.

In the 1980s, extracts of a report of the Commission of Enquiry into the Machinery and Administration of Justice in each Magisterial District of Trinidad and Tobago, highlighted the granting of bail as an area most prone to corrupt activity.



The report of the Commission of Enquiry into Allegations of Corruption against Justices of the Peace, dated May, 1997—this was one done under the tenure of the previous administration and it is not true, by the way, to say that anything was done to improve the lot of Justices of the Peace at that time. As a matter of fact, what one saw was a concerted attack against the entire body of Justices of the Peace. There was a commission of enquiry and a number of them were struck off the rolls as Justices of the Peace. They have since come back on, because the allegations of corruption against them were simply not proved.

That commission “confirmed” that there was corruption and collusion in the granting of bail and sureties, charging bail fees, colluding with the police and professional bailors and other such acts. The report pointed to various deficiencies in the system and made certain recommendations.

Since assuming the position of Attorney General, I have received a number of pieces of correspondence from various individuals involved as Justices of the Peace. I am also aware of the several letters and meetings held with officers in the Ministry of the Attorney General. Those officers were meeting with the Justices of the Peace under my direction and at my command. It might not have been a meeting with me, but it was certainly a meeting which showed that I was listening and that I wanted to hear what they had to say. All of the concerns which you have raised with me, I have scheduled those matters to be raised in concert with the Minister of National Security, after they have met with him.

The Justices of the Peace have been clamouring for certain amenities and, perhaps, the most pressing of all has been their request for an increase in their stipend and certain improvements as they relate to personal security. The latter is not within my remit, but as I have said before I am willing to meet with my colleague and see what if anything—because there are a number of them in Trinidad and Tobago—can be worked out.

In order to alleviate their plight, it is necessary to arrive at consensus with key stakeholders on the reform of the office of Justice of the Peace. Even the Association itself, the Justice of the Peace Association of Trinidad and Tobago (JOPATT), is subject to vitriol by other members of the profession. There is a great deal of—I do not want to say infighting but there is a question of how many Justices of the Peace are represented by the association.

A tremendous amount of work has already been done on developing a policy framework that would inform the legislative and administrative reforms which are required, but the consultation process is continuing.

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The Law Reform Commission has been reviewing the bail system in Trinidad and Tobago and even now, I can say that this review will have a direct impact on the offices of Justices of the Peace.

It should be mentioned also that in 2002, the honourable Chief Justice established a committee, under the chairmanship of Mr. Justice Mark Mohammed, to consider measures to improve certain aspects of the criminal justice system. The report of that committee recommended the reform of the bail system and the Judicial Education Institute had actually initiated discussions on the possibility of introducing licensed bailors and bail bond houses. These matters are also currently under active consideration.

It is therefore untrue, as is his wont, for Sen. Mark to say that the Government has done nothing and that the Attorney General has done nothing to take measures to alleviate the plight of Justices of the Peace. We are working assiduously on this task.

As this Government continues to effect the necessary reforms to make Trinidad and Tobago a developed nation, we remain committed to improving the administration of justice as I am required to do by the oath which I have taken.

My office has had a productive meeting with JOPATT and certain other persons who are not members of JOPATT and we promised to hold a joint consultation with other key stakeholders, so that we could bring all the issues to the fore. That would be the issues relating to prisons, police protection, accommodation and stipend.

**Sen. Mark:** When?

**Sen. The Hon. J. Jeremie SC:** Within a short period of time. As I understand it, in the first week in August we should hold a consultation with them.

I recognize the valuable role that Justices of the Peace play in the system and while I remain focused on effecting the necessary reforms, I expect the Justices of the Peace to rise to the challenge and to conduct themselves with the highest standards of dignity and integrity that are expected of them and which they have consistently performed up to this point in time.

Thank you, Mr. Vice-President.

**Administration of Justice  
(Role of the Attorney General)**

**Sen. Dr. Tim Gopeesingh:** Thank you, Mr. Vice-President. For the benefit of the Senate, my Motion on the Adjournment is the Attorney General's role in the

administration of justice in Trinidad and Tobago and the consequential impact, as it relates to alleged violation of the separation of powers and the constitutionally enshrined democratic system.

All through Trinidad and Tobago, the wider Caribbean and internationally, many people seem to be confused by the separate roles of the Attorney General and the Director of Public Prosecutions. There seems to be a blurring of roles, although it is well enshrined in the Constitution, as separate roles for each one. We know that the DPP is in charge of criminal proceedings and there are particular roles for the Attorney General. In my reading and research the role of the Attorney General basically is a two-fold role, as a Member of Government with two separate constitutional roles; a Government role and a role as a guardian of public interest.

In his governmental role, he acts as a Member of Government in the performance of his duties and in his role as the guardian of the public interest, he acts independently in a quasi judicial capacity representing the community at large. But we seem to find—understandably the Attorney General is responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State must be taken by you in the case of civil proceedings in the name of the Attorney General and in the case of criminal proceedings, in the name of the State.

The Attorney General has other roles as well: responsibilities for different departments of civil law, legislative drafting, et cetera. He arranges for legal officers or lawyers to prosecute in criminal matters on behalf of the State. That area seems to lend a lot of confusion in Trinidad, because the selection of the attorneys leaves a lot to be desired. I do not want to impugn anything whatsoever but we have Members of the Senate, whose direct families are sometimes asked to hold brief for the State and it does not go down very well in the eyes of the public. We want to ask the Attorney General to be very careful in his appointment of state lawyers in all these matters.

In addition to that, we find that the same names keep coming up all the time and we do not know on what basis the fees are paid, how do people requisite fees and whether there is any degree of nepotism and cronyism in the selection of attorneys representing the State. We see the same attorneys.

My colleague just mentioned that we see one particular attorney coming in almost every brief in Trinidad and Tobago now that he has been able to build a house in Tobago worth millions of dollars. He appears in civil matters for and on behalf of the State. He prepares legislation for Parliament, in accordance with the

directives of the Cabinet and prepares subsidiary legislation for Government Ministries and other bodies. The hon. Attorney General has a significant role to play in the administration of justice.

When we know all of these things and we see what is happening—when there are meetings with the Chief Magistrate and the Chief Justice, Mr. Sharma, leading to the ruling of the appearance of bias in a court judgment, and the Attorney General involved—[*Interruption*]

**Mr. Vice-President:** Sen. Dr. Gopeesingh, you know, as well as everyone else in this honourable Senate, that there are continuing legal matters in the court and otherwise relating to the Chief Justice and Chief Magistrate. As such, I am advising you not to go with those two individuals at all.

**Sen. Mark:** A tribunal was not appointed as yet.

**Sen. Dr. T. Gopeesingh:** Mr. Vice-President, am I not permitted to quote from articles in the newspapers, which have been made public?

**Mr. Vice-President:** As long as they have to deal with the Chief Justice and the Chief Magistrate—those issues, I think we should know better and we should not do it.

**Sen. Dr. T. Gopeesingh:** I take guidance from you, Mr. Vice-President. There are other confusing issues. When we see that the Director of Public Prosecutions, having to warn Senators—I want to make sure that I quote it properly—having a distinct honour of the Law Association, moving a Motion on the impropriety of the conduct of the Attorney General and he had been facing ceaseless calls to resign, was there any area jeopardizing a criminal matter which was supposed to be heard in the court recently, when he gave an interview to the *Miami Herald*? We know that the Attorney General, above all other Members of the Executive, is sworn to uphold the Constitution and we must certainly be convinced that the tenets of the Constitution are not undermined by the Attorney General.

The population wants to be convinced. That is why many times people have been asking for the resignation of the Attorney General. The Attorney General has to answer to this country of his role in a number of fiascos. He has to come clean with the public and admit to his real role in a number of matters. He must tell the country the truth in a number of these matters, if democracy is to be preserved. Otherwise, it is up to the Opposition and the public to fight for our democracy. It is now time to return to first principles, to remind citizens why the framers of our Constitution created an independent Judiciary to check the power of the Executive and Parliament.

In a newspaper article on January 10, 2007, from the *Miami Herald*, in its coverage they quoted:

“*Newsday* concentrates on the acting Chief Justice's complaints of the state of the Judiciary including 26 unfulfilled jobs at the Department of Public Prosecutions and overcrowding at the Hall of Justice and Magistracy.”

We know that there is a relationship between the Attorney General and the administrative capabilities of the Judiciary. That includes the Magistracy and jobs at the office of the Director of Public Prosecutions. The hon. Attorney General has to indicate to us what he has been doing to improve the administration of justice, when the acting Chief Justice speaks about the problem. The Acting Chief Justice says:

“The legal judicial system is in jeopardy, so devil take the hindmost.”

By his own admission, the legal judicial system has fallen down in Trinidad and Tobago. This is what the *Miami Herald* is quoting the Acting Chief Justice as saying. It goes on to say:

“Ordinary citizens dependent on the court system to function efficiently. The time has come for the Judiciary and the public to press their Executive...”

That is the Government and basically the Attorney General.

“to fast-track the upgrading of the courts, otherwise dog eat we supper.”

That is the article from the *Miami Herald*. Then it goes on to state:

“Yesterday Attorney General, John Jeremie announced that the Chief Justice owes \$1.5 million for the cost of bringing lawyers to prosecute the case through an appeal to the Privy Council in the United Kingdom.”

What we find surprising is that the Attorney General is not saying how much the Prime Minister still owes the country, by virtue of the claim of what he was supposed to pay the State. On the one hand, the Attorney General speaks about the Chief Justice owing the country and on the other hand he knows full well that the Prime Minister owes the country as well and still refuses to say that. This is what prompts us to ask the question: What is his role in the administration of justice? He must appear to be unbiased and he must appear to be doing that with all things, equally.

**Sen. Mark:** A political “hatchet man”.

**Sen. Dr. T. Gopeesingh:** There have been a number of showdowns between the Executive and judicial arms of the State. We know that statements have been made by other people and people have been forced to make statements and indicate that they have been forced by the Attorney General to resign, et cetera.

Imagine you have a Chief Justice of Trinidad and Tobago indicating that he was firm and resolute in the defence of the independence of the Judiciary and will continue to do so. Was there an element of pressure on the part of the Attorney General to deal with matters related to the Chief Justice? That is another question.

We have broadside attacks by the Chief Magistrate, the Prime Minister, the Attorney General and the Director of Public Prosecutions; all flying against each other on many occasions. The country is confused as to what is really happening. We seem to be blurred in our whole respect for the administration of justice and the separation of powers. This is something I believe that needs to be cleared up as quickly as possible. On the one hand there are many cases in which the hon. Attorney General has been involved to some extent and people are asking questions.

People are asking questions of the meeting of the Attorney General at the home of the Chief Justice, Mr. Sharma. Why was he in the presence of the DPP? That is a court matter now.

**Mr. Vice-President:** Sen. Dr. Gopeesingh, I listened to you skilfully work your way back there. I would like you to desist from that, please because you are talking about the direct contents of matters that are before the legal arm of the State. You have two minutes.

**Sen. Dr. T. Gopeesingh:** As a result of all this involvement of the Attorney General, letters are flowing between the Law Association about the conduct of the Attorney General, letters are flowing and warnings from the DPP asking why the Attorney General has decided not to go on with particular cases. The country is frightened about what is happening with the two areas which are supposed to protect the integrity of the Constitution and citizens' lives, in terms of judicial process.

When they see that there is this fight and interference on a daily basis, it does not augur well. The hon. Attorney General has established a tremendous disrespect from the population, in terms of his interference in a number of matters and a number of court matters falling through. It is important that he clears the air in so many of these matters so that the citizens of Trinidad and Tobago will feel confident that democracy will continue.

Thank you very much, Mr. Vice-President.

**The Attorney General (Sen. The Hon. John Jeremie SC):** Mr. Vice-President, I want to take this opportunity to clear up a number of snide issues which were raised sometimes in passing, sometimes frontally and then left alone. I would deal with them as I see fit.

I have never been to the home of Satnarine Sharma, as was alleged by Sen. Dr. Gopeesingh. I do not know if he is sitting too close to Sen. Mark. I would try not to get upset this afternoon. I have never been to the home of Satnarine Sharma. I do not know where he lives and I do not know what he was talking about.

I have never been the subject of any petition by the Law Association, which, if truth be told, has not done itself proud in this country in the recent past. But, to date—I am not saying that tomorrow it would not come—I have not been the subject of a petition from the Law Association to resign; unlike some of my esteemed colleagues, some of those persons whom I hold in great respect. Mr. Martineau was the subject of a resignation petition carried by over 300 members of the Law Association. I do not think it was right then. I have examined the facts. Certainly, in my case, up to now, I have managed to evade the wrath of those persons who pass themselves off as being in charge of our beloved Law Association.

In relation to the Chief Justice owing the country, I find it difficult to stomach that Sen. Dr. Gopeesingh would sit next to Sen. Mark, whose question I was answering when I told the country what the Chief Justice was owing the country, in terms of legal fees. I was answering a parliamentary question brought here by Sen. Mark and his colleague to his left is castigating me for answering his question. The point about it is that the Chief Justice elected to bring litigation against the State. This is not litigation that was compelled against him. He was not compelled to answer a case before a tribunal before next week, but for the last year and one-half, he has been running away from an accusation brought by the Director of Public Prosecutions. That has cost money for the State to defend and the State has won each and every single application. *[Interruption]* There is no—he has nothing to bring on the Motion for the Adjournment.

**Sen. Dr. Gopeesingh:** Mr. Vice-President—*[Interruption]*

**Sen. Joseph:** Understand the procedure.

**Mr. Vice-President:** If you go back, Sen. Dr. Gopeesingh, when you referred to the moneys owed, I did not stop you at all. You spoke about the moneys owed by the Chief Justice and the Prime Minister. I did not stop you at all.

**Sen. The Hon. J. Jeremie SC:** Thank you, Mr. Vice-President. I was answering the question posed by his colleague who is smiling there because he is a mischievous man, sometimes. He asked—*[Interruption]*

**Sen. Mark:** I take strong objection and I ask him to withdraw that matter.

**Mr. Vice-President:** And I support Sen. Mark. Please do not call him mischievous.

**Sen. The Hon. J. Jeremie SC:** The sum of \$1.5 million is what the State has put to defend itself against an action brought by the Chief Justice, who was terrified of facing the Director of Public Prosecutions' allegation against him. It was \$1.5 million. He asked the question and he got the answer.

In terms of the Prime Minister's debt, he asked that question a few years ago and the answer was given at the relevant time. I am on a Motion which has absolutely nothing to do with that.

**Sen. Mark:** Smart boy. You are staying away from that, but it is \$2 million.

**Sen. The Hon. J. Jeremie SC:** Mr. Vice-President, on the question of families, Trinidad and Tobago is a very small place. There are approximately 2,000 lawyers in Trinidad and Tobago, few of whom I have the confidence in to do civil matters. One of those persons happens to be married to a Government Minister and I am not apologetic in any way, shape or form for briefing that individual because that individual gives me quality work at quality prices.

Mr. Vice-President, it would be remiss of me if I were to fail to say that when I came into Government, I was briefed by the State on at least four matters. On the day that I was actually sworn in as Attorney General, I had to give up work in excess of \$1 million. That was lost to me forever. I make no complaints about that. We on this side are not about selfish gains. We are about serving the nation.

The only thing that Sen. Dr. Gopeesingh raised, which was of relevance dealt with the relationship between, on the one hand, the Attorney General and the Director of Public Prosecutions and the relationship between the Attorney General and the Judiciary. As far as the first is concerned, the relationship between the Attorney General and the Director of Public Prosecutions, that is governed by sections 76 and 90 of the Constitution. Suffice it to say that whatever letters they might think that they have in their possession, and however difficult the times might have been between the Director of Public Prosecutions and myself, we have not descended to the level of litigation, which their Attorney General descended



to, with respect to now Mr. Justice Mark Mohammed. I enjoy a healthy working relationship with the Director of Public Prosecutions. I respect him. He respects me and my office and we work very well together.

In terms of the Judiciary, one of the things which I, on taking office, was determined not to do was to buy a fight with the Judiciary. One of my first calls in an official capacity was to the Chief Justice and I conveyed precisely that sentiment to him.

As things worked out, I sat in my office, I did not go anywhere, and received a complaint from the Director of Public Prosecutions. On the one hand, I dealt with it in accordance with the Constitution. On the other hand, I received a complaint from the Chief Magistrate; I dealt with it in accordance with the Constitution. I can say this afternoon, for the first time, that I have received other complaints against the Chief Justice. I have investigated those and I have taken no action with respect to those. It is not a question of an Executive which was trigger-happy and trigger-hungry to shoot at a Chief Justice. We took the steps which we are required to take under the law and we took the steps in deliberate fashion.

It is now history that Trinidad and Tobago will seek a tribunal to enquire into matters involving the Chief Justice, involving eminent members. [*Continuous crosstalk and interruption*]

**Mr. Vice-President:** Please!

**Sen. Kangaloo:** You raised the Motion!

**Mr. Vice-President:** Please, the Attorney General is saying exactly where what is, I take it. You have just one minute.

**Sen. The Hon. J. Jeremie SC:** It is now history that a tribunal of eminent jurists would be seated. No one is saying that the Chief Justice is guilty of anything, but he has, like any other citizen of Trinidad and Tobago, to answer charges which are made against him. He will answer the charges before the tribunal. He would be found guilty or innocent. It is of no concern of the Executive what happens. Our job is to ensure that there is justice for all: big or small, rich or poor in this country.

Thank you, Mr. Vice-President.

**Mr. Vice-President:** Hon. Senators, before I put the question on the adjournment, I would like to again compliment Sen. Dr. Neil Singh for his contribution and hope that you all enjoy the rest that the next few weeks will bring.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.23 p.m.*