

*Leave of Absence**Tuesday, August 21, 2007***SENATE***Tuesday, August 21, 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 wish to inform you that the President of the Senate, Sen. The Hon. Dr. Linda Savitri Baboolal, is out of the country. During the absence of the President, the Vice-President of the Senate will preside over the sitting and Mr. Overand Padmore will act temporarily.

Hon. Senators, I have granted leave of absence to Senators Wade Mark, Parvatee Anmolsingh-Mahabir and Basharat Ali, all of whom are out of the country.

**SENATORS' APPOINTMENT**

**Mr. Vice-President:** Hon. Senators, I have received the following correspondence from His Excellency the President, Professor George Maxwell Richards, T.C., C.M.T., Ph.D.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: MR. OVERAND PADMORE

WHEREAS Senator Dr. Linda Savitri Baboolal is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, OVERAND PADMORE, to be temporarily a member of the Senate, with immediate effect

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

*Tuesday, August 21, 2007*

and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Linda Baboolal.

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 15th day of August, 2007."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: DR. STEVE SMITH

WHEREAS Senator Wade Mark is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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, STEVE SMITH, to be temporarily a member of the Senate, with effect from 21st August, 2007 and continuing during the absence from Trinidad and Tobago of the said Senator Wade Mark.

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 20th day of August, 2007."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

*Senators' Appointment*

*Tuesday, August 21, 2007*

TO: MS. ALTHEA ROCKE

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, GEORGE MAXWELL RICHARDS, 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, ALTHEA ROCKE, 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 20th day of August, 2007."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency, Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards  
President.

TO: DR. ROLPH BALGOBIN

WHEREAS Senator Basharat Ali is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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, ROLPH BALGOBIN, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Basharat Ali.

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 14th day of August, 2007."

*Oath of Allegiance*

*Tuesday, August 21, 2007*

**OATH OF ALLEGIANCE**

*The following Senators took and subscribed the Oath of Allegiance as required by law:*

Overand Padmore, Dr. Steve Smith, Althea Rocke and Dr. Rolph Balgobin.

**FINANCE (AMDT.) BILL**

Bill to amend the Finance Act, 2007, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

*Motion made*, That the next stage be taken at a sitting of the Senate to be held on Thursday, August 23, 2007. [*Hon. C. Enill*]

*Question put and agreed to.*

**INSURANCE (AMDT.) BILL**

Bill to amend the Insurance Act, Chap. 84:01, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

*Motion made*, That the next stage be taken at a sitting of the Senate to be held on Thursday, August 23, 2007. [*Hon. C. Enill*]

*Question put and agreed to.*

**NATIONAL CARNIVAL BANDS ASSOCIATION OF  
TRINIDAD AND TOBAGO (INC'N) BILL**

Bill to incorporate the National Carnival Bands Association of Trinidad and Tobago and for matters incidental thereto, brought from the House of Representatives [*The Minister of Community Development, Culture and Gender Affairs*]; read the first time.

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Blind Welfare Association for the year ended December 31, 1988. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Blind Welfare Association for the year ended December 31, 1989. [*Sen. The Hon. C. Enill* ]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Institute of Higher Education

- (Research, Science and Technology) for the year ended December 31, 2003. [*Sen. The Hon. C. Enill*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Environmental Trust Fund for the year September 30, 2006. [*Sen. The Hon. C. Enill*]
  5. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 2006. [*Sen. The Hon. C. Enill*]
  6. Report of the Statutory Authorities Service Commission for the period October 01, 2005 to September 30, 2006. [*The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith)*]
  7. The Policy Paper on the Health Services Accreditation dated April, 2007. [*Sen. The Hon. Dr. L. Saith*]
  8. Annual administrative report of the Diego Martin Regional Corporation for the period October 01, 2005 to September 30, 2006. [*Sen. The Hon. Dr. L. Saith*]

#### ORAL ANSWERS TO QUESTIONS

##### Customs House (Details of)

**76. Sen. Dr. Tim Gopeesingh** on behalf of 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 will be ready in two weeks' time and, therefore, at this time, I am unable to answer that question.

*Question, by leave, deferred.*

**T&TEC Light Poles  
(Details of)**

**77. Sen. Dr. Tim Gopeesingh** on behalf of Sen. Wade Mark asked the hon. Minister of Public Utilities and the Environment:

With respect to the new galvanize type of light poles being used by the Trinidad and Tobago Electricity Commission (T&TEC), could the Minister inform the Senate:

- (i) whether these poles are being imported and if so by whom;
- (ii) whether the contract to purchase these poles was subject to:
  - (a) public competitive tendering or
  - (b) sole selective tendering;
- (iii) if the answer to (ii) is (a), could the Minister provide the relevant information outlining in detail the procedure involved in the public tendering process; 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, the Minister of Public Utilities and the Environment is not here. There are four questions to the hon. Minister, and I have the answer for one which is question No. 78, and I would ask that the other three questions be deferred for one week. If the representative of Sen. Mark requires, I would answer question No. 78.

*Question, by leave, deferred.*

*The following questions stood on the Order Paper:*

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

**79.** With respect to the new street lights/lamps being installed by the Trinidad and Tobago Electricity Commission (T&TEC), could the hon. Minister of Public Utilities and the Environment 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 subject 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? [*Sen. W. Mark*]

**Water and Sewerage Authority (WASA)**  
**(Details of)**

- 81.** With respect to the operations of the Water and Sewerage Authority (WASA), could the hon. Minister of Public Utilities and the Environment advise the Senate:
- (i) What percentage of the population receive water in their homes on a twenty-four hour basis?
  - (ii) What new water production or water distribution programme has WASA undertaken during the period 2002 to 2006?
  - (iii) The number of new employees hired by WASA during the period 2002 to 2006?
  - (v) The total cost to WASA for these new employees? [*Sen. Dr. T. Gopeesingh*]

*Questions, by leave, deferred.*

**Street Lights**  
**(Details of)**

**78. Sen. Dr. Tim Gopeesingh** on behalf of Sen. Wade Mark asked the hon. Minister of Public Utilities and the Environment:

- A. Could the Minister provide the Senate with a detailed breakdown of the total cost of supplying street lights to the citizens of the country over the past five years?
- B. Could the Minister further state what is the total number of street lights installed and precisely where they have been located during the same period?

**The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith):** Mr. Vice-President, the Trinidad and Tobago Electricity Commission (T&TEC) supplied street lights to the citizens of the country under two programmes; the National Social Development Programme between 2002 and 2004, and the two-year National Street Lighting Programme which commenced in 2005.

Under the National Social Development Programme, T&TEC spent \$20,263,054 to supply street lights to the citizens of the country, and under the National Street Lighting Programme, the company spent \$472,189,155 to supply street lights to the citizens of the country. Therefore, for the five-year period 2002 to May 2007, T&TEC spent a total of \$492,452,209 to supply street lights to the citizens of the country.

The breakdown of this cost is as follows—this is under the National Social Development Programme: installation of lights, \$14,033,473; administration, \$4,387,485; and contingency and management, \$1,842,095; giving a total of \$20,263,054.

Under the National Street Lighting Programme: installation of lights, \$416,489,897; administration, \$5,834,257; vehicles and equipment, \$6,938,712; and contingency and management, \$42,926,287; giving a total of \$472,189,155.

For the five-year period 2002 to 2007, T&TEC installed a total of 112,365 street lights, of which 5,547 were installed under the National Social Development Programme during the period 2002 to 2004, and 106,818 were installed under the National Street Lighting Programme during the period 2005 to 2007. The locations of those lights are indicated as follows:

Areas	No. of street lights installed for 2002—2004
Arima	38
Arouca North	58
Arouca South	246
Barataria/San Juan	48
Caroni Central	606
Caroni East	242



<b>Areas (cont'd)</b>	<b>No. of street lights installed for 2002—2004</b>
Chaguanas	143
Couva North	121
Couva South	82
Diego Martin Central	113
Diego Martin East	36
Diego Martin West	112
Fyzabad	89
La Brea	64
Laventille East/Morvant	32
Laventille West	252
Naparima	4
Nariva	170
Oropouche	42
Ortoire/Mayaro	309
Point Fortin	19
Pointe-a-Pierre	16
Port of Spain North/St Ann's West	215
Port of Spain South	0
Princes Town	122
San Fernando East	152
San Fernando West	228
Siparia	693
St. Ann's East	65
St. Augustine	94

<b>Areas (cont'd)</b>	<b>No. of street lights installed for 2002—2004</b>
St. Joseph	109
Tabaquite	28
Tobago East	127
Tobago West	334
Toco/Manzanilla	534
Tunapuna	20
<b>Total</b>	<b>5,547</b>

Mr. Vice-President, the number of street lights installed under the National Street Lighting Programme for the 2005 to 2007 programme is as follows:

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>
<b>Central Area</b>	California	814
	Carlsen Field	440
	Chaguanas	2,412
	Charlieville	607
	Couva/Tortuga	2,516
	Cunupia	3,632
	Enterprise	560
	Felicity	505
	Freeport	3,472
	Longdenville/Caparo	1,544
	Rivulet Road	37
	Caroni	745

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>
	Solomon Hochoy Highway	583
	St. Mary's/Waterloo	464
	Claxton Bay	1,249
	St. Margaret's	63
	<b>Sub-total</b>	<b>19,643</b>
<b>Eastern Area</b>	Arima/La Horquetta/Guanapo/ Malabar	4,548
	Brazil/San Raphael	212
	Champs Fleurs/Bamboo/Mount Hope/Mount Lambert/Petit Bourg	1,359
	El Carmen/Kelly Village	436
	Cumuto	860
	Cunupia	894
	D'Abadie	331
	El Socorro/Aranguez	385
	Las Lomas	568
	Lopinot	130
	Sangre Grande	2,381
	St. Augustine/Curepe/ St. Joseph/Blanchisseuse	3,259
	St. Helena	476
	Carapo	308

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>	
<b>Eastern Area</b>	Piarco	215	
	Tacarigua, Tunapuna	1,987	
	Toco Main Road (Sangre Grande to Toco)	532	
	Trincity	1,588	
	Valencia	1,210	
	Arouca	1,889	
	Matelot/Toco/Grand Rivere	359	
	Talparo	567	
	Tamana	979	
	Coalmine	529	
	Sangre Grande to Manzanilla	622	
	<b>Sub-total</b>	<b>27,824</b>	
	<b>Northern Area</b>	Barataria/Malick	721
		Cascade	447
Chaguaramas		60	
Diego Martin		2,768	
Goodwood Park		38	
Morvant		1,366	
Petit Valley		597	
San Juan/Beetham		1,617	
Santa Cruz		1,592	
Belmont	973		

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>
<b>Northern Area</b>	Glencoe	386
	Port of Spain	2,421
	Laventille	1,632
	Carenage	470
	Maraval	1,418
	Newtown	29
	North West	132
	Point Cumana	31
	Sea Lots	186
	Cocorite	200
	St. Ann's	91
	St. Clair	39
	St. James	841
	Westmoorings	387
	Woodbrook	105
		<b>Sub-total</b>
<b>Southern Area</b>	Debe/Barrackpore	2,423
	Fyzabad	1,640
	Gulf View	325
	Marabella/Gasparillo	4,016
	Moruga	1,327
	Penal/Siparia/Chatam/Cedros	5,684

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>	
<b>Southern Area</b>	Point Fortin	2,216	
	Princes Town	4,932	
	Rio Claro	2,114	
	San Fernando/ La Romaine/ Corinth/ Diamond Village Woodland	5,131	
	Santa Flora	444	
	Ste. Madeline	89	
	Galeota	91	
	La Brea	1,778	
	Mayaro/Biche	1,379	
	Tabaquite	1,352	
	<b>Sub-total</b>	<b>34,941</b>	
	<b>Tobago Area</b>	Allfields	160
		Bagetelle	129
Belle Garden		80	
Bethel		154	
Betsy's Hope		84	
Black Rock		32	
Bon Accord		594	
Buccoo		103	
Calder Hall		219	
Canaan	144		

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>
<b>Tobago Area</b>	Carnbee	165
	Castara	43
	Charlotteville	114
	Concordia	59
	Culloden	88
	Darrel Spring	4
	Delaford	149
	Mount Irvine	114
	Glamorgan	72
	Glen Road	1
	Les Coteaux	170
	Louis D'or	71
	Lowlands	135
	Mason Hall	281
	Moriah	188
	Mount Grace	38
	Golden Lane	19
	Goodwood	121
	Lambeau	135
	Mount Pleasant/Kendell	215
	Mount St. George	361
	Mount Thomas	30
	Patience Hill/Orange Hill	59

<b>Districts</b>	<b>Areas</b>	<b>No. of street lights Installed and upgraded 2005-2007</b>
<b>Tobago Area</b>	Pembroke	102
	Plymouth Road	49
	Plymouth	156
	Richmond	76
	Roxborough	131
	Runnemedede	13
	Scarborough/Crown Point	462
	Signal Hill	242
	Speyside	95
	Spring Garden	22
	Union	184
	<b>Sub-total</b>	<b>5,863</b>
	<b>Grand Total</b>	<b>106,818</b>

**Sen. Dr. Gopeesingh:** Mr. Vice-President, is it possible for the hon. Minister to indicate the rationale for the change over from the National Social Services Programme to a National Street Lighting Programme? Would it be easy for you to give that explanation if it is possible?

**Sen. The Hon. Dr. L. Saith:** I think it had to do with the funding. I think the second phase came under the PSIP.

**Sen. Dr. Gopeesingh:** I think the hon. Minister indicated that he will give the answer to question No. 79 in a week's time. Mr. Vice-President, I hope so.

**Sen. The Hon. Dr. L. Saith:** Yes. The Minister has assured me that questions No. 79 and 81 would be ready in a week's time. While I am on my feet, Minister Imbert and Minister Boynes have also asked that questions Nos. 82, 83 and 84 be deferred for one week, and the Minister of Community Development, Culture and Gender Affairs will deal with questions Nos. 85 and 86.



**Sen. Yuille-Williams:** I told him already.

**Sen. Dr. Gopeesingh:** Mr. Vice-President, you would realize that some of these questions have been languishing for more than six months. I think I am reassured by Sen. The Hon. Dr. Lenny Saith that the answers to these questions will be forthcoming in a week's time. I think the hon. Minister of Community Development, Culture and Gender Affairs has explained that her questions are going to be ready in one week's time. I hope that we do get the answers then.

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

**Road Paving Programme  
(Details of)**

- 82.** With respect to the proposed road paving programme being undertaken by the Ministry of Works and Transport, could the hon. Minister of Works and Transport inform the Senate:
- (i) which roads are scheduled to be paved;
  - (ii) the process utilized in determining which roads needed to be paved; and
  - (iii) the cost per kilometre of paving?

**Road Paving Programme  
(Contract Details)**

- 83.** With respect to the proposed road paving programme being undertaken by the Ministry of Works and Transport, could the hon. Minister of Works and Transport advise the Senate of:
- (i) the tendering procedure involved in awarding contracts;
  - (ii) the names of the firms/contractors that have been awarded contracts; and
  - (iii) the cost of each contract awarded?

**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?

**National Carnival Centre  
(Details of)**

- 85.** 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 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 individual/individuals/firms that evaluated the tenders?

**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?

*Questions, by leave, deferred.*

#### **HOMES FOR OLDER PERSONS BILL**

#### **House of Representatives Amendments**

**The Minister of Social Development and Minister in the Ministry of Housing (Hon. Anthony Roberts):** Mr. Vice-President, I beg to move the following Motion standing in my name.

*Be it resolved* that the House of Representatives amendments to the Homes for Older Persons Bill, 2007, at Appendix II to the Order Paper, be now considered.

Mr. Vice-President, I would also like to request that all the amendments be taken at the same time.

*Question proposed.*

*Question put and agreed to.*

*House of Representative amendments read as follows:*

*Clause 3.*

- A. In the definition of “Home for Older Persons” delete the words “used for the care” and substitute the words “established for the purpose of caring for”.

*Homes For Older Persons Bill*  
[HON. A. ROBERTS]

*Tuesday, August 21, 2007*

- B. Insert in the appropriate alphabetical sequence the following definition:  
“‘Administrator General’ means the person appointed as such under the Administration of Estates Act, Chap. 9:01;”.

*Clause 6.*

In subclause (3), delete the word “fraudulent” and substitute after the words “subsection (2)” the words “knowing that such information is false”.

*Clause 11.*

- A. In subclause (2), in paragraph (b) delete the word “28” and substitute the word “29”;
- B. In subclause (3), delete the words “effective from the biennial anniversary date of its issue” and substitute the words “biennially and it shall be effective from the anniversary date of the first issuance of the licence”.

*Clause 14.*

In subclause (1):

- (a) in paragraph (a), insert after the word “offence” the words “for which the penalty is imprisonment for six months or more”; and
- (b) in paragraph (b), delete the word “and” and substitute the word “or”.

*Clause 19.*

Delete subclause (2) and substitute the following:

- “(2) The Division shall update the Register of Homes as necessary and shall remove from the Register any entry found to be incorrect.”

*Clause 21.*

- A. In subclause (3), delete the word “may” and substitute the word “shall”;
- B. Insert after subclause (3) the following subclause:  
“(4) The name of the Manager of a Home and any person responsible for the performance of the functions of the Manager under the Act shall be submitted in writing, by email or by facsimile transmission to the Division within forty-eight hours of the making of an appointment.”

*Clause 22.*

- A. In subclause (2), insert after paragraph (e) the following new paragraph:-
  - (f) the name of the dental practitioner, if any, attending to the Older Person;
- B. Reletter paragraphs (f) to (i) as paragraphs (g) to (j).

*Clause 23.*

- A. In subclause (1), insert after the word “person” the words “in the Home”.
- B. In subclause (2), delete from the words commencing “within six hours of such death” and ending “the Medical Board Act” and substitute the words “within two hours of the discovery of such death, report the death to the police and an autopsy shall be performed by a medical practitioner registered under the Medical Board Act”.

*Clause 24.*

Insert before the word “residents” the words “each of the”.

*Clause 25.*

In paragraph (a) delete the word “treatment” and substitute the words “care and housing”.

*Clause 26.*

Insert the words “and the Municipal Corporations Act” after the word “Act” in the second line.

*Clause 27.*

In subclause (3)—

- (a) delete the word “each”;
- (b) insert the word “either” after the word “as”;
- (c) in paragraph (h), delete the word “or”;
- (d) In paragraph (i), delete the full stop and substitute the words “; or”; and
- (e) Insert after paragraph (i) the following paragraph: “(j) a police officer”.

*Clause 28.*

- A. In subclause (1)—
  - (a) in paragraph (b)(v), delete the word “therein” and substitute the words “in a Home”; and
  - (b) in paragraph (b)(vi), delete the words “under the Act or these Regulations” and substitute the words “under this Act or the Regulations”.
- B. In subclause (2), delete the words “subregulation (1)” and substitute the words “subsection (1)”;
- C. In subclause (4), insert after the words “warrant to enter” the words “and search”.

*Clause 29.*

In paragraph (a), delete the words “applying for a licence under the Act” and substitute the words “in respect of which an application for a licence is made”.

*Clause 30.*

Delete subclause (6) and substitute the following:

“(6) In addition to the inspectors appointed under subsection (1), there shall be appointed to perform the function of an inspector under this Act suitably qualified public officers.”

*Clause 31.*

In subclause (2):—

- (a) in paragraph (b), delete the word “or”;
- (b) in paragraph (c) delete the comma and substitute the words “; or”; and
- (c) insert after paragraph (c) the following:—
  - “(d) a member of the public,”

*Clause 32.*

- A. In subclause (1)—
  - (a) delete the words “an inspector or a member of the Facility Review Team” and substitute the words “police officer”;
  - (b) delete the word “place” where it occurs in the fifth line and substitute the word ‘Home’; and

- (c) delete the words “an Inspector or member of the Facility Review Team” and substitute the words “the police officer”.
- B. Delete subclause (2) and substitute the following:
  - “(2) A warrant issued under this section shall also direct an inspector or member of the Facility Review Team to accompany the Police Officer.”

*Clause 34.*

- A. In subclause (1)—
  - (a) delete the word “If” and substitute the words “Notwithstanding any other written law, if”;
  - (b) insert after the word “Manager” in the first line the words “or any other employee”; and
  - (c) delete all the words commencing with the word “in” in the fourth line and ending with the word “health”.
- B. In subclause (2), delete paragraph (b) and substitute the following:
  - “(b) fifty thousand dollars, where the offence is an indictable offence.”
- C. In subclause (3), delete the words “being able to do so,” and “adequate”.

*Clause 35.*

In subclause (1), insert after the word “offence” where it occurs in the first line the words “or contravenes any provisions”.

*Clause 39.*

Delete the word “shorter” occurring in the fifth line and substitute the word “longer”.

*First Schedule.*

At “Classification of Homes ‘Type II’” delete the word “continuous” and substitute the word “continual”.

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

*Question proposed.*

**Sen. Dr. Gopeesingh:** Mr. Vice-President and Senators of this distinguished Senate, it is not the view or the wishes of the Opposition to delay the passage of this Bill, but there are a few questions that we have on these amendments that came from the Lower House. What we have before us is an Appendix II which has been circulated, and it replaces the previously circulated Appendix II which was attached to the Order Paper. We would just like to know what is the essential difference between what has just been circulated in the Senate here and what is on the Order Paper. I was looking to see if there was any fundamental difference, and I was not able to ascertain that there was, so I wonder what the necessity for circulating it was. If we can clear that up, then I would just speak about the issues, if it is possible.

**Mr. Roberts:** Mr. Vice-President, I am not aware as to what was circulated previously. [*Interruption*]

**Sen. Dr. Gopeesingh:** Mr. Vice-President, I have page 3 on my Order Paper. I do not know if two Order Papers were circulated. Well, if my colleagues did not have page 3, then that was the rationale.

The issues on the list of amendments that came from the Lower House, the first one is with respect to clause 3. We have no problem with the Administrator General.

The second area is the change from “other premises used for the care” and where we are now putting in “established for the purpose of caring for”. I just want to get some thinking on the issue of “established for the purpose of caring for”, because “established” means firm or permanent. I do not know whether people would be putting up these institutions for caring for the aged as a permanent structure. So, therefore, it would probably necessitate some clarity on the reasoning for the change from “used for the care of” and where you are putting in “established for the purpose of caring for”, since the established aspect brings in the question of permanence on that matter. This is for your consideration, through you, Mr. Vice-President.

Clause 11(2)(b) is correct. The number “28” should be “29”. With respect to subsection (3), we have no difficulty with “biennially and it shall be effective from the anniversary date of the first issuance of the licence”. This brings about a better legal drafting, and we have no difficulty with this.

Now, clause 14(1) states:

“A licence may at any time be revoked by the Minister—

(a) If the licensee or Manager has been convicted of an offence...”



You want to have inserted, “for which the penalty is imprisonment for six months or more”

“under this Act or any other Act.”

There are two offences in this Bill; one is for a summary offence which is a penalty of six months or more, and the other is an indictable offence. We want to determine why you have put in “for which the penalty is imprisonment for six months or more”. Why choose that one above the other? Why both are not included in section 14?

We understand the reasoning for removing the word “and” and replacing it by the word “or” in clause 14.

In clause 19(2), you have removed:

“The Division shall cause to be removed from the Register of Homes for Older Persons, any entry which has been incorrectly or fraudulently made.”

What is the reasoning for removing the words “fraudulently made” to “...any entry found to be incorrect”? We want to find out the thinking behind that.

With respect to clause 21—you would realize that I am going through these amendments quickly. We do not want to detain the Senate on this issue too much.

Clause 21(3) says:

“During the temporary absence, illness or incapacity of the Manager, the licensee may appoint...”

I see the rationale for saying “shall” appoint because a home must have somebody responsible. So, we missed that in the first part here, and it was taken up in the Lower House. So, we understand the rationale for using “shall”. In clause 21, you have insert after subclause (3) the following subclause:

“The name of the Manager of a Home and any person responsible for the performance of the functions of the Manager under the Act shall be submitted in writing, by email or by facsimile transmission...”

You have omitted the most direct way of transmission which is by hand or by direct post. Why did you choose “email or by facsimile” and left out the other part of correspondence—[*Interruption*]  
—it is “submitted in writing, by email or by facsimile” [Interruption] Well, that is subject to interpretation. If my colleagues believe that it is explanatory by “writing, by email or by facsimile”—sometimes commas can be used more appropriately.

With respect to clause 22, I understand why somebody may want to put in a dental practitioner, because it is not only medical practitioners who look after homes for older persons, but there might be the necessity for a dental practitioner going to the homes.

With respect to clause 23(2), we had discussions in the Senate about the timing of and the need for an autopsy. I would accept “within two hours of the discovery of such death...” is better than waiting six hours to discover the death of a person in a home. It says that “an autopsy shall be performed by a medical practitioner...” Mr. Vice-President, I am a little worried. Do you know that there are different types of medical practitioners? A pathologist is the best person to conduct an autopsy. So, hon. Minister, I know you will have a difficulty in taking these amendments back to the Lower House for approval, but we on this side would have preferred to see a pathologist. There are enough pathologists in Trinidad to conduct autopsies, and I do not think that anything will be delayed. I would like to submit that this be given some consideration. A medical practitioner is a general practitioner, or a young intern who is a house officer, and that would not be the appropriate person to deal with an autopsy.

Long ago, when there were few doctors, they were very experienced in dealing with autopsies, and you had a number of general practitioners who could have done autopsies very easily and competently. So, I would like to submit this for your consideration. [*Interruption*] I think you are pre-empting what is to come.

Clause 25(a) states:

“(a) a Home is used at any time for the treatment...”

And that is now being changed by substituting the words “care and housing”. I would like to submit, if it is possible, for consideration, “a Home is used at any time for the care, housing and treatment”. We cannot leave out the word treatment, since treatment is essential for these patients. Caring for somebody does not necessarily include treatment. We can leave treatment and include the words “care and housing”.

With respect to clause 26, I do not know whether it has been inadvertently left out at the end of clause 26 which reads:

“Subject to the provisions of the Town and Country Planning Act and the Municipal Corporations Act, no structural alteration...”

At the end in clause 26 in the Bill it says:

“...has been approved by the Town and Country Planning Department in accordance with the Town and Country Planning Act.”

Does it not have to be approved by the Municipal Corporations Act as well? So, if you have inserted the words “Municipal Corporations Act” at the top of the clause, then you would have to put it in at the end of the sentence.

Clause 28(b)(vi) says:

“any other records kept by a Home and in fulfilment of their obligations under the Act or these Regulations.”

You would like to be included “under this Act or the Regulations”. I would like to proffer “under the Act or these Regulations”. Leave “these Regulations”. That is what it was, and that is what it should really be. Why “the Regulations” rather than “these Regulations”?

Clause 30 says:

“The Division may employ suitably qualified persons to be inspectors of Homes.”

You are deleting clause 30(6) which says:

“The Minister may, by Order, in addition to inspectors employed under subsection (1), assign a public officer to be an inspector for the purposes of this Act.”

So, you really want to put in “public officers”. You could, in fact, put in “public officers” under clause 30(1) and it would read: “The Division may employ suitably qualified persons or public officers to be inspectors of Homes” rather than having to fiddle with clause 30(6). So, what you are trying to achieve by removing clause 30(6), you could put in “or public officers” in clause 30(1).

Mr. Vice-President, we are talking about a Facility Review Team, and here now we are talking about a “Faculty Review Team”. I think this is a typographical error, and it is done three times. You would need to confirm that it is a “Facility Review Team” rather than a “Faculty Review Team”.

In clause 34(2) it says:

“A body corporate that is convicted of an offence under subsection (1) is liable, in lieu of any imprisonment that is prescribed as punishment for that offence to be fined—

*Homes For Older Persons Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

- (a) twenty-five thousand dollars, where the offence is a summary offence; or”

You are taking out:

“(b) an amount that is in the discretion of the court...”

I stand corrected by my learned colleagues in law. Are we removing the issue of discretion by the court and substituting a dogmatic fine of \$50,000 where the offence is an indictable offence? [*Interruption*] So, you are comfortable with that?

**Sen. Seetahal SC:** No—

**Sen. Dr. Gopeesingh:** In fact, you are removing the discretion from the High Court. What is the rationale for it? I know that we have discussed it and the Lower House has also discussed this matter, but these are some of the things we would like to get clarified.

I have one major point before I take my seat. Clause 34(3) says:

“...if being able to do so, he fails to provide adequate...”

They have removed the word “adequate”. I know that “adequate” is not proper, because what someone may consider adequate care another person may not consider it adequate. I would like to proffer that we introduce “necessary nutritious food” rather than what is being contemplated.

Mr. Vice-President, these are some of the considerations that would not significantly change the amendments that came from the House of Representatives, but I would like to submit these amendments for your consideration. I think they are meaningful to us; they are meaningful considerations that should be carefully thought of before the final legislation is enacted.

Mr. Vice-President, thank you for allowing me to make this contribution.  
[*Desk thumping*]

**2.30 p.m.**

**Mr. Roberts:** Thank you very much, Mr. Vice-President. I was unable to take note of all the suggestions made by the hon. Senator. Unfortunately, I will require some time so that I can consult with the technical people before providing a response to some of the concerns raised by the hon. Senator.

We can always find things to make changes on a piece of legislation. As a matter of fact when the matter is referred to the Lower House, I am certain that

they will be able to make other changes that will then have to come back to the Senate, which certainly will impact on the lives of the persons that we are attempting to assist.

In the Lower House a lot of discussions went into the matter and some of the issues raised by the goodly Senator were matters recommended by his colleagues, so there is a differing view. That is the situation, Mr. Vice-President. If he requires that we respond to all the concerns that he has raised, we would require some time to do so.

**Sen. Seetahal SC:** Mr. Vice-President, what I want to say is, it is not a question of whether or not the Senator requires; I think that there were some valid questions asked, and if the Government is bringing back this Bill, then I think it is only right that some explanation be given for at least some of the matters and in particular the penalties. I actually took a note of some of the concerns of the Senator, so I would have thought it should not have been a difficult thing to be able to respond; there are technical people there. But if the Minister needs time, I think that should be given; I do not think we should just say only if he needs. I think the concerns should be addressed.

Thank you.

**Sen. Dr. Saith:** Mr. Vice-President, may I suggest that we just adjourn the debate on this so that the Minister can consult with—We can take it either at a later stage in today's proceedings or on Thursday. Hopefully, he will be able to come back and respond to it.

*Question proposed,* That the debate on this particular Motion be completed at a later stage in today's sitting.

*Question put and agreed to.*

**CENTRAL BANK OF TRINIDAD AND TOBAGO  
(RATIFICATION OF RESOLUTION)**

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):** Thank you, Mr. Vice-President. I beg to move the following Motion standing in my name:

*Whereas* it is provided by section 34 of the Central Bank Act, that the authorized capital of the Central Bank is one hundred million dollars (\$100 million) and that the authorized capital may with the approval of the Minister of Finance, be increased by resolution of the Board of Directors of the Central Bank (“the Board”) and that such resolution shall be ratified by Parliament;

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

*And whereas* at its 601st Meeting held on February 23, 2007, the Board passed a resolution that the authorized capital of the Central Bank be increased from one hundred million dollars (\$100 million) to eight hundred million dollars (\$800 million);

*Be it resolved* that the resolution of the Central Bank of Trinidad and Tobago to increase its authorized capital from one hundred million dollars (\$100 million) to eight hundred million dollars (\$800 million) is hereby ratified as listed in appendix II to the Order Paper.

**Mr. Vice-President:** [*Interruption*]

**Sen. Seetahal SC:** Rationale.

**Sen. The Hon. C. Enill:** You want the long version or the short version?

**Sen. Seetahal SC:** Short but clear.

**Sen. The Hon. C. Enill:** Good. Mr. Vice-President, the matter for consideration of this honourable Senate is an increase in the authorized capital of the Central Bank of Trinidad and Tobago pursuant to section 34 of the Central Bank Act, and basically to move it from \$100 million to \$800 million.

The rationale for the increase. In the context of corporate finance, capital is needed to reduce the risk of bankruptcy by providing protection against operating and extraordinary losses. In the case of a central bank, strictly speaking, the issue of bankruptcy should not arise since its principal liability, currency, serves as legal tender and is readily accepted. However, central banks have been known to incur losses. This could compromise the Central Bank's ability to pursue its primary mandate of price stability, through monetary policy.

The Central Bank does not have the flexibility to build up its capital or reserves given the provisions of the Central Bank Act and so is constrained in protecting itself in this manner against losses. In view of this, the Central Bank's capital should be reviewed periodically to ensure that it remains adequate over time. It has always been recognized that over time, the authorized capital of the Central Bank would need to be increased and this has occurred on three previous occasions.

At its inception in 1964, the Central Bank's authorized capital was set at \$2 million. This was increased to \$5 million in 1966 and kept at this level until 1985, when it was increased to TT \$30 million. In 1994, the Central Bank's authorized capital was increased to its current level of TT \$100 million.

There are several compelling reasons why it is both appropriate and timely to have an increase in the authorized capital of the bank.

First of all, prudent management of an organization requires, among other things, that it is appropriately capitalized. The Central Bank, as the centrepiece of the financial system and moreover as regulator, needs itself to demonstrate the very standards that it requires of licensees and registrants. Secondly, the increase in the bank's authorized capital is needed in view of its increased responsibilities today.

Mr. Vice-President, as you are aware, the Central Bank assumed responsibility for the supervision of insurance companies and private pension plans in 2004; something new. Already in 2006, it has had to initiate legal action against three companies for non-filing of their annual returns and to take intervention action on two insurance companies. The outlook is for even further widening of the Central Bank's activities following the July 2005 Cabinet decision that the Central Bank will assume responsibility for regulating and supervising the financial activities of credit unions.

This wider supervisory responsibility has increased considerably the potential for emergency assistance and consequential losses for the Central Bank. The Central Bank losses and the need for capital and reserves could arise from a number of factors:

- (i) as custodian of the countries foreign exchange reserves, central banks can face sizeable foreign currency risks;
- (ii) losses could arise because of a decline in the value of domestic fixed-income securities when interest rates rise;
- (iii) given central banks' role as lender of last resort, losses can arise from the extension of emergency support to weak financial institutions; and
- (iv) central banks responsible for supervision and regulation also face the risks, legal costs and other liability risks that may arise from claims by aggrieved parties.

Mr. Vice-President, prolonged losses in absence of adequate capital to act as a buffer, could undermine the credibility of the Central Bank. This, in turn, could compromise the Central Bank's ability to pursue its primary mandate of price stability, through monetary policy.

The Central Bank Act does not provide for automatic government transfers to cover any Central Bank losses. In fact, the Central Bank Act provides that any losses incurred by the bank during a financial year may be met from the General Reserve Fund or from the Special Reserve Fund, where the General Reserve Fund

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

is sufficient. Where the General and Special Reserve Funds are insufficient, the Central Bank, with the approval of the Minister, may carry forward and recoup the losses from future profits before further payments are made into the Consolidated Fund.

As you may be aware, hon. Members, at the end of the financial year of the Central Bank all the profits that are made in fact are to be deposited and in fact are deposited into the Consolidated Fund.

It may be argued that the Government's unwritten commitment to meet any Central Bank losses is a partial substitute for adequate capital. But even this commitment could have implications for the public's perception of Central Bank independence. To enhance the needs policy credibility, the Central Bank needs financial independence and this is reinforced by adequate Central Bank capitalization.

Where a normal business enterprise may increase its reserves to guard against potential risks, the Central Bank does not have this flexibility given the provisions of the Central Bank Act and so is constrained in protecting itself in this manner against losses.

The Central Bank Act allows the Bank to allocate up to 10 per cent of its net profit to the General or Special Reserve. Allocations to the General Reserve Fund can be made up to the level of the authorized capital. Thereafter, all profits must be transferred to the Consolidated Fund. The combined level of the General and Special Reserves cannot exceed the authorized capital. This maximum of TT \$100 million was reached in the year 2003.

Furthermore, section 36(1) restricts the Central Bank's total holding of shares in statutory bodies or companies for developmental purposes to a maximum equivalent to the aggregate total of the paid-up capital and the General Reserve Fund, which are both currently capped at \$100 million. Additionally, section 47 limits the holding of securities, including Treasury bills, issued or guaranteed by Government to a maximum value equivalent to seven times the paid-up capital and the General Reserve Fund.

What this all points to, is that the Central Bank's capital needs to be adequate for it to carry out its increased responsibilities over time.

It is to be noted that the risks to the Central Bank accounts and the case for adequate capital are strengthened one, by the requirements that the Central Bank adhere to current accounting conventions and two, increases in the nominal costs of carrying out operations. So that deals with the rationale in a sense. Now let us talk about the size of the increase.



Unlike in the case of the commercial banks, where there are clear guidelines on what is an appropriate level of capital, no such guidelines or best practices exist for Central Banks. In fact, a review of cross-country data covering both developed and developing countries provide few clues as to an optimum level of capital. This is so even after making adjustments for variables such as:

- (i) profit distribution rules;
- (ii) balance sheet structures, for example, after taking into account the importance of foreign reserve holdings, level of Central Bank credit to Government; and
- (iii) use of Central Bank's securities for monetary policy.

With international comparisons providing limited guidance, the approach that is currently being proposed aims at retaining the level of authorized capital as a share of total assets to that which obtained at the time of the last re-capitalization.

The re-capitalization in 1994 raised the level of authorized capital to total assets from 0.6 per cent to 1.7 per cent. This ratio has declined to 0.3 per cent in 2006. To therefore return this ratio to 1.7 per cent in 2007, based on projected total assets for 2007, will require an increase in the authorized capital from \$100 million to \$800 million. Let me just tell you how the total assets were built up.

In 1994, we had total assets of \$5.8 billion with a capital of \$100,000. In 1995, it reduced to \$4.5 billion; in 1996 it went back up to \$6 billion; 1997, \$7 billion; 1998, \$7 billion; 1999, \$8 billion; 2000, \$11 billion; 2001, \$13 billion; 2002, \$14 billion—this is total assets now that it is under the management of the Central Bank—2003, \$16 billion; 2004, \$20 billion; 2005, \$29 billion; 2006, \$42 billion and 2007, projected \$47 billion. In order to maintain the ratio of authorized capital to total assets, as we did when we made the interventions on the last three or four occasions, that ratio of 1.7 per cent can be satisfied by moving the capital to \$800 million, which is what is being currently proposed.

Mr. Vice-President, ultimately, the objective of the increase being proposed is to ensure that the Central Bank remains financially strong and adequately capitalized to carry out its responsibilities and to give confidence both in the local market as well as in the international community.

Some may argue, correctly or otherwise, that in coming here we should have basically provided the Senate with some review of the Central Bank activity. The Central Bank, as you know, is one of those institutions that fall under the control of Joint Select Committees of Parliament—and I am aware of the fact that they

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

were here earlier on in the year to answer some of the very questions about their audit and organization, and from time to time annually, whenever the reports are presented, we provide the Senate with the detailed report and therefore I did not believe at this point in time that we necessarily needed to do that.

So, Mr. Vice-President, on that basis and with this rationale on the understanding that Members are aware that this is simply attempting to maintain a ratio, one that we consider to be adequate in the circumstances, so that the Central Bank can continue to carry out its work with some degree of independence, with a larger mandate, with larger assets, so that we can move on and have them in fact, strengthen the institution; with those few words, I beg to move.

*Question proposed.*

**Sen. Dr. Tim Gopeesingh:** Mr. Vice-President and Members of this august Senate, my contribution will not be long, but it is necessary for us to understand some of the rationale in terms of the movement of the authorized capital from \$100 million to \$800 million. I think the Minister of Finance has given some explanation on it and he was able to show just a while ago that the ratio that is needed between the capital amount and the total assets should be about 1.7. Therefore, based on the total assets at \$47 billion now, he feels that the 1.7 ratio, \$800 million is necessary.

There are a few questions we need to ask as far as that is concerned. Is this from your international financial research that you have come to that figure of 1.7 in terms of what other central banks do internationally or in developed countries? If so, why did you choose a 1.7 ratio of the amount of capital to the total assets? Because you indicated that recapitalization in 1994 moved from 0.6 per cent to 1.7 per cent and then it fell back to 0.3 per cent in 2007.

Could you give us some explanation—obviously your total assets have been increasing and your capital has remained at \$100 million—as to why or how these total assets have been increasing and the movement upwards in terms of the total capital?

Mr. Vice-President, the hon. Minister of Finance indicated that he should have come today giving us much more information on the review of the Central Bank workings and the financial operations of the Central Bank; that would have given us much more information. But he indicated as well that that comes under the Joint Select Committee of Parliament for it to be investigated, and there was one sitting that he indicated that was held and I do not think a report was laid in Parliament on that. So that many of us in Parliament would not have been able to

know exactly what are the financial operations of the Central Bank. True enough we have had a report from the Central Bank—I think dated 2006 or 2005—and on reading it we were able to get some of the information from it.

We must not lose sight of the fact that the Central Bank was removed from the Freedom of Information Act, and that is one of institutions in the country and one of the State—well it is not a statutory authority—but it is one of the institutions which for some reason we have been unable to be provided with the answer and the rationale for removing it from the Freedom of Information Act. I think they have indicated at some time that some of the operations need to be, not secretive but kept within the confines of the operations of the bank.

We found that that was not an adequate answer and thought that the Central Bank should not have been really removed from the Freedom of Information Act. So, all that the Minister was indicating here this afternoon, that he should have come prepared to give us the information, we would have been able to go into the operations of the Central Bank and get that information for ourselves, rather than having it secretive and locked away by having it removed from the Freedom of Information Act.

The operations of the Central Bank necessitate adequate and competent directors. And for the operations of the monetary policy of any nation, you need people with tremendous financial capability and capacity. Over a period of time, two to three years ago, questions have been asked on the directors of the company that were appointed by the State.

There came into question the competence of one or two of the directors. It is not necessary in the debate for me to ask or call names at this time, but I think the State knows of some of the questions that had been asked as far as the competence of some of the directors, particularly in the Central Bank. Because you do not want the Central Bank operating and deciding on monetary policies when you do not have the competence all around, by all the directors in that central banking area.

The hon. Minister said that the capital that is necessary is to reduce the risk of bankruptcy. Well it is not tenable that central banks really become bankrupt, but I think the Minister indicated that a few central banks have run into difficulty. He mentioned that there are some institutions operating in the country at the moment where they have had to take legal action in 2006 on three banks and two insurance companies.

The question we ask is, why were these banks and insurance companies allowed to reach a stage where we had to go into filing legal action over a period of time? Because if the supervisor of banks and insurance companies—we passed legislation on that about a year ago to change the whole aspect of the supervisor of banks and insurance companies. I think if the work was adequately monitored, I am not sure we would have had to file legal action. Nevertheless, if these legal actions were filed against three banks and two insurance companies, I think it is important for the hon. Minister to indicate to us the necessity for doing this and what it really involves as far as what type of money is concerned; as far as what will be the implications for the banking sector and the insurance companies.

You know that there could be runs on banks very easily and the banking sector could go into confusion, as happened in developed countries, in Chile, Malaysia and South America, where there were runs on financial institutions and the economy of certain countries just went "bust" and Chile is now recovering from it.

In the context of that, which the Minister indicated here this afternoon, there are legal actions pending, I believe that it might be necessary for us to understand a bit of what that incorporated and what really happened, because there are still existing insurance companies. I know that two were closed down recently and a number of citizens of Trinidad and Tobago lost millions of dollars. And a lot of people with insurance automatically—having registered with a particular insurance company—found themselves in the middle of the day having to get new insurance and they lost millions of dollars. We do not want to have a recurrence of the Kirpalani aspect in Trinidad or the international financial—I cannot remember what was the name of it—in the 1980s. So far there has been no run on any of the banks in Trinidad, recently, and you remember Workers' Bank had to be closed down and one of our hon. Ministers, I think, was a senior member of one of the banks at the time. No aspersions cast whatsoever, but he would know and understand what really went on at that time.

**3.00 p.m.**

So the hon. Minister of Finance must give us some assurances that even though we vote for a recapitalization of the Central Bank moving the capital from \$100 million to \$800 million, which he indicated would reduce the risk of bankruptcy, not by the Central Bank alone but bankruptcy by other financial institutions, banking sector and insurance companies, that we must have some sort of explanation and knowledge of really what is happening. The hon. Minister indicated as well that there are regulatory and supervisory functions now for

credit unions, and credit unions have been doing a good job in Trinidad and Tobago for a period of time and the poor people have been able to get their loans and have been able to survive by virtue of having put money into credit unions and get them at a low interest rate and that has been a good thing.

We want the continuation of the credit unions in Trinidad, so we want to get the assurance from the hon. Minister that the regulatory and supervisory functions that will be looking after Central Bank and credit unions' business must not be left to decay and that urgent steps be taken because we are hearing through the grapevine there are some credit unions that are sitting on the brink of disaster, and therefore, millions of dollars of people's money are involved and you may find that scores of people or hundreds of people in Trinidad and Tobago may find themselves losing money by deposits.

We understood that the hon. Prime Minister said in the budget presentation that the deposit insurance has moved from \$50,000 to \$75,000. Now, we do not know who is funding that, but I believe that it is the State that will have to take up the funding for that. But it really needs to be much more than that and we will debate that when the budget debate really comes into play.

**Sen. Dr. Saith:** Leave something for the budget.

**Sen. Dr. T. Gopeesingh:** Yes, certainly. I am not going there Minister. He said that there is a potential for emergency assistance. Prevention is better than cure. So, we want to exhort the hon. Minister to ensure that his role as Minister in the Ministry of Finance, that we look to prevent the sort of catastrophes that can occur as far as credit unions, insurance companies and the banking sector, and we have an influx of foreign banks that are coming into Trinidad and Tobago and going on the open market.

There are a number of investors in Trinidad and Tobago and the Minister and Members of the Senate know some of these companies. There are a number of citizens in Trinidad and Tobago who are depositing money in these insurance companies and these financial institutions and therefore, the citizens will need the assurance that the supervisory aspect of the Central Bank will be working very well to ensure that they do not lose their money when they have put their money for investments.

Mr. Vice-President, the other issue is the investment of the financial portfolio of the Central Bank assets. We know that there are a number of currencies around the world that the Central Bank may be linked to in terms of the pound sterling, the euro dollar or the US dollar. I think it is necessary for the country to have

*Central Bank Resolution*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

some information as to where some of our money is linked to, bearing in mind, that the euro at the moment and the pound are in ascendancy over the American dollar, and whether in fact, the country stands to lose a bit by the weakening of the US dollar. And therefore, it is important that the mix of financial portfolio in the investment from Central Bank be a sensible mix and based on strong financial advice.

So, Mr. Vice-President, it is important for us to understand too, who are some of the—the hon. Minister may say that is not information for the national population, but we need to know to some extent that our money is secured, internationally, by a proper portfolio mix of the investments of our money. Whether it is a mix between the euro dollar, the pound sterling or the US dollar. So is our investment secured internationally, who are selected for these investments and on what basis these international companies are selected to offer advice to Trinidad and Tobago in terms of the portfolio mix for our money internationally.

There are a few other areas, Mr. Vice-President. One is, could the hon. Minister indicate to us now, what is the value of the general reserve fund, or if so, the special reserve fund? And therefore, if we are asking for a capitalization of the Central Bank from \$100 million to \$800 million; where does the general reserve fund or the special reserve fund lie in relation to that \$800 million? How far is it away? Because he indicated that the general reserve fund, once it reaches the authorized capital the money has to be deposited into the Consolidated Fund, you cannot go beyond the authorized capital.

The hon. Minister indicated as well, the question of interest rates rising; when interest rates rise. What has been happening nationally, you have the fiscal policy that is in total deviance from the monetary policy that has been advised by Central Bank. The fiscal policies and the inflation that is being created nationally, having been there at 10 per cent at one time and now about 7.5 per cent is still too high. And the inflation that we have been speaking about with the overheating of the economy is in sharp deviation from the advice from the Central Bank with its monetary policies. The Minister needs to give us some little comfort in our minds as to the security of interest rates because entrepreneurs now would find that there might be increase in interest rate going up sharply within the next year. Because of the inflation and because the monetary policy is trying to remove some of the liquidity in the market and money will become a little scarcer and therefore, financial institutions now will be charging a higher interest rate because of the seven times that you had advances in the repo rate of about .25 per cent over a period of time.

So, we need to find out what is the situation in Trinidad and Tobago? Whether the hon. Minister can give the comfort to the population that the interest rates will be held to a certain level, so that entrepreneurs and people in the manufacturing sector and borrowers for new development projects will not be stymied, and therefore, the diversification of the economy that is necessary at the moment will continue because interest rates will not be too high and exorbitant for manufacturing firms, and firms and companies to gain some profits from their investments. Because he mentioned the whole question of price stability and monetary policy, and we know that there is no price stability in Trinidad and Tobago at the moment where inflation over a five-year period under this administration has moved to about 100 per cent and inflation as far as the price of food is concerned, it is as much as 26 per cent in one year. So, the price stability in terms of certain basic commodities in Trinidad and Tobago is not satisfactory at the moment.

He indicated about Central Bank losses. We hopefully, do not anticipate any Central Bank losses based on the fact that we need some prudent management of our financial resources from the Central Bank directors and from the board. He spoke about Central Bank losses being met from the special reserve or general reserve fund, and one of the rationale is that the general reserve fund is insufficient at the moment and therefore he needs to have a recapitalization of that from \$100 million to \$800 million.

Then he mentioned a public perception of Central Bank independence and I think it is important for us to be given the reassurance of the real independence of the Central Bank, and we do not seem to have a clear picture that there is really a line drawn between the Central Bank operations and the Government at the moment, because we have seen the Central Bank Governor speaking on many occasions of the need for fiscal discipline and we do not see that fiscal discipline being exercised by this administration. So, not heeding the advice of the Central Bank Governor, and the Central Bank Governor, we know that he has been reappointed for another four years or five years. I cannot remember whether it is four years or five years, but I am sure he will remind this administration that this \$42 billion has to be spent very prudently and we will talk about that in the debate to come.

**Sen. Dr. Saith:** We are missing Sen. Mark, too.

**Sen. Dr. T. Gopeesingh:** What is that?

**Sen. Dr. Saith:** We are not talking about the budget.

**Sen. Dr. T. Gopeesingh:** No, we are not talking about that. [*Interruption*] The hon. Minister also indicated that the Central Bank does not have the flexibility. For example, he says that only 10 per cent of net profit of the general reserve fund goes to the authorized capital and he said that \$100 million was really reached in 2003.

I think the hon. Minister tried to give us some rationale in terms of the guidelines that had been existing for the Central Bank in terms of the need for this movement of the capital from \$100 million to \$800 million. He spoke about three tools that have been used for optimum level of determining the capital that is required and they are:

1. the profit distribution rule;
2. the balance sheet; and
3. the Central Bank securities for the monetary policy.

I think it is a little too brief, Mr. Vice-President, we needed to understand a little more clearly. Those of us who are not financial experts or whizzes and therefore the ordinary Trinidad and Tobago population needs to understand a little more about the Central Bank workings, so that people do not feel that there is a closeted operation of the Central Bank. Therefore, we are being asked to authorize an increase in the authorized capital from \$100 million to \$800 million and as a result we needed to have a lot more given to us.

We hope that the joint select committees of Parliament will be able to extract a little more information for the benefit of the citizens of Trinidad and Tobago and we look forward to the hon. Minister giving us from time to time more reasons than rationale for this authorization. I know that the board of the Central Bank has already moved it from \$100 million to \$800 million in February of this year and the law itself indicates that Parliament has to pass this and that is the reason he is here, asking us today, to pass this legislation.

So, Mr. Vice-President, on those few questions and comments, I would like to close my contribution by indicating in concluding, the necessity and the need for more information from the Central Bank to the general population. The necessity for the general population to feel the confidence that is required by Central Bank operations, in terms of how they spend their capital; important to determine who are the people looking after—advising the Central Bank on the money that we have in terms of investments, and most important, the Central Bank moving towards very competent, tight supervisory functions over the financial



institutions, namely, the banking sector, the insurance companies and the credit unions, because as the hon. Minister has indicated to us, there is now a blurring of functions between all three of these financial institutions.

So, Mr. Vice-President, I want to close by asking when the Minister is winding up, if he can probably give us a little more insight into some of these questions that I have asked.

Thank you very much.

**Sen. Mary King:** Thank you very much, Mr. Vice-President. I want to thank the Minister for his short presentation. It was not succinct enough for me and I just have a few questions which I hope we will get answered before we approve the Motion.

You have told us that our total assets have risen from roughly \$6 billion in 1994 to \$47 billion in 2007, so I would have liked to see a picture of those assets and that growth, what exactly they are at the moment. What were they then and what are they at the moment? You also have mentioned that the Central Bank faces risks of exchange rates, which is obvious, and changing interest rates. The changing interest rates, I would like you to maybe expand on that. How that can affect us when we actually are the—meaning us the Central Bank—decision maker in interest rates, generally, so I would like a little more expansion on that please?

**Sen. Enill:** It is on the portfolio.

**Sen. M. King:** You have also informed us that we can have legal cost through claims, so I wondered if we now have, at the moment, legal cost over and above the \$100 million that we are now stated at; the authorized capital, and if so, what these claims might be?

I also want to know what is the purpose of the general reserve fund. Is it a reserve in case the Central Bank needs to have instant capital for any reason? I am not too sure at the moment what it is for. I probably should have read it but I did not, so if you could help me out with that today, please, I would appreciate that? I do not know if it is fair to say that there are no best practices for optimum share capital for central banks, because it depends on the country, its earnings, its liabilities and the way it does its business. So, I think there are best practices for certain kinds of economies.

I have, possibly, a couple of concerns relating to governance which I think this may be a good time to talk about it as we may not have another opportunity, and seeing we have the Central Bank Motion before us. I would like to throw out

some questions which, perhaps you can answer, perhaps you cannot. But I think we need to have answers eventually on these questions.

My understanding of public office and responsibilities of public office: We know by definition that the use of public office for private gain is defined as corruption. We also know that we have had a recent case of a public official being a chairman of one of our banks which is overseen by the Central Bank and the Central Bank and the Securities and Exchange Commission have both stated they have not broken any of their laws, or he has not broken any of their laws. But we also know that misbehaviour in public office is breaking of the law of the Integrity in Public Life Act.

So, I want to know, first of all, does our Central Bank have codes of conduct with conflicts of interest clauses for their directors of banks which they—especially a state enterprise—obviously, have very strong control over and at least strong advisory capacity? So, I would like to know if we do have established codes of conduct with conflicts of interest clauses, and I think, given what has happened with this particular bank, I think, a case has certainly been made out for an investigation by the Integrity Commission. I would like to know if, as Minister of Finance, there has been any indication from the Ministry of Finance that this should be forwarded to the Integrity Commission or do we wait for the Integrity Commission to do its own investigation? I am asking the questions.

Another recent incident, Mr. Vice-President, is the case where we have a director of a Central Bank—who, under our normal good governance and integrity expectations from such people that we should have a director—lay charges of plagiarism against a former governor of a Central Bank. If that should go to court, I do not know if our \$800 million would be sufficient to compensate such a person for his loss of integrity, or at least, the aspersions that have been cast.

So, these are questions that I think are important to us as legislators and as people who are trying to improve the governance of Trinidad and Tobago.

I thank you very much.

**Sen. Raziah Ahmed:** Thank you, Mr. Vice-President, my contribution to this debate is really from the perspective of a few questions in what I considered to be some alarm signals that have gone out in the Minister's report on the Bill and the rationale for the Bill.

If he has determined, somehow, that the 1.7 per cent ratio is acceptable I will not argue with that. I do not have the international benchmarks. However, he spoke in his opening sentence about protection from bankruptcy with respect to

the Central Bank and he spoke continuously about Central Bank losses. And the first real alarm bell and signal to the people who are interested in investments in this country came when he said that one of the areas would be declines in the domestic fixed income securities when interest rates rise.

That to me, Mr. Vice-President, is a signal that the bonds that have been issued may be subjected to some of the provisions that are normally included in these kinds of securities, and that sends a very loud alarm bell. Because, Mr. Vice-President, and my because would follow into the second cause that he gave, which was his relationship in the Forex Market and that directly relates in my mind to a question about our monetary policy. Because the Central Bank and the Government, they have consistently declared that the mopping up operations, the open market operations are being fuelled or they are being engineered on two fronts. All these bond issues, and we had 17 placements during 2006, valued at \$4.1 billion and we have a monetary policy in the Central Bank that has sought to essentially free up access to foreign exchange. And these are the things that have been put forward as policy positions and measures to reduce inflation in the country and it has succeeded in doing so by a per cent and that is good.

**Sen. Dr. Gopeesingh:** Miniscule per cent.

**Sen. R. Ahmed:** Miniscule though it may be, we are glad for the larger population having to deal with a lower inflation rate. However, the signal on the other side with declines in the ability of fixed income securities to pay what they are supposed to pay, and the Central Bank now, having to salvage, whether it is through a call or any other provision in these securities, that sends a signal for the large investors. And the small ones through their participation in the various Unit Trust and Money Market Funds and Mutual Funds that are being managed by fund managers in the country.

The whole situation of being able to buy foreign exchange freely, basically, essentially, is another signal that the Minister has sent and that we need to be careful about that. The third thing he said was with respect to the increased responsibilities in the regulation of the financial services sector. I need to ask a few questions on this and I also need to premise my questions on the fact that in the most recently tabled report in this Parliament for the insurance sector that referred to the 2005 data, there was a clear separation in the issues affecting long term insurance companies and the providers of general or what they call motor and property insurance, because the report signalled clearly that long term insurance companies, which is the life insurance and the annuity companies are essentially on solid footing.

The problem, however, arises in the arena of property and general insurance and in that report five companies were identified as not being able to pass the solvency test and the total amount of insolvency is in the vicinity of \$34 million. Of the companies not writing business for that year you had three in liquidation and one described as being in receivership and of the signals in the report the net amount of claimed liabilities in the report from four of the ones that stand out and especially the one that ceased writing business in 2007 is only \$44 million, in terms of claimed liabilities against total assets.

So the signal that we are sending when we speak about insurance companies must be clear, because we do not want to create hysteria in the eyes of the population, and when we know that the problem arises in claim liabilities with the property and motor insurance companies. So, I think we need to understand that clearly as we proceed in this matter because the Minister did say that some of the anticipated expenditure would be in support of the weaker financial companies, and we must not broad brush, we must be clear about the liabilities by aggrieved claimants.

So, Mr. Vice-President, having said that, there are also some other things happening in the economy. For example, the fact that credit card balances have been increasing. In fact, for the last year, 2006 to April 2007 there has been an increase in credit card balances from 9.7 per cent to 13.3 per cent, so this is a signal of the amount of debt that the population is incurring even as we have this liquidity situation. Apart from that, there is something else happening in the economy, the whole question of mortgage debt and we are told in the Central Bank report that some 48 per cent of household debt in Trinidad and Tobago is with respect to mortgage loans. Now we know what is happening in the housing sector and the increasing amount of mortgage loans that are being accessed as a result of the availability of houses. So, I am asking whether these policies of ours are not leading to this situation where we have to increase capitalization and we have to justifiably put money in place to deal with this fallout of what we consider to be policy measures and monetary measure.

**3.30 p.m.**

So this is why we must be careful when we establish policy, that we look at the whole situation and we do not have to keep coming with new measures to counteract the kinds of policies that we thought would serve the good purpose in the long term, but which are forcing other measures on the economy.

Mr. Vice-President, those are the three signals that I am very concerned about: the possible call on bonds and fixed income securities; the possible increase in the foreign exchange risk, because if consumers are being encouraged to purchase

foreign exchange that is so readily available now; and the fact that the TT dollar continues to decline against the euro and the pound sterling. These are signals for us because we are operating not in a closed economy, we are operating in a global economy. We have blamed food price inflation on import prices, and this Motion, Mr. Vice-President, as simple as it seems, is directly linked to each of the factors that we have put forward to the population as being positive measures and yet we have the backlash to deal with.

So, Mr. Vice-President, having said that, I know we have a long evening in front of us, I would like answers to these questions and I thank you. [*Desk thumping*]

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):** Thank you, Mr. Vice-President. Mr. Vice-President, let me thank all those who contributed to the debate on this particular matter as I think it is one way in which we can clarify our issues and certainly provide more information.

Now, I want to begin at the point where the annual report of the Central Bank states its purpose; at page 3, it says that “the primary purpose of the bank is the promotion of monetary credit and exchange conditions most favourable to the development of the economy of Trinidad and Tobago”. If that is taken to be the purpose of the institution, it would seem to me that the institution has to keep track with what is taking place in the economy and certainly has to determine at any point in time, whether the policy descriptions that it has, are consistent with the development of the economy.

We have said, and we continue to say in a sense if you look at the statistics—and there are those who do not believe statistics, but until we find a different way of measuring movement, we have to deal with the statistics—what the statistics would say to you is that Trinidad and Tobago as an economy operating as it is in the petroleum sector or the petroleum sub-sector in the world has in fact favourable conditions, such that, the rate and growth of the economy over the past five years has in fact doubled.

In those sets of circumstances, therefore, we find ourselves with a different set of issues, and therefore, we must respond. That is the basic environment that we are dealing with. For an institution, Mr. Vice-President, that has been labelled as a secret organization and that has secrecy provisions and so on—you would recall I dealt with this on the last occasion. On the last occasion, the issue that arose was that there are secrecy provisions for employees of the Central Bank as they relate to the business that they are involved in. Let us understand what we are saying.

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

The Central Bank basically has the ability to go in to any institution's private business to determine the activities that they are involved in. It is similar in a sense to the Board of Inland Revenue. Even I cannot access the Board of Inland Revenue data simply because of the secrecy provisions in law that arise on the operation side. Therefore, when that issue arose, we took the precaution of moving the Central Bank from having to go to court every Friday evening to defend its position as to why it cannot divulge the information, to one in which we said that it will be dealt with the same way we deal with financial institutions. That is to say that one cannot really get involved in the confidential nature of business transactions that create the business or the competitiveness that we are dealing with. To a very large extent, we have to manage what we do in this country in the context of international organizations coming in here and operating and if it does not operate in the rest of the world in this way, then we cannot deal with it.

But what is interesting, Mr. Vice-President, is that every single year the same institution that we talk about, provides us with a significant amount of detail in terms of: its monetary policy formulations; its foreign exchange market operations; its financial systems surveillance issues; its payment system oversight; what happens with its banking operations; what happens with its foreign reserves management—and I think to the extent that Sen. Dr. Gopeesingh asked the question and I will answer it in the context of the information that is available to all of us and also on the Central Bank's website, and I quote from the Central Bank's Report—Review of Activities 2005—2006:

"The governance framework and broad philosophy guiding the management of the foreign reserves remained unchanged in 2006. The Board is responsible for setting the investment policy, the Reserve Operations Committee sets operational guidelines for implementation of this policy and the Reserve Management Department (one of the departments in the Central Bank) is responsible for the implementation of the policy. The bank continued to participate in the Reserve Asset Management Programme (RAMP) (as it is called) run by the World Bank."

So it basically ties in to the Global World Bank System to deal with foreign reserves management.

"The bank managed the reserves in a manner that satisfied its liquidity needs while generating an acceptable level of risk-adjusted returns.

The portfolio remains structured in three (3) tranches: working capital; liquidity and investment based on the liquidity objectives."

That is to say they must have the money when they want it, and therefore, they cannot tie it up in investments that will not create the match that you are looking for.

“Defined strategic risk management policies were applied to each tranche. Management of the portfolio was undertaken by both internal and external managers, all of whom performed against established benchmarks. Most of the reserves continued to be held in United States dollars, reflecting both the long-term strategic focus as well as the profile of external payments.”

There are commentators who talk about US dollar versus the euro. The fact of the matter is that we earn 60, 70, 80 per cent of our foreign reserves or foreign currency based on trade with the United States and we basically settle in the same currency, and therefore, what the requirement is, is to have money available to settle outstanding liabilities and that is in US dollars. The fact that the US currency against the euro currency is trading at differentials, that is a function of investment, and therefore, if we are investing foreign reserves in a particular way based on risk mitigation parameters, then we look at it there because that is where you can pick up foreign exchange risk and so on. But that is a different issue.

**Sen. Dr. Gopeesingh:** Mr. Vice-President, is it possible for the hon. Minister—I know some of these things are relatively confidential, but are you comfortable with the foreign investors investing the foreign exchange for you? Could you just give us a little more information, if you feel it necessary?

**Sen. The Hon. C. Enill:** Mr. Vice-President, suffice it to say that the Central Bank is the most regulated of institutions and they basically have to perform under the guidance or under the remit of the International Monetary Fund which, basically, has central banks graded and operating in a particular way. There are some rules that the Central Bank must follow if it wants to continue to operate as a central bank and not be blacklisted. Where they put their funds will have more to do with stability rather than return, so that they only can invest in blue or gold, whatever the highest level of security is, operations.

Whether we are satisfied? Yes, because on an ongoing basis—and when the Auditor General goes in there to deal with the Central Bank's issues, she has to make a determination as to whether the policy framework and the things that are being said by the international agencies and so on; she has to basically convince herself that all of those matters that are being dealt with are dealt with on the basis of the policy provisions and we have no inherent risk, because if they are, she is honour bound or she is required by law to bring it to our attention. Therefore,

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

whenever we get a report from the Central Bank and we get a statement on the financial statements of the institution, it basically tells us that these matters were dealt with and they were dealt with to the satisfaction of the particular agency.

There were a couple other issues that were raised; let me just deal with them quickly. Credit Unions. Well, the fact of the matter is that, as we saw with insurance companies, central government is not the mechanism by which you can grow the resources that are required, both in terms of talent and in terms of compensation to deal with some of the challenges in institutions that are growing. When we looked at the insurance companies for example, being operated by the Ministry of Finance, we found that there were significant difficulties in simply administering the insurance portfolio.

The other thing we found is that the law did not support the regulator, it supported the company. So that when we moved the supervision from the Ministry of Finance to the Central Bank, we also changed the law to give the Central Bank more power to go in and do some of the things that it is doing now without the companies being able to simply frustrate the process. Therefore, if the Central Bank decides now that they will come after you and deal with you in a particular way, you would have to go to court and convince the court that they should not do that. In the past, all you needed to do was to say to them that they could not do that and you would have been free to continue, so we have fixed that.

What we have been able to do on the insurance side just so that you would know, is that we were able to apply the banking administration guidelines to the work that is required for insurance companies. So, for example, right now the Central Bank will come to your organization; they will look at how you deal with the public; they will be on site to look at the operations and so on. This is something that has never happened before. What happened before is that you simply sent the report in; we ticked it off; we sent it back to you and said that is it. So that is no longer on.

Insofar as the credit union system is concerned, a couple of years ago we did a report to look at the financial system and to look at areas where there might have been weaknesses in the system. The Credit union system stood out as an organization that had the potential to create systemic problems if certain things happened and we started to move to the situation where prudential standards were required. My information is that there are two consultations that are outstanding with the stakeholder group, and that we do in fact have a set of legislation that should be available for us by the end of September, in order to deal with this particular issue.



The issue here that we are dealing with is not with the focus of how the organizations are going to operate, that is to say, it is not going to worry about whom you are going to lend and the criteria. What it will do, it will say that if you have a portfolio that has deposits only, short-term deposits, you cannot take that and invest it in real estate or in mortgages as some may want to do. Basically, what you are trying to do with the new set of regulations is to ensure that organizations that deal with money understand the issue of asset liability management and ensure that they have things in place, so that when you want the resources, you can get them.

When I talked about catastrophe within the system, basically, what I was saying is that from time to time if an institution has or requires support for whatever the reason—you have a run on the institution and it is required to put money into the institution—the Central Bank must have the resources to do that without having to come to the Government to go through a process: to explain it to the Minister, to explain it to the Cabinet, to have those kinds of approvals. We are basically saying they should in fact have that available to them.

The question of the General Reserve Fund, what it is—\$100 million. The question of inflation, that is a supply side issue and—[*Interruption*]

**Sen. King:** Mr. Vice-President, I think what I asked the Minister was, what were the general uses of that fund? What was his rationale?

**Sen. The Hon. C. Enill:** Right now, I am dealing Sen. Dr. Gopeesingh, so I have not addressed your issues as yet. I will do that quickly. I think Sen. Dr. Gopeesingh asked the question about the amount, so that is what I am providing. The question of interest rate, I will deal with that at the level of the debate because it has to do with a number of other things. The question of his comment about the Central Bank and the Ministry of Finance. You know, the Minister of Finance has the responsibility for the economy. The Central Bank is one of the mechanisms that he uses to regulate licensees on the one hand, and therefore, there is a relationship between both the Central Bank and the Government as it relates to what is taking place.

The Government sets fiscal policy, the Central Bank gets monetary policy in the context of fiscal policy. Everybody is free to provide advice, including the Central Bank, including the IMF, including everybody else, but at the end of the day, it is the Government that sets fiscal policy and all the other institutions basically follow from that.

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

In terms of Sen. Mary King, the build-up of the assets are as follows according to the last report. We had indicated that it moved from some \$6 billion in 1996 to \$47 billion in 2007. As at 2006, the build-up was \$42 billion and it was made up as follows:

- Foreign currency cash and cash equivalents—\$24 billion;
- Foreign currency securities—\$16 billion;
- Foreign receivables—\$291 million;
- Subscriptions to international financial institutions—\$121 million;
- Drawing rights—\$20 million;
- Local currency cash and cash equivalents—\$887 million;
- Local investments—\$176;
- Pension assets—\$92 million;
- Assets receivable and payable expenses—\$35 million;
- Other assets—\$172 million; and
- Property, plant and equipment—\$294 million.

So these would have been increasing in accumulation over time and I would basically say to Sen. King that the details of each of those allocations are available in the Central Bank Report. If she needs me to go through them I can, but I think that it is basically available.

In terms of some of the other questions about legal cost based on challenges and so on, I do not have that information; I did not ask for it. In terms of governance issues, in the report of the Central Bank at pages 3 and 4, there is an entire issue on governance as it relates to its statutory responsibilities, the board of directors, the committees of the board and new developments in governance, and that is in fact available.

**Sen. King:** Mr. Minister, sorry to interrupt. But does it actually have a code of conduct for directors with conflicts of interest clauses?

**Sen. The Hon. C. Enill:** Absolutely, Mr. Vice-President, and not only that, it has one in which it has in fact made it part of the criteria by which it will evaluate licensees and rate them. I do not know if you are aware of it, but the Central Bank through the Inspector of Financial Institutions, conducts on a quarterly basis, I believe it is, a diagnostic of each institution.

While the diagnostic deals with the normal issues of the management of the institution, stability portfolio management and so on, one of the issues that it also looks at, is the issue of governance within the organization. So that it makes sure for example, that governance and conflict of interest issues are in fact part of the requirement of policy for the institutions, and many institutions basically use that, both for governance and conflict of interest in its governance structure.

You raised an issue that was in the public domain that had to do with issues of code of conflict of interest, integrity commission issues and so on. Based on the reports that were available certainly to me, questions on those arise if the institutions are in fact public institutions. In some institutions, you have to be guided by what is in the law, and in the instant case that we have looked at, the law was very specific in terms of what could happen and what could not happen and the Government had a particular position on that which was properly articulated, but the fact of the matter was, at the end of the day, the particular transaction, and the matters related thereto, was conducted in accordance with the law.

Sen. Ahmed raised some issues about insurance companies and made some inferences based on information that was available. In some instances, I do not understand the inferences. I have heard the concerns; I have heard the fears; all I want to say on the matter is that if there are specific issues that you require my intervention on, I certainly would be willing and able to provide them to you. But the one comment that was made which I need to deal with is the question of policy and whether policy is good or bad or the impact of policy.

Quite frankly, we live in a dynamic world and in dealing with the business of governance or in dealing with the business of business, one really has to respond to circumstances on the basis of the environment. As the environment changes, if you have a high petroleum price, certain things will happen; if you have liquidity within the system, certain things will happen; if you have challenges in the system; if you have all kinds of things, it will happen; and it will be irresponsible of policy-makers not to have three things: one, the ability to recall; two, the ability to change; or three, the ability to intervene when necessary to deal with the issues.

This particular Motion that we are debating here, came to us after it satisfied a number of criteria. First of all, it had to satisfy the criteria of the board of directors of the Central Bank who would have gone through the details, the technical issues, but who would have had to satisfy themselves that this was really required in the context of its mandate. Having passed through there, it had to pass through the Ministry of Finance and the Minister of Finance in particular, and it had to be justified. Then it had to pass through the Cabinet, and of course, in all

*Central Bank Resolution*  
[SEN. THE HON. C. ENILL]

*Tuesday, August 21, 2007*

those steps what basically was being looked at, was whether or not there was justification in the first instance and whether the arguments that came up supported the request that was being made. In all those circumstances, Mr. Vice-President, we are of the view that it did.

Just to respond to Sen. King in the context of international benchmarks. What the Central Bank said when they looked at the rationale for this, is that there are no international benchmarks that can be considered in the way that you would look at some of the other benchmarks, in that each country, each jurisdiction, many of the countries had different views about how they would have arrived at this particular statistic. And the one that we selected after doing all of that was this relationship between authorized capital to total assets because we felt that that at least was consistent with how we had in the past made this particular decision and it had served us well in the context of the governance of the Central Bank.

So, Mr. Vice-President, I hope that I have given some clarification on those I have the ability to. If there are any that Senators require me to deal with, I certainly will be able to do that and to provide you with the information that you require. But at this time on the basis of what we have seen and what we have done, I recommend to this honourable Senate, that we accept the Motion for the increase of the capital from \$100 million to \$800 million as requested by the Central Bank for the purposes of carrying out the work that we have tasked them to do.

Vice-President, I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Resolved:*

That the resolution of the Central Bank of Trinidad and Tobago increase its authorized capital from one hundred million dollars (\$100 million) to eight hundred million (\$800 million) is hereby ratified.

#### **HOMES FOR OLDER PERSONS BILL**

#### **House of Representatives Amendments**

**Mr. Vice-President:** Hon. Senators, earlier in the proceedings leave was granted for the debate on the previous motion to be continued later in these proceedings, I shall now call on the Minister.

**Mr. Roberts:** Thank you very much. Mr. Vice-President, let me thank the hon. Senator for his contribution and thank all Senators for signalling their desire to want to complete this important piece of legislation this afternoon.

The hon. Senator raised the issue in clause 3 as it relates to the definition for Homes for Older Persons, and it was felt and agreed that the licensing requirement should not be imposed on owners and occupiers of dwelling houses in which an average family would want to take care of their ageing relatives or some friend. Without actually stating that the requirement for licensing will apply only to a commercial venture, and so a form of words came up as it is suggested in the amendment.

**4.00 p.m.**

The Senator again referred to clause 6, which has to do with deleting the word “fraudulent” and substituting after the words “subsection (2)” the words “knowing that such information is false”. [*Interruption*] I am advised that it is a little more difficult in proving the case of fraud; whereas it may be easier for the court to take into account many other circumstances to prove that there was knowledge of information that was false; hence the reason for the change.

Concerning clause 14, I wish to inform the hon. Senator that it covers both summary and indictable offences. It says six months and more; the more will take care of the indictable offences. [*Crosstalk*]

Clause 23, discussions were held with the Ministry of Health and they suggested that we delete “pathologist”. It was felt that it would give greater flexibility, as sometimes it is a bit difficult to access a pathologist, and medical officer covers pathology.

Clause 25, we strongly believe that care includes treatment. [*Interruption*] It is part of the process. We did not think it would really cause any harm being part of the process.

**Sen. Dr. Gopeesingh:** The Town and Country Planning Act would take care of certain areas and the Municipal Corporations Act would take care of certain areas within the municipal corporations. I am a little concerned about somebody breaching that; under the Municipal Corporations Act you may not be able to do anything about it. I think you could get some guidance from the Attorney General.

**Mr. Roberts:** We discussed it and we felt that it was part of the Town and Country Planning Act, which will be followed anywhere.

In clause 30 the intent is to utilize the services of contract officers. In case there is a shortage, you can then refer to the use of public officers. That was the intention. It is clear that the word “Faculty” is a typographical error and we request that it be corrected to reflect that it is “Facility” and not “Faculty”.

*Homes For Older Persons Bill*  
[HON. A. ROBERTS]

*Tuesday, August 21, 2007*

Clause 34(2)(b) as it was created a level of uncertainty. The discretion of the court is to be exercised within a limit. The limit set or the fine stated is a maximum, so that the whole question of discretion really was not taken away from the court, but it must be within that particular framework.

Mr. Vice-President, I think those were some of the major concerns raised by the Senator.

**Sen. Dr. Gopeesingh:** Adequate food, what do you think about that?

**Mr. Roberts:** To your suggestion of “necessary nutrition”, that would mean different things to different persons. When we say food it is based on the care needs of the particular patient or the person living in the home. I thank you, Senator.

I think I have dealt with some of the major concerns raised by the Senator. I express my gratitude for his contribution and the concerns he raised and for giving me the opportunity to offer a bit of clarification.

In the circumstances, I beg to move.

*Question put and agreed to. [Interruption]*

#### **MEDICAL BOARD (AMDT.) BILL**

[Second Day]

*Order read for resuming adjourned debate on question [July 17, 2007]:*

That the Bill be now read a second time.

*Question again proposed.*

**Mr. Vice-President:** Hon. Senators, the list of person who spoke on that occasion were Hon. John Rahael, Member of Parliament and Minister of Health, Sen. Dr. Neil Adrian Singh and Sen. Prof. Ramesh Deosaran.

**The Minister of Public Administration and Information and Minister of Energy and Energy Industries (Sen. The Hon. Dr. Lenny Saith):** Mr. Vice-President, I rise to make a very short contribution to the debate and to indicate that since our last sitting, the Minister of Health and officials of the Ministry of Health have been in further consultations with the interested parties with respect to this Bill. As a result of those discussions, a number of amendments have been circulated which will be taken up at the committee stage. I wish to explain the amendments and indicate the rationale behind them.

The first amendment is in clause 4 which deals with the membership of the council of the board. Clause 4(a) in respect of 1(e) now reads:

“...an attorney-at-law with at least five years experience.”

The amendment is to insert after the word “experience”, “nominated by the Law Association of Trinidad and Tobago”. So the subclause would now read:

“an attorney-at-law with at least five years experience nominated by the Law Association of Trinidad and Tobago.”

In respect of (f), “one person nominated by a non-governmental organization”, this is very broad, very open, and the amendment replaces that person with an accountant with at least five years experience nominated by the Association of Chartered Accountants. So that in both these cases, it is quite clear these are nominations of bodies that are responsible professionally for the persons appointed. I am told that the reason for an accountant is that in the discussions which took place with the medical professionals it was indicated that they would like to have such a person.

If we go to 5(a), it now reads:

“A Chairperson, a President, Vice-President and a Secretary-Treasurer shall be elected from among members of the Council.”

In the discussions some members felt that this word allowed, given the composition of the board, for the President and the Secretary-Treasurer or the Vice-President to be non-medical persons, and this was not the intention. The amendment says that there would no longer be a chairperson:

“A President, Vice-President, and a Secretary-Treasurer shall be elected from among members of the Council who shall be medical practitioners.”

So the President, Vice-President and the Secretary-Treasurer will be from the medical professionals on the board. I think that would have dealt with a number of concerns expressed.

There were some other issues raised and discussed, but at this time we do not feel it necessary to make further amendments. I am sure in his closing remarks the hon. Minister of Health will address those issues.

Thank you, Mr. Vice-President.

**Sen. Dr. Steve Smith:** Mr. Vice-President, hon. Members of this Senate, may I first of all say that I am happy to be here this afternoon to represent the profession as well as the patients in our charge. I also take this opportunity to

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

thank the Leader of the Opposition, Mrs. Kamla Persad-Bissessar, for offering the Council of the Medical Board the opportunity this afternoon to participate in this debate on the Medical Board (Amdt.) Bill.

I respectfully reassure this honourable Senate that our profession is here to work with the Government; it is not here to be adversarial in any respect. We are not against the Government, but we will like to fashion a health sector and a Medical Board Act that will redound to the good of all the citizens of our country, because our health is our wealth and this is the direction in which we should go.

Our council met with members of the profession as recently as August 08, 2007, in an effort to arrive at consensus with respect to the amendments that are presently before this honourable House. Resulting from our meeting at that time, our position with respect to these amendments are as follows: We thought strongly that whatever the structure of the medical council that medical practitioners should, in fact, bear the primary responsibility for licensing and regulating the profession.

Two of these issues are technical aspects of our professional work. I dare say that if our profession is not professionally led, that technical aspect of our work will fall into the hands of persons who may know very little in respect of this kind of issue. Secondly, we felt that not only should there be safeguards built into our Act which should protect the general public, but that there should also be safeguards to protect doctors from potential abuse in terms of a council that is afforded power under this Bill.

We also strongly sense that our council should include both physicians and public members, but in the handling of technical matters that pertain to issues which fall within the domain of the profession, the profession should take the lead in the resolution of these issues. Therefore, we strongly feel that the medical council should have as its dominant membership, members of the profession of medicine who should be freely elected in the democratic manner that has been the norm with us for well over 200 years.

I respectfully remind this honourable House as well that it was on the initiative of the Council of the Medical Board that a recommendation was made to the hon. Minister of Health, as far back as 2003, that members of the public should be included among our council's composition. However, because of the nature of our duty—and we have a duty to fidelity of principles that involve fairness and no bias in terms of applicants for registration—such public members should satisfy certain criteria so there may arise no conflict of interest in the work that we do.



For example, such public members must actively be living in this country. They should be persons of integrity and good reputation and should have lived here five years preceding their appointments. I respectfully advance the view that the question of the appointment of an accountant was not entirely agreed to. We felt that a member of the national trade union movement and a member of the Employers' Consultative Association (ECA), which would balance representation from both workers and employers, should be represented on our council.

We also feel strongly that these public members should not be authorized to practise a healing art within our country, again in an effort to avoid conflict of interest. They should not have substantial personal, business, professional or pecuniary connection with a healing art, medical education or health care facility, except as patients or potential patients.

It is also factually incorrect to say that our present Act does not define who is a specialist, just as it is incorrect to say that there is no provision to treat with a doctor who holds himself out falsely to be a specialist. Sections 15, 20 and 21 of our present Act and, specifically, section 24(5)(h), makes it an offence for a doctor to:

“directly or indirectly holds himself out...as a specialist or as being specially qualified in any particular branch of medicine and who has not taken a special course in such branch and received a certificate of specialty therein which is recognised by the Council;”

The introduction of the proposed amendment to section 22 of the Act would create the anomaly of having a duplication of that particular section.

I believe what the Minister had in mind was creating a subspecialty register which, in fact, we do not have, hon. Senators. But if we were to look in summary as to the net effect of the changes which are being recommended by the hon. Minister of Health they would redound to three significant changes: one, the composition of the council; two, the manner in which the council will be elected and, thirdly, a radical change from being a professionally led council to one that will, in effect, be led by the Government.

In the hon. Minister of Health's own words—and I quote from the *Hansard* of July 17 this year:

“The mix will ensure that vital decisions taken by the State as the largest employer of medical practitioners will be conveyed and factored into discussions and decisions of the Council.”

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

I take that to mean that the hon. Minister of Health would like to see a greater input of what the State decides, that we either go along with it or we—well, I do not know what that means exactly, but I gather it means that he would like a greater degree of input into the affairs of the council.

The Medical Board of Trinidad and Tobago is the oldest existing in the entire English speaking Commonwealth, inclusive of the General Medical Council of Great Britain. Our council through official representation at international symposia is on record as being part of a growing global consensus of regulatory bodies that have called for a renegotiation of our fiduciary contract of the public we serve.

We had hoped to fashion this through a sense of heightened professionalism in medicine and strengthening in a meaningful way the Act under which we function as a feature of statute. However, our sense of professionalism is one that has been affected by many rapid changes in medicine as much by a need for us to re-orientate ourselves, since yesterday's patient is today's client. Medicine has been put into the marketplace.

Our council though is of the very firm view that the changes being proposed to the Act which defines our mandate, pose a threat to our chances of ever achieving the goal of enhancing the sense of professionalism in medicine, as much as it might be instrumental in reversing the many tangible gains that have accrued to the health status of our population over the past 20 years or so.

The profession of medicine in this country is quite unanimous in its view that these amendments cannot add value to the quality of health services provided to our population. In fact, hon. Senators, I suggest that some of these amendments may actually pose a threat to the well-being of the citizens of our country since their passage into law will, at one fell swoop, strip our profession of its technical discretionary power to determine who might or might not be a fit and proper person to practise medicine in our country. That power could then be transferred to a Minister of Health; not this hon. Minister of Health, but any Minister of Health in the future who may not know anything about the business of medicine itself and whose decision making in this regard obviously will be influenced by considerations that may have less to do with fitness and propriety and more to do with politics and expediency.

Our medical council tradition of rigorous professional independence has been fostered in a spirit of altruism and nurtured in the professional freedom hitherto. That professional independence has allowed us to choose the members of our council from among our peers and we have chosen colleagues, generally, who have earned our

collective recognition and respect. This democratically elected council has been able to advance the cause of our profession while, at the same time, it has been able to establish indigenous professional standards which have served over the course of almost our 200-year existence, as a means of effectively ensuring an acceptable, reproducible and consistent standard of quality among our providers of care.

I come among you today as a doctor with significant experiential and sufficiently intimate knowledge of our Ministry of Health, and I do not think that with the best of intentions it can be described as entirely non-dysfunctional. By way of example, I would suggest that in the year 2003 when the hon. Minister of Health could neither persuade or coerce our council to change its rules and regulations and allow foreign doctors into our country who did not satisfy the requirement of a fundamental knowledge of the English language and, therefore, could not communicate with their patients, he simply resorted to changing the law.

This happened on two subsequent occasions; one with the Pharmacy Board Act in which the hon. Minister facilitated the entry of pharmacists by amending the Schedule in the Pharmacy Board Act, which facilitated the registration of a range of Philippine universities, and also the Dental Board Act which changed its schedule of what it recognized as traditional universities.

Having petitioned the government of this country for more than 20 years, we were cognizant that the amendments which the hon. Minister effected in 2003 represented nothing that our council either wanted or thought was for the good of the profession or the country. But on that occasion we were moved to look with awesome surprise at the alacrity at which the Minister and the Ministry could change the law if it was to suit their own very purposes.

Be that as it may, I will now deal with the issue of quality in health care. I choose to deal with quality, because I will like to show this honourable Senate that there is no connection between the amendments being proposed to the Act, at this time, and their potential ultimately as health quality enhancing instruments; except, perhaps, for the creation of a subspecialty register. We already have in place within the present Act both a mechanism of identify who is a specialist and also for dealing with those who hold themselves out to be specialists and are not. Those provisions are already in the present Act. The proposed change to section 22 creates the anomaly of duplicating that requirement.

The hon. Minister of Health in response to Sen. Prof. Deosaran, and since that time, has protested that the *raison d'être* behind his need to change the Act stems from his firm conviction that the proposed amendments would enhance the quality of health care for the citizens of this country. He also stated quite firmly

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

that they would effect, in fact, a scenario in which specialists would practise as specialists and, therefore, persons would not practise outside their sphere of competence. The latter already exists in the present Act. Do these amendments have any utility in enhancing quality? I propose to show that they do not, if we examine and explore the meaning of quality in health care.

It is ironic that the Minister should have listed at the time a number of crimes, if you want to put it that way, committed by doctors that could have been regarded as negligence. But not a single one of the amendments he has proposed has anything, in fact, to do with the resolution of issues of negligence or even the definition of negligence. [*Interruption*]

**Mr. Vice-President:** Sen. Dr. Smith, I shall have to ask you to continue after the tea break. We are down to 4.30 p.m. and we shall now take the tea break. The Senate will now be suspended for tea. We shall return at 5.00 p.m.

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

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

**Sen. Dr. S. Smith:** Mr. Vice-President, I was saying that the hon. Minister of Health's *raison d'être* for the amendments is that they would increase the quality of health care delivered to our population. Therefore, that directly invites me to look into the issue of what is quality health care. This is a booklet produced by the Ministry of Health called "Quality 2001 A Reality". On page 4 we read:

"The Ministry of Health defines quality as service that throughout the customer's life cycle conforms to standard in meeting needs and expectations at a cost that represents value for money."

I am not saying that this is a deliberately convoluted or confused definition of quality in health care, but it is certainly one which is challenging. If you compare what the profession defines as quality, it is simply doing the right thing at the right time in the right way so as to achieve the very best results possible, or if you want to put it another way, quality care for the patient involves access to the health services that are supplied at the time they are needed through the use of the most appropriate tests or procedures, so as to achieve the very best possible results. Those definitions are very straightforward, but they represent something of a departure from what the Ministry's definition is.

How do we assess quality in health care? For the hon. Minister to justify, state or insist that his amendments would increase quality, we have to go into a bit of how we assess quality in health care. We normally assess the level of quality in

two ways; the first is an objective and quantifiable methodology which involves assessing clinical outcomes. For the benefit of this honourable House, a clinical outcome is a measure of how well a group of patients may respond to a particular intervention in specified areas of care. Usually these areas of care are high priority areas which involve illnesses that may cause suffering, disability or death.

For example, in our situation we may wish to look at the quality of care delivered to diabetic patients in our population; so we will design an intervention which we could consider as a house or a port on one river bank; that is our intervention; and we are looking at our outcomes on the other side of the river bank. The bridge which connects the two is the method in which we are going to deliver the services that would affect such an intervention. That bridge is the various systems and processes that facilitate the delivery of an intervention. If you would recognize that the bridge of itself over these troubling waters of confusion could be either broken or in some way distorted, then the processes and systems themselves, independent of any intervention, can cause an adverse outcome.

This is the problem with the health sector in our situation here; that the systems and processes which serve to deliver any intervention, have been blamed by nearly every commission of enquiry into the health sector as the fundamental underlying reason our health sector is unworkable. Not a single Minister of Health has attempted to fix that bridge which would span the gap between the intervention and the outcomes in health care, and I fear no contradiction on this.

I put it to this honourable House that it is insightful objectivity in analyzing the systems and processes; it is honesty in their reporting, and it is decisiveness in the subsequent application of evidence-based solutions, which together will enhance the overall effectiveness and efficiency of our health sector's performance. There is the matter of the composition of those entities which assess quality within the Ministry of Health. For example, the Ministry of Health's Quality Council, which is supposed to adjudicate on the quality of health care offered by our Ministry of Health, comprises 10 members; eight of those members have been drawn from the Ministry's staff.

If we look at what is proposed for the National Health System in this country, the entire board of the National Health Insurance Agency will be manned by personnel from the Ministry of Health. If we look at many different councils—the Accreditation Council or whatever other council, the input from the Ministry of Health is top heavy and, therefore, the assessment can never be independent or objective. As my colleagues said on the last occasion, it is Caesar judging the performance of Caesar. It does not make much sense.

I am not saying that to antagonize the hon. Minister. I am saying that out of interest for the population, because clearly if we are going to have a health sector which is performing, our assessment of the performance of that Ministry must be independent and must not come from persons who work within the Ministry, because you will get no assessment.

I ask another question: Where is the doctor on this committee? There is no doctor on this committee, and this is another problem we have in the profession with the Ministry of Health on the whole within recent times; that is why we are tempted to ask whether we have an anti-doctor administration. They point fingers at us as a profession; they continue to distance themselves from our profession, and it is quite apparent that our Government's unnecessary and continued negative profiling of the profession in terms of regarding us as UNC doctors, MPATT doctors or, political doctors, is creating confusion with the public and within the profession. [*Desk thumping*] It is a regrettable and unfortunate thing that we should have persons of such open-mindedness who refer to the profession in this derogatory way. It is demeaning and belittling of the profession. Needless to say, it divides our profession.

In the way of contracts, I will tell you about my own experience in 1979 as a very junior house officer in San Fernando. I was absolutely disgusted with the health sector and the manner in which the hospital was managed. I put pen to paper and penned eight pages on legal size paper and delivered it to our now deceased Prime Minister, Hon. Eric Williams himself, on a Friday evening. By the Tuesday of the following week, not only had I gotten a written response, but our Prime Minister at the time had the presence of mind to dispatch five senior ministerial colleagues to San Fernando. He never labelled me an "Opposition doctor" or a "this" or "that doctor"; I was a doctor who was interested in the health sector and the people's business; he saw that. Very much has changed; it is lamentable that so much has changed in 28 years.

We cannot expect to have an impartial and independent assessment of the performance of our Ministry if these committees are going to be manned by personnel from within the Ministry of Health. The second aspect of quality is one that is subjective; it depends on the patient's input. For example, you give him a questionnaire asking: Did the nurse cut your toenails nicely? Were you treated well? Was the food acceptable? This is a subjective assessment of quality and, regrettably, is the standard within our Ministry of Health for the assessment of quality, which is amazing. Obviously, such things are going to depend upon the patient's expectation; their own individual preferences and their taste; therefore, it becomes null and void. This is what we base our quality awards annually on.

To come to our own health sector and the quality that pervades in it, if I am to judge by the available data, our Ministry is not doing too well. Many of the gains achieved in the 1980s are now being eroded and reversed. For example, someone born in 1980 had a life expectancy of 71 years; in 1990 that improved to 72, but in 2003 that fell to 69 years. Our crude death rate per thousand population was 6.9 in 1980; it improved in 1990 to 6.8 and jumped to 8.4 in 2003. Our infant mortality per thousand population was 21 in 1980; it fell to a respectable 11 in 1990 and has escalated to twice time that, 24 in 2003. The under five years mortality rate was 15 in 1990; it has escalated to 21 in 2003. The prevalence rate of HIV was 1.4 per cent in 1990; it was 3.2 per cent in 2003. Maternal mortality is scandalous. It was 87 in 1980; it fell to 67 in 1990 and jumped to an incredible 110 per 100,000 in 2003.

These indices I have reviewed have been accepted by the World Health Organization (WHO) as reliable and objective indicators of the quality of health care which a government offers to its population. Our indices have been deteriorating. I am submitting to this honourable House that since the decades of 1990s, there began a more concerted thrust towards health sector reform; but the health sector reform being implemented in this country is based on the importation of a one-size-fits-all solution, which is an unworkable proposition.

Through a process that has succeeded in alienating us as a profession, the efforts of the Ministry have been failing to a large extent in augmenting the quality of health care; the very quality of health care that the hon. Minister spoke about as the *raison d'être* for his amendments. We as a profession has registered, from time to time, our concerns that the reforms being actively pursued were ill-advised and were failing here as they have failed elsewhere. The only response we get from that is to be quiet or to be reprimanded in some way.

So whilst we would like to engage in dialogue and scientific debate, our Ministry sadly continues to regard our objections as being based on the banality of party politics. This is a kind of paranoia that is of the Government's own making. Our hon. Prime Minister indicated that he would not trust a UNC doctor. That is a statement which is beyond understanding. That kind of profiling and designation is totally unnecessary; it is derogatory and uncalled for. [*Interruption*]

**Hon. Senator:** It is the truth!

**Sen. Dr. S. Smith:** I will use this opportunity to request of the Minister that they should cease to do that kind of thing. However, so deep are the roots that feed our own political paranoia, that what used to be regarded as diversity and

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

party politics is now the sinister caricature of an inflexible type of political cultism. Those who are critical of the process are either wooed to the side of those who wish to control or are silenced through control.

I believe that this is, to a large extent, what is happening in our own situation; that in an effort to silence the profession, limitations are being placed upon our professional freedoms. I do not know why a government in its own country, among its own professionals, should wish to place limitations on the professional freedoms and individual rights of the professionals and the profession. But I can only glean from the restrictive point of view of my own understanding of their thrust in health care policy. One of the major thrusts is that the budget speaks of a National Health System; it left out the word "insurance".

Mr. Vice-President, we have five Regional Health Authorities that are separate; each one is a mini Ministry of Health. Each RHA is based radically on the premise of competitiveness and competition; that is what they were advised to do. The National Health Insurance system that you want to introduce is based on solidarity, which is cooperation. The one is antithetical to the other. How can you get solidarity and cooperation in a national health system when premise and the underlying infrastructure is based on competition?

Not only that, but the primary health care concept is one which is not based on competitiveness; it is based on inter-sectoral linkages and cooperation. We have told them that. You cannot have five Ministries of Health with the right hand not knowing what the left hand is doing, because there are no hospital doctors in the RHA. If you want to make a wing you have to go to the Minister. You lobby, the Minister will have a top down solution: command and control: "Find a bed for the patient", without knowing what the situation is there. All the information he has is from the RHA and they have no inkling of an idea what is taking place in the hospitals.

So this is the confusion in the systems and processes that need to be sorted out. Successive governments have not done this and, therefore, as if in a move of exasperation, what is required now is that you shut your mouth and take what is given. When you do that to your employees, you take away from them a sense of ownership of the establishment. I used to feel that the San Fernando hospital belonged to me; so I used to go around the compound and look at where they threw tablets and so on and I felt a sense of pride in moving things. When you have a top down command and control situation where you dictate what is to be done and what you are dictating is completely irrational, you lose the sense of ownership; you lose the sense of morale and you become burnt out, and that is what is happening in the profession.



From how I have reviewed what quality in health care is, I am certain that this honourable House cannot see that there is a link between what the Minister wants to do and the enhancement of quality in the health sector. These amendments have absolutely no utility whatsoever as quality enhancing instruments. Let us turn now to the remit of the present Medical Board Act.

The rank and file of our profession have pleaded with successive governments of all hues, over the last 20 or 30 years, and Ministries of Health, to release the bound hands and feet of an antiquated, impotent Medical Board Act and to allow it to breathe the freshness of 21<sup>st</sup> Century air. If I could characterize or personify the present Medical Board Act, I would say that it is a one-handed 90-year-old man, with a sick foot “to boot”. He has been burdened with the duty to police our profession in the name of the health of the people, out of the love for whom he continues to make the odd sortie against errant members of the profession. But his arch enemy has grown sophisticated, agile, and is renewed in vigour over the years.

Hon. Members, our Medical Board Act as it presently stands is afflicted by the tunnel vision of its very narrow remit. It shares few of the broad concerns and addresses hardly any of the sophisticated issues the practice of 21<sup>st</sup> Century has caused every modern Medical Act to focus attention upon. The Medical Board Act of Trinidad and Tobago, Chap. 29:50 continues to have as an overwhelming concern simply the adjudication of matters that involve moral turpitude.

The horizons of many Medical Board Acts have gone so far beyond the stone’s throw of professional decorum that I am truly saddened by our Government’s deliberate inertia in not being responsive to the pleadings of our profession, over many years, to update our own legislation. While that inertia is cause for sadness though, our Government’s inattention to this whole custodian Act in order to facilitate its use of our profession as a convenient whipping horse, is certainly not sad, but infuriating and truly scandalous.

We as health providers should be endearing ourselves to our Ministry of Health; we wish to cooperate with our Ministry of Health in the provision of sound care for the people; but our Ministry continues with an adversarial attitude that is inexplicable. It continues to divert accountability away from itself by not only pointing fingers at our profession and blaming us, but is quite happy to encourage the public to do the very same thing.

The question we have to ask is not how long our profession must remain an object of derision, but instead, after we have been sacrificed on this hon. Minister of Health’s altar of expediency and in the name of some invincible individualism

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

of some politicians, in the wake of the passage of these amendments, who will there be left in this country to be an unbiased, untainted, independent voice for the misguided, the voiceless and vulnerable people among us in this population?

The modern Medical Act has moved away from purely punitive measures relied upon in antiquity. Today's Bill will incorporate issues that are relevant to the modern practice of medicine; issues that involve physician impairment and remediation, the logging of medical mistakes, the differentiation between the discompetent or the incompetent physician and so on. Our Act remains lopsidedly punitive in the recommendations, even in its most recent amendments.

There are means to assist, to encourage or enhance morale, so I ask yet another rhetorical question: Do these amendments add anything to the original remit of our Act? Clearly the answer must be a resounding "no". If that is the reality, then I say to the hon. Minister that he is offering stone, not bread, to the people who are hungering for the food of justice, which is the true nourishment in the battle against the errant doctors who wilfully offend against the sanctity of the trust that is supposed to exist between the doctor and his patient. What you are offering the people, hon. Minister, will not satisfy the demands of justice, but will leave them as unsatisfied as they have always been, but with an even more bitter taste in their mouth with the eating.

Mr. Vice-President, for 200 years, every three years doctors in this country in unbroken tradition, with not a red cent as inducement—[*Interruption*]

**Mr. Vice-President:** Hon. Members, the speaking time of the hon. Senator has expired.

*Motion made,* That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. T. Gopeesingh*]

*Question put and agreed to.*

**Sen. Dr. S. Smith:** With not a red cent as inducement and unflinching constancy, our doctors have sacrificed their time, talent and learning in fidelity to one objective alone. That is to say, to ensure that those who come to our shores to offer themselves to our vulnerable public as healers, are independent professionals, as fit and proper persons to so offer themselves. This has been happening for the last 200 years.

These seven doctors who form the Council of the Medical Board of Trinidad and Tobago have not been without human failings, but for 200 years the only inspiration to serve being nothing more than the quintessential ideal of altruism,

which is the stuff of authentic professionalism, and with neither reward nor stipend, our profession has never ever been without a council and without the guidance of a council.

I ask this honourable House: What encapsulates the essence of the ideal professional, if not the sense of altruism? I believe that the hon. Minister of Health in these amendments proposes to pay those who serve on this council, because he would have to. The persons to serve on this council will not be persons who would volunteer their service in the altruistic freedom that used to be the case for 200 years; they would have been requested to serve, and if you request somebody to serve, that is quite distinct from offering services freely. If the hon. Minister should pay such persons, he would have removed the very large vestige of nobility from the profession of medicine in this country. I fear that will eventually evolve.

Any ministry of health, any government anywhere and at any time that is content to be the accuser of anyone who offends against its rules; any ministry, any government that would drag such a person whom it accuses into its own courts and is contented with being the judge of its own performance, pronounces sentence and acts as accuser, judge, jury and executioner, all rolled into the very one ministry of health, is but the personification of a lie.

They would rather bask in their own hypocrisy rather than defend and augment the rights and freedoms of those who offer independent, constructive criticism in the spirit of true participatory democracy. Paradoxically, it is only in the protection of individual rights and freedoms that authentic development can be assured.

So how do we set standards here? To a large extent, my task this afternoon has ended. I am not going to address these amendments individually, since I firmly believe and do sincerely hope that in their present form those whose duty it is to say yes or no to them, will, on this occasion, allow loyalty to their fellowman and to our citizens to prevail and to call for a rethink on these amendments. They are far too narrow-minded. They are too utilitarian and they have no utility in advancing the cause of health care for the people of this country.

The evidence, based on this, a new attitude towards the profession, is that the Ministry's efforts have not been successful.

### **5.30 p.m.**

Now the hon. Minister of Health has been in the public media protesting that the council would not be under his control. He says that we would pick four, he would pick two and I asked him if the rest would come from a mango tree.

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

Somebody has to take responsibility for the others. It has to be somebody because they would not appear out of nowhere. So I put it to this honourable Senate that directly, or indirectly, with seven members in the Minister's corner and the rest on our side, this council is going to be firmly under the control of the hon. Minister of Health.

He protested again that there would be eight doctors on the council, but I put it to you that the hon. Minister of Health found six doctors during the life of the parallel board and they did his bidding willingly and that is a board that is outside the jurisdiction of your medical council and medical board, Mr. Vice-President. So it is easy to find doctors who would do what the Minister would like them to do. [*Interruption*] Oh yes, it is very easy. [*Interruption*] No, it is very easy.

In addition to all this, the hon. Minister proposes to elect our council executive not from the rank and file of our profession, but from the narrow 11 persons who have been appointed as the council. Mr. Vice-President, that is so offensive and it offends to such an extent against the notion of democracy that it is so untenable, it should be thrown out immediately. How could you have four persons in our corner, seven in the Minister's corner and you say out of those 11 you are going to choose who is going to be your executive? Clearly it is nothing but a ruse and a mechanism in which the hon. Minister can circumvent the democratic process and put in someone who he likes to head the Council of the Medical Board.

Such a person would be a willing accomplice, and I use the term accomplice deliberately, Mr. Vice-President, because I would like to review now some of the historical events that have to do with the relationship between the Government of this country and the Medical Board of Trinidad and Tobago. And I say to the unrelenting loyalists among us and for those with short memories and who like half-truths, I would be remiss in my duty to my country if I did not support my fears of political confusion with factual historical examples of the very deep scars that Government boots can leave on the backs of the profession as it tramples upon our business.

The ministry of medical ethics and politics, doctors who share their beds with pharmaceutical corporations find themselves in situations of embarrassing conflict of interest, so much so that clearly defined limits have been imposed upon the value of the gifts that these transnational corporations can offer doctors, and the same thing can be said of doctors in the public who seem to be grateful recipients of lavish gifts from politicians and political parties.

I have an example, Mr. Vice-President, but I think it would be an unsavory example and I would rather not go there, but I would rather tell you and this honourable Senate of the extent to which the Minister of Health creates accreditation standards—the same thing about which I spoke recently—and using councils peopled by ministerial people, disregard those accreditation standards and I will give you an example.

This is the Ministry of Health of Trinidad and Tobago Accreditation Standards Manual for the health sector which has been approved and signed by the Minister of Health and in this document, section COP.7.2 and COP.9 clearly outline the ministry's requirement as it relates to the administration of anaesthesia and together with section FMS.7 and FMS.7.1 these four sections have the cumulative effect of actually outlawing the present practice which obtains in respect of the arrangement for the surgical treatment of patients on the hon. Minister's waiting list initiative.

This arrangement involves the movement of patients and staff from their accustomed hospital environment in one Regional Health Authority (RHA) jurisdiction to another hospital in another RHA jurisdiction in order to facilitate surgery, and the understandable result is that many times the staff would be unfamiliar with the equipment provided since they would be using it for the first time. They therefore would also be unfamiliar with the status of the equipment they are made to use. They would not have had any prior knowledge of the viability or integrity of the equipment that might be old; neither would they have any vital knowledge of whether any new equipment they might encounter might have been previously and properly commissioned.

Yet we see a hospital Chief of Staff not only sanctioned, but actually suspended for—and I quote—“not implementing the waiting-list initiative”. This is the kind of disregard that can take place if things go unchecked. There must be someone, some entity, to raise an unbiased voice to protect the citizens of this nation.

These practices are clearly unsafe and are at variance with the written guidelines of the accreditation manual and yet they continue. Not only do they continue, but they have been organized from the office of the Ministry of Health and they use United Nations and foreign doctors who have been given temporary registration and that kind of practice is in blatant contravention of the terms and conditions of their registration.

So this is the kind of irresponsibility and disregard for the rules of safety that can be inspired by the desire for political advantage, Mr. Vice-President, and it is the escalation of this type of activity which every citizen of this country risks,

*Medical Board (Amdt.) Bill*  
[SEN. DR. SMITH]

*Tuesday, August 21, 2007*

including yourself, when you willingly surrender to any Minister of Health too much control over the affairs of the profession of medicine. This is the type of irresponsibility that can be the fruit of expediency when quick fixes replace sound planning in the game of political “one-upmanship”. This is the type of irresponsible practice that can be readily covered up by glossy publication that amounts to nothing but propaganda. The fact that we should raise a voice against this kind of chicanery is what would have people wanting our necks and jobs on the Council of the Medical Board.

I will end by reminding this honourable Senate that the hon. Minister of Health stated quite clearly that he employs two-thirds of all the doctors resident in this country and this is the said Minister who today seeks to offer amendments to the law that sets standards and disciplines these professionals. An independent body which is your council, hon. Members, has had this function as a privilege for 200 years so the objective reality is that we have played a pivotal role in ensuring the advancement and protection of the health of our population.

We have impartially decided over those years who must come to our shores to practise their art, who we would have leave our shores, and who we would have chosen to stay among us as colleagues. All this is going to be transferred to a Minister of Health and a politician. If this is not an offence against the tenets of natural justice, and an open invitation to victimization, then I can never know what else might be.

I would like to end by reminding this honourable Senate of a warning issued by the very “Father of this Nation”, Dr. Eric Williams, as he addressed this country on August 31, 1962 when he asked rhetorically: “What use will you make of your independence?” And he answered his own question by saying:

“The first responsibility that devolves upon you is the protection and promotion of your democracy. Democracy means more, much more, than the right to vote and one vote for every man and every woman of the prescribed age. Democracy means recognition of the rights of others. Democracy means responsibility of the Government to its citizens, the protection of the citizens from the exercise of arbitrary power and the violation of human freedoms and individual rights.”

Thank you, Mr. Vice-President.

**Sen. Padmore:** Democracy means PNM.

**Sen. Mary King:** Mr. Vice-President, to begin, I wish to note that during the recent sittings of this Senate, we have had the unusual opportunity to host “Senators for a day” who were considered experts in their positions on certain bills for presentation of their cases to the Senate. We had also heard that we were going to again host Dr. Smith today to give us a revised version of the Medical Board’s position and we have just heard him.

Mr. Vice-President, I view this progressing practice with some alarm. I wish to state that in my view it is the responsibility of the full-time Senators in this Senate to seek the opinions of both the population at large and certain vested interests where necessary and then present these to this august House as an amalgamation of the thoughts and the views coming from these presentations. [*Desk thumping*]

Mr. Vice-President, if it is felt by this Senate that we need further and highly specific views of the public and/or other vested interest, then we have the mechanism of the joint select committees to do just that, as we in this Parliament have been going around the country getting views on the Equal Opportunity Bill, and the Bankruptcy and Insolvency Bill which is before us at the moment, and I do not think that this should change.

Mr. Vice-President, when we were discussing the Telecommunications Bill, which was a very complex one, I went from pillar to post among engineers and telecom experts in the field and got their views on how the Bill met with evolving technologies especially in telecommunication and I appropriated that information according to my understanding of telecommunication economics, an amalgam of which I presented to this Senate.

I wish to recommend, not that the Senate go as far as to change its Standing Orders, but to obtain a professional agreement that it is normally the duty of full-time Senators to debate in the Senate with a proviso that if we need specific information then we do so by way of our joint select committees.

Let me now address the Bill, Mr. Vice-President. To do so I wish to make a general comment on the public health sector as it is and on the existing Act just so that I make myself very clear.

As Chairman of one of the joint select committees dealing with the health sector of which you, Mr. Vice-President, are the Vice-Chairman, I have laid recently in this Senate a report on one of the subsets of the health sector. The public health sector is indeed improving and the Minister has been advertising in the press some of those singular successes for which we must congratulate him,

*Medical Board (Amdt.) Bill*  
[SEN. KING]

*Tuesday, August 21, 2007*

particularly the last kidney transplants. [*Desk thumping*] And there are certainly improvements coming in the way of training and equipment, for that, I think, would be a great benefit to the nation. We also know that in general we do have some chaos in the management of the Regional Health Authorities. The management leaves a lot to be desired and obviously, the joint control of the ministry and the RHAs, on the control of staff really exacerbates this problem. We also have to note that we have a running fight among the doctors; doctors are now seen by the public as a militant workforce under MPATT and this running fight amongst the doctors, management, and the ministry ensures that the quality of service to the public is also poorer than it should be.

The undercurrent racism at the medical professional level is driving a wedge between the two respective factions. People are actually afraid to take their relatives to the hospitals because there have been occasions when they have ended up dead. Those who take their loved ones for serious conditions can be told by some public sector doctors that the waiting list is very long but they are willing to perform those operations required for exorbitant fees at their private clinics, and we have had a case in point which affected our larger parliamentary family very recently, and the Minister is very aware of that case.

So they can work privately in this health system because we have part-time medical practitioners, and this must stop. All the parties in this fiasco that we call our public health service have to share the blame since there is incompetence, and there are valid complaints and grievances on all sides. Given the large sums of money we are spending on the service and the attendant poor service delivered, something has to be done very quickly.

In our report, Mr. Vice-President, you will recall that we actually were so bold as to suggest that we adopt the Bolivian-type capitalization model that is a joint venture between a foreign experienced hospital partner who takes full responsibility for the operating of the system with the government as an equal shareholder. This has worked very well for us in some cases; it works at Fertrin, it works very well at TSTT and in some other cases, so we have to organize that. We will have real management and also capital towards the management system of the health sector, and of course, complementary to all this, we have to address what is before us today; the present anomaly of the Medical Board and the Medical Council.

The Medical Board and its subset, or select committee the Medical Council, have been in existence—I thought it was for 192 years—but Dr. Smith has told us it is 200 years. And I would think that today this configuration has outgrown its



usefulness, and in my opinion, more fundamental changes than those before us today are needed and I would like to explain exactly what I mean. I think now is the time to examine it and see if we can help to put something in place which will be a more professional structure.

We know that certain professions can have a dramatic impact on the well-being of our society and in some cases can kill people, so we have to be regulated by a body whose responsibility first and foremost has to be the good and safety of our society at large. Since this regulatory body will require the power to rule, to make and implement certain regulations, then that body has to have the power of the State behind it, and has to be governed by legislation.

Hence, I think the State must have the power to put in place such a body, bearing in mind that this entity has to maintain some independence from Executive and political control. Surely then this regulatory body has to be made up of members of the profession, representatives of various public and private sector bodies, and even Members representing the Government. The selection and subsequent appointment of these members has to be such that the aforesaid independence is maintained and seen to be maintained.

This is not a new concept, Mr. Vice-President, many professions and in particular the regulated ones, maintain separate professional institutions that are particularly concerned about the continued development of that profession. Such institutions would have members on the regulatory body which should not be a subset or committee of the total body. That is the professional association, or what we call it in our present Act, the Board. Self-regulation in my mind is utopian. It does not work in practice with fallible people and everybody is fallible to some extent.

We need an independent voice and Dr. Smith has just agreed that we need an independent voice in the profession. So I find it inconceivable in these days that the Medical Council, which is really the regulatory body of the profession is a subset of the board or the professional association. They are required to be separate and distinct entities with two separate and distinct responsibilities. One responsibility is to the profession at large, and the other is to the public protection and in this country the engineering board—Dr. Lenny Saith will be aware—and the engineering institutions maintain this separation and I wish to recommend to this Senate that we do the same for the medical profession.

We have two boards; one is a council and one a parallel board; can one of these be restructured into the regulatory body? For example, the registration of doctors in this country should be the responsibility of the regulatory body which

*Medical Board (Amdt.) Bill*  
[SEN. KING]

*Tuesday, August 21, 2007*

in this case would obviously accept recommendations on registration regulations for the profession and for other certification and accreditation bodies. For example, we have in place already an accreditation council so we can talk to these people in the formation of its regulations.

Mr. Vice-President, we have seen in the past that certain professional associations that certified and registered its members became guilty of restricting access to the profession for purely selfish reasons and that has not escaped Trinidad and Tobago. So in many of these areas, basic certification is now done by universities which are accredited by bodies which are again separate but influenced by the professional associations. So we want an association, a regulatory body, and we want entry to that professional association to become rule based.

I recommend that the Bill before us separate the current two bodies, the Medical Council and the Board, to a regulatory body and the medical board which I recommend be renamed the Professional Association of Medical Practitioners. Do not confuse it with MPATT please, that is a trade union. I am talking about the Professional Association of Medical Practitioners and that will be the professional body.

I will make my recommendations in the context of some aspects of the Bill. If we look at clause 6(a) of the Bill, I think if we are to accept the concept then certain terms would have to be redefined. For example, the terms “appointed”, “elected”, “nominated” in the amendment in clause 6(a) are really quite loosely used and they should be reiterated or defined specifically.

So for this section, I will recommend definitions for the word “appointment” to mean “formally installed on the Council by the Minister subject to nominations by various bodies”.

‘Nomination’ means formally selected by the various specified institutions as representatives for appointment by the Minister.” I would also include a clause to say: “the Minister shall appoint these nominees and if he does not, he must publicly defend his action.” We actually have included that in some of our Acts including the Telecommunications Act where recommendations will be made to the Minister and if he does not implement them then he has to tell the public why he does not. And for a definition of the term “elected” I think we need to define this as a process that an institution or other body may use to formally select its nominees for appointment. So with those meanings in mind I would recommend that clause 4(a) subsection (1)(b) then read as follows:

“Two medical officers nominated by the Minister.”

And clause 4(a) subsection (1)(c):

“Four medical practitioners nominated by the Medical Board by election or other acceptable process.”

I was also recommending that the attorney-at-law be someone nominated by the Law Association but I see we have that as an amendment before us and I would certainly agree with it, and I have no problem whatsoever with an accountant replacing a representative of an NGO and, of course, an accountant as defined in the amendment proposed.

Mr. Vice-President, if this were the case, given the above clarifications, a council could be seen to have some kind of independence from the Executive though the Executive voted in by the people must be represented on the regulated body. The Minister has two nominees out of a total of 11 members and I am really in a quandary to understand what is the problem with that.

In the context of a restructured body as I have been suggesting, then we would have to look at section 20 of the parent Act. It will cause some confusion if we do not go back to the parent Act because if the separation of the council from the board is realized, then we cannot have the council subject to the approval of the board in making rules and regulations. The council will be an independent body. I am saying the council may consider the views of the association and the recommendations but it cannot be subject to the dictates of the professional board.

Also, Mr. President, the council should not be involved in making rules as to the good governance of the board or for the conduct of its affairs regulating the time and manner of meeting as is stated in the parent Act. So that would have to be changed. The expansion of a council into a body that includes non-medical personnel also disqualifies it as a kind of quasi-governing body of the board because you have people who are not medical practitioners or even a sub-committee of the board and, therefore, it proves the point that we have to have a separate entity so we would have a regulatory body independent of the board and the association.

Mr. Vice-President, that council or regulatory body as I envision it may wish to ensure that all practitioners that it registers are members of the professional board. This does not have to be, but I will not resist if that is what is needed or wanted by the association or the board.

Mr. Vice-President, we also know that it is not the practice of this House to suggest amendments to parts of an Act that is not before us but if the fundamental

*Medical Board (Amdt.) Bill*  
[SEN. KING]

*Tuesday, August 21, 2007*

recommendation is accepted, then the whole Act will need to be reworked and renamed the Medical Professional Act or something which recognizes the complete separation of the two bodies, regulatory and professional association.

So in conclusion, I would also like to mention that the Act in 2003 had an amendment to the Medical Board Act, 2003 which has been described in the press by the current medical board as “an Act of singular stupidity born out of the need to abuse the power granted by them, the political executive, by a gullible public.”

**6.00 p.m.**

Surely, to host the Medical Board representatives in the Senate is stretching the concept of goodwill very far. What a statement to make about our Executive. I supported the 2003 amendment given the situation that we had on hand, but it demonstrated then and now, even more so, that the separation of functions, regulation and professional development is an absolute necessity and I trust my recommendations will be taken seriously as we need to have an independent voice, a regulatory body with a professional association of membership. No more Caesar unto Caesar.

I thank you. [*Desk thumping*]

**Sen. Dr. Glenn Ramadhar-Singh:** Thank you very much, Mr. Vice-President, for the opportunity to speak on this very critical Bill on the health care delivery to the citizens of our country.

Let me start off by saying that I was very inspired by the contribution of Sen. Dr. Steve Smith and I realize that this opportunity that is given to people to lend a voice to their pain, brings it to the national fore and creates a victory for them because I heard a deafening silence on the one-armed bandits—the machines—yesterday in the budget, when we had put someone to lend a voice to their pain in this honourable Senate. [*Desk thumping*]

Also, with regard to the issue of self-regulation as it relates to the Medical Board (Amdt.) Bill, the Medical Board has basically been in place for almost 200 years—my research has it as 1803—and along the course of history there would be changes. Of course, changes are inevitable, and when the hon. Senator spoke about the fallibility in terms of self-regulation, that is a reality. There will always be human failings. But the question is: Do we plan for failings or do we plan for institutions to work fairly, justly, independently in the interest of the people? That is the greater matter at hand. Naturally, there will be all types of people in institutions, but as we look to hold the central highway of teaching, learning and professional conduct in the pursuit of knowledge, this must be preserved.

The health sector of this country, as has been mentioned before—it is no secret—is ailing. It, itself, is sick and this Bill will impact negatively and create a further crisis in the health sector if not well managed by this Government. The implications for this health sector that does not have beds for its patients to lie on, drugs for the ailing and a health care sector that only provides fat cat salaries for bigwigs while the underprivileged cannot access basic medical care—poor people have to sleep on the floor of the hospitals. A couple days ago, in the newspaper, we saw where pregnant women had to stand in the corridors of the hospital, and here it is, the priority of a government is to reach its hands into the affairs and conduct of the Medical Board.

Clearly, the amendments that we have seen here today, have not changed anything. It is simply a ruse that has been thrown up; it is simply a camouflage game of trying to dress up what is a naked attempt to control the Medical Board of Trinidad and Tobago.

**Sen. Dr. Saith:** Like the Alliance. [*Laughter*]

**Sen. Dr. G. Ramadhar-Singh:** While poor people cannot access drugs and proper medical care at the hospitals, we have Members of Government accessing VIP health care all across the globe with a swipe of a card. But incompetence is not the only problem that besets this health sector. The Medical Board of Trinidad and Tobago has become the latest victim of this Government's hunger and thirst for complete control over institutions and independent bodies. They spare no measure in seeking to reach their political hands of interference into once sacred institutions to defile and pollute the institutions that are supposed to act independent from bias and not contaminate it by the world of politics.

The Medical Board (Amdt.) Bill of 2007 seeks to amend at clause 3, section 2 of the Medical Board Act, Chap. 29:50 and deals with one of the key definitions of terms as the “Medical Specialist Register”. Certainly, this measure has been needed and was wanting for a very long time. No reasonable person would pen strong objection to this feature. It is obviously an oversight that there was not a proper system; there was not a proper position created in the original Act for a medical specialist registrar who would be responsible for keeping a register of all persons who are suitably qualified as specialists in particular areas.

Before this amendment, this was lacking and certainly, as I said, it is not something that anyone who is right-thinking would object to. But why could this not have been done? Why was this Act not reviewed in consultation with the Medical Board in the true spirit of consultation and dialogue, trying to reach a

*Medical Board (Amdt.) Bill*  
[SEN. DR. RAMADHAR-SINGH]

*Tuesday, August 21, 2007*

consensus, going through the pain of discussing all the issues; what is needed; what is lacking? Because the health sector does not serve me, you or the guy across the street only; it serves everybody. It is a part of the Government's responsibility that reaches the citizens who need it the most.

There are many persons who can afford the best medical health care but it is the poor persons in far-flung communities who have to hire a car and drive to a hospital and realize that there is no space; there are no beds in the hospital and they have to be treated like seconds. They are not treated with love from a government that so professes to love its people. That is my question. This measure is a measure that everyone supports. Why could all the other amendments not have been agreed to by consultation and dialogue? Maybe there is a reason.

The fact that the Medical Board Act, Chap. 29:50 needs reviewing is not up for debate. Certainly, it was about time that the Act was reviewed. There are things in the Act that need reviewing. As I pointed out, that measure with the specialist registrar is one that was sorely needed. It is, in fact, the high-handed manner, without proper consultation and the need or desire not to forge constructive working relationships with legitimate stakeholders that is of concern.

This Government has a pattern. It operates in a manner consistent with the behaviour, apparently, of dictators such as Mugabe, Papa Doc and Idi Amin. It is a philosophy to pelt bureaucratic power to anyone who wishes to speak to them across the table. It is as if they cannot coerce you into action, then they seek to fire you at their whim and fancy. For you who do not agree with them, it is brutal, governmental force and if they cannot control you, they shoot you down.

While the Minister pointed to the areas of poor medical treatment in his last contribution—he spoke of incompetence and shabby treatment meted out to patients, incorrect diagnoses as reasons for some of the amendments—Sen. Dr. Neil Singh mentioned over the last four years, 50 complaints from the public were collected by the Medical Board and were under active review and investigation. One senior professional was erased; another five were not re-registered. So the Medical Board has been policing some of these issues. They conducted five tribunals and spent millions of dollars of registration fees in fighting matters in the court.

Again, the Medical Board does not dispute that these things occur. We all know that there is shabby medical treatment being meted out to patients in different parts of the country. There is the occasion when there is shabby medical

treatment, but how is this Bill going to solve all of that? The Medical Board showed us where it went to great pains through the courts to discipline doctors and has incurred phenomenal cost and are now at the mercy of its counterparts in the legal profession.

So how do these amendments seek to deal with the incidents of incompetence and shabby medical treatment? Is the Minister saying: "Give me control by manipulating the membership of the board and all medical malpractice will stop?" The Minister speaks of delinquent doctors and negligence which the board shows it has been dealing with, but are these doctors being given proper working conditions? Is there enough technical supplies? Is there service available to the doctors? Is there quality, as was mentioned before, inbuilt in the process?

The answers to those questions are seen all across this country. We saw in the *Trinidad Express*, Sunday, June 3<sup>rd</sup>, 2007:

"A lack of discipline, commitment and dedication among a large number of health care workers and an absence of effective disciplinary procedures has contributed to poor quality of services provided to local citizens.

Other factors were:

- mental health services are totally inadequate with respect to staffing, infrastructure, basic equipment and essential drugs
- cancer care not meeting acceptable standards
- little or no integration and communication among the obstetrics, gynaecology and paediatrics departments in the area of postnatal care..."

So you could understand the statistics with neonatal mortality.

- "severe shortage of nurses."

These are the issues that should be tackled by the health ministry. Certainly, the Minister's plea to give him the ability to manipulate the board and all medical malpractice will stop, is a case of wolf in sheep's clothing. It is bereft of logic and a total lack of respect for the intelligent and right-thinking population of this country. It is simply a ploy to distract from what they simply seek, and all that is, is exclusive control; authority and power to subjugate, persecute, malign and fire doctors at their pleasure through their political control of the board. The Minister is saying: "Give me a chopper to cut off the heads of any doctor I please and I will ensure that all of you are treated with A-class medical care."

*Medical Board (Amdt.) Bill*  
[SEN. DR. RAMADHAR-SINGH]

*Tuesday, August 21, 2007*

The Minister went on to unnecessarily dramatize his case by describing an episode of poor medical care where there was failure to remove materials post-operatively from a patient's stomach. He insinuates that the board did not take action and is claiming that these surreptitious amendments will solve problems like that. What really is left in the stomach of fair-minded citizens of this country is a sickening feeling of ulceration and upset that this Government is a control freak, showing signs of imminent dictatorship looming large in the air.

For some time now the whole issue of the medical profession, as others of similar ilk—there has been the concern that it has been dominated by one ethnic group. There have been tremendous discussion and dialogue on that matter. In our beloved country that carries the words in our National Anthem, “Where every creed and race find an equal place”, no reasonable citizen would wish to dominate any particular sphere of human activity and no right-thinking individual would support such an activity.

Also, the provision of free tertiary education should be available to all citizens without regard to race, class, creed, gender or political affiliation. In other words, as the ruling in the American Supreme Court, the admission of our education—

**Sen. Montano:** Mr. Vice-President, on a point of order. The good Senator really has gone on a bit too far so I decided to pull him up, because he is not a new boy anymore and he is reading and he should not be doing that, and what he is talking about has nothing whatever to do with this Bill. He is talking about race, and so on, which has nothing to do with this.

**Mr. Vice-President:** I uphold the point of order on relevance. I hope you are not going back to the creed and race part. I am allowing you to continue, but please stay with the content of the matter we are dealing with.

**Sen. Dr. G. Ramadhar-Singh:** The point I was making is that everyone should be able to rise. There should not be a situation in any sphere of human activity where there is any unfairness to anyone. What we must do is not simply lift a boat that is sagging into the water, but fill the ocean so that all the boats will rise. That is my point. I am saying, too, that this whole issue where doctors have been labeled UNC doctors, for example, is a sad situation.

Let me deal with another issue with regard to this amendment. [*Crosstalk*]

[*Mr. Vice-President pounds gavel*]

With regard to the amendment that was put forward by the Government side where a Member would sit from the law association and the chartered accountants, I



want to inform you that I received a letter from the Law Association when we were doing the Legal Profession Act and in that letter the legal profession had indicated that they will not support a board where the Government is exercising control and the Minister is directing the board.

**Hon. Rahael:** Mr. Vice-President, can the hon. Senator show us how the Government or the Minister is in control of the board? Could he explain that to us? I would be happy to listen. [*Crosstalk*]

**Mr. Vice-President:** Hon. Senators, we have had a beautiful day until now. I would like to suggest that we do not make efforts to spoil it, because that seems to be happening. Okay? While you are searching for your document, I would like you to also make way for the procedural motion.

#### PROCEDURAL MOTION

**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 continue its sitting until the completion of the debate on this Bill. I will ask the Senator whether he would give me permission to refer to Sen. Dr. Gopeesingh as a doctor in the UNC. [*Laughter*]

**Sen. Dr. Gopeesingh:** I am a doctor who belongs to the UNC. [*Laughter*]

**Mr. Vice-President:** Okay, thanks for the clarification.

*Question put and agreed to.*

#### MEDICAL BOARD (AMDT.) BILL

**Sen. Dr. G. Ramadhar-Singh:** I do not think I need to respond to the question because it is clear that the point was made by Sen. Dr. Steve Smith on how the control would be effected.

As I said, the section that deals with the specialist medical registrar, we agree with that. We realize that the real crux of this matter is that the Government seeks to control the board and I say that without fear of contradiction. It is clear that there is a strategy in place to effect this. I am saying, too, that based on communication from even the law association, they will find difficulty in implementing that the way they want to do it.

It is clear to the population what is going on; they have heard certain professors say that this board is a temporary board and they will be removed shortly. Certain people have predicted that. They have also made statements about

*Medical Board (Amdt.) Bill*  
[SEN. DR. RAMADHAR-SINGH]

*Tuesday, August 21, 2007*

the admissions to the medical school—those same persons—so it is a whole strategy; it is a whole conspiracy that is now stretched so far that you can actually see through it and it is glaringly obvious what is the intent of this Government.

It has nothing to do with providing quality health care. The statistics show the mortality rates are up, as was pointed out before. We know, from the poor people, that they are not accessing proper medical health care. They have all types of programmes. There is a problem with accessing the programmes; there is bureaucracy; there is not a friendly approach to the delivery of proper health care in the country; there are no beds in the hospitals; the people are not receiving medical care. Those are the issues that the Government should be pursuing. We all know that they have adopted a type of control-freak attitude and that is the crux of the matter in this debate.

The international trend among the developing world or the countries that belong to the Organization for Economic Development and Cooperation is towards less government, and here in Trinidad and Tobago we are having a constant growth in government and government intervention. It is as if the Government does not trust the population to do its own business; it is as if they have to spell out one thousand million because they feel that the population will not understand what a billion is. It is as if they cannot have three elections in one year, because the population will be confused.

So the Prime Minister goes to Cuba for his health services and his home is built by the Chinese in our country. Then we ask the multinational energy companies to please use our local talent. So we are hoping that we do not see the invisible hand that reached out and grabbed Devant Maharaj and dropped him in favour of Phyllis Borde. [*Crosstalk*]

**Mr. Vice-President:** Sen. Dr. Ramadhar-Singh, I am requesting for a second time that you stay with the matter before the Senate. Could you please deal with the Bill? You know that irrelevance is against the Standing Orders and I would prefer if you do not go the way you are going. Please come back to the Bill.

**Sen. Dr. G. Ramadhar-Singh:** Thank you very much, Mr. Vice-President. I knew that would have stirred them up a bit. But that is the truth. The truth of the matter is that there have been instances like the one I described. Nobody believes them anymore anyway, because for five years now they have been promising a National Oncology Centre in the health sector; the construction of a Point Fortin Hospital. They have been promising that for four or five years. Nothing has been

delivered. This is health care. The point is that this is really about control and the control will come when the UNC takes back control of the Government of Trinidad and Tobago. [*Desk thumping*]

**Sen. Ronald Phillip:** Thank you, Mr. Vice-President—[*Crosstalk*]

**Sen. Angela Cropper:** [*Desk thumping*] Mr. Vice-President, thank you. I rise to make a contribution to this very complex set of considerations that are inherent in this Bill before us. One might say that there are three identifiable sets of interests that are conjoined here in this Bill and in the purpose that is underlying it—

**Sen. Padmore:** Nice word.

**Sen. A. Cropper:** Thank you. [*Laughter*] First of all and foremost, I believe, are the interests of the medical practitioners. These are similar to the interests of any professional organization anywhere. There are issues of competencies, of reputation, of registration, of performance, and so on, and I believe that these are very understandable interests, very defensible for any professional grouping anywhere. The fact that they have been represented here in this debate today and in the first session of the debate on this Bill by such hyperbole, probably serves to undermine the very defensible interest of the medical profession.

The second set of interests are those of the Government, as an entity responsible for the overall condition and quality of the health services that are offered to the population and also as a direct provider of such services itself. Those are two distinct roles that the Government occupies and I will come back to that in a little while.

Thirdly, there is the interest of the public in safe, reliable and professional health care. One might say that the primary purpose of medical professional regulation should be to ensure the safety of the public and the safety of the patients who present for treatment at the hands of its practitioners.

It is a little difficult to disentangle this complex combination of interests. Generally speaking, they are interrelated and for the most part I think they are, or should be, symbiotic; but sometimes it is possible to see how one part of this triad may operate in ways that may threaten or be at odds with the interest of another.

The challenge for Parliament, in my view, is to appreciate the legitimate concerns of these three estates and to fashion a set of governance arrangements that might respond to the intertwining nature of these interests, contribute to the common goals that we have and share, and also to take account of the potential for conflicts among them.

**6.30 p.m.**

I begin by recognizing that the standard practice in most parts of the world in progressive societies is that professional bodies regulate themselves. That is a longstanding principle. However, Sen. Dr. Gopeesingh, before you thump your desk, [*Laughter*] I am willing to consider an exception in the case of the medical profession given the nature of the services that they provide and the shared responsibility of the government to ensure that adequate, reliable and professional health care and services are provided to the society. Because of the nature and importance of these services, I am prepared to consider an exception to the long settled practice of professional bodies regulating themselves. In this particular matter I am completely ad idem with the point that Sen. Mary King has made so eloquently, in terms of the necessity for not perpetuating a situation, even though it may be of 200 year vintage, of Caesar rendering onto Caesar. I believe that the public interest demands that we bring the regulation of the medical profession into the open and under public scrutiny and accountability.

Part of my reason for being willing to move away from that settled practice has to do with the performance of the Medical Council itself, although we have heard its claim, boast and apologia almost, that it has been in existence for 200 years. There seems to be very little public understanding of what it does and how the council is distinct or differentiated from the Medical Board of practitioners. I would say that there is some confusion among them because in listening to some of the discussions about this Medical Board (Amdt.) Bill, among lay people, not unintelligent but relatively well-informed people, there is to the uninitiated, quite a bit of confusion between the Medical Board and the Medical Council. I believe that these need clarity and clarification, but neither is provided in the amendment before us. In this respect, I agree again with Sen. King. She has already elaborated on the point about the need to sort out the various entities .

As I have said, part of my reason for moving away from a reliance on the settled practice of self-regulation is the performance of the council. Section 20 of Act No. 35 gives the council the power to make rules and regulations for carrying out the provisions of the Act. When I checked the rules and regulations that have been made over the 200-year period of the existence of the Board, they amount to very little, indeed. The four pages of rules and regulations that I have found hardly address in my judgment, the substance of the Act. I believe that they are primarily concerned with procedural matters relating to registration, Minutes of

AGMs and so on. All that is very important and obviously, of central interest to the running of an organization, but they are not the entirety of the matter. I believe that it is in the area of failing to interpret that Act and implement the rules and regulations that the council has failed to satisfy and look after the public interest over the course of its life.

The rules and regulations I have seen so far are quite inadequate for dealing with such an important aspect of the delivery of services to the public. There appears to be no clear procedure in place for handling an investigation of complaints and mishaps. I wonder whether this is done on an ad hoc basis. If so, that is not acceptable. There must be some threshold and standards that need to be employed and reflected in the body of rules and regulations that govern the investigation of such incidents.

There have been some recent incidents in the public health service which indicate the need for closer scrutiny, for better and clearer standards of accountability in the public sector. I presume that there are similar issues in the minds of that part of the population who seek medical services from practitioners in private practice. I think that it is very warranted for the medical profession to be brought under public scrutiny and greater accountability. This Bill seeks to do so and I support the intent of the Bill. In having this intention, this Bill also moves in a similar direction to recent developments that have taken place in other Caribbean jurisdictions especially in Jamaica and Barbados. I might say also in the United Kingdom on whose body of law much of ours is predicated. I will give a few details of that in due course.

In terms of the role and interest of the State, there are two aspects which we must keep clearly in mind. The first is the role of the State in establishing the governance framework for professionals in the society to organize and regulate themselves. In this area where public safety and interest are so deeply involved, the Government has a very important role to provide the policy and governance framework for the kind of regulation that the public deserves. An issue as vital as this needs to be approached with due reflection and some sobriety. The public interest is so fundamental that it cannot be surrendered on the altar of partisan politics and partisan approach to debate. The matter is so important that it is incumbent on us to be clear and reflect on the principles of governance that will inform us, as we build the quality of these relationships among these very important parts, the medical profession, the State and the public.

*Medical Board (Amdt.) Bill*  
[SEN. CROPPER]

*Tuesday, August 21, 2007*

In terms of good governance, in modern times and progressive societies there is a general trend towards devolution of regulation and so on. We see much of that happening in the context of the European Union. The question might well be asked: If that is one of the modern principles of governance and organization, why do we want to move back to centralize the function of regulation by affording such great potential for involvement, if not interference by the State? One might argue that in a mature and responsible society, the kind that we say everyday or we hear said everyday, is the kind that we are trying to achieve in the near future, self-regulation is a desirable practice, principle and philosophy. At the same time we need to find a way of balancing and restraining the scope for State intervention in favour of the people and the society regulating ourselves.

We say that so often in Parliament when we debate Bills, most recently in the debate on the breathalyzer Bill, because we have such a low level of self-regulation in our culture and national way of being. [*Desk thumping*] This is something that we need to cultivate. The Parliament, Government and those involved in public policy and making law need to find ways to enable us to cultivate this in ourselves and the society as a whole. That will be one of the central marks and indicators of what is a developed society. As always, we need to find a way of balancing these things.

My approach to balancing these various issues seemingly operating at cross purposes will be to ask whether the particular proposal before us for constituting and appointing the council in the way in which the Bill prescribes, is the only other way in which it might be done. Later on I will look at one alternative way in which we might preserve the principle of self-regulation that respects the distinction between the profession and the regulatory body—as Sen. King has elaborated—and seeks to represent in a joint and integrated way, the interests of the profession, of government in its two roles, as well as the interests of the public.

The second role of the Government is that of manager in its capacity as one of the service providers of medical services. In this particular role it is important for us to distinguish between the role as governor in the governance framework and that of managing the performance of professionals in its employ. Part of the difficulty we have had in the debate so far is that these two roles are being treated as one and the same, even though they are two distinct roles that we must keep separately in mind.

The amendment conflates these two roles; one of regulation which is what we are talking about, as the function of the Medical Council and the other of management of the health sector, the health services the Government provides and

as employer of the medical practitioners in its employ. If we keep these separate we might find the solutions as we go along. We need to distinguish between management of poor performance; poor delivery and implementation on one hand from regulation of the professional credentials, practice and performance of the medical community.

When we had our first session on this Bill and Sen. Dr. Neil Singh spoke, he represented to some great extent, the anxiety that the medical profession has about the role of the Minister in appointing the members of the council. Dr. Singh gave as justification examples of recent decisions relating to the suspension of a senior medical practitioner with no regard for due process. This is one of the reasons for the kind of anxiety that the medical profession has about the Minister appointing the council. For his part, the Minister may be justified in the perception that the council is overly sympathetic to the professionals it regulates. Here is a case that has been made by Sen. King about the importance of avoiding the regulatory function from being determined exclusively by the medical profession. When we look at these two competing and contending sets of interests with the lens of public policy and public interest, it is clear that a stand-off between medical practitioners and the minister is not conducive to the public interest.

In preparing for this debate and trying to think of how to get out of what appears to be an impasse—if one took it out of the parliamentary system for a moment forget that the Government needs only a simple majority for the Bill to be passed—it is important for us to find a way of balancing these interests and finding a solution or a compromise. In preparing, I searched for the current debate on these issues in the United Kingdom. I came across a White Paper that is out for public comment in the United Kingdom. It was issued in March 2007, entitled, *Trust, Assurance and Safety: The Regulation of Health Professionals in the 21<sup>st</sup> Century*. I found this very helpful, as well as the debate of the British Medical Association and the General Medical Council. In the executive summary of this paper this particular sentiment struck me. It says:

“The goal of any reform to the regulation of individual health professionals must be to support and maximize the power of that fundamental asset to society, while ensuring safeguards that identify problems quickly and minimize the impact on those rare occasions, when individual health professionals fail to meet the high standards that the professions have set for themselves.”

Here was a goal and objective being stated that tried to recognize the different sets of interests that have to be catered for.

It went on to enumerate a set of functions for any regulatory authority, for any health professional body. I will not repeat those because they are similar to the functions that we know and have for our regulatory authority. It continued:

“To exercise these functions fairly and effectively, patients, the public and health professionals need to be able to take it for granted that the councils act dispassionately and without undue regard to any one particular interest, pressure or influence. This will ensure that the regulators are not only independent in their actions, but, just as critically, that they are seen to be independent in their actions. Doubts based on perceived partiality have threatened to undermine patient, public and professional trust in a number of the regulators over many decades.”

Here is a very eloquent argument, better than I can make of the need for independence and the perception of independence on the part of any regulatory body.

**Sen. Padmore:** Would the hon. Senator agree those doubts create the problems that we have in Trinidad and Tobago today; doubts about the regulatory bodies treating with issues impartially and with integrity?

**Sen. A. Cropper:** Thank you for the question, Sen. Padmore. It is one of the issues; I will not say that it is the only issue. It is probably not even the most dominant issue. As I have stated before, I think there is a high degree of ignorance about the role, function and responsibilities of the regulatory authority called the Medical Council.

In light of this scanning of the kinds of principles and philosophies that will guide me in looking at how to balance these interests, I will like to make some comments on some particulars of the Bill before us. We know that the Bill seeks to provide for a new composition and manner of appointment of the council. I will not go over the details of what the Bill provides. I think that we are familiar with that by now. I welcome the purpose of the Bill in widening the composition of the council. I am trying to balance that with the principle of self-regulation.

One of the things I wish to propose for consideration by the Minister and the Senate, is whether we could not identify a composition for this council that may serve as a good compromise to reflect all these issues that we have been talking about. In this regard, I join my voice to that of Sen. King to say that despite the fact that the Bill requires a simple majority and it may be regarded by some as inevitable that this Bill will be passed here this evening; given the issues inherent in this Bill, and the need for the parent Act to be amended further but which is not



done in this Bill, we might at the end of this debate send this Bill to a joint select committee of the Senate and the House of Representatives. This might enable us to come up with something that is more rounded, balanced and comprehensive, given all the issues that need to be looked at now in our health system. [*Desk thumping*]

The compromise formula that I wish to put forward still maintains the principle of removing the Medical Council from being a creature of the Medical Board. It does however reflect the principle of exposing the Medical Council and its regulatory functions to greater public scrutiny. We could amend the Act to provide for the Medical Board to be constituted of four different categories: an ex officio category comprising the Chief Medical Officer; two or more medical professionals appointed by the minister in recognition of the second role of the Government as a provider of health care, not just as the provider of the governance and policy framework; a component elected by the Medical Board in the way that it is done now; and nominees of civil society to represent the public interest. The current Bill reflects this.

The difficulty I hear from the medical profession is the provision for appointment of the council by the minister and the question as to whether any of these nominees of the four independent civic society organizations listed here, will be appointed automatically or whether the minister has the power or prerogative to veto these until nominees meet with his satisfaction. This is one area of trust that we need to build as we go along and the required level of trust for the medical profession to have some equanimity with that way of constituting the board does not now exist.

The practice in Barbados and Jamaica seems to be that the nominees are appointed automatically by the minister and there is no gainsaying with the nominees that come from the independent sources. This is one element of practice that we can consider.

I find support for the other aspect of this alternative in the composition or principle proposed in the UK White Paper to which I earlier referred. The paper proposes that all regulatory bodies in the health sector should have as a minimum, parity of membership between lay and professional members. We should see the innovation of bringing lay people into the Medical Council as very important to offer the public oversight and scrutiny that we require. I read also that the General Medical Council of the United Kingdom supports this idea, even though the British Medical Association has argued for a small medical majority as indicative of a concept that they are keen to retain which is of professional self-regulation.

*Medical Board (Amdt.) Bill*  
[SEN. CROPPER]

*Tuesday, August 21, 2007*

I was very interested to see that in the composition of the General Medical Council of the United Kingdom that over time, from the middle of the 19th Century until now, it had moved to the position now where the composition of the membership comprising 35 persons is 60 per cent elected by the profession; 36 per cent elected by lay or civic organizations and 4 per cent represented by nominees of the university and zero per cent represented by the Crown. I thought that was very interesting to bring to your attention. From looking at the changes made over time, 156 years, it has moved from the point of having 75 per cent represented by the university on the General Medical Council and 25 per cent by the Crown and no elected professionals and lay people, to the point where elected professionals and lay people constitute 96 per cent of the composition. The main feature in this Medical Council is that its majority representation is by elected doctors; it has a strong representation of lay persons who are not registered doctors; it has a small representation of academia; it has no representation by the Crown, but it has a set of well-functioning, clearly defined committees with well-established procedures for treatment of applicants, local and foreign for investigation of complaints and assessing competence and fitness for practice.

The second specific comment I want to make on the Bill is about clause 5 which provides for the executive to be elected from among members of the council.

**7.00 p.m.**

Now, Sen. Dr. Smith in his contribution castigated that for being quite undemocratic, but in keeping with the very first point I made and given the public interest, as well as the Government's interests that are tied up here, I support this approach to electing the executive of the council whatever its composition and however it is constituted.

The third specific comment on the Bill has to do with the provision in clause 6 which creates the Medical Specialist Register. I support this entirely. I think this is a welcome addition. As a council, it seems that it is now empowered with respect to the specialist. Although it would seem that Sen. Dr. Smith was disputing that, I think this is very important for public protection and for public confidence.

Mr. Vice-President, the Bill provides a somewhat circuitous definition for "specialist". I do not think it is very helpful at all. Since what is a "specialist" and who is a "specialist" is a matter of competency; this is precisely one of the things that the council is set up to establish. I think, perhaps, the definition of "specialist" with appropriate guidelines on qualifications and the experience and

so forth should be left to the operation of the council. The profession should set the professional competencies. I think this is an important principle of self-regulation which we can continue. I would propose a deletion of what I consider to be an unsatisfactory definition of “specialist” that is now in the amendment.

I wish to comment on clause 7 which provides for the Minister to prescribe the level of registration fee and the annual fee after being registered. I have to say, I do not support this proposal. I do not think that the Minister’s function is to set fees, as I do not think this has anything to do with policy or oversight. I think this should also be decided by the council. It is really not a function of the Minister. In any case, this seems to conflict with the powers of the council given in section 20(1)(d) of the parent Act which I do not think has been amended here which says:

“(d) with respect to the fees for registration or for the issue of a temporary licence and the amount of any annual or special fees to be paid by members;”

Now the practice, as I understand it now is that the council obtains the approval of the Minister for the level of fees it decides. This gives the Minister an opportunity to have an input and, I think, this is preferable. If, according to this Bill, the Chief Medical Officer is a member of the council, there is ample room here for the perspectives and for the issues of the Ministry of Health to be brought into the determination of the level of fees.

In any case, under section 20(2) of the parent Act it says:

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

So, there is still an opportunity there for the Minister to have an input into this, because this is a blanket authority that is given to the Minister by the parent Act.

Another comment relates to clause 9 of the Bill which provides for increasing the functions of the council and which is entirely welcome; further empowering the council. It says:

“(j) for establishing standards for continuous education and training of medical practitioners.”

I think this is a very welcome addition to its functions. [*Desk thumping*] I do not think we can overemphasize the importance of practitioners keeping current, given the rapidly advancing medical knowledge; given new health challenges that we face; and given also the fairly rapid rate of developing technologies.

*Medical Board (Amdt.) Bill*  
[SEN. CROPPER]

*Tuesday, August 21, 2007*

Another comment is on clause 10. Clause 10 introduces a penalty for practising as a specialist or for making oneself out to be one without being so registered. Again, I think this is very welcome. It provides upon summary conviction for a fine of \$10,000 and to imprisonment for two years. So, I ask the question: Why do we not take the opportunity to amend the provisions for penalties throughout the Act? While reading it, I noted that the Act in Part II, section 41, for example, provides that dentists practising without being registered are liable to a fine of \$300. Surely, Mr. Minister, Mr. Vice-President, through you, this is something that also needs amending. This is another example, and there are many such small examples, as well as some very fundamental philosophical kinds of things in the parent Act itself that would benefit from the kind of comprehensive scrutiny that Sen. King and I have argued for.

Finally, I would like to make a comment that is not provided for presently in the Bill. By talking to some medical practitioners—some who are in the council and others—I learnt that the way in which the council proceeds to discipline practitioners often leads to litigation, and there is no subvention to the council for enabling it to discharge this function. So that in many cases, where there may be need for disciplinary action, they are likely to go unaddressed.

So, bearing in mind the cost of litigation, and where such important public interests are enjoined, I do not believe it should be a personal liability for members of the council where they pursue litigation, but lose the action. I believe that is something that also merits some consideration and, perhaps, in a more comprehensive approach to amending the Medical Board Act, we may address that as well.

On a related matter, Act No. 22 of 2003, which was an amendment to the parent Act No. 35, provided for special temporary licences to be granted to deal with a shortage of doctors locally in the public health sector. As far as I can see, that Act expired on July 31, 2007. We need to have an explanation and some answers from the Minister about what is to happen now, and what law will govern the doctors who may have been granted temporary licences recently in 2006 or 2007, before the Act expired, to be administered and disciplined and so on. There seems to be something here that is missing in this amendment. I think it is sufficiently important also to be taken into account in a more comprehensive look at regulating the medical profession as a whole.

In summary, Mr. Vice-President, as an Independent Senator, one has the usual dilemma in addressing a Bill. Very often, we support the intent, the purpose and the objectives that the Bill has set out—very laudable; very commendable—but we are not comfortable with all of the details. In this particular Bill, I think that

we have reason also to be sympathetic to the anxieties that have been expressed on behalf of the medical profession about too big a scope for undue interference by the Minister or by the political directorate. I think that is something that should perhaps lead us back to the drawing board or to the negotiating table to find a way as to how we can either build the trust or build a compromise that can deal with this.

I think we do need to update the parent Act and make it modern. I welcome, very much, the opening up of the council to public scrutiny and to representation from civic groups. I do feel that it is important, however, to have very good representation, parity or more, between the medical profession and the lay representation on the council.

Overall, I support the intention of the Bill but, as I have said, I have some problems with some of the specifics, and I would very much implore the hon. Minister and the Government to consider taking this Bill to a committee so that it can get the benefit of a very full and comprehensive reflection around a smaller table where we might be able to manage the exchange more harmoniously.

Thank you. [*Desk thumping*]

**Sen. Ronald Phillip:** Mr. Vice-President, thank you. I am indeed happy to contribute to this debate on the Medical Board (Amdt.) Bill. I rise if only to make an appeal through you, Mr. Vice-President, to ask the Minister to work cordially with the Medical Board.

We, on this side, have listened to them and we have been able to give them a voice and a hearing, and that is because we support legislation that is of a social nature. We see the medical profession providing an essential service which is very similar to the police service and the teaching service. Their intervention is a very timely one. If doctors are not there, people lose their lives. If we could deal with some of the negative perceptions on both sides—negative perceptions that the Ministry of Health has been labelled with, fairly or unfairly—people have said: Is this Vision 2020 or is it a perception of PNM mismanagement? Those perceptions have to be cleared up.

There is the perception that we have a lot of money and still people are not getting basic health facilities. It has been a blame game where the employer is saying that the doctors are not performing their jobs. There may be delinquent doctors in the system and, to some extent, the doctors do not hire or fire. The Ministry does not do that, so the whole idea of power comes into play, and the doctors see themselves as being victimized and marginalized. There is nepotism in hiring.

*Medical Board (Amdt.) Bill*  
[SEN. PHILLIP]

*Tuesday, August 21, 2007*

The issue that I want to raise here is really where the board looks at regulating itself. So, we have to define a regulatory function and a regulatory body, because there are certain duties that the regulatory body will have to perform.

Mr. Vice-President, I would like to quote from the Minister's presentation. He said:

"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."

In short, there are really three areas that this Bill touches and I would like to briefly comment on each one: the alteration of the composition of the council; the empowering of the council to make regulation to determine whether a person is a specialist or not and to establish the Medical Specialist Register. I would like to start with the register.

In clause 3 of this Bill a "specialist" is defined and the Bill went on to outline the parameters in clause 6:

- (a) name and address of the specialist;
- (b) area of expertise;
- (c) training, experience and qualifications in the area of specialization;  
and
- (d) date of registration in the..."

The Act does not provide for this registry, and it is a welcome change. This is something the proposal brings. Even though the Medical Board practitioners today say that they have a registry, I have looked at the parent Act and I have not seen the regulations and so forth, so there are no provisions in the Act for the conferment of this specialist status.

Mr. Vice-President, if you look at clause 6, it seeks to introduce this new clause 10. I would like to quote from the Minister's presentation again. He said that this registry is really:

"...to keep a book or registry to be known as the Medical Specialist Registry."

I see this exercise as not just being a book. While we are using the term "book", he went ahead and outlined the name and address of the specialist, stating exactly the training and the date of registration.

I have looked at the research on the Internet, and I have looked at Barbados, the United Kingdom, India and New Zealand. What is interesting is that the Physician Credential Registry of Canada—this is the most recent one that I found. It is dated July, 2007. This Physician Credential Registry of Canada, a division of the Medical Council of Canada, has been established to provide a central repository of the physician core medical credentials which have been source-verified. That is the point about it; rather than just a book for the registration process, you must have systems in place for this source. It says that it is designed to reduce the duplication of efforts for medical graduates by gathering, verifying and permanently storing their credentials which have been submitted over time in a single repository.

So, Mr. Vice-President, I would like to recommend to the Minister that steps be taken in the amendment in determining the specialist and for determining whether a person is a specialist for the purpose of this Act as outlined in clause 9 of the Bill. There should be procedures for lodging the information. We need to understand—probably this will help clarify the roles and functions that I mentioned between the council and the board and who would do what, or as Sen. Mary King has proposed, probably a special regulatory body within the council or a new entity. They would have to say how the information will be collected and updated; how the information will be stored, how the information will be distributed to the public, so the public will know exactly who the specialist is and verify the information of the doctors.

The other issue has to do with the same verification. We live in an information age where there are a lot of online universities where a person can go. Even as we consider CSME and Caricom nationals who come here to work—we have said that university graduates in the medical profession can come here and work—when I checked there were about 16,000 Caricom nationals registered by the Elections and Boundaries Commission (EBC) and some are doctors. There are 13 medical schools in the Caribbean, and only two have been recognized by the Trinidad and Tobago Medical Board. So, it brings into issue, the verification of this information when we establish our registry and people who are specialists: How are we going to establish the registry? How are we going to establish what the specializations are and get them to register into core competencies?

When I looked at the Minister's explanation he said:

“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.”

So, the explanation really does not follow. If we say that we are going to register people as specialists, the question that arises is: Where are these complaints being lodged? The Minister said numerous complaints, but what does the number mean? Is it 50, 100, 10,000 or 100,000? I do not know. What is the number of complaints lodged at the Medical Board against the doctors? Are these complaints kept in a book or registry?

Since the Minister had actually summarized in his presentation the list of categories where complaints were received, probably those areas could be used to guide the classification of the specialist registration.

What we are looking at here is to establish a registry of the doctors and to verify—that is the key issue and the forward point for the thinking in our whole process—the specialist status.

The second point is really to empower the council to make regulation to determine whether a person is a specialist or not. There is some confusion in terms of who in the Bill—whether it is the board or the council that will confer the specialist status. According to clause 3 of the Bill, the specialist has been defined, and the specialist qualification will be recognized by the Medical Board that specialized training is, or those qualifications are, or when considered together would satisfy the Medical Board requirement.

In one case, we are talking about the board in a very generic sense and this specialization and clause 9 of the Bill amends section 20 to give the council the power to make regulations. So, that needs to really be sorted out—the separation of powers and so forth and those things need to be added to the definitions, especially when it comes to conferring this specialist status on the doctors.

The role and responsibility of the Medical Council has to be defined. You also have to consider the requisite skills and talents that could be ascribed to the specialist and the Medical Council through the appointment of members.

So, notwithstanding section 20 of the parent Act which outlines the powers of the council—even though section 20 of the current Act is not in the amendment—it talks about the rules and responsibilities. There are really two amendments; one to establish standards for continuous education and training of the medical practitioner which is a welcome addition; and the other for determining whether a



person is a specialist for the purpose of the Act. While it states those amendments, we need to operationalize them to see exactly what the criteria are and how people are going to be verified.

In looking at the Minister's comments about the continuing and professional education he said:

“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.”

Now, that is from *Hansard* dated July 17, 2007

Now, when we come to the regulation, we will determine whether it should be three or five years with consultation, of course, with the stakeholders.

Mr. Vice-President, first of all, the professional has to take the responsibility for his or her own development voluntarily, and it being learner centred, there is going to be a consultation process of three to five years. If it is going to take three to five years, especially where we are in a position now where the public perception is that the doctors are suffering; there is clearly a philosophy here where the horse is starving while the grass is growing. We know the half-life of the medical knowledge is five years. So, if people are going to have consultations for three to five years to determine to train people, by the time they are dealing with one group of persons, all of them would be basically redundant.

So, we need to really look at the doctors who want to start to train themselves. What they do now is migrate, specialize and spend their money and we will end up getting a brain drain. What I would recommend is that the continuous education and development be moved to the post-graduate level where medical doctors who are graduating now could pursue research-based type training, and they would not have to go to the United Kingdom, Ireland or Canada to specialize. When they go to these countries the salaries and conditions are better than ours, and unless we lock them in with more being money, they would leave and we would be in a continuous process of using our limited resources to train professionals and they would leave all the time.

The last part of the Bill deals with the altering of the composition of the council. In looking at the structure of the council, while I noted that Barbados had the minister appointing members to the board, I just wanted to share with the Minister from the Medical Council of Canada on Facts and Information the

*Medical Board (Amdt.) Bill*  
[SEN. PHILLIP]

*Tuesday, August 21, 2007*

structure of the council. They got two members from each regulatory body in each province. So there is a territorial and a provincial appointment; they got universities to elect members; they had members from the public interest, students and residents as members.

So, while they had a council of 48 members, no one was actually appointed by the minister, because it is a regulatory body and it dealt directly as a self-regulatory body. So, while there are several models, I would want the Minister to consider that. The perception of wanting to control and so forth erodes his good working relationship with the board.

What we have seen prior to the amendments is where they have enlarged the council to 11 members, and seven out of that 11 are political appointees. That does not give the confidence to the public and to the other agencies that are there.

While the Minister is doing this, section 20(2) of the parent Act states:

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

This means that the Minister already has veto powers over it to some extent. It means that the Minister has to consider the negative perception—there were several articles in the newspaper stating that the ministry wants to change the requirements to be registered as a medical doctor and to make it easier for foreign doctors to come and take jobs from our people. We need to separate the skill and technical jobs for the national, and the whole idea about introducing code systems and so on.

So, what we really should be defining and developing is accessible health care; renovating hospitals; putting clinics into communities; providing ambulance service; making drugs affordable; training nurses; staffing ambulances; and modernizing medical equipment in hospitals and health centres. Those achievements were really from the UNC administration.

Mr. Vice-President, we should really look to provide accessible health care that this country needs and what it deserves, and put the citizens first. With that, I thank you. [*Desk thumping*]

**Sen. Dr. Eastlyn Mc Kenzie:** Thank you very much, Mr. Vice-President. I know that I indicated that I would not say anything, but having listened to the debate very intently, I think I should make a few brief comments.

Firstly, let me say how much I agree with Senators Mary King and Sen. Angela Cropper on their recommendations. I know that on the previous occasion when we started the debate on this Bill, Sen. Prof. Deosaran made similar comments. I would like to congratulate and thank Senators King and Cropper for the recommendations they made during their contributions to the hon. Minister's—[*Desk thumping*] I think from the non-verbal communication that I read from the Minister, he seems to be very much in favour of the recommendations made. I hope that when he winds up he will say so. [*Laughter*]

Mr. Vice-President, I noted Sen. Cropper's sort of indecisiveness as when you have a Bill and you support the intent of the Bill, and there are one or two points that you are not very comfortable with and how do you vote. I want to tell her what I do. If there are 10 points in the Bill and I am not in favour of two, I say which is the lesser of the two evils and I go with that. That is it. [*Laughter*]

I do agree with both Senators about the need for the comprehensive review of the parent Act. I think you could go to a joint select committee and have consultations. You know the procedure better than I do.

Mr. Vice-President, I sat and listened to the contributions and the comments, especially from Opposition Senators. I specifically paid attention when they talked about the profession regulating itself and I said, yes, regulate yourself, but oftentimes when they try to do this, they still end up calling in a third party. So, presently, there are doctors before the courts fighting and cuffing down one another—fighting in car park and assaulting their colleagues. They have exchanges in the newspapers—one would write this week and another one would write the following week.

There is the perception of the public—you do not have to go far. Just go back to Carnival when there was an uproar with Singing Sandra's song when she sang about what was happening in the medical profession. Many persons were offended by what she sang. There is also the confusion with Faith Williams and the racial charges that were made against certain doctors. So, the perception out there is everything. There are doctors who are against the board, and we read about this in the newspaper, for those of us who can read understand what is happening.

Mr. Vice-President, a professional is a professional. I could not care less who appoints the professional, but they should behave like professionals. [*Desk thumping*] I have had the experience where persons from political parties have said—I am talking about Tobago—not to appoint a person to a post, because that person is not a PNM, DAC or NAR, but that person performs as a professional. [*Desk thumping*] They have no time with any party or so. [*Desk thumping*] I said

*Medical Board (Amdt.) Bill*  
[SEN. DR. MC KENZIE]

*Tuesday, August 21, 2007*

to Sen. Prof. Ramchand that I would hate to think that if I had to write a paper and he or Sen. Prof. Deosaran had to mark my paper that he would look at me and say: “Oh is she! Fail!” I cannot see that person as being a professional. I will believe it when I see it and until I experience it. A professional behaves as a professional.

I am going to give you another example that I have witnessed within the last two years and I am going to call names. I hope the persons are not going to be annoyed with me, but if they are annoyed with me, then so be it. I will get over it in no time.

There was furore in the newspaper about acting Sen. Rose Janneire. I am sure many Senators would have read it. It said that she went for this operation and this doctor did not come to give her whatever—whether it was the anaesthetic or whatever—but there was confusion in the newspaper as to why she was not attended to. They said the doctor is a UNC and she is a PNM.

Mr. Vice-President, two weeks later, Ms. Rose Janneire came here to act as a Senator—limping in her sandals coming up the steps. Do you know who was coming down the corridor? It was Sen. Dr. Tim Gopeesingh. Forgive me, Sir, for calling your name, but that is how I am; plain spoken. So, the greeting: Hi! How is the foot? She stretched out her foot; the lame foot and Sen. Dr. Tim Gopeesingh said: “Let me see the foot.” He looked at it and I said in my mind: Is this not the PNM Senator whom they said the UNC doctor did not attend to? There were other persons there with me. He was a professional and I respect him as a professional. Now, when he is a politician, he is a real beast. [*Laughter*] That is his post; that is it.

What I am saying to you is that this professional as a medical doctor was able to separate political partisanship from his profession as a medical doctor. I hope they do not fire you for that. If we want to be “petty”, I could ask the hon. Minister: Why did he not have in the amendment that there must be a doctor from Tobago? There are no doctors from Tobago there. I could say that you are biased and Trinidad do not like Tobago, but I do not have any time with that.

In my brief contribution, I would like to appeal to the Medical Board and the council that they make the public feel that they are giving back to us something that they got from this country. [*Desk thumping*] I am not talking about seeing persons who are sick, because they are doing that already. They should go out to some of these counties—the doctors, Senators and Members of Parliament—and set up days in their constituencies where people could go in and have their blood pressure and blood sugar tested. They also do that in credit unions. There are credit unions in Tobago where every Friday there is a qualified nurse who does that for the credit union clients. I am talking about taking a day every two months

and going out into the communities to do public lectures and talk about what one can do to avoid getting into the diabetic stage and what one can do to control one's high blood pressure and so forth; public education. Let everybody say: The doctor is coming to talk to you. He is not coming to examine you or to test you, but he is coming to educate you, and that is part of what he gives back; not just to sit and do that type of thing.

Mr. Vice-President, I want to take the opportunity to commend those who write in the newspapers. There is a medical corner in all of the newspapers on different days, and they give good advice on how to take care of yourself and also new discoveries, et cetera. I want to commend those who talk on the radio talk shows. There are persons who would call in and talk about their medical conditions on the radio and they would advise them.

Mr. Vice-President, if there are no beds in the hospital, I say like the Cubans—when Castro and others took over Cuba and everybody was saying that the Cubans did not have any shoes, he said that it was because many of them are wearing shoes now and long ago none of them were wearing shoes and shoes were not scarce. I am saying that since the health sector has opened up the services in the hospitals free of charge to so many people, they are taking advantage of an opportunity that they never had before, so let them go. [*Desk thumping*]

Mr. Vice-President, let me say here and now that I do not agree with everything in the Bill, down to every iota, but I support the amendments. Thank you very much, Sir. [*Desk thumping*]

**Sen. Dr. Tim Gopeesingh:** Mr. Vice-President, I know that the evening is wearing to an end, and very shortly we will have the final contribution by the hon. Minister of Health. We in the United National Congress—despite the fact of being a medical practitioner of 33 years experience—could not conjure up all the levels of information that were necessary in the discussion of this Bill without meeting the Medical Council and members of the medical profession from the Medical Board.

Despite the fact that we would have spoken with a number of stakeholders over a period of time, we thought that it was important to allow them the opportunity to voice their concerns in this Parliament on such an important aspect of what contributes to the life and well-being of all citizens of Trinidad and Tobago. The practice of the medical profession is so important that life can be snuffed out in a few seconds if there is not proper health care and proper care by

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

medical practitioners. So, we needed to hear them, and this is the reason the UNC gave the Medical Board and the Medical Council the opportunity so that they could be heard by the nation as a whole. We believe in freedom of speech and all citizens must be given the opportunity to be heard.

There seems to be some confusion about the distinction between the Medical Board and the Medical Council. I think Sen. Angela Cropper indicated that we needed to clear that up to some extent. The Medical Board is made up of all the members of the medical profession. I believe there are about 1,800 doctors who are registered and licensed to practice. I think at some time there were more than 1,800, but there are now 1,800 doctors who are registered. I stand corrected.

The council, as it exists at the moment is the team of doctors which has been appointed by the Medical Board and which has been elected by the Medical Board every three years to conduct the affairs of the medical profession, which is the Medical Board, just as you have the law association conducting the affairs of the legal fraternity.

It was Fr. de Verteuil in his book *Surgery in Trinidad* who said that the Medical Board of Trinidad and Tobago was established by proclamation by Governor Woodford on December 20, 1814 to collaborate with the Government with a view to control the practice of medicine in the best interest of the community. That was an enlightened Governor Woodford 193 years ago. Now, this has been changed in 1960 by the Medical Board Act, Chap. 29:50, and it has been amended on several occasions—I have been reading—at least about 10 times.

Mr. Vice-President, today I believe this debate goes way beyond the realm of politics. It should be and it must always be beyond any political party; whether it is the PNM or UNC. I believe this Bill goes to the heart of fundamental rights—patients' rights, citizens' rights and doctors' rights—and we must ensure that all men and institutions remain free, and we must assert our beliefs in a democratic society. Our nation is founded upon the principles which acknowledge the supremacy of God and faith in human fundamental rights and freedoms.

**Sen. Padmore:** You are sounding good.

**Sen. Dr. T. Gopeesingh:** I want to assure the national population, as far as my perspective is concerned, that doctors are not driven by political agenda. It is about service, compassion and care to the people in different ways and no politician—even, I as a politician—can easily comprehend and understand that.

They are supposed to take an oath, the Hippocratic oath to cure people from their medical affliction and problems and save people from death. This sacred right and what has been considered a noble profession, amongst many other professions, must at no time be interfered with by any government or any politician or any political party and by no particular Minister of Health—whether it is Minister Rahael, Minister X or Minister Y.

**Sen. Dr. Saith:** Dr. Rafeeq.

**Sen. Dr. T. Gopeesingh:** Yes, even Dr. Rafeeq. It does not matter whoever he or she may be, there is a sacred trust where patients entrust their lives to doctors. They go to doctors and they believe that they have the responsibility to help them, and they expect that doctors must protect their rights at all times.

By virtue of what is happening in our society today, some citizens are beginning to feel that doctors do not care for them as much as they should be cared for. It is not an unreal complaint that members of the society say today that we have a different breed of doctors from generations past. All is not lost. We must strive to ensure the profession of medicine remains very noble, and we in the ranks must weed out all the areas where there is some distinguishing bad practice. We must never uphold those types of practices at anytime. We also must not allow any body—whether it is a governmental body—to subjugate any fundamental institution to any political whimsical approach to the determination of their rights and responsibilities.

Mr. Vice-President, all professional bodies have been regulating their professions over a period of time. The lawyers have been doing it with the Law Association and its council; the engineers have been doing it. Sen. The Hon. Dr. Lenny Saith could testify, he being a very distinguished engineer himself. The accounting profession regulates itself with basic legal accounting principles and practices which serve the test of time internationally and there are many other professions like the dental profession and the paramedical profession.

We must bear in mind that the foremost purpose of the Medical Board and the Medical Council must be to promote, protect and maintain the health and safety of the public and ensure that there are proper standards in the practice of medicine. The public must have a strong voice.

We all agree at the moment that there are no non-medical persons on the council. This is radically wrong and must be corrected, and it is being sought now to correct that anomaly. This may have given rise to the perception of the general public that the council exists only for the benefit of doctors. It is not a thought that

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

is valid, but because of what has been happening, the general public has come to feel that the medical professions and the professionals are for themselves only, and not for the general public. This must not be allowed to take any depth. I want to proffer that this is not necessarily so, and it must never ever be so.

I understand that in 2003 the council was first to suggest to the then Minister of Health—not you Minister Rahael—and continues to suggest that the size of the council be increased from five to 12 members—I believe the President of the Medical Council will bear me out on that—and that four out of the five persons should be non-medical persons. One is a senior lawyer appointed by the Law Association; one is a certified accountant; and the other two persons appointed by the Minister of Health; one with expertise in ethics and so forth and the final person would come from the Faculty of Medical Sciences which, undoubtedly, is an important person. I believe it should be the dean of the Medical Faculty and no one else, or a substitute for the dean when the dean is absent from that council.

We have a very distinguished Medical Faculty at the University of the West Indies which has stood the test of time for nearly 60 years. We have produced some of the best graduates in the world. Even today our Chancellor of the University of the West Indies is a product of the university itself and he is Prof. Sir George Alleyne who had been President of PAHO, and who made an attempt for President of the World Health Organization. There are many other persons who have served with distinction internationally and regionally.

I believe that various attempts had been made over the last three years to have dialogue with different ministers until August 2006, when the council was notified that Cabinet had agreed to amend the Medical Board Act to reflect the composition as stated in the Bill today.

Mr. Vice-President and distinguished Members of the Senate, one of the main functions of the council is to make rules and regulations subject to the approval of the board. The council makes the rules and regulations subject to the approval of the board, which is the medical profession; for carrying the purposes and provisions of this Act into effect; for the good government of the board; for the proper conduct of its affairs; determining the professional qualifications and experience, including internship required of an applicant for registration or for a temporary licence; proof of professional conduct and general fitness to practise. That basically has been the function of the council in the Medical Board Act.



Those rules and regulations had to be approved by the Minister before they could have effect and those rules and regulations, as Sen. Cropper mentioned, really do not afford for the proper conduct of the medical profession and for the administration of the practice of medicine for patients and they need to be changed substantially, in terms of the regulations which seem to be archaic at the moment.

So, the proposed Medical Board (Amdt.) Bill seeks to amend the Act in three important respects by altering the composition of the council—I think that is at the heart of the debate at the moment. On one hand the Medical Board and its members believe that the Government, through the Minister, is trying to control the profession, and the Minister or the Government believes that the medical professions do not want to really relinquish their hold and control and regulation of their own profession and, therefore, they want to continue to regulate their own professional body, so there is a divide on both sides. That has to be sorted out. I think that is the main crux of the whole debate. Who is in charge? The Medical Board believes that the hon. Minister—not you Minister, a hypothetical minister, because you may change and you may give your undertaking that you will not control them or the profession—I believe that you do not want to control them, but a promise to someone could be untenable.

The Medical Board is saying that this composition now allows for the professionals to elect amongst themselves four of the doctors who will sit on the council; two of the doctors are going to be appointed by the Minister; one of the doctors from the University of the West Indies and one of the doctors is a Chief Medical Officer who might be considered to be an offset of the Ministry of Health appointed by the Public Service Commission, but he or she may be considered as an offset of a political grouping. Generally, a chief medical officer has to work in tandem with the Minister of Health and will not want to upset the Minister of Health at all times. So, the medical professionals believe that on one hand they are appointing four persons; the Minister is appointing two persons; the Chief Medical Officer can be considered an offset of the ministry; and the University of the West Indies would have four members. So, basically, we have four and four.

As far as the law persons—*[Interruption]* Well, the medical profession body is appointing four persons, and there are eight doctors. So, they would only have jurisdiction of their four doctors appointed by the professionals, but with respect to the other three lay persons, I think the professionals do not have any problem whatsoever with that.

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

In keeping with what is happening around the world, I just want to crave the Senate's indulgence to refer to a few of the medical boards around the world for some guidance in our thinking.

Firstly, I will go to the United States Medical Board. This is *A Guide to the Essentials of a Modern Medical Practice Act*. This is the 10th Edition which was approved by the House of Delegates of the Federation of State Medical Boards of the United States Incorporated as policy in April, 2003. It states in the preamble:

“The Federation of State Medical Boards of the United States believes that each of the 19 sections of this Guide expresses an essential of a modern medical practice act and that the recommendations in each section are basic to the realization of that essential.”

They have about 19 sections:

“Requirements for Full Licensure

Graduates of Foreign Medical Schools

Licensure by Endorsement, Expedited Licensure by Endorsement, and Temporary and Special Licensure

Limited Licensure for Physicians in Postgraduate Training

Disciplinary Action Against Licensees

Impaired Physicians

Dyscompetent Physicians”

I do not know what that is really about.

“Compulsory Reporting and Investigation

Period Renewal

Physician Assistant

Rules and Regulations

Funding Fees”

**8.00 p.m.**

It defines now:

"The medical practice act should provide definitions of the practice of medicine as governed by the act as well as exceptions to the act. These provisions of the act should implement or be consistent with the following:

A. The definition of the practice of medicine should include:..."

And it goes on to give about seven.

"B. The medical practice act shall not apply to..."

So and so. Then it comes to the State Medical Board under Section III. It states:

"The medical practice act should provide for a separate state medical board (referred to hereafter as the Board) to regulate the practice of medicine,..."

Which exists in Trinidad. It says:

"including the licensure and discipline of physicians,..."

Which exist in Trinidad.

"in the jurisdiction. These provisions of the act should implement or be consistent with the following:

A. Whatever the professional regulatory structure established by the jurisdiction, physicians should bear the primary responsibility for licensing and regulating the medical profession with...should include both physician and public members..."

And we agree on that.

"Whatever the makeup of the Board..."

This is where the crunch comes now, Mr. Vice-President.

"physicians should constitute the majority of the membership."

[*Interruption*] So I draw this to your attention. I want to go on to others now.

New South Wales Medical Board in Australia:

"What is the Medical Board?"

The Board is a statutory authority established under the Medical Practice Act, 1992.

Its principal purpose is to protect the health and safety of the public of New South Wales by providing mechanisms designed to ensure that medical practitioners are fit to practise medicine."

I would not bore the Senate with reading more of that. It says:

"The Board was first established in 1838, and it currently consists of twenty nominees appointed by the Governor of New South Wales. Fifteen of the

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

members are doctors, and five are non-medical members. The Board is funded through registration fees by all doctors in NSW and is independent of the government."

It is independent of the government. The government is elected in a different mechanism in New South Wales, but the important thing here in New South Wales, Mr. Vice-President, is that the board is independent of government. I continue:

"What does the Board do?

Its responsibilities include:...

- Advises the Minister for Health on relevant issues.
- Administer the provisions of the Medical Practice Act in relation to unregistered persons and unlawful advertising.
- Establishes Codes of Conduct for the medical profession."

Just like rules and regulations. Sen. Angela Cropper mentioned a paper, which I also got from my colleague, Sen. Dr. Jennifer Jones-Kernahan, which she referred to me and it is the same paper that Sen. Cropper quoted just a while ago on trust assurance and safety. But I would not go into that, except to make one or two salient points on it. The British Medical Council of Great Britain said that:

"The purpose of the General Medical Council (GMC) is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine.

The law gives us four main functions under the Medical Act:

- Keeping up-to-date registers of qualified doctors
- Fostering good medical practice
- Promoting high standards of medical education
- Dealing firmly and fairly with doctors whose fitness to practice is in doubt."

So they are protecting, and there is a big thing:

"Protecting the public

We have strong and effective legal powers designed to maintain the standards the public have a right to expect of doctors."

And no one will ever question that. The public has a right to demand that. They said:

"We are not here to protect the medical profession—..."

The General Medical Council is not there to protect the medical profession and that is correct. It says:

"their interests are protected by others. Our job is to protect patients."

The medical board and the medical council are really to protect patients and that should be our goal. It goes on to say:

"Where any doctor fails to meet those standards, we act to protect patients from harm—if necessary, by removing the doctor from the register and removing their right to practise medicine."

Mr. Vice-President, we are all aware that there are certain doctors who have been struck off the medical register and are not allowed to practise in Trinidad and Tobago and this has been work done by the Medical Council.

Again, I refer to what Sen. Cropper had mentioned and members of this administration must take into consideration, that there are issues which will necessitate disciplinary action against members of the medical profession. But the Medical Board is stymied to pay the fees that are necessary to take legal counsel to represent the Medical Board or Council in matters relating to professionals who have disciplinary action against them.

There are doctors who can afford to take some of the best lawyers to defend them. They bring these lawyers before the Medical Council and the Medical Council is stymied, because to get an equally competent attorney they would have to spend hundreds of thousands of dollars. And if they have a few of those cases per year, it means that the Medical Council is stymied in its disciplinary process towards establishing good practice amongst doctors. So, this is one of the important things—*[Interruption]* Yes, but there are certain things that we need to do. They say that:

"The GMC is an independent body and represents a partnership between the public and the profession. This concept of 'professionally-led regulation in partnership with the public' enables the GMC to set a framework of standards and ethics that is owned by the profession..."

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

Rules and regulations.

"while reflecting the views and expectations of the public. The values are embodied in the publication Good Medical Practice, which underpins all the GMC's work."

The legal status was established under the Medical Act of 1858—149 years ago—and they were a registered charity. The governing body, the council—that is the General Medical Council of Great Britain—has 35 members:

"19 doctors elected by the doctors on the register"

Nineteen of the 35, Mr. Vice-President. So the majority of the doctors on the General Medical Council are elected by the doctors on the register. It goes on to say:

"14 members of the public appointed by the NHS Appointments Commission"

So 19 plus 14 equals 33.

"2 doctors appointed by educational bodies—the universities and medical royal colleges."

So you have the Royal Colleges of Obstetricians and Gynaecologists, the Royal College of Surgeons, the Royal College of Physicians and so on; so they need some representation on that Council and they have two. Basically, you have 21 doctors and 14 lay people. But the doctors are elected by the doctors on the register. I put that in the context of the debate here.

Then we have almost a similar thing with the Australian Medical Board. I will not go into that, but the Minister appoints three, the doctors appoint five and there are two lay people out of their 10 people on the Australian Medical Board.

So we have around the world in developed countries, the General Medical Council, the Australian Board and others, which I have spoken about a while ago. The composition of the council is really elected by the medical professionals, the majority. We stand ready to go with you on the fact that lay people must be on the board as well and the University of the West Indies must be represented. I see no difficulty with the Chief Medical Officer being there as well.

For a process of amicable solution to this whole question, why not allow the medical professionals to elect six out of these 11 people—two more on the board—so that the medical professionals will still continue to regulate its professional body? Rather than the Minister of Health appointing these two other doctors, why does

he not let go and say let the medical professional body appoint these other two doctors and this whole anomalous situation will be corrected? So the medical professional body will have six elected by their people; two other doctors will be from the others and three lay people.

Mr. Vice-President, we speak about empowering the council to make regulation to determine whether or not a person is a specialist, by establishing a Medical Specialist Register, that is another aspect of the Bill. For a long time this Act did not really take into consideration the whole question of who is a specialist or who is not a specialist, so we welcome that register. But then there arises another problem; who is a sub-specialist? And that is a major problem that is being encountered, because you have sub-specialists in orthopedics; you will have somebody who is doing hand surgery or knee surgery, you may have oncologists—so we have sub-specialties. We have to look at the question, when we are talking about specialists' registration, we have to talk about sub-specialists registration as well.

There are a few other issues that I would like to speak about; I think Sen. Cropper mentioned it as well. Hon. Minister, through you, Mr. Vice-President, we have always asked why was this necessity to bring a parallel medical board, which gave the idea to the medical professionals that—I read the *Hansard* on it and there was a lot of debate—it appeared as though the Minister, at that time, had a confrontation with the medical professionals and there was a question of temporary registration of doctors. Somewhere along the line, it all got skewed because in the Medical Board Act, there is an area of issue of temporary licence to practise and that was under clause 13. And clause 13 said:

"...the Council may issue or authorize to be issued, a temporary licence to engage in the practice of medicine during the currency thereof and subject to the terms and conditions contained therein..."

So the Medical Board Act had within it an ability to give temporary registration in a very quick time. But here it is, this present administration went ahead and enacted a new piece of legislation, Act No. 22 of 2003, which—

**Hon. Rahael:** Why are you going back there?

**Sen. Dr. T. Gopeesingh:** No, it is important to distinguish this, because you had an Act that took care of temporary registration of doctors, yet the administration went ahead to amend this Medical Board Act to provide for the establishment of a panel to issue special temporary licences in cases of shortage of persons available to practise medicine.

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

We all know that this was designed to bring in a group of doctors from abroad, with the UNDP doctors and the 75 other doctors who have come in to practise from other countries. Mr. Vice-President, just let me give you an analogy. I crave your indulgence to listen to me for a while again.

There is a neurosurgeon who was brought in here and registered as a neurosurgeon, a consultant, a sub-specialist under that temporary licence. That neurosurgeon was found to be incompetent. They moved that neurosurgeon down—hon. Minister you will hear it from all the neurosurgeons around in Port of Spain—from consultant to registrar to house officer because of the gross incompetence. There was haste in bringing these doctors; a haste to register them by a panel; and who comprised the panel?

“There is hereby established a panel to be known as the panel...”

**Sen. Dr. Saith:** Mr. Vice-President, please. Senator.

**Mr. Vice-President:** Sen. Dr. Gopeesingh.

**Sen. Dr. T. Gopeesingh:** Yes, Sir.

**Sen. Dr. Saith:** I raise the question of relevance to the Bill we are debating. The Senator is seeking to debate a Bill that was debated in this Senate, passed as part of the laws and we are going back to debate that Bill once again?

**Mr. Vice-President:** I really would like to advise you to come back to this amendment, please, because you are really going offline.

**Sen. Dr. T. Gopeesingh:** I am guided by you, Mr. Vice-President. You know I am always guided by you. I was drawing an analogy between the creation of a panel to register doctors then, and now, here is the desire to interfere with the Medical Board Act again; to look at the composition of the council. And the general medical professional body and the 1,800 doctors in Trinidad and Tobago are feeling—

Here is another example of an untenable situation where a panel was created and a parallel medical board was set up; there was no necessity for its setting up whatsoever and there is no necessity for altering the composition of the council to the extent that you want to alter it at the moment. [*Desk thumping*]

We brought in incompetent doctors and they are still pervading and this panel has run out on July 31. So we have doctors practising in Trinidad and Tobago, who should really go to the Medical Council to be recognized and registered now, and they are practising illegally, and we probably have about 100. So the Minister would have to clear that up for us.



Mr. Vice-President, we are seeking to regulate the profession of medicine and we want to regulate the conduct of the professionals and we have private institutions, which are not regulated by any private hospital board at the moment. You are trying to regulate the professionals who are working in public hospitals and in private institutions and you do not have a private hospitals medical board functioning whatsoever. So, you are trying to interfere and interfere with a public—

**Hon. Rahael:** Mr. Vice-President, on a point of order.

**Sen. Dr. T. Gopeesingh:** You have one?

**Hon. Rahael:** On a point of order. You are misleading the Senate. There is a hospital board and it is up and running and it is there functioning and registering—

**Sen. Dr. T. Gopeesingh:** I believe in my information, there is no private medical board that is existing at the moment; the private institutions are running illegally, and the Minister of Health has to show some documentation on the members of that private hospital medical board; when last they met and what has been their conduct over the last few months.

**Hon. Rahael:** Mr. Vice-President, again, I want to assure the hon. Sen. Dr. Gopeesingh that in fact the hospital board is operating, is functioning. The last licence I understand that they issued was recently to the Brian Lara Cancer Treatment Centre, where they had to go and inspect the cancer centre to ensure that all that was required was done; the level of radiation could not have escaped, et cetera, et cetera. That was probably a month or two ago. Again, please, let us not mislead this honourable Senate and the population indicating that the Ministry of Health Hospital Medical Board is not functioning.

**Sen. Dr. T. Gopeesingh:** Mr. Vice-President, I was making that assertion and comment based on the fact that I have colleagues who own private medical institutions, where I work and they have indicated up to one week ago that nobody from any Private Hospital Medical Board has visited their institutions to determine whether they are certifiable or not.

**Hon. Rahael:** Well, please bring them to our attention so we can close them down.

**Sen. Dr. T. Gopeesingh:** I can tell you it is West Shore Medical Centre and the eye hospital on Dundonald Street. So, if there is, I am sure they are waiting for the private hospital medical board to visit them. We are trying to regulate a profession; regulate a body and yet still, we are not looking at the whole question of even private institutions.

*Medical Board (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, August 21, 2007*

It brings me to the context of this Green Paper, a policy paper on Health Service Accreditation. This is a Green Paper on the whole question of accreditation, rules and regulations governing the practice of medicine in Trinidad and Tobago and this is way behind time. While we should be focusing on this as well, we are focusing on trying to dominate a professional body to some major extent.

We have one of our colleagues, my distinguished colleague and former teacher, Prof. Bartholomew, who raised the question of the composition of the medical boards in Barbados and Jamaica. But I want to pose the whole question of the developed countries, what they have in fact at the moment. While one of my distinguished colleagues is indicating the composition of the councils in Barbados and Jamaica to reflect something, there are pros and cons of that versus what is going on in developed countries.

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, two doctors, three of the lay people, the Chief Medical Officer, who works out of his office and the UWI doctor.

Although assurances have been given by you verbally, hon. Minister, that such control will not be exercised and that may be so with you as the present incumbent, that is no defence for what might happen under a future administration. *[Interruption]* No, it will be different for sure.

The UWI students said some time ago, "a promise is comfort to a fool". The Medical Council has the power to censure and suspend for up to a period of two years, any doctor whom it finds guilty of infamous or disgraceful conduct in a professional respect. It can also erase a doctor from the medical register and make it impossible for that doctor to practise in Trinidad and Tobago or in any part of world, by withholding a letter of good standing.

This amendment will 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. This is unacceptable, untenable and it is reprehensible.

This amendment to the Medical Board Act is not about the presence of lay people on the Medical Council; this is about Government control of a profession and which cannot be accepted. Government control, whether it be from the left or the right or wherever, is unwise. And if the reason for altering the composition of

the council is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine, I fail to see and we fail to see how this amendment does this.

Mr. Vice-President, thank you.

**The Minister of Health (Hon. John Rahael):** Thank you, Mr. Vice-President. I have said in this honourable House, time and time again, that in health there can be no politics; there can be no discrimination, whether of race, income level, height, colour or creed. I recall when I was appointed as Minister of Health, I believe two days after I came to this honourable House. That was my first—

**Sen. Dr. Saith:** Baptism of fire.

**Hon. J. Rahael:** Not baptism of fire, but my first exercise as Minister of Health, and I made that statement: that in health there can be no discrimination whatsoever. Because, God forbid, any one of us in this esteemed honourable Senate tonight, when we leave here, were to get into an accident, the EHS ambulance—which is working very efficiently now, I must say—will take you to the nearest general hospital. Even if you say you want to go to a private hospital they will not take you; they will take you to the nearest public hospital. And, if that is the case, then it is in the interest of every one of us to ensure that the health sector performs at the level that it can best perform and provide the best quality health care that is available.

Now I have also indicated that in the health sector it is an ongoing job, it is never completed. Ministers, before this Minister of Health was there, did what they could have done. Therefore, today this Minister is doing what he can to the best of his ability, without any form of discrimination whatsoever. And each Minister will take it, hopefully, to a better level, because again, it is not only in the interest of any political party that he represents, but it is in the interest of all citizens of Trinidad and Tobago. This Government, through the Ministry of Health, has demonstrated that our approach to the health sector in Trinidad and Tobago is one that provides for all of the citizens of Trinidad and Tobago.

So, when I hear the hon. Senators on the Lower Bench talk about nepotism, discrimination and race, I am amazed. Because in the public health sector and in the Medical Faculty of the University of the West Indies, in the Medical School, it is obvious, for whatever reason that there is one particular ethnic group that seems to gravitate to medicine, and I never, never indicated that there was any discrimination. So, again, there is absolutely, in this Government, no discrimination whatsoever. So, I put that to rest. [*Desk thumping*]

*Medical Board (Amdt.) Bill*  
[HON. J. RAHAEL]

*Tuesday, August 21, 2007*

The fact of the matter is that this Medical Board and the Medical Council have been around as far as we hear, 192 years and today we hear it is 200 years; what we are doing here today should have been done a long time ago. What we are doing here today is not—and I will admit—a comprehensive package. I want to thank—and I did not need you to prompt me, Sen. Dr. Mc Kenzie—the hon. Independent Senators, particularly the three Senators, Sen. Mary King, Sen. Cropper, and of course, Sen. Dr. Mc Kenzie; but Sen. King for her contribution, followed by Sen. Cropper, with respect to looking at this entire Act in a very comprehensive way.

I must tell you that when I first piloted this Bill in this honourable Senate, I think Prof. Ramesh Deosaran said that the two sides—if you want to put it that way—must get together. I recall there was an editorial indicating that there was some mistrust between the Medical Board and the Ministry of Health and we should get together and try to reach an understanding and a compromise.

**8.30 p.m.**

Mr. Vice-President, I initiated that. I called in The Medical Board and I told them let us discuss the issues and see what is required. That was about, I believe two Tuesdays ago. The appointment was at 5.00 p.m. in the afternoon to make it convenient for the members of the Medical Board. In attendance was the secretary/treasurer, Dr. Neil Singh, who was here last time, together with other members of the board. Unfortunately, for whatever reason, the president of the council of the Medical Board, was not present, but the rest of the board was there. We met for two hours and in those two hours we went through the Bill, we had our attorney, they walked with their attorney and there was discussion, open and frank discussion with respect to the appointment of the members on the proposed new board.

Sen. Dr. Gopeesingh was correct when he started off and talked about, it is about control, Mr. Vice-President, and he again suggested, six out of the 11, and you will know why the number six out of the 11 that they must elect, so that they will have control of the board. And I ask myself, if it is that here you have four doctors that are elected by their peers, you have the Chief Medical Officer, whoever he or she may be, that is appointed by the Public Service Commission, not by the Minister of Health, [*Interruption*] who is also a doctor, and you have through the University of the West Indies, the medical faculty there that is also going to nominate to be appointed by the Minister a doctor, that makes it, four and two, six doctors—now these are six doctors who are professionals—and two by the Minister of Health. So you have six doctors that is nominated, not by the Minister of Health or the Ministry of Health, by independent bodies and elected

by their peers. Making that number six, and two appointed by the Minister of Health, that makes it eight; eight doctors on the council of the Medical Board and three other laypersons. A representative from the Inter Religious Organization, and I do not know that I have any authority or any Minister—certainly not I—has any authority over the IRO, the Law Association or the Institute of Chartered Accountants. [*Interruption*]

And by the way, just to let you know that it was at that meeting that it was suggested by the members of the Council of the Medical Board that attended two Tuesdays ago, that instead of leaving an individual from the NGO as it is—which is very loose—they said that they needed an accountant on the board because they do not have any accounting skills and therefore the laypersons that we have suggested, none of them is an accountant and none of the doctors, they do not know how to balance books, they know how to make money but not to balance the money, so they needed an accountant.

So, we acceded to that. We went through it with the attorneys, that it was clearly stated that those who are nominated by the Law Association, by the IRO and the University of the West Indies, that “the Minister shall.”

I am not a lawyer, but the both lawyers agreed that the Minister does not have a choice. The Minister “shall” and must appoint those persons. So, when I come to this honourable Senate and I hear over and over, the Medical Board and the Council of the Medical Board keep talking about control by the Minister, and again, whoever he or she is going to be the Minister in time to come, that you want to tell me those four persons that are elected by their peers cannot convince three out of the seven others, of which four are doctors and three are laypersons, that whatever it is that they are proposing is the right thing. Just think about that. Just think for a moment.

I indicated to them, I do not believe that any one group must have a special majority. No one group must command a special majority, because then they could run shotgun over the entire council. Then it does not make sense. What is the purpose of putting everybody else if you are going to have six of them elected by their peers? And you know, when Sen. Dr. Gopeesingh talked about in the United Kingdom the numbers that are appointed; it is tens of thousands of doctors that they have there. In Trinidad and Tobago we have 1,800 doctors, you said. I wonder how many of them attended the general meeting that was called in order for them to elect the members of the council?

**Sen. Dr. Saith:** Less than 100.

**Hon. J. Rahael:** You understand, certainly, less than 10 per cent. *[Interruption]* So, again hon. Members on both sides, especially those on the Lower Bench and especially, the hon. Sen. Dr. Smith; I cannot understand why it is, it is continuing to be said that the Minister will have control. I will like somebody to explain that to me, because I keep saying, if four out of the 11, you have seven remaining; you cannot convince three out of those seven people of which another four are professional—*[Interruption]*

Four and two is six, you are right. Thank you. Two, not even four, I am sorry, thank you, Sen. King. Two! If you cannot convince two out of those seven of what it is that you are trying to propose or to get approved, then it should not happen.

If you cannot get two out of seven, and that is why I say, Mr. Vice-President, that no one group must have that special majority. So, when we had, previously, Dr. Singh here, Dr. Singh agreed, together with members of his board, *[Interruption]* together with other members of the board, and I do not want to call them all by name because they are well known. All of them when we left at 7.00 p.m., two hours later, we shook hands and we agreed and that was their position. Two days later Dr. Singh was on WNTV, that is Channel 12—

**Sen. Dr. Saith:** WIN.

**Hon. J. Rahael:** WIN, yes. And I heard him on the television indicating clearly that they are not supporting it and he went on and on, and I sat there in amazement and I did not have that television station phone number, but I made sure that I got it and I called the television station and I said I want to get on that programme.

In the programme when I clarified how the composition was made, I also said, but Dr. Singh, two days ago in my office you and your other members agreed on this proposal that we are coming with. And I understand that when they went to their meeting the whole thing changed. Right. There was a group that was there that ensured that they will not agree with anything that is being proposed except that they must have that special majority. So it is quite clear. And, again, I want to reiterate that no Minister of Health based on the composition that we have now can have any control, because as someone said, the comments of Sen. Dr. Steve Smith are indeed, sad and devastating.

It was a devastating commentary on the integrity of members of the medical fraternity, because if you are telling me that they will sell whatever it is that they may be offering to the Minister, whoever that Minister is going to be, against their own profession. And I am talking about the Chief Medical Officer; I am talking about a representative from the University of the West Indies, the medical faculty and two other doctors, and you are telling me that those four professionals will not do what is right professionally, but do the bidding of any Minister. Well, something is sad. It is sad to hear persons from the profession saying that. Really is! [*Desk thumping*]

So, Mr. Vice-President, I just want to basically indicate and respond to some of the valuable contributions made by all the Senators and let me just respond to Sen. Cropper with respect to the parallel board, and I think that was raised by Sen. Dr. Gopeesingh as well. You wanted to know what happens to the persons who were registered by the parallel board now that it has expired. Well, as was indicated when it was introduced in 2003, it was really for a short term measure and they are now licensed, they have a valid licence to practise until such time that that licence expires, so they can continue to practise until the licence expires.

I have always tried and I continue to try to work with all sectors of the health sector. The Nursing Council—

**Sen. Dr. Saith:** The Pharmacy Board.

**Hon. J. Rahael:**—the Pharmacy Board, Council of the Medical Board. Let me just indicate to the hon. Senators that the Council of the Medical Board, and a lot have been said about the cost in order for them to take action against certain doctors. It has also been pointed out that their fees that they charge—their doctors to become members—is not done in keeping with what is required and because of their cost and the expenses that they will have.

When the Medical Board came to this Minister of Health and indicated that they wanted to increase the fees to join—that time all doctors were supposed to belong to the Medical Board. That is another thing, I think Sen. Cropper, wanted to be aware of. All doctors in Trinidad and Tobago are, by registering through the Medical Board, in fact, members of the Medical Board. When they came to me and indicated that they wanted to increase their fees I immediately agreed with them. Immediately, I did not hesitate, Mr. Vice-President. I went to the Cabinet and the Cabinet approved what was recommended.

*Medical Board (Amdt.) Bill*  
[HON. J. RAHAEL]

*Tuesday, August 21, 2007*

In addition to that, to show, again, that we are always reaching out to our stakeholders, to try and work with our stakeholders so that they can perform as we would like them to perform, The same Medical Board approached the Ministry of Health, that they have one or two legal cases—and let me say, that only within recent times because of the—and I said it the last time when Dr. Singh was here, that it was only when Dr. Neil Singh, came on to the Medical Board that we saw a bit of action being taken. And, again, it is a costly exercise to take someone to court, we had agreed on that. Do you know that the same Medical Board came to the Ministry of Health cap in hand, indicating that they needed financial support.

Now the Ministry of Health is not obligated to provide any financial support. But what did we do? We understood their plight, we understood the circumstances and we forwarded, we made a contribution towards their cause in the hundreds of thousands of dollars.

**Sen. Padmore:** Political interference.

**Hon. Senator:** I guess not.

**Hon. J. Rahael:** And if I am not speaking accurately, I will give way for Dr. Smith. We, without hesitation, they wrote us, we met and we said yes, we want you to do your work. In the past you have not been increasing your fees; you came to us to increase, they could not carry it to where it is supposed to have gone to, but it was so low that they had to go middle range. And if they come in a year or two, well, whoever is the Minister then, hopefully, they will agree, again, to an increase, so that it will come to a level that they will be able to be self-sufficient. So, what do we have against the medical doctors? What do we have against the doctors?

**Sen. Dr. Gopeesingh:** Can I just interrupt you?

**Hon. J. Rahael:** Sure.

**Sen. Dr. Gopeesingh:** Just two more areas, hon. Minister. One is the question of the—you said that the doctors who had been registered under the parallel Medical Board by the panel are licensed. That this thing seems to have expired by July 31, so we would like a little clarification on that. The other thing is, this Bill speaks about the increase in fees made by order of the Minister. So, is it the board will have the council or the Minister may by order increase the fees?

**Hon. J. Rahael:** First of all, let me again clarify; it is the law that came to an end, not their licence. If you want I can give you an example; if tomorrow they decide they no longer need or there are new rules governing the licensing of your



driving permit and they change the law, that driving licence still remains valid until the expiry day. So that the licence is what is valid, and that is what is important. With respect to the fees, the approach was made by the Medical Board and apparently the Act says that “it is the Minister that has to authorize it..”, and that is what happened. The approach was made by the Medical Board and the Minister immediately agreed, I want him to increase further, but we could not have done that; they did not agree with it, and therefore, and again, when they came, they wanted funding to fight the cases, we helped. We assisted, so how is it that we are not reaching out and working with the Medical Board.

The only dispute we have—if you want to refer to that—or the only disagreement we have is that they want the absolute majority and we are saying we do not want any one group to have an absolute majority. Not the Ministry of Health, not the university, not the lay personnel; no one group must have that special majority. And I am amazed at why it is that it is so difficult for us to understand that, so I hope I put this to rest.

In fact, we work with our stakeholders, whether it is the diabetes association or the cancer society, we work with them, because again, health is too important not to work with your stakeholders. They are very critical to the whole question of the development of the health sector, not only in the public, but the public and the private health sector. Sen. Dr. Singh, if there are one or two institutions that are not registered they should apply to be registered because the board is functioning, okay.

I went to Cabinet and I got the membership of the board and everything else. *[Interruption]* Again, Sen. Dr. Steve Smith, you said that we are profiling the doctors in a negative way. Well, hon. Senators, again, about two months after I was appointed Minister of Health I asked to meet with all of the doctors in San Fernando. I went down to San Fernando, there were about 170 doctors in attendance, and the first thing I said to the doctors: “Listen, I am not here to confront, I do not look for fights, I am a peaceful man, you do your work and we all do our work and everybody will benefit from it and we will move forward.”

I also said to them, as a younger person growing up in Arima, when we go to the doctors' office—I mean after the doctor is God—I remember the high esteem and how we looked up to our doctors was something with tremendous respect. As a matter of fact you wished that you were a doctor as well, so it is something that I recall very clearly and I indicated to them that apparently that has been lost. Somewhere along the line that was lost. And I said to them: “Doctors, let us work together to regain that, to build that. Let us try and go back to that position and let

*Medical Board (Amdt.) Bill*  
[HON. J. RAHAEL]

*Tuesday, August 21, 2007*

us have a commitment to work together.” And, for the first two years I thought—I mean we used to meet informally, formally, all different places, restaurants [*Laughter*] and we used to have dinner together and all these sort of things. Then, I do not know what happened.

**Sen. Dr. Saith:** Last year for election.

**Hon. J. Rahael:** You know, I mean, I think Sen. Dr. Mc Kenzie made the point, at the drop of a hat they will abandon their patients. The drop of a hat! Every time there was a crisis, a lot of people say that I am too hands-on and I like to interfere, but I just want to make sure that the system works. I do not want to be hands-on, but I want to make sure the system works, and then, when the doctors, through their so-called union, call the doctors out to strike, the first thing they say is they want to meet with the Minister. That is what they said, they want to meet with the Minister, they do not want to meet with the RHA.

So, what am I to do? I immediately make myself available because I need them to go back and see about their patients and to our citizens, where the majority of them that access health care are those who cannot afford to go to the private sector, although that is changing now. Some people prefer to go to the public than the private sector, but we will talk about that another time.

I will tell you, Mr. Vice-President, you know what was the straw that broke the camel back? Was when they had this altercation in the car park that Sen. Dr. Mc Kenzie referred to, and they called a press conference the following day at 3.00 p.m. to say that they down tools from—as at 4.00 p.m. they will not be working.

**Hon. Senator:** Two doctors.

**Hon. J. Rahael:** Not even two doctors, one doctor with someone who went in his car spot and he confronted the individual who was coming to visit somebody in the hospital, the doctor confronted that person and between the person and that doctor there was an altercation. And, I do not know, the doctor is claiming that the security services did not intervene properly to protect him, et cetera.

The following day, one hour’s notice, I was on my way to San Fernando to meet with the South West Regional Health Authority Board when I received a phone call from a member of the media indicating that the doctors are having a press conference and that in the press conference they said that they down tools. Would you believe! So we went to the meeting with the South West Regional Health Authority and the Medical Chief of Staff, Dr. Trinidad, at the time, was

meeting with the doctors, so we said let us start our meeting and we will wait. We called the Medical Chief of Staff and he said when he is through meeting with the doctors he would come to us, to tell us what happened. Well, the first thing, he arrived around 6 o'clock that evening and he said, "The doctors want to meet with you; they do not want to meet with nobody else." I said, "Why did they stop working?" Because of the altercation.

Mr. Vice-President, let me tell you, for the first time I thought long and hard, I said, you know what, to myself, the right thing to do is to let the news tomorrow morning say that these doctors abandoned their patients because of some altercation between one doctor and a member of the public. I wanted that to come out. And then I thought again, I said, but wait a minute, who is going to suffer? Who is going to suffer if I were to take that action and refuse to meet with the doctors at 6.30 p.m. or 7 o'clock that night. And I said, you know what, I could not live with myself if by taking that action and not meeting with the doctors that same night, that a patient in the hospital who was abandoned by those doctors had died. How could I live with myself? If I am now in a position to meet with those doctors, and hopefully, get them to go back to work. How can I live with myself?

Therefore, I told Dr. Trinidad, call them and let us meet. It was at the hotel, Cara something, it used to be—

**Hon. Senator:** Cara Suite.

**Hon. J. Rahael:** Cara Suite. That is the one looking over the ocean?

**Hon. Senator:** That was Farrrel House.

**Hon. J. Rahael:** Yes, that was Farrel House. That was where the meeting was held. They came, and as they entered the room, sat down; the first thing I said, I observed that you all have abandoned your patients. Well, who tell me say that! They did not like that word "abandoned" at all. They said, no, we have not abandoned our patients; I said, but you all are not on the wards dealing with your patients.

Thank God the doctor who they do not like was in Accident and Emergency and he decided that he will stay in Accident and Emergency and we had three foreign doctors that stayed with him and was able to man the Accident and Emergency. So when you hear about doctors and profiling doctors and we have a negative about doctors; that is the last thing I want. That is the last thing this Government wants is to—we want our professionals to be the best, to be able to compare to anyone in the world.

**Hon. Senator:** To be professional.

**Hon. J. Rahael:** And to be professional. That is what we want! All sectors, if we want to develop this country, it is not the Government going to develop; it is the people that have to be developed. [*Desk thumping*]

So, when we talk about Vision 2020 and when we talk about developed country status, what we are talking about is the people, and if the doctors who we hold in the highest esteem, act in that manner then what do we leave for the rest. We do not want doctors to go on strike. We do not want to treat doctors badly. Just last Christmas, over the holidays, the eve of New Year's day I was forced, Mr. Vice-President. An action that I said when I became Minister of Health I will not do, because before I did what I did, almost every Minister, whether it was PNM, UNC or NAR took action against the doctors by going to the Industrial Court. And I said, "John Rahael, you are not doing that. You are working with these doctors. You do not want to do that; that is the very last thing you are going to do. You do not want to do that."

**Sen. Jeremie SC:** You called me.

**Hon. J. Rahael:** Mr. Vice-President, that Saturday, I met with one or two of the doctors. I pleaded with them. I gave them certain assurances. They wanted certain things to be done that could not have been done. It simply could not have been done! I contacted the CPO; I contacted the PSA; I contacted who was really the boss in MPATT. Not the president, the existing president and all of these other doctors who say they are president—there is somebody else who is pulling all the strings. [*Laughter*]

**Hon. Senator:** I know that.

**Hon. J. Rahael:** You understand.

**Hon. Senator:** Who is the boss?

**Hon. J. Rahael:** So, I met with him; I pleaded with him. [*Interruption*] I pleaded with him, Mr. Vice-President. I indicated to him that I spoke with the CPO. [*Interruption*] I spoke with the PSA. I have done all of these things and what you are asking for cannot happen. Bear with me. You have to give me some time to go to the CPO. It has to do with the whole question of priority, the whole question of the dual employment in the health sector, and it is this Government that is taking the bull by the horns and say: "Look! We have to correct that!" Because, unless you do not correct that you could never correct the public health sector. [*Desk thumping*] Unless we amend this Bill tonight we will be failing in our duty in order to carry the profession forward.

So, Vice-President, I was forced to go to the Industrial Court to take out an injunction on the eve—I had to call the Attorney General; I think it was the Saturday or Sunday morning. First of all I had to call my hon. Prime Minister and let him know what the circumstances are, and I asked him if he will sanction and approve the action that I need to take, otherwise we will not have any doctors in our service. *[Interruption]*

You want to know what also made me do it, Mr. Vice-President. The doctors decided that they were going to go on strike. Within 24 hours I received a phone call from the Chief Executive Officer of North West Regional Health Authority indicating that the hospital beds are full, because when patients are coming in now, we do not have the number of doctors that are required, so we have to admit them and put up I.V. just in case, because they could not treat with the number of patients and discharge them, so that all the beds were occupied at the Port of Spain General Hospital. And they wanted approval to send patients to the private hospitals in North West Trinidad. We had no choice. We had to approve it otherwise those persons might have died. So, we approved for those patients to go to the private hospitals until we could resolve this matter.

Mr. Vice-President, I will tell you why I had to take that action to go to the Industrial Court, because like I said, I made a commitment to myself that I will never do that. I did not want to do that, and I saved that message on my cellular phone, and the call was from the CEO and it was a voice mail. “Mr. Minister, we are in crisis. All of our beds are filled at the hospital and more than that, Mr. Minister, all the beds in the private sector is full.” Not only in the Port of Spain General Hospital but in the private sector: Community Hospital, West Shore, St. Clair, Medical Associates was full through north central, and you know what was the irony of all of this? There was a time when doctors go on strike San Fernando will shut down and Port of Spain will keep working. Guess what happened over that New Year’s Eve weekend? Port of Spain shut down and San Fernando kept running.

**Sen. Dr. Saith:** Who is in charge of those—*[Inaudible]*

**Hon. J. Rahael:** You understand. And I am sure that hon. Sen. Dr. Steve Smith knows exactly what happened! That Port of Spain for the very first time, when they called a strike, and imagine doctors calling a strike. *[Interruption]* I mean, I do not even want to say those words. *[Interruption]* You are right, you understand. Port of Spain shut down and San Fernando kept going.

*Medical Board (Amdt.) Bill*  
[HON. J. RAHAEL]

*Tuesday, August 21, 2007*

**9.00 p.m.**

And now, somebody asked earlier about the Minister disciplining, firing doctors. You know, the Minister of Health—and I know of no Minister that could hire and fire. I do not know any of my colleagues here could hire anybody and fire anybody. Do you know that the disciplinary power of the medical practitioners who are employed under the Ministry of Health, the only organization that can discipline a doctor or fire a doctor from the public health sector is the Public Service Commission? No Minister could suspend any doctor.

You have the Public Service Commission who has the authority over public servants wherever they are working, including the public health sector and the health institutions. It is the Medical Board, the only other organization that has the authority to discipline and to even remove the doctor from the registry of the Medical Board, do not license them and suspend their licence; it is the Medical Board. As a matter of fact, the Medical Board has more power than any other organization or institution when it comes to registering doctors, disciplining doctors to the extent that they could take away the doctor's licence.

So, it is a very important institution and I am not going to get personal this evening because I can say a lot about the membership of the Medical Board, but I am not going there.

**Sen. Jeremie SC:** Do not go there.

**Hon. J. Rahael:** I am not going there. And I know there will be those outside who will tell me and chastise me tomorrow for not going there because it is an opportunity that some of them crave to be able to come in this honourable Senate and do exactly that, but I am not in that.

Just again, to respond to Sen. Dr. Mc Kenzie, with respect to the community and going out to the community and so on. Just to let you know, Senator, that again, the Ministry of Health recognizes exactly what is required and we need to go out into the community and do some of our screening for vision, for hearing, for testing for diabetes, hypertension, et cetera. So what do we do together with the Regional Health Authority in Trinidad—and we have already spoken to the Tobago House of Assembly—we have mobile health clinics. Each of the RHAs has mobile health clinics that go into the rural areas where the nurses are in attendance. They will screen for hypertension, pap smear, diabetes, vision, a whole range of illnesses, and also they would have time to speak to the individual on a one-on-one. They are not pressed. They could go in and talk to the family as a whole, to talk about healthy lifestyles because it is all about healthy lifestyles, so that every effort is being made to deal with preventive and primary health care.

The health centres throughout Trinidad and Tobago are being refurbished. It started; the UNC did some; the PNM came and completed a number of them; there are still one or two district health facilities to be built. Chaguanas is one of them and we all know that construction is a challenge now. What we did? By bringing in additional nurses whether it was from the Philippines or Cuba, we were able now together with Cuban doctors, together with UNV doctors to provide these health centres with those professionals and have them opening longer hours.

At the Rio Claro Health Centre, when previously it worked from 8.00 a.m. to 4.00 p.m., now because we have the personnel, it is opening at 6.00 a.m. and closing at 8.00 p.m. [*Desk thumping*] Yes, of course, manned mainly by our foreigners. The pharmacists that we brought in, 50 pharmacists, it is not because we want to bring foreigners into Trinidad and Tobago;—that it is some kind of joy that gives us—we are bringing them because we are in need and because of the shortage of those skills in our country.

The Eric Williams Medical Sciences Complex Outpatient Pharmacy was closed for 18 months. It is all there; everything I am saying is recorded. San Fernando General Hospital—Dr. Smith is here, again—for nine months the outpatient pharmacy was closed. A number of health centres did not have pharmacists because of the shortage of pharmacists; and I do not want to hear anything about, "Well, you are not paying them enough", et cetera, et cetera. If they had no job, they would have taken the job. So whether they were employed in the private sector or not, or the private sector was paying more than the public sector, fine, but if there were excess pharmacists looking for a job that they could not get in the private sector, they certainly would have come and worked in the public sector.

By bringing these 50 pharmacists we were able to reopen all of these pharmacies; more than that, in Port of Spain General Hospital—because at that time there were a lot of complaints about people waiting, sitting on these hard benches for five hours before they could get their prescription filled. We went there; we provided more pharmacists; it still continued and then we realized that the eye clinic at the Port of Spain General Hospital generated more prescriptions than any other clinic. The reason for that was that every day over 100 patients were coming to the eye clinic and 90 per cent of them needed the drops, and therefore, with a prescription, they had to go to the general pharmacy in the Port of Spain General Hospital where other patients were going. So what we did?

In the eye clinic, we established a pharmacy with one Philippino pharmacist and one Trinidadian pharmacist and immediately that eased the pressure on the general pharmacy. [*Desk thumping*] It is all about thinking it through. It is about

*Medical Board (Amdt.) Bill*  
[HON. J. RAHAEL]

*Tuesday, August 21, 2007*

management, and yes, yes, we need to keep looking at the RHAs; we need to strengthen the RHAs; we need to ensure that we have full-time professionals in the RHAs.

I believe in paying the doctors well, and when in the other place, someone from their side got up and made a hue and a cry about some doctor that they proposed paying \$84,000 a month who was going to be the Medical Chief of Staff, they made a song and dance. The same group, a song and dance in the other place about this doctor and when I indicated that this doctor who was going to be the Medical Chief of Staff was going to be a full-time employee with no private practice, that \$84,000 was a reasonable figure.

**Hon. Senator:** More than reasonable.

**Hon. J. Rahael:** Yes.

**Sen. Dr. Gopeesingh:** We understand that there is a particular doctor who is working at the National Oncology Centre, who is being paid an exorbitant salary and still allowed private practice, working in private institutions.

**Hon. J Rahael:** Well, I will discuss that at another time, but I am aware of what you are referring to. But the specialty that individual has, there is no other individual in Trinidad that has that specialty. So, I am saying now, however, if we can get—that is a consultant and they are allowed to consult more than one institution. The fact of the matter is that I believe in providing full-time employment for our doctors, our nurses, our pharmacists; paying them properly, ensuring that part of the conditions of their contract is that they do not have a private practice. That is part of the condition.

Therefore, Mr. Vice-President, I know time is against me, but I would have the opportunity again to come back to this honourable Senate. I believe there is a budget debate coming; I will come back for the budget just to let you all be aware of what is happening.

Mr. Vice-President, I want again to reassure Sen. King and Sen. Cropper that we are taking on board exactly what you suggested. I want to also indicate to you when we met with the Medical Board, that issue did come up because there are a lot of other things that the parent Act needs addressed, a number of other issues, and we have given them a commitment—the Council of the Medical Board. I am giving the Senators a commitment that we will revisit the entire Act in a very comprehensive way, with further consultation with all the stakeholders that are involved and we will be back again in order to provide our concept.



*Medical Board (Amdt.) Bill*

*Tuesday, August 21, 2007*

Mr. Vice-President, I beg to move. [*Desk thumping*]

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

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

*Clause 3.*

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

**Mr. Rahael:** Mr. Chairman, I beg to move that clause 3 is amended as follows:

Instead of the words "Medical Board";

“‘specialist’ means a person who has undertaken specialist training and has been awarded specialist qualifications in a specialty recognized by the Medical Board”.

It should be the word "Council" instead of "Medical Board". So, there is that change there and further down another change, from the same "Medical Board" to the word "Council".

**Hon. Senator:** [*Inaudible*]

**Mr. Rahael:** Well, yes, not in this list, so it is an additional amendment. It is not in what was circulated.

**Mr. Chairman:** Hon. Members, the question is that clause 3 be amended to read in the second subparagraph as follows:

“‘specialist’ means a person who has undertaken specialist training and has been awarded specialist qualifications in a specialty recognized by the Medical Council, and that specialist training is, or those qualifications are, or when considered together, found to satisfy the Medical Council’s requirements ...”

**Mr. Rahael:** Sorry, Mr. Chairman, not "Medical Council" just "Council".

**Mr. Chairman:** Oh, “the Council”?

**Mr. Rahael:** Yes, "by the Council".

**Sen. Dr. Gopeesingh:** Why?

**Mr. Rahael:** Because I am advised that "Council" is really defined as the "Medical Council".

**Sen. Dr. Gopeesingh:** Okay, I understand.

**Mr. Rahael:** So it is just the word "Council". Remove "Medical Board" and insert "Council" in both areas in the section.

**Sen. Cropper:** Mr. Chairman, thank you. I had made the observation that I thought this definition of specialist was a little, "tautologous". In a way we are defining a specialist by being a specialist so recognized by the council and I wondered whether that is not something that needs to be defined by the council itself as opposed to prescribing what the specialist means already for the council in the Act itself?

**Mr. Rahael:** I believe that the accreditation council will accredit the university and the specialist and then refer it to the Medical Board that will also license that particular individual in accordance with the regulations. Is that satisfactory?

**Sen. Jeremie SC:** No, it is not. It is not "tautologous", the word does define itself by reference to specialist, but it goes on to talk about in a specialty recognized by the council, so that the council is the dominant entity. We are not saying that specialist is a specialist because he is a specialist.

**Sen. Cropper:** But it is saying that a specialist is a person who has specialist qualifications in an area that is recognized as a specialty.

**Sen. Jeremie SC:** By the council, so the council is the one that governs.

*Question put and agreed to.*

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

*Clause 4.*

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

**Sen. Jeremie SC:** Mr. Chairman, I beg to move that clause 4 be amended as follows:

- A. In the proposed new paragraph 1(e), insert after the word "experience" the words "nominated by the Law Association of Trinidad and Tobago".

B. Delete the proposed new paragraph 1(f) and substitute the following:

"(f) an accountant with at least five years experience nominated by the Association of Chartered Accountants".

**Sen. Dr. Gopeesingh:** Can I propose another amendment, Mr. Chairman? Clause 4(1)(c), I would like to recommend or to suggest six medical practitioners elected by the Board and delete "(b) two medical practitioners". So I would like to indicate that it should be six medical practitioners elected by the Board and delete "(b), two medical practitioners."

**Sen. Jeremie SC:** Mr. Chairman, we are in violent opposition to that for all of the reasons stated by the Minister.

**Sen. Dr. Gopeesingh:** We are the Opposition, we are the alternative government.

**Sen. Jeremie SC:** No, we are not in agreement with that amendment, so—

**Sen. Dr. Gopeesingh:** Okay. I have to register my disagreement; that is our prerogative.

**Sen. Cropper:** Mr. Chairman, in relation to clause 4, I think one of the points that I had sought to make is that there does not seem to be any protection, as it were, for the nominations that come and there is no guarantee in the sense here within this formulation that the Minister shall appoint the people who are nominated. It says, "There shall be a Council", the council shall be appointed; but it does not say that nominees as made by nominating agencies shall be appointed and I wonder if we can give a little bit more protection to that. The Minister in a sense has said that in his meeting with the Medical Council there was the agreement, at least between the respective legal attorneys, that the Minister does not have a choice in appointing the nominees. If that is the case, and if that is the understanding, is there some way we can reflect that here? I have a small amendment to propose to that.

**Sen. Jeremie SC:** We thought that the multiplicity of the use of the word "shall, "There shall be a council" that is establishing the council, "which shall be appointed by the Minister"—

**Mr. Rahael:** And "shall consist".

**Sen. Jeremie SC:** "... and shall consist of—the Chief Medical Officer"; so that the Minister has no discretion in one person nominated by the IRO. The Minister has no discretion in any of those matters.

**Sen. Cropper:** But does that not obviate the possibility of the Minister saying 'no' to this nominee, go back to the drawing board, until a nominee comes up to his approval?

**Mr. Rahael:** No. Again that was a point that was discussed at the meeting that we held and both attorneys—the Ministry and the Medical Board were satisfied that the word "shall" means exactly that and the Minister cannot decide otherwise.

**Sen. Cropper:** So, Minister, that is your understanding also of that wording?

**Mr. Rahael:** Yes.

**Sen. Jeremie SC:** Yes, otherwise it would have been "There shall be a Council of the Board which may be appointed by the Minister and shall consist of"; I do not know how it would have read.

**Mr. Rahael:** The word "shall" is what strengthens it.

**Sen. Cropper:** Mr. Chairman, I wonder if I could just suggest a small reformulation here to say, "There shall be a Council of the Board appointed by the Minister which shall consist of"?

**Sen. Jeremie SC:** There is no difference between that and the formulation which is here.

**Sen. King:** Mr. Chairman, as a follow-up to Sen. Cropper's proposal that maybe "shall" is not strong enough and that the Minister "must" appoint. I had suggested in my contribution that we could include a clause which states that if for any reason the Minister does not appoint, then he shall report the reasons why publicly.

**Sen. Jeremie SC:** As it is, the Minister must.

**Sen. King:** Ensures. Okay.

**Mr. Rahael:** I think it is good as is it. As I indicated both attorneys at the time did agree that "shall" means exactly what it is, shall. If we go to play with that now, we may run into all kinds of other difficulties, even that suggestion.

*Question put and agreed to.*

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

*Clause 5.*

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

**Sen. Jeremie SC:** Mr. Chairman, I beg to move that clause 5 be amended as follows:

In the proposed subsection (2), delete the words "Chairperson, a" and insert after the words "a Secretary-Treasurer", the words "who shall be medical practitioners".

**Sen. Dr. Gopeesingh:** Mr. Chairman, I would like to indicate that a Chairperson, a President, Vice-President and a Secretary-Treasurer shall be elected from among members of the Board instead of Council.

**Mr. Rahael:** We are not in agreement, Mr. Chairman.

**Sen. Dr. Saith:** It cannot be from the Board.

**Mr. Rahael:** Exactly.

**Sen. Dr. Gopeesingh:** Shall be elected by the Board.

**Sen. Jeremie SC:** We do not agree. Mr. Chairman, we do not agree.

**Sen. Dr. Gopeesingh:** I have to register my—*[Interruption]*

**Mr. Rahael:** Let him register it to satisfy his constituency.

**Sen. Dr. Gopeesingh:**—dissatisfaction with the wording as it is.

**Sen. King:** Mr. Chairman, I just want clarification. I want to know, do we not now have a Chairman of that Council?

**Mr. Rahael:** There is a President.

**Sen. King:** So the President is automatically the Chairman?

**Mr. Rahael:** No, he is the elected President, so he becomes Chairman.

**Sen. King:** He becomes Chairman?

**Mr. Rahael:** Yes, after he is elected President.

**Sen. King:** Thank you.

**Sen. Dr. Gopeesingh:** Mr. Chairman, subsection (b), I would like to indicate that the word in subsection (3) is to be "re-elected". The members of the council are eligible for a re-election except that the President is eligible for re-election for one term only.

**Mr. Chairman:** I do not think I understand what you just said.

**Sen. Dr. Gopeesingh:** I am going to change subsection (b) and I would like to put this in, "the members of the Council eligible for re-election, except that the President is eligible for a re-election for one term only".

**Mr. Rahael:** You just want to insert at the beginning "members of the Council"?

**Sen. Dr. Gopeesingh:** Instead of re-appointment, basically, it is re-election. But you see, you have fundamentally differed from that because I am speaking about re-election which is election by the members of the board. So, you are in disagreement, but I would like to register it. That is our thinking on that.

**Mr. Rahael:** Okay, register it and let us move on.

**Sen. Cropper:** Mr. Chairman, on the same subclause (b), having provided above for election of those officers from the council, should the word there not then be "re-election" rather than "re-appointment"? Substituting the word—  
[*Interruption*]

**Sen. Dr. Gopeesingh:** Because if in the first place they are elected from among members of the council—

**Sen. Cropper:** Yes, we are speaking about the officers who are elected above in (a), it provides for them to be elected so in subclause (b), it should be and substituting the word "re-elected".

**Sen. Jeremie SC:** We are just checking section 9 of the parent Act.

**9.30 p.m.**

It makes sense if you look at the parent Act. In the parent Act 9(2) provides as follows:

“The President and the Vice-President shall be elected from among members of the Board of at least three years standing.”

Section 9(1) provides that:

“Members of the Council shall hold office for a term of three years.”

9(2) states:

“The President and the Vice-President shall be elected from among members of the Board of at least three years standing”

So we have dealt with that in (2) by providing that a President, Vice-President and Secretary-Treasurer shall be elected from among members of the council; and now this clause 5(b) is really 9(3) which states:

“The members of the Council are eligible for re-election,…”

Except that the President is eligible for re-election for one term only. So we are striking “except that the President is eligible for re-election for one term only”, and putting in “reappointment”; that is it.

**Sen. King:** How will it finally read? Can you read us that last clause?

**Sen. Jeremie SC:** “The members of the Council are eligible for reappointment.”

**Sen. Cropper:** Reappointment by whom, in that case? The Minister is not appointing the officers; the officers are being elected.

**Sen. Jeremie SC:** If they are appointed, it will have to be by the Minister.  
[*Crosstalk*]

**Sen. Dr. Gopeesingh:** Mr. Chairman, I think the hon. Attorney General is missing the whole question of what he has in the amendment which should read as follows, 5(a)(2):

“A President, Vice-President and a Secretary-Treasurer who shall be medical practitioners shall be elected from among members of the Council.”

That is what you have indicated in your amendment?

**Sen. Jeremie SC:** Yes.

**Sen. Dr. Gopeesingh:** I just wanted to emphasize that is what your amendment is: “who shall be medical practitioners”. I indicated earlier on that the President and Vice-President and secretary shall be elected from members of the board; that is our recommendation.

**Sen. Cropper:** I still do not understand the point made by the Attorney General; this is how I understand it. The Minister appoints the council; the council, therefore, has first to be constituted before its officers are elected from within the council. The second amendment (b) now provides for reappointment as distinct from re-election and the Attorney General said that reappointment would be made by the Minister, but the Minister has not appointed the officers in the first place, they have been elected from the council.

*Medical Board (Amdt.) Bill*  
[SEN. CROPPER]

*Tuesday, August 21, 2007*

The Minister has appointed the council. The council elects its officers and then they are eligible for another term, presumably for election. It is for reappointment to the council then I think we have to clarify that, because it is ambiguous.

**Sen. Jeremie SC:** We are saying that they are eligible for appointment.

**Sen. Dr. Gopeesingh:** She is asking by whom.

**Sen. Jeremie SC:** It has to be by the Minister.

**Mr. Rahael:** The members of the council elect the President and so on, and the entire council is then appointed by the Minister. [*Crosstalk*]

**Sen. Dr. Gopeesingh:** No, no; I think you are missing the point, John. [*Crosstalk*] How is that reappointment going to take place? That is the question Sen. Cropper is asking. From whom? [*Crosstalk*]

**Sen. Jeremie SC:** Let us read it over again. I am reading from 9(3) of the parent Act. All it says is that the members of the council are eligible for reappointment. There is a process by virtue of which the membership of the council is settled in the first place and that assumes, I believe, a process of election. [*Crosstalk*] In the first place, to constitute themselves they are first elected by whatever the process is and the Minister then makes an appointment. So to say that the members are eligible for reappointment, really adds nothing to the original formulation. [*Crosstalk*] [*Interruption*]

The technocrats are suggesting a formula which might assist us. [*Interruption*]

“Members of the council are eligible for reappointment upon re-election.” [*Crosstalk*]

**Sen. Cropper:** I think what the Attorney General has just said clarifies it, because he said: “Members of the council are eligible for reappointment”; that clarifies the ambiguity that is there right now. If it says that, fine. [*Crosstalk*]

**Sen. Jeremie SC:** Is it okay as it is?

**Hon. Senators:** Yes.

**Sen. Cropper:** I thought it was okay as you just said it: “Members of the council are eligible for reappointment.”



**Sen. Jeremie SC:** That is what you said at the very beginning? Section 9(3):

“The members of the Council are eligible for reappointment.” [*Crosstalk*]

**Sen. Montano:** That is the amended (3); it is crystal clear and it was so the first time he read it. [*Crosstalk*]

**Sen. Dr. Gopeesingh:** Here you have a council serving for three years and then just by a single appointment they can go back for another three years, but previously in the parent Act they had to be re-elected. There is a big difference with re-election. In other words, the profession has to re-elect their people. They may be dissatisfied with the President. [*Crosstalk*]

**Sen. Jeremie SC:** Then they will not be eligible for reappointment.

*Question put and agreed to.*

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

*Clause 6 ordered to stand part of the Bill.*

*Clause 7.*

*Question proposed, That clause 7 stand part of the Bill*

**Sen. Dr. Gopeesingh:** Part of the discussions we had, hon. Minister, where you indicated that the council wanted to increase its fees and you said that it was fine and that you wanted to even increase it a little more, but it seems as though you indicated that it was the medical council that would be prescribing the fees. This does not incorporate that. You said here:

“The Minister upon recommendation by the Council may by Order prescribe...”

**Sen. Jeremie SC:** You have to look at the parent Act.

**Sen. Dr. Gopeesingh:** You did not want to be able to prescribe the fee. You said to let the medical council prescribe the fee and you would okay it. I am suggesting:

“The Minister on recommendation by the Council may by Order prescribe...”  
[*Crosstalk*]

**Sen. Jeremie SC:** We are assuming that the Minister is going to be properly advised when he is setting the fee. He explained a process.

**Sen. Dr. Gopeesingh:** You cannot assume in a legal document.

*Medical Board (Amdt.) Bill*  
[SEN. CROPPER]

*Tuesday, August 21, 2007*

**Sen. Jeremie SC:** As it is in the existing law, he explained a process where the fee was raised by the association coming to him and making recommendations; that is how it is done.

**Sen. Dr. Gopeesingh:** But this does not state that.

**Sen. Jeremie SC:** It does not have to state that; this is how it is in the parent law.

**Dr. Gopeesingh:** You are assuming that, but you cannot do that; you just have to put it in law. What is wrong with putting:

“The Minister on recommendation by the council may by Order prescribe...”

**Sen. Jeremie SC:** Since the council has no locus in the House, it cannot come here and make an order prescribing fees. It has to be the Minister.

**Sen. Dr. Gopeesingh:** How does the House come into that?

**Sen. Jeremie SC:** If the fees have to be set by Order, then it has to be done by the Minister; it cannot be done by the council. They go to the Minister; they tell him, “We want an increase in fees”, and that is done.

**Sen. Dr. Gopeesingh:** Attorney General, what you are saying is not incorporated in what is written here. If you are saying that is assumed, why do you have difficulty in putting it into law?

“The Minister upon recommendation by the council may by Order prescribe...”

**Sen. Jeremie SC:** That is not how it is done usually in legislation, Sen. Dr. Gopeesingh. The convention is that the Minister would be approached. The council cannot come into the House to make an order.

**Sen. Dr. Gopeesingh:** No, but they can recommend to the Minister so that he will do the order.

**Sen. Jeremie SC:** If that is what they can do, then that is what they will do. [Crosstalk] The Minister will do the rational thing and make an order.

**Sen. Dr. Gopeesingh:** I disagree with you on that.

**Mr. Rahael:** That is how it should be. What if the medical board comes and says that it wanted to charge \$1 million for any new doctor who wants to be registered, so that they would keep the doctor out?

*Medical Board (Amdt.) Bill*

*Tuesday, August 21, 2007*

**Sen. Dr. Gopeesingh:** They could recommend to the Minister.

**Mr. Rahael:** This is how it happens. By practice it has always been like that; and with all other registration fees, that is how it is in all the other laws.

*Question put and agreed to.*

*Clause 7 ordered to stand part of the Bill.*

*Clauses 8 to 10 ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, with amendment, read the third time and passed.*

#### 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 be now adjourned to Thursday, August 23, 2007, at 1.30 p.m., at which time, as I indicated earlier, we will debate the Finance (Amdt.) Bill and the Insurance (Amdt.) Bill, 2007.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned 9.48 p.m.*