

Leave of Absence

Tuesday, July 09, 2013

SENATE

Tuesday, July 09, 2013

The Senate met at 1.30 p.m.

PRAYERS

[MADAM VICE-PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam Vice-President: Hon. Senators, I have granted leave of absence to Sen. the Hon. Dr. Bhoendradatt Tewarie, who is out of the country.

SENATOR'S APPOINTMENT

Madam Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Wade Mark:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency WADE MARK, M.P., Acting
President and Commander-in-Chief of the
Armed Forces of the Republic of Trinidad
and Tobago.

/s/ Wade Mark
Acting President

TO: MS. PATRICIA HERRY

WHEREAS Senator Dr. the Honourable Bhoendradatt Tewarie is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, WADE MARK, Acting President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, PATRICIA HERRY, to be temporarily a member of the Senate, with effect from 9th July, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. the Honourable Bhoendradatt Tewarie.

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 8th day of July, 2013.”

OATH OF ALLEGIANCE

Senator Patricia Herry took and subscribed the Oath of Allegiance as required by law.

Congratulations (SEA Students)

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**CONGRATULATIONS
(SEA STUDENTS)**

Madam Vice-President: Hon. Senators, I wish to take the opportunity this afternoon to extend heartiest congratulations to all of the students who received their SEA results last Thursday. I wish to particularly recognize the top student in Tobago and three top students in Trinidad who have achieved academic excellence at this primary school stage.

I congratulate Emily Bhola of St. Andrews Anglican Primary School, Scarborough; Troy Samlalsingh of San Fernando TML Primary School; Kay-Lynn Ramlal of Tulsa Trace Hindu Primary School in Penal; and the top student, Sandhya Sookhoo of Grant Memorial Presbyterian School. [*Desk thumping*]

These exemplary students have undoubtedly made their parents, teachers, relatives and certainly their schools, extremely proud. While Sandhya and Kay-Lynn will be starting their new phases of their lives at Naparima Girls' High School, Troy will be attending Presentation College in San Fernando and Emily will attend Bishop's High School in Tobago.

I urge them all to continue to persevere and to do well. We also encourage, on your behalf, all encouragement and support to the nation's young students to continue to work hard, to be goal oriented and to continue in their efforts. I thank you. [*Desk thumping*]

DOG CONTROL BILL, 2013

Bill to provide for the control of dogs and to regulate the manner in which certain breeds of dogs are kept by their owners or keepers; to repeal the Dangerous Dogs Act, 2000 and for related matters, brought from the House of Representatives [*The Attorney General*]; read the first time.

Motion made: That the next stage be taken at a later stage of the proceedings. [*Hon. A. Ramlogan*]

Question put and agreed to.

**SUGAR INDUSTRY CONTROL BOARD
(REPEAL) (VALIDATION) BILL, 2013**

Bill to validate actions done pursuant to section 4 of the Sugar Industry Control Board (Repeal) Act, 1995, brought from the House of Representatives [*The Minister of Finance and the Economy*]; read the first time.

Motion made: That the next stage be taken at a later stage of the proceedings. [*Hon. L. Howai*]

Question put and agreed to.

PAPERS LAID

1. Annual Audited Financial Statements of the Government Human Resource Services Company Limited for the financial year ended September 30, 2012. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Annual Audited Financial Statements of the National Gas Company of Trinidad and Tobago Limited for the year ended December 31, 2012. [*Sen. The Hon. L. Howai*]
3. Annual Audited Financial Statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 2012. [*Sen. The Hon. L. Howai*]
4. Annual Audited Financial Statements of Trinidad Nitrogen Company Limited for the financial year ended December 31, 2012. [*Sen. The Hon. L. Howai*]
5. Criminal Procedure Rules, 2013. [*The Attorney General (Sen. The Hon. Anand Ramlogan SC)*]

SELECT COMMITTEE REPORTS**Ministries, Statutory Authorities and State Enterprises
(Presentation)**

Sen. Dr. James Armstrong: Thank you Madam Vice-President. Madam Vice-President, I have the honour to present the following report:

Tenth Report of the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 2) and on the Statutory Authorities and State Enterprises falling under their purview on the Government Assistance for Tuition Expenses (GATE) Programme.

Municipal Corporations and Service Commissions

Sen. Subhas Ramkhelawan: Madam Vice-President, I have the honour to present the following report:

Ninth Report of the Joint Select Committee established to inquire into and report to Parliament on Municipal Corporations and Service Commissions (with the exception of the Judicial and Legal Service Commission) on a review of the Teaching Service Commission.

Insurance Bill, 2013

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Madam Vice-President, I have the honour to present the following report:

Report of the Joint Select Committee established to consider and report on the Insurance Bill, 2013.

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam Vice-President, I have indicated to the Chief Whip of the Opposition that we are not in a position to answer questions 51 and 57 today.

The following questions stood on the Order Paper:

Clico/CLF

(Update on Outstanding Matters)

51. Would the hon. Minister of Finance and the Economy provide an update with respect to all outstanding matters required to achieve a final resolution of the CLICO/CLF matter? [*Sen. Dr. L. Henry*]

Constitution (Amdt.) (Tobago) Bill, 2013

(Status of)

57. Would the hon. Prime Minister inform the Senate on the status of the Constitution (Amendment) (Tobago) Bill, 2013? [*Sen. S. Cudjoe*]

Questions, by leave, deferred.

DOG CONTROL BILL, 2013

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Madam Vice-President, I beg to move:

That a Bill to provide for the control of dogs and to regulate the manner in which certain breeds of dogs are kept by their owners or keepers; to repeal the Dangerous Dogs Act, 2000 and for related matters, be now read a second time.

Madam Vice-President, this Bill requires a special majority and the reason for that is because it interferes with certain constitutional rights. The constable or officer of the local authority will have the power to seize dangerous dogs in certain circumstances, in accordance with clause 22(1) and we will be seeking to place certain restrictions on citizens' ability to own dogs because there will be certain statutory requirements now that they must satisfy.

This is a very emotional matter, the issue of dogs. Dogs occupy a very special and unique place in the social landscape and in the culture of Trinidad and Tobago and I dare say in the world. A simple search on Goggle reveals that the term “dog” will generate, in less than 0.38 seconds, 978 million hits. The term “dangerous dogs” will generate 59.2 million hits in less than a second. So that the dog as a pet and as an animal, has really occupied a very special place in human life since time immemorial. I suppose that is why it is said that a dog is man’s best friend.

There have been many poems, many classical works of literature and art dedicated to dogs and to personify the expression of love between a man and dog. In fact, there is an old Polish proverb that says the greatest love is a mother’s, a dog’s and then a sweetheart’s.

Sen. Maharaj: That is true.

Sen. The Hon. A. Ramlogan SC: I am advised by certain dog lovers that is true and from the nodding heads I see here, I think it would resonate to some of my learned friends. But, it is indeed one of the most loved pets and I dare say the most common pet in Trinidad and Tobago and that is why some persons say that the dog is the only creature or animal made by God that would love you more than it loves its own self.

There have been many situations where dogs have even died in defence of their owners and in the protection of their property. But, having said that, there is equally—it is a double-edged sword. There are many who have seen the dangerous side to dogs.

In Neil Gaiman’s *Good Omens*, he said:

“There are some dogs which, when you meet them, remind you that, despite thousands of years of manmade evolution, every dog is still only two meals away from being a wolf.”

I suppose that places the fulcrum beneath the two competing principles in this debate. On the one hand, you have the rights of the animal lovers who would want to have a dog of their choice as their pet, and on the other hand, you have the rights of the population to be protected from vicious dog attacks that have really been a plague and a scourge in our society for such a long time.

There has been, as a result of those attacks, a cry from the population for state intervention to regulate the control and ownership of dangerous dogs. I remember when I used to walk to the taxi stand from my old school, Pleasantville Senior Comprehensive, there were certain parts in San Fernando when you are passing,

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the people had bad dogs. I literally witnessed a child being bounced down or knocked down on the road because the dog came upon us and when the dog came upon us by the fence, the child darted across and a car, the oncoming vehicle, struck the child.

1.45 p.m.

But the fear of the dangerous dog was there and even as simple as it was at the time, there was no warning sign to say, “Beware of a Dangerous Dog”, as there is at Sen. Hinds’ home, or anything of the kind. [*Chuckles*] “Ah doh mean a warning about my learned friend, of course.”

Sen. George: He is listening. He is listening. He is not here, but he is listening.

Sen. The Hon. A. Ramlogan SC: Rip is around, man.

Sen. George: He is not here, but he is listening.

Sen. The Hon. A. Ramlogan SC: We have all seen, in Palmiste Park, for example, which is the Queen’s Park Savannah of the south, in Palmiste Park people sometimes often walk their dogs, unmuzzled, and you are walking right there with your child and it instills a sense of fear. There is sometimes a certain amount of inconsiderate behaviour on the part of the dog owners, where they really do not care about the innocent person who may be in fear of the dog because, as far as they are concerned, the animal is a domesticated, friendly and loving one and there is no need to fear anything.

That said, there have been a number of reports in our newspapers that show that there have been a disproportionate number of dog attacks by one particular breed of dog and that is the pit bull. Permit me to cite a few examples, Madam Vice-President:

On August 25, 2011, the *Trinidad Guardian* reported in its headline, “Boy, 11, killed by own pit bull.” This is a child 11 years old mauled to death by the family’s own pit bull. This was young Jessie Boiselle, an 11-year-old autistic child from Clovis Trace in Maraval. The child was found dead in a ravine at the back of the house after he was viciously mauled by a pit bull owned by the same family. There were dog bites to the child’s throat and other parts of his body.

On April 04, 2012, *Trinidad Guardian* reported, “Boy 6 critical after attack by pit bull”. A six-year-old child, Jeremiah Harripersad from Assing Trace in Valencia. The neighbour’s pit bull lunged at him while he was playing in his own front yard, pinned him to the ground and repeatedly bit him on the neck, leaving him with life threatening injuries.

On May 16, 2012, *Trinidad Guardian* reported, “Neighbour’s pitbulls maul pregnant woman”. Kurleen Cooper from Point Fortin was fighting to protect her unborn child while she was trying to fight off the attack from the vicious dogs. She suffered multiple severe lacerations to her legs, her genital area, her face and her ears. And what was she trying to do at the time? She was returning home after dropping her children to school.

On January 07, 2012, *Trinidad Express*, “Housewife may lose leg after pitbull attack”. Sherry Ifill, a 48-year-old Ste. Madeleine woman was at her home around 6.00 p.m. doing chores and she was attacked by five pit bulls. Five! And as a result of that attack one of her legs, we were told, would have needed amputation.

On May 10, 2011, the *Trinidad Newsday* reported, “Deadly Dogs”. It told a horrifying story of Denise Rackal, age 46, who was a security guard from Indian Trail Village in Couva and she was attacked and mauled to death by five pit pulls shortly after they had escaped from the home of their owner. One dog grabbed on to the neck and started biting. The other four, when they saw that, they all joined in and they feasted upon her, biting her in different parts of the body and leaving her “osterized” flesh exposed and in need of great rehabilitation. The mother of two eventually succumbed to her wounds. She was the mother of two young children.

Karen Lara, on December 17, 2012, *Trinidad Express*, “Two pit bulls attack woman”. Karen Lara was 22 years old at the time. She is from Cinnamon Crescent, Santa Rosa, in Arima and her screams alerted police officers, but when the police officers arrived, one of the pit bulls had its teeth sunk into her flesh so far that there was nothing they could do except to shoot the dog. She had already received severe injuries to her face and her buttocks.

Now, subsequent to the presentation of this Bill, Madam Vice-President, in the Lower House, in the other place, there seems to be a concerted, a very strong lobby by the dog lovers and dog owners who predominate the landscape with all of the articulate expressions of love and interest in the letters to the editor, in the blogs, in the call-in radio station talk shows and so on, but the one thing you do not hear is anything from the victims. You have not heard anywhere the voice of the victims in this entire debate and that is why I started off by mentioning some of these horrifying, traumatizing, distressing stories to put the debate in its proper context. I alluded to the importance of the loving nature of the dogs at the onset, but I sought to place it in proper context.

In preparing for today’s presentation, I sought to make contact, through my staff, with some of these persons who suffered some of these attacks because I recall from my days in private practice as a lawyer, when you represented

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someone who suffered severe personal injury, it was a life-changing experience and when someone is bitten, as you would have heard, these are persons, the dogs attack the neck, the face, the buttocks and the legs.

Now, whether you are a man or woman, when a dog bites you on the neck and face, these things, the scars that they leave, they affect your psychological persona, they affect your ability to be social and have regular, normal, human interaction and social intercourse. You become very withdrawn; you become very depressed. It has an impact that is life-changing and everlasting.

In preparing for the debate, I spoke to one or two of the victims and their marital prospects are gone as far as they are concerned; not because of the bites and the scars, but perhaps more so because of the self-conscious nature of the aftermath, the psychological shock and trauma. So the marital prospects are affected.

In one case, the young lady's dream was to become a model. Obviously, given the horrifying nature of the attacks and the scars, that is gone. Another person, they have been unemployed, not because they are unemployable, but because they simply have withdrawn into a shell from the outside world because they are so self-conscious about the way they look that they really do not want to go out there to actually face the workplace and face normal life. The mother said she has to do everything for the child. The child would not even step out of the house to go to the grocery, so that the burden and the responsibility fall now upon the parents and the family. The child has withdrawn into a shell.

This is a very realistic problem that one has to contend with in a very practical manner. The dog might be shot to death, the owner goes on and buys another dog, but what about the mother whose child, whose daughter that she brought up, "after she tote she for nine months to bring she into this world up to 22 years of age without a scratch on she skin and then see a dog viciously maul the child"? What about that mother? She cannot buy a new daughter, but the dog owner can buy a new dog. So, this is how it plays out in real life.

One victim was quite forthcoming and gave permission for me to at least recite some of her own experiences and this is young Karen Lara. She is 22 years of age. At the time, she had just graduated with a Bachelor of Arts degree in fashion design. She had gotten a job in her chosen field of work in a carnival production band, pursuing her dreams and living her life to the fullest as a 22-year-old young lady. She had her entire life ahead of her and then the dogs came. They bit her eight times on her face—eight times—once on the arm, once on the side and once on the leg, in addition to the eight times on her face. She said, and I quote:

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

She has had no compensation. She continues to experience nightmares and tremors in the night—terrors in the night. She depends on others to take her around and, of course, she is so self-conscious about the scars that she has really been damaged for life, even though the wounds might have healed.

So that brings us to the philosophical policy question in a matter like this. What do you do? Do you go after the dogs or do you go after the owners or do you go after both? That is the issue.

In the old law that was unproclaimed, the Dangerous Dog Bill, 2000, the accent was on the dogs and the policy at the time was to go for an outright prohibition and ban on dangerous dogs, to go for a virtual extinction by a process of attrition and termination to have these dogs banned totally. That kind of legislation is currently being reviewed in most countries in the world because it has not served its purpose. People simply switch from one dog to the other. They come up with a new breed and it does not serve the purpose. So we have sought to change the paradigm a little and in this new law we are seeking to try and promote and encourage responsible dog ownership and we have placed the spotlight on the owner of the dog and, in some cases, the dog in terms of the dangerous breed. So, we are walking a tight rope and trying to find a compromise to satisfy the dog owners and the dog lovers and, of course, the need to protect the citizen from this kind of vicious attack.

Now, Madam Vice-President, whenever these kinds of tragedies occur, there is always some form of irresponsibility by the owner just around the corner and owners must understand we are taking a firm stance against irresponsible dog ownership because of the dramatic and tragic consequences your irresponsibility and reckless behaviour can cause.

Now, Madam Vice-President, in some cases, I am advised that when the dog latches on to you, the pit bull in particular, the only way to get it off is to actually kill it or damage it dangerously or severely. The reason for that is when the jaws bite and lock upon the victim, it just does not let go. In the example I cited earlier, two police officers came, the owner came and not even the owner could get the dog off; it just would not let go. So it is a very dangerous thing when it happens.

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Now, permit me to turn to the existing laws to show why this Bill is so necessary. At common law, which is essentially judge-made law over time, there was a principle of scienter and this principle is applied to make the owner of a dog liable in situations where there was evidence to suggest that the dog owner knew that his dog would attack and cause injury. So you had to show that the dog owner knew that this would happen. Therefore, the first-time attack, there would be no liability really. It was very difficult to get liability on a first-time attack because you had to prove that the owner knew that the dog was going to bite and attack.

There was only one case we found. It was *Ambrose v Van Horne* Civil Appeal 14 of 1967 where Chief Justice Wooding at the time felt that a man should be held liable if his dog had on three occasions prior attacked livestock and animals and so on and, in those circumstances, the owner was found liable for the death of the man's pig, which he was rearing, I presume.

We propose to remove this principle or this defence, scienter, in respect of all dogs whether it is a dangerous dog, a non-dangerous dog—in respect of all dogs. The reason for that is because when you are a victim of a dog attack, it matters not whether it is a pit bull or any other dog. I think there is some legitimacy to the criticism that, look, any dog can be a dangerous dog in the same way as any man can be a dangerous man.

So that because of that, whenever a dog attacks someone and there is a victim, we are removing the common law defence of scienter, which essentially meant that you have to prove that the owner knew as a fact that the dog was capable or was liable to attack and cause injury. The reason for that is that if any dog were to attack, then the victim should have some recourse or some remedy against the owner.

When you look at some of the horrifying stories I have mentioned here, it is not right and it is not fair for these poor victims to have to face the brunt of those medical bills themselves. They have been rendered unemployed, unemployable; their marital prospects have been affected; they are socially withdrawn; they go into a state of utter depression; and, in addition to all of that, the poor mother has to now double-up on her shifts to try to find money to take care of the medical bills.

2.00 p.m.

I mean, in some cases, you are talking about facial and dental reconstructive surgery that cost a lot of money. You are talking about having to excavate flesh from the buttocks and the legs to do a patch job—you are in a medical body shop—and it is a terrifying experience to have to undergo. So, Madam Vice-President, the principle of scienter would be removed as a defence in respect of all dogs.

In terms of moving around from the common law to the statute, we have three pieces of legislation: the Dogs Act, the Summary Offences Act and, of course, the unproclaimed Dangerous Dogs Act. The Dogs Act, 1918 is almost 100 years old, it is 95 years old, and that by itself would tell us how outdated it is, but if there is a complaint of a dangerous dog, you know, the fine is \$40 for each day that the owner fails to comply with that. Under section 16 of the Dogs Act, it is an offence to allow a dangerous dog to go at large, but it is a measly fine of \$200 and, in some cases, we have had to impose that fine in cases of vicious attacks.

The Summary Offences Act, section 75, it is an offence for any person to incite a dog to attack, worry or put in bodily fear any other person or animal, but you are liable if such an offence is committed to \$400 and imprisonment for two months. That is woefully inadequate.

We come to the Dangerous Dogs, 2000 unproclaimed. It sought to go for an outright prohibition and ban on dangerous dogs: the pit bull terrier, the Fila Brasileiro and the Japanese Tosa; restrictions on importations, neutering and spaying and an outright ban on the sale of dangerous dogs. This legislation, at the material time, was modelled on the UK legislation, the Dangerous Dogs Act, 2000 in the United Kingdom, which had similar provisions.

Permit me, Madam Vice-President, to share a little bit of information about the dogs that are being classified as dangerous dogs in our present legislation. I start with the pit bull. The pit bull was bred to fight. Its speed, tenacity and strength and the strength of its bite, in particular, makes it an inherently dangerous dog. In the 1980s, it was a symbol of criminal masculinity. It exerts on average over 320 pounds per square inch of force in a bite.

Madam Vice-President, image it properly, when they are training pit bulls they suspend something in the air, and the dog jumps to reach the height, and oftentimes when the dog jumps, the pit bull jumps, and it latches on to the bag, the dog itself is suspended hanging mid-air, and the reason for that is because the force and strength of its jaw and the bite is so powerful it can actually hold up the entire weight of the dog. So that is to tell you how strong the bite itself is.

They were bred to bite and to exert a very powerful bite to kill the prey. This very tenacity together with the biting force is, perhaps, what caused it to attract the wrong kind of training and attention in the first place, and that is why people say the jaws are locked when it bites the victim. It is not really that the jaws are locked; it is simply the sheer force, the sheer brute force and strength of the bite itself.

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The Fila Brasileiro was the name given to the Brazilian mastiff. It is about approximately 25 to 29 inches in height and weighs about 110 pounds. It is as a result of a breeding trademark known as Al Jazeera which is a Portuguese term meaning distrust, which is what the Filas are said to have of all strangers. You are safe with the dog once it is around you within the first 12 months of its life. Anyone outside that year that the dog is not familiar with in the first year of its life, it treats it as though it is an enemy and it attacks with full force.

The Japanese Tosa was bred to fight and was created from inter-breeding various breeds. It can weigh up to 80 to 100 pounds and it has been banned in several countries in the world. It has a fearsome reputation as a dog that is capable of inflicting the worst kind of injury.

The Dogo Argentino was first bred in 1928 by Dr. Antonio Martinez, a medical doctor and a distinguished professor and surgeon. He wanted a hunting dog that can also be a loyal pet and guard dog. So he bred this dog with the Cordoba fighting dog and then he crossed it with the Great Dane, the Boxer, the Mastiff, the Old English bull dog and other kinds of dogs until he came up with the right kind of genetic product.

The Dogo Argentino is a heavily muscled dog. The males are capable of weighing up to 120 pounds, and the jaws are extremely strong and the teeth meet in a scissors bite. In many respects, quite frankly, it looks like a pit bull on steroids and there are, in fact, Dogo Argentinos in Trinidad and Tobago. That dog has been banned in many parts of the world: Australia, New Zealand, Portugal, United Kingdom and elsewhere. In fact, in the Trinidad *Guardian* on May 14, 2011, there was a headline in an article “Monster Man-stopper dogs are here”. Those monster man-stopper dogs that are here are, in fact, the Dogo Argentino and they were advertising it for sale, \$15,000 for a pup.

So, Madam Vice-President, the Government recognizing the outcry in the population, we are taking a decision to have the existing law proclaimed—the Dangerous Dogs Bill, 2000, and that proclamation should have taken place on August 01, 2012. Having taken that decision and announced it, there was an outcry from the population. The dog lovers assembled in a rally at the Queen’s Park Savannah and they said that this was an interference with their constitutional rights, and that Bill had been passed with a three-fifths majority.

The Government listened to what they were saying. I found that some of the criticism and points they were making had merit, and I decided to take a note to Cabinet to revoke the proclamation. The Government, in doing that, does not take

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any offence, if I may say. We are trying to encourage a conversation with our citizens and we are trying to promote that concept of participatory democracy. So that by listening to them, and taking the decision to resile from that original position, we are demonstrating the best kind of democracy and governance at work by listening to the voice of the people. [*Desk thumping*] It is very rare, Madam Vice-President, in this country, to see that the Government having taken such a decision will, in fact, pull back.

When I looked at the legislation elsewhere in the world that was similar and, in particular, the United Kingdom, I recognized that the prohibition of specific breeds did not, per se, result in the lowering of the attacks by dogs and it did not, in fact, achieve all of the goals that the legislation had set out or had hoped to accomplish.

Now, there were many problems that the 2000 Act had. The first was that there was nothing—it focused on simply the pit bull and two other breeds and it did not address in any way dogs in general. So that was a major sticking point that, you know, well someone could easily buy or develop a new breed of dog that is not among the three and they would thereby circumvent the strictures of the legislation.

The second point was the constitutional rights of the owners. They felt that it was an unlawful intrusion on their constitutional rights as citizens to be able to own a pet of their choice.

The third point they made was that they have had pit bulls for many years and they were very domesticated; they did not attack and as far as they were concerned, “You were now telling me I must, you know, put my dog to rest” and they were not on that.

Many of the female owners, in fact, took great objection to the interference with what they termed the dog’s right to life and its right to procreate and they felt that was wrong. There was a fear of mass abandonment of dogs, and I think the one that really struck a chord in me was that every time you outlaw something like this, what you do is to create a black market for it. So that you outlaw it today, and pit bulls are banned and suddenly all sorts of businessmen and rich people and criminal gangsters and so on, suddenly, there becomes a thriving black market for it and it becomes a symbol of prestige and honour.

I remember in the days when we had the blacklist and apples and grapes were blacklisted items. “Around Christmas time when you go by somebody house and you see ah apple, ah mean yuh raffing fuh it.” [*Laughter*] The apple was a symbol of a man’s ability to evade all the laws in the country because he was so high and so powerful and mighty that he could get an apple on his table at a time when it was banned.

Sen. Singh: Condensed milk in Guyana—

Sen. The Hon. A. Ramlogan SC: Condensed milk in Guyana.

Sen. Singh:—under Burnham!

Sen. The Hon. A. Ramlogan SC: Yes, under the Burnham regime. So, that you know, the human psyche being what it is and the human nature being what it is, they pedal around it and you create a black market for it—[*Interruption*]

Hon. Senator: They will find a way.

Sen. The Hon. A. Ramlogan SC: They will find a way. So that I saw that as being a very valid criticism. It did not take into account the issue of ownership of all the various kinds of dogs, and it did not address in any way the concept of responsible ownership, management and control of dogs.

Madam Vice-President, following that decision to revoke the decision of Cabinet to proclaim the existing law, the hon. Prime Minister, in her wisdom and astute leadership, had instructed that the Law Reform Commission engage in a process of consultation. I wish to pay tribute to the Prime Minister, the Hon. Kamla Persad-Bissessar, for her guidance in this matter. Were it not for her guidance and leadership in this matter, we would not be here debating what I consider to be a very outstanding piece of legislation that strikes the right compromise. [*Desk thumping*]

The hon. Prime Minister had asked that the Law Reform Commission meet with the various stakeholders to have consultations. The Law Association pursuant to that directive from the Cabinet, met the Association of Trinidad and Tobago Insurance Companies (ATTIC), with dog breeders, kennel operators and dog trainers, the Federation for Canine Registration of Trinidad and Tobago, the Trinidad and Tobago Society for the Prevention of Cruelty to Animals, the Animal Welfare Network, Trinidad and Tobago Veterinary Association and solicited a large number of responses via email to anand—a-n-a-n-d@ttstt.net.tt—

Hon. Senator: “Not a-n-a-n!”

Sen. The Hon. A. Ramlogan SC: Not a-n-a-n and no gmail. They solicited a number of responses from members of the public both electronically and by hard copy, and we were able to look at those responses, Madam Vice-President, and come up with a compromise that we think is fair to both sides. We are not saying you cannot own your pit bull, but we are saying if you want to own a dog like that, then you must observe the law which imposes conditionalities and restrictions to cater for other members of the public given the demonstrative propensity of the dog to, in fact, launch an attack, provoked or unprovoked in certain situations.

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So the Bill really is an attempt to fashion a unique remedy. The Bill is an attempt to fashion a unique legislative remedy that is specifically designed to meet our own unique and peculiar, social and cultural conditions in Trinidad and Tobago.

Some legislation ban the dogs outright; some deal with all dogs. This Bill, Madam Vice-President, retains the naming of certain specified breeds as dangerous dogs which are in class A, but without the goal of causing total extinction while simultaneously containing general provisions which would go toward regulation and promoting responsible dog ownership irrespective of the breed.

Madam Vice-President, the complete and outright ban exist in many countries in the world at present. The Commonwealth of Australia, Bermuda, Denmark, Portugal, Puerto Rico and many other countries, and they have banned the importation of the embryo, they outlaw breeding, and they take a very hard stance. It is an outright no to those dogs because they deem them dangerous.

In the United Kingdom, they are now reviewing their law which our 2000 Bill was based on, and they are now trying to look at dog control notices to curb the actions of irresponsible dog owners who train their dogs in an aggressive manner. They will now extend its ambit to any dog irrespective of breed, which has acted aggressively, and they are trying to impose criminal liability when dog attacks take place in private or public spaces and they are reviewing their entire situation 10 years on.

2.15 p.m.

In Antigua and Barbuda, closer to home, they have a Dangerous Dogs Act, 2000, and this was prompted by the problem they have of stray dogs invading public spaces, the beaches, spreading diseases, attacking citizens and, perhaps more importantly, in terms of their economy, their tourists. So they have come up with a system of licensing and registration that enables the country to keep track of dogs, and to minimize the effects of the abandonment of dogs in Antigua and Barbuda.

We are focusing now, not only on the dog but the owners, and I make no apologies for that. You know, one person phoned me and said, "Look, you know, my dog is like a child in my family. It has been with us for seven years now, and this dog, you know, is a child. It lives in the same house. It is actually inside the house. It comes and sleeps on my bed, and you are coming to outlaw it." I said, "Well, I am not outlawing it. Have your fence high, take out the insurance and

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keep the dog, nothing is wrong with that.” He said, “Well, how much insurance yuh talking bout?” I said, “Well, you take out the policy for \$250,000 and put your fence up, and so on”. He said, “Well, yuh see dat, dat is going to lead to people taking their pitbull and leggoing it in de streets and de dogs will attack people.”

So I said, “But wait a minute, so this tame dog that you say is your child and a member of your family, to raise your fence and take out the insurance, yuh go now leggo de dog in de street. Well, God forbid, if the price ah milk go up wha yuh go do to yuh children? Yuh go leggo dem in a cane field?” *[Laughter]*

Sen. Deyalsingh: Anand, did you really say that?”

Sen. The Hon. A. Ramlogan SC: Yeah, I did—of course I did—because that is what he was threatening to do. So I want to make the point, those persons who want to threaten and blackmail the Government and the people of this country into saying they will abandon the dangerous dogs and set them upon the population, you better beware and be careful. One, it underscores your own unfitness to be an owner of a class A dog in the first place. Secondly, it justifies and vindicates the Government’s decision to place legislation in place to deal with dangerous owners, like yourself, who are reckless and irresponsible. And, thirdly, it is a criminal offence in the law to actually abandon the dog.

So it is either you behave in a responsible manner, if you cannot put the dog down yourself, take it to one of the dog pounds and we will accept the dog, but do not let the dog loose on the population as you are threatening to do. That is tantamount to blackmailing the society, and that will not be tolerated, it is not acceptable and it is highly irresponsible. *[Desk thumping]* To you I say, “Properly trained, a man can become a dog’s best friend, so you train yourself”.

Madam Vice-President, the culture of dog ownership is one that we must have regard for. We have to be careful about copying everything we have from the foreign jurisdiction. In Trinidad and Tobago—I mean, I studied in England, but when you see someone in a park in England, I mean the dog there—the relationship between the dog there and the people is a completely different thing. “Yuh does see old lady pushing dog in pram.” You will see young people walking dogs in England and they have a little bag in their pocket. “The minute de dog poop, dey pull out dey bag one time, dey pull out ah little scoop and dey take it up with de bag, dey tie it in ah knot and dey put it back in their back pocket and dey walking.”

That is the kind of relationship they have with their dog. The dog lives with them and the dog is a member of the family, but a substantial amount of their income is devoted to that dog: dog hair, flea, tick, hygiene, vet, injection, tablet, vitamins—the whole works. In fact, when the owner passes away, you oftentimes see that the

dog owner leaves—the first thing in the will in England, is “I hereby bequeath the sum of X-thousand pounds to the care and attention of my loving dog”. Most husbands think that it is them the owners are talking about, until they realize it is actually the dog. [Laughter] You understand! But they leave it to some charity for welfare for animals, and the dog is looked after until death. “I never see no Trinidadian do dat in meh life”.

So when people say, “Well, copy a little more from England”, I say, “Well, leh we mash a lil brakes and pull up ah lil handbrakes, and leh we get de ting right. Dey cyah simply transplant what exists there and bring it here, you see”. I mean, I have seen some dogs in Trinidad being well treated, mind you, you know, and I do not mean for people to take any offence. Some people take very good care of their dogs, I see them driving in car, in the back seat, waving through the door and all kind of things sometimes, but that is beside the point.

Madam Vice-President, a little insight into the rationale for what the Government is doing. We have changed the policy from the absolute prohibition and extinction, to ban the importation of the dogs, and to prevent the importation of the semen or embryo. We are not attempting to prevent anyone from having these dogs. You can have them but you must obey the law. There will be no mandatory spaying or neutering of these dogs, but there will be an incentive, as you will see later on, in terms of the cost of the licence. The registration of the class A dogs; we have strengthened it and we have put a little more teeth into the administrative mechanism that will deal with the registration.

You know, no one knows exactly what is the dog population of Trinidad and Tobago. I mean, I dare say, some people looking at the CSO survey may say that we do not know what the human population is either, but I came across an article in the *Newsday* on April 19, 2012, one, Keith Johnson, who is a member of the American Pit Bull Owners Club of Trinidad and Tobago. So there is an American Pit Bull Owners Club in Trinidad and Tobago. He said, a recent survey estimated at 800,000 dogs in Trinidad and Tobago, and of that 800,000 between 400,000 to 500,000 are pit bulls, or are related to the pit bull. I do not know if that figure is correct, it sounds a bit high to me, but what if he is correct? I cannot say that he is wrong as a fact, but it shows that the extent and magnitude of the problem is quite great.

So that in terms of licensing we will provide for three databases: Port of Spain, San Fernando and Tobago. We have removed the requirement for spaying or neutering as a precondition for the grant of the licence. We have taken advantage of the technological advances, and we have provided for an electronic

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transponder to be implanted in the dog as a requirement for the granting of the licence. We have doubled the fee compared to what it was before to \$1,000; \$1,000 for the first two dogs and \$1,500, thereafter. We will encourage the spaying or neutering by giving a \$500 discount if the dog is spayed or neutered. And instead of having an annual licence, it will now be valid for two years.

One of the criticisms of the unproclaimed law was the mutilation aspect of it. The old law had required the branding of the ear of the dangerous dog, and that act of mutilation I personally found it to be unwarranted and unjustified. So we have taken out that completely, and that ought to resonate and go down pretty well with the animal lovers and animal rights groups. We have provided for the insurance company to be sued directly together with the owner; before you needed leave of the court to do that. The reason for that is because if you are injured you really want to have access to some compensation immediately. The grass cannot grow while the horse is starving and dying.

So, before you needed to get leave of the court, you would have to sue the dog owner. If you get a judgment against the owner, then you might go after the insurance company, and so on. I have removed that requirement from the law. You can sue the insurance company and the dog owner together in the same proceedings at once without any requirement for leave.

Permit me to now deal with some of the points made in the public about the present Bill. Yes, I take the point that any dog can be a dangerous dog, so why not have a Bill that does not differentiate between the dangerous dogs and non-dangerous dogs? Why have the term or the classification “dangerous dogs” at all? Madam Vice-President, that is an argument that sounds good at first blush, but when one drills down a little deeper into it there are some dogs, based on the empirical evidence and data, that have demonstrated a propensity towards violent and life-threatening attacks, and the vicious nature of the attacks and the injuries have informed the policy position of the Government that we will treat certain dogs as being dangerous, and the others we will regulate and aim for, you know, the responsible ownership, as it were. So the empirical evidence does suggest that there are certain dogs that are more prone, that have a predilection to attacks, so that is why we have gone for class A and class B dogs.

The second point is culture. To impose the onerous burdens from this Bill on all citizens, regardless of the kind of dog they want to own, will be really unjust and unfair. In the countryside and in the rural areas, you have the common pot-hound roaming at large, and I remember when I would be walking up from school in San Fernando at library corner, there was this particular dustbin, and it was a

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common sight to see the dog and the vagrant fighting for the same box of KFC, but I never yet see the dog bite the man, you know. I walked there for seven-long-years of my life, and I saw that same vagrant and dat same dog fighting for the box of KFC, outside KFC on library corner, San Fernando, and the dog never bit the man. The dog never bit any children, no school children, nothing! It was man and animal living in harmony, fighting for food. [*Laughter*] I make that point to demonstrate the practical reality that the necessity to have the class A and class B dog, and apart from that, we have in fact introduced many provisions which treat with all dogs in recognition of the fact that it is possible for other dogs to actually become violent and dangerous.

Permit me to delve into some of the reasons people have dogs, because it impacts on why we take the position, as a matter of policy, to have class A and class B dogs. Dogs occupy a very important place in the social fabric in our society, Madam Vice-President. People keep dogs for companionship. They are affectionate and caring animals, and they provide unconditional love. I am a dog lover myself. I had an Alsatian and, you know, the most joyous sight was when I driving—when I came home in my—in those days it was a Datsun 120Y, when I just came out of law school. And when I pulled up in that Datsun 120Y, that dog would be rushing out, jumping straight through the window into that vehicle, you know. I mean, I did not have power window and thing so the glass was always down, I had to go with natural air condition—and that dog would jump in there, and right there on top of me, with all my court clothes and so on, would be licking me, and the dog would be there. I mean, I will spend a proper 10-15 minutes, and it was such a joyous moment to come home to that, and then, of course, I would see my wife—[*Interruption*]

Hon. Senator: Oooooo!

Sen. The Hon. A. Ramlogan SC:—who would say to me, “Yuh buy de ting for de child?” And I go back to the dog.

Hon. Senator: He wife [*Inaudible*]

Sen. The Hon. A. Ramlogan SC: I had my wife’s permission to say that.

Hon. Senator: “Eh heh.” I hope so.

Sen. Hinds: She did not jump like the dog. [*Laughter*]

Sen. The Hon. A. Ramlogan SC: Yes. Well, that is the point I was making.

Hon. Senator: He now get it.

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Hon. Senator: “He now geh up.”

Sen. Hinds: And now he will know—

Sen. The Hon. A. Ramlogan SC: I will have to place you in category C—*[Laughter]*—the slow and retarded one.

Sen. Hinds: *[Inaudible]*

Sen. The Hon. A. Ramlogan SC: The second reason that people keep dogs is for therapeutic reasons. Madam Vice-President, dogs can be used to provide therapeutic relief and stress relief for persons in hospitals, retirement and geriatric homes, nursing homes, hospices, children’s homes and orphanages, and some children with certain learning difficulties and disabilities, the dogs are used to actually encourage them.

Of course the most obvious one is for security. Dogs are used as security to protect and defend life, limb and property, and their bark is still considered better than any home security system as a form of alerting owners to the presence of intruders, and, more importantly, the dog can actually attack the intruder and bite them. I recognize this, that people keep dogs as a form of security because at a time when there is a problem with high crime in the society.

So that is why we are erring on the side of saying, we are not going to ban dogs and limit your choice, but we are going to say if you are going to keep a dog that we consider to be dangerous, that has the potential to inflict harm on innocent citizens, then you must have a high fence, have your insurance in place, and the whole array or requirements that the legislation will be imposing.

2.30 p.m.

Another reason to keep dogs is to encourage with responsibilities. Many couples who go to marriage counselling, for example, who are preparing to start a family, they are encouraged to have a dog in preparation for starting a family, to be encouraged to come to terms with the sense of responsibility, to teach them how to care for a new life. Some people use it for their children *[Crosstalk]* but these are submissions—I am asked where I got this from. I got this from submissions that came in from members of the public. These are actually called “from submissions made by members of the public”. One person did, in fact, write in to say that their marriage was saved because when they went to marriage counselling they were told well, look, the husband came from a family that was very—had a troubled childhood, so he was a bit withdrawn and the kind of

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expression of love and affection just was not there, and the marriage counsellor advised them well, look, have a little pup and see, you know. And true to form the wife said well, look the pup assisted in bringing out that expression of affection and love and so on.

I mean, Sen. Hinds, you might need that little recommendation of that. “Ah coming back to you just now.” [*Laughter*] And for cultural reasons, people sometimes choose to keep a dog.

I remember, you know, when I attended my grandmother’s home she kept a dog because her simple economy and her belief was that you waste not, want not. So she would always keep food to feed the dog after she ate because she felt that was something that was important to her beliefs.

Of course, they perform a utilitarian function for the visually impaired and others. In some religions the dog has a special place for religious and spiritual significance and, of course, in some Chinese restaurants it is considered a delicacy. Madam Vice-President, so we will not want to treat all the same way because of the wide variety, of the vast variety and spectrum of reasons that people keep dogs in our country.

Now, permit me to list the provisions that apply to all dogs, not just class A dogs. In clause 5(1), no dogs except assistance dogs are allowed to enter any:—

- (a) restaurant;
- (b) places where food or beverages are sold or consumed by the public;
- (c) commercial malls; and
- (d) shops.

Clause 5(3):

“No owner or keeper of a dog shall—

- (a) permit the dog to be dangerously out of control in a public place;
- (b) encourage the dog to be aggressive or to intimidate a person to facilitate the commission of a crime; or
- (c) permit or incite the dog to attack a person without reasonable cause.”

Clause 5A: “Every person who keeps a dog shall provide the dog, or cause it to be provided with adequate and appropriate care, food, water, shelter, exercise, attention and veterinary care as may be required to meet the needs of the dog.”

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That duty of care that is imposed on owners was in response to a cry from the animal rights activists who said well, look in all of this, everything you know, is negative to the dog, what about the animal's welfare? So we have put in that duty of care.

Clause 16(2), where a class B dog has been dangerously out of control at least once, the dog must be trained by a certified trainer.

Clause 21, any person who incites any dog to attack another person causing grievous bodily harm or resulting in death commits an offence and is liable on summary conviction to a fine of \$50,000 and to imprisonment for two years.

Clause 21(1):

“...the Court may—

- (a) order that a dog be sold or given to a person who will, in the opinion of the Court, properly be able to care for the dog;
- (b) ...or be sold to an establishment for the reception of stray dogs;” when someone is convicted.

Clause 26(2), the removal of the common law defence of scienter. Clause 26A(1) The Minister has the power if a dog presents a serious danger to the public, he may by order impose restrictions and modifications as he thinks appropriate.

Clause 28(2)(h), “...the Minister may make Regulations”—for the care and condition, and control of dogs.

Madam Vice-President, we have catered for the problems of identifying the breed of dogs. At the time of registration you must bring a certificate from a vet and that certificate is the analogous equivalent of the birth paper, and it must specify the breed of the dog. We urge vets to behave responsibly and professionally in this regard and to err on the side of caution because there are penalties in the Bill for vets who knowingly falsify that document and provide it to owners to circumvent the strictures of the law. Of course, the owners themselves will, in fact, find themselves in grave difficulty.

But suffice it to say, that in other countries in the world there have been guidelines for identifying dogs, and they take a very commonsense approach, but they err on the side of caution. So the State cannot be expected to hire a vet and send them with the police if a dog is attacking someone, but in the United Kingdom, for example, the Department for Environment, Food and Rural Affairs, their dangerous dogs guidance for enforcers booklet includes a list of physical characteristics that are considered in determining whether a dog is of a pit bull type. In addition to these guidelines they are encouraged thereafter to seek expert opinions as the case may be. So in walking the tightrope we have tried to strike the right balance.

In the other place, Madam Vice-President, I was very pleased to have an informative discussion on this matter, and there were many changes that have been made as a result of suggestions by my colleagues from the Opposition in the other place.

A certificate of good character is now going to be a requirement before you can get a licence so that the pit bull will not be a badge of honour for any criminal elements. That was a suggestion that emanated from Mr. Imbert and I accepted.

A fine is now inserted in clause 5(5) because as originally drafted it had only a term of imprisonment. We have doubled the period for registration from three months to six months and for licensing because the administrative machinery might cope better if given a six month period than a three-month period.

The penalty for inciting a dog to attack someone, that penalty we have included causing grievous bodily harm or resulting in death; a suggestion made by the Opposition at the time.

Madam Vice-President, the Bill itself is fairly simple. We have the interpretation section. We have clause 5 which deals with the control of dogs and the need to muzzle a dog and have it on a leash. The regulations, of course, will deal with the type of leash, the length of the leash, the quality and durability of the leash, the material it should be made of, and whether it should also, for example, include a body harness. So that a man would not walk a pit bull on a ribbon and say well, look he is complying with the law.

We have in clause 6 the registration and clause 7 the licensing requirements for the dogs, and it is an offence and punishable by \$50,000 and one year imprisonment if you commit an offence under clause 7 which deals with the licensing of dogs.

In clause 8 we will take control of any class A dog if you cannot fulfil these requirements.

Clause 9 deals with the regulation to secure your premises properly by having a proper fence, a wall constructed, and we have the right to enter and inspect the premises to ensure that it is compliant.

Clause 10 deals with the keeping of an unlicensed dog and it will be punishable by a fine of \$100,000 and three years' imprisonment if you keep a class A dangerous dog without getting the necessary licence.

Clause 11 deals with the policy of insurance.

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Clause 12 deals with if it is cancelled or lapsed, you must inform the authority within 24 hours.

Clause 13 deals with the joinder of the insurer that I had averted to earlier.

Clause 14 deals with the prohibition of dogs going in certain places whether indoors or outdoors that can accommodate more than one household and certain other places.

The obligation not to abandon a class A dog is dealt with in clause 15. If you abandon your dangerous dog, upon conviction, a fine of \$50,000 and imprisonment for one year.

Obligation to train a class A dog. In clause 16 a keeper of a class A dog is to ensure that the dog is trained by a certified trainer. A class B dog, which is an ordinary dog, where it has come to the attention of the official that the dog is dangerously out of control on at least one occasion, there should also be training.

Clause 17 places strict liability on the owner of a dangerous dog if the attack results in death, injury or damage caused by the attack.

Clause 18 deals with the need to have a notice on your premises to say "Beware there is a dangerous dog on the premises."

Clause 19 deals with injury or death by a class A dog, Madam Vice-President.

Clause 20 deals with inciting a dog to attack a person.

Clause 21 empowers the court to make a destruction and disqualification order.

Clause 22 deals with the seizure and destruction of a class A dog found in a public place or in a place where it is not permitted to be.

Clause 23 deals with the magistrate being able to authorize a constable to enter and search premises to seize any class A dog or any other thing found there which is evidence of a commission of an offence and the exemption is in clauses 24 and 25.

The Minister can amend the Schedule, so that if there is any other attempt to have any other dog, they can amend the Schedule to include that as a dangerous dog.

Madam Vice-President, this Bill is one that is necessary, it is overdue, and I commend this Bill to this honourable Senate for its support. I beg to move. And I thank you. [*Desk thumping*]

Madam Vice-President: Hon. Senators, just for clarification. The itemization on your arrangement of clauses is actually done in numerical—there is a discrepancy in the numbering. For just the arrangement of clauses front page, but the Clerk has advised that they will be circulating a different front page. That is just for clarification.

Question proposed.

Madam Vice-President: Anyone wishing to join the debate may do so. Sen. Al-Rawi.

Sen. Faris Al-Rawi: Thank you, Madam Vice-President. Thank you, honourable colleagues. I rise to make a contribution to the Dog Control Bill, 2013, and I thank you for pointing out the discrepancy in the electronic version of that which was submitted to us as the Bill as amended in the House of Representatives.

I wish to compliment the hon. Attorney General on a very good explanation and run-up to this Bill, and I wish to press a pause for a moment and join you in congratulating all SEA students who have passed through that milestone and marker in their lives in heading on to the next level of their journey. I think that the Ministry of Education, in particular; the hard working teachers, in particular; the parents, in particular, if that energy and association could continue on through secondary school I think we would have a 100 per cent graduation rate.

Madam Vice-President, if I may also add to the children who have passed through sincere adversity in the last year because there were quite a few of them. In fact, the newspapers made mention of them. Those children in particular who demonstrated the courage as young heroes of this country to rise above their difficulties, I wish to offer them my heartfelt congratulations on behalf of us all.

Returning to the Bill, I wish to extend my sincere gratitude to the Parliament for the Bill essentials which were circulated in relation to this Bill. It provided an excellent resource including references to very many laws and jurisdictions. I think that this Bill in particular represents a very good enterprise by the Government with wider civil society. And on that note I would like, having pounded the Government all year long, quite deservedly, to offer my heartfelt congratulations to the hon. Attorney General in getting it right thus far on this Bill. [*Desk thumping*]

Madam Vice-President, I think that the Bill has an excellent purpose. The section 13 “reasonableness and proportionality exception”, section 13 exception which requires reasonableness and proportionality to make it constitutional to

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avoid sections 4 and 5 of our Constitution was well put by the hon. Attorney General. It is a hard balancing act to get right between the rights of the victim, the larger society, and also those very special interest groups that care for dogs.

I join the hon. Attorney General in saying that your dog is never unhappy to see you. Your dog never tells you that he or she has a headache when you come home; that he or she wonders whether you are hungry or not, the dog meets you with instant love and affection.

In particular, this year, my children insisted that they obtain a dog; that they get a dog. [*Crosstalk*] I will not take Sen. Beckles' bait this afternoon, there is no implication. But this year my children told me that we were getting a dog. At first I resisted because of the responsibilities that go along, but I have to say, Madam Vice-President, that it has been a joy to witness the level of responsibility that children gain in the therapy of having an animal that you care for and that you love, and that this Bill really does signal out, as the hon. Attorney General put very carefully a while ago, the pluses, the merits that could come from responsible animal control.

2.45 p.m.

Madam Vice-President, there were many interest groups that offered their recommendations to both Government and to Opposition and many of us here. The Dog Control Bill received serious commendation. The hon. Attorney General made mention of it in the Lower House by Kristel Marie Ramnath—she asked me to get her name right—who made some excellent contributions, many of which the hon. Attorney General took on board. The Trinidad and Tobago Canine Advocates Association, the TTSPCA, et cetera, many of these interest groups really put pen to paper and put their thoughts down, and I think that is the way we ought to approach legislation.

If I could dive directly into the Bill, Madam Vice-President—we support the intention of this Bill. There are a number of things that I would like to put on the Table for the hon. Attorney General to perhaps address in his winding up as worthy of thought. It is a pity that we are coming this close to the prorogation of Parliament, because in the event that there is good recommendation, the room to get back to the Lower House may be a bit tight, but if the hon. Attorney General could take note of the suggestions and give them some mature reflection, perhaps we can work together in getting this appropriate, because it is, after all, a three-fifths majority that is required this afternoon.

Madam Vice-President, this Bill is to control dogs by targeting the control of owners and that is a commendable approach to take. It is an approach which perhaps we ought to take throughout society on everything: parents in control of

their children, teachers of their students, politicians at the helm of those in their packs. [*Laughs*] So, perhaps the dog whisperer can be the teachers' whisperer or the politicians' whisperer or the crime whisperer or the police whisperer.

Madam Vice-President, we will be seeing the repeal of the Dangerous Dogs Act, something which I did not personally support because I thought it had gone to breach specific positions in terms of an annihilation of that, but this goes some way better into control. It is, of course, a Bill which is to come into effect by proclamation and one of the material elements to assist in proclamation is going to be the production and pronouncement of regulations. And I hope the hon. Attorney General would address the issue of making sure that the regulations are done right before it is we see a proclamation, because we do know that we foster some concerns in relation to proclamation clauses that can come sooner than they should.

Madam Vice-President, there is quite a bit that I wish to point out in relation to the definition section and perhaps I can get to that in committee stage. But, when we look—if I just take a few of them, at the issue of Minister, the microchip that comes just above that on page 3, hon. Attorney General, is to be one which is to provide information to be stored in a database established and maintained by the Ministry. We do have a definition of “Minister” means “the Minister to whom...local government is assigned”, and this concept of Ministry repeats throughout the Bill without necessarily being a Ministry which is identified. I think that may cause a little bit of problem later.

The issue of ownership and owner as defined in the Bill: We have used a concept of an owner meaning a person who owns or is otherwise in possession. And in relation to possession, we later go on to define terms of “responsibility,” much as we did in the Children Bill, but it is the concept of “person” that I wish the hon. AG to make some comment on in his winding up, because under the interpretation Act, Chap. 3:01, “person” includes a corporation. Section 16—”Person includes female and corporation.” It is therefore permissible under this Act that we are targeting corporations. A corporation may own a dog as opposed to an individual, and we have not included in this Bill, therefore, essential provisions to get to the directors of a corporation; those persons who may have breached the law who we may wish to target, we may find that they may be avoiding, particularly when you have security firms, et cetera, that own several dogs or canine units, you may find the position where there is an avoidance of liability and that the corporation is quite willing to take the fine and have the destruction of the dog as opposed to having any person affixed to be made mandatory.

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Now, there may be some room, AG, and you may wish to consider this, in the interpretation clause insofar as corporations, charges against persons which include corporations can in fact include directors with liability. But we have a host of legislation where we target out offences for directors of corporations who may subvert the rules, and the question is going to be what standard are we relying upon, the implied standard of the Interpretation Act or the expressed standard in other laws as we have done where we want to fix liability strictly, particularly when dogs can have issues via corporations. Who owns a dog for instance, Madam Vice-President, in the army? Who owns a dog in “X” company limited? Where do we deal with that, particularly if there may be training exercises that go wrong where there is an exception in this Bill for training in relation to aggressive tendencies?

Madam Vice-President, I do think that we need to tighten up the issue of possession as described as an owner in the context of the definition clause 4, and 4(2), 4(3), 4(4) and 4(5), I think that the concept of responsibility ought to be tightened up in the context of ownership.

Madam Vice-President, we come to the issue of clause 4(8) where we say:

“...references to a class A...or class B dog injuring a person or there being reasonable grounds for apprehension that it will do so, do not include references to a dog being used for lawful purpose by a constable or”—by—“a person in the service of the State.”

That is to give an exception, the average person may say to the police—police using dogs aggressively to achieve certain purposes—but that is a blanket exception which can be abused. And there is no caveat in there to deal with a malfeasance in public office there, but more particularly, what are we saying the meaning of a person in the service of the State is? Anybody in the service of the State includes a company, a majority ownership of a state corporation which is therefore a State. It may include any corporation. NP may be a state entity. It is. Anything, a nurse, the hospital, a regional corporation—so this blanket immunity in 4(8) causes me great concern because it is not qualified by the kind of exception that you ought to have in relation to malicious use, or mal-use, or malfeasance in public office, number one. And number two, service of the State, a person in the employ of the State is too wide a definition. I could perhaps understand powers of the police because we know we have the estate constables, we have the police, et cetera.

I mean, Madam Vice-President, very recently in this Parliament we debated the Defence Bill, which we are waiting on amendments for from the Government and hopefully we would get the amendments soon. But reality is that the Parliament is

going to prorogue on the 10th and that Bill will die, but it forms an exact example of powers of police being given to an entity, in this case here, proposed to be given to the army. So this issue in clause 8 needs to be looked at seriously.

Madam Vice-President, subclause 4(9), for the purposes of this Bill, reasonable cause includes situations—jump to (b), where the person attacked was in a place where he was trespassing or in a place where he has not been permitted to be and the place was secured by a fence or wall in accordance with clause 9.

Now the hon. Attorney General reflected upon the fact that certain provisions apply to all dogs. But the introduction of a qualification of a wall in accordance with clause 9 applies only to class A dogs. It does not therefore apply to class B dogs, which means that you have an entire backdoor provision to persons who have not been required to be certified under clause 9. So, a person who owns a class B dog and that class B dog causes death or bodily injury, et cetera, a point which I will come to because this Bill does not say that there is liability for that, it deals with class A dogs, but the class B dog is equally deserving, particularly a class B dog for which a notice has been given by the local corporation as the Bill provides.

So take, for instance, the provision where in 9(b) you have a class B dog in respect of which a notice is given that the dog is behaving badly or behaving dangerously. That person has not had a certification under clause 9 because he is not required to, not being the owner of a class A dog, therefore persons using a legitimate defence of self-defence cannot avail themselves of the provision under clause 9. So there is a problem of an inconsistency there.

Madam Vice-President, clause 9 subclauses (c) and (d), there are issues arising there for the use of dogs in the security industry or private positions, which I would expand on in greater detail in committee stage. I think in clause 5 the definition of a commercial mall would be helpful. We have a number of areas that can be described as commercial malls. Now, I know in legislation you may not want to condescend to a full particular of a commercial mall, but perhaps on the *Hansard* we can get some indication of what that definition actually means lest we find ourselves in a problem for a destruction of a dog because of an assumption that it is in fact a commercial mall.

Madam Vice-President, we have in clause 5(2), “Subject to subsection (1), no owner or keeper of a class A dog”—oh, I am sorry, 5(1) is where we have the exception for an assistance dog and the assistance dog is tied back to the seeing-eye dog, the dog used for people with hearing disabilities and for dogs used for disabled persons, but there is a class of persons for which this also applies and the

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AG referred to it in therapeutic uses. So, perhaps, if we could on the *Hansard* include our understanding that disabled includes therapy as may be certified in a particular manner, perhaps the regulations could look to that, so that persons who have certification by maybe a psychiatrist, or psychologist, or a child psychologist, who are not quite disabled persons within the meaning of the Bill there, but persons who may wish to take avail of the companionship of a dog by way of prescription, that they can also be included.

We come now, Madam Vice-President, to 5(2), which is that: "...no owner or keeper of a class A dog shall permit the dog to enter a public place unless" the dog is treated with certain devices—restrained, muzzled, et cetera.

But it says here in subclause (c), "the owner or keeper, with the dog, has attended and completed a course of training in the control of dogs"—but there is no requirement here to say that the person is certified as having been trained. Now, if we borrow the analogy of the firearm user, the firearm user does have a police certificate of character, pays a licence fee, is in a database, et cetera, but there is a certification by a doctor, a psychologist, in fact, in that Act which provides for a certification of training. In fact the firearms legislation provides that. It may be, if we are wishing to put this in its correct context, that we do in fact require a certification of training by those persons authorized by the Minister by order to do that.

Madam Vice-President, clause 5(3) caused me some concern, because there is a discrepancy between (3)(a) and (3)(c), and (3)(a) is that:

"No owner or keeper of a dog shall—

(a) permit the dog to be dangerously out of control in a public place."

(c) says you should not:

"permit"—or incite—"the dog to attack a person without reasonable cause."

But you may find yourself in both categories where there is an exception with for reasonable cause in relation to (c), that is 5(3)(c), you have an exception for the offence if there is reasonable cause. You needed to tell the dog attack that person.

But, Madam Vice-President, dog training will tell you, aggression training will tell you that you may cause the dog to behave dangerously as well without attacking. There is a fine line and distinction there and the exception for reasonable cause—[*Interruption*] Mr. Hinds, sorry! [*Laughter*—is causing me some concern as to the difference between (a) and (c), and the question is whether we want to apply it to both.

Madam Vice-President, that takes me to the tail end of clause 5, but we have a very peculiar circumstance in 5A. We are providing in 5A a very important clause and that is the prevention of cruelty to animals, but I go back to textbook law now. What is a law without a sanction? Do not walk on the grass. Why? Will I be fined? Will I go to jail? Can I just walk on the grass with impunity? There is absolutely no sanction associated with 5A, and that is a material deficiency in the law which I think we as a Senate, perhaps, want to agree to do something about.

I think it would be a much better product if we were to provide a general offences section tied into to 5A which makes someone—because we have a provision where a person, if someone believes an offence is being committed that someone can approach the court for a breach under this Bill, but there is no offence prescription for 5A. So, we may very well want to get to the position where many neighbours notice cruelty to animals, someone beating the dog, inciting the dog, that person is therefore unfit, be it a class A dog or class B dog, and I think that we really ought to have a sanction associated to 5A.

3.00 p.m.

Madam Vice-President, I turn next to clause 6. Clause 6 of the Bill introduces for the first time in 6(3), the concept of a vet. In this instance:

“...the Ministry may require a veterinary surgeon to certify promptly in writing, the type of a dog.”

That ties in to the DNA sections repeated elsewhere in the Bill which occur at 7(5)(a)(iv) and 7(18).

Now, Madam Vice-President, the fact is that dogs of this type in the schedule, that is, the Fila Brasileiro, Dogo Argentino, Pit bull Terrier and the Japanese Tosa, all of these dogs are mixed breed dogs and many dogs bear physical characteristics that you cannot tell them apart. But more particularly, I have been told by veterinarians that I have consulted with, that it is impossible to classify a dog as belonging to a particular type without DNA assistance. And so, when I asked the vets that I audited, what are you going to do about clause 7(18) which makes it an offence for a vet, punishable—Madam Vice-President, if we look at 7(18):

“Where a veterinary surgeon issues a certificate pursuant to subsection (5)(a)(iv) or section 6(3) which he knows or believes to be false or does not believe to be true, he commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.”

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Well, I have been told by each vet that I have consulted with, that each of them is going to refer you to another vet. So you are going to be in a *circulus inextricabilis* as they say, going round and round, unless you have DNA assistance, and that is the essential problem. In fact, the inability to classify a dog without DNA evidence has occurred in England, which is one of the reasons why the scheduling of dogs is problematic as has been pronounced in the literature in relation to the 2013 proposed amendments to the English law.

So, Madam Vice-President, I think we have an inherent problem without DNA assistance. Maybe the regulations could suggest how, but I am not quite sure if the parent Bill should have it or not have it. My view would be that we ought to have it in the Bill. The question, of course, then becomes a cost factor: how much will DNA testing cost; does it go to the owner of the Bill, et cetera? Now, when we are paying licences under this Bill, under this proposed legislation, the money goes to the regional corporation one assumes, even though it says that the Ministry is conducting this. That is, therefore, raising revenue—or taxes; licences are taxes. It brings me to the point, I will just flag it: do we need a certification of any money Bill tendency on this Bill? Because we are essentially raising taxes?

Every two years, we are raising \$1,000, \$1,500, \$500. If the hon. Attorney General's statistics, anecdotal as he acknowledged that they were, of 800,000 dogs and 500,000 pit bulls is true, that is 500,000 multiply by \$1,500, a lot of money. So the question is: do we have the adequate certification by the Speaker in relation to the impact of this being a money Bill or not? I do not know. I am asking the question because, regrettably, I did not have the time to research it properly enough. I think it is an important point that we look at if we want to get it right.

Madam Vice-President, I look now at the issue of—so I was coming to the point just to wrap it up, that the utilization of moneys under licences for DNA testing, some form of certification by a state authority may be necessary. In this case here the forensic institute, and perhaps the Minister of Justice could assist us with that when she contributes to this Bill if you are—looking as resplendent in your green as you do, hon. Minister; not at all looking unsettled in the green that is sweeping across your party. But anyway, Madam Vice-President, if I may return.

Madam Vice-President, the issue of licensing of dogs with particulars of insurance. Now insurance comes about in clause 11. It is a requirement of licensing that insurance exists for the dog and that we have certification. It may be worth our while to include in the parent Bill the fact of an endorsement on the

insurance policy to the local authority. So in the event that there is a breach, in the event that there is a notification required, that there is a bifurcated notice going to both parties, both the insured and both as well to the local authority, it would also allow for payments to be put in by those persons who are endorsed on the policy.

Now, Madam Vice-President, the concept of insurance is a very delicate one. My colleagues are going to deal with insurance in much better detail, but I just want to flag a few issues. The first factor in insurance, Madam Vice-President, is we have repeating here as we do in third party claims and insurance in general, the issue of providing notice to the insurance company. That is a problem that many litigants face when they go to court where they fail to provide notice to the insurance companies, and that may be something which we wish to remove from this Bill under clause 11 where we require notice to be provided to the insurer.

It does not say what the consequences are, but if you borrow from the insurance industry's perspective, it means that you have a hiccup to the litigation in the issue of joinder of the insurance company and, therefore, in the issue of interim payments under the policy. So if the hon. Attorney General could consider the need: do we need to have the notice to the insurance company; can we get rid of it; can we make the route simpler, particularly in an instance like this?

Madam Vice-President, we come to the issue in 7(4) of a database required to hold such information under clause 28. But, Madam Vice-President, the type of data that is required from a reading of this Bill alone, tells you that this data is sensitive personal data under the definition of personal information, under the Data Protection Act, and we do know that the Data Protection Act is not yet fully proclaimed. It is proclaimed in parts, and the parts which are operative mean that we are, by this legislation causing need for consideration of any inconsistency between the Data Protection Act and the Dog Control Bill as we have right now. How do we treat with the issue of sensitive personal information that includes names, addresses, money, prescription, location?

The next issue, Madam Vice-President, is the sanctity of the data itself. Are we going to prescribe, as we did when we did the DNA legislation, ownership of this database to the municipal corporation or to the Ministry in this case here? "Ministry" being undefined! We have the use of the word "Ministry", but we do not know which Ministry. By implication perhaps on *Hansard* we can clarify that, but there has to be someone charged with the responsibility, particularly, because we are dealing with sensitive personal information to manage this in accordance with the Data Protection Act.

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I repeat, of course, the issue of 7(5)(a)(iv), and that is the certificate by the veterinary surgeon certifying the dog is a class A dog. That cannot be done without DNA evidence.

Madam Vice-President, the issue, of course, of the collection of moneys under 5(7), the licensing fee is where I would tag the issue of the certification as a revenue raising tool and, therefore, a money Bill. So perhaps we could look at that. The point that we make here, we actually have people with firearms paying much less of a fee than we do for dogs. Now, I do understand the need to have a relatively higher standard for dogs. It means quite a hefty fee every two years, particularly if you have multiple dogs, but the question is: are we being exclusionist to people in terms of their affording a dog? I was very grateful to see the fact that we could amend the fees in the regulations, by way of order, Madam Vice-President, so we get away from the perennial problem of legislation where you cannot amend the fees as we had with the Legal Aid Act as only one example.

I turn next to the fact of 7(11), specifying a metal label or other badge. There are some difficulties in being—this is wrong to use this term—but technology specific, the type of identification device here. So, I hope that the hon. Attorney General will tell me that “other badge” means that the regulations will broaden the type of material that can be used so that we do not have easy defacing of the classes.

Madam Vice-President, 7(13) causes me concern when married in with the issue of abandonment of dogs.

“7(13) An owner of a class A dog shall inform the local authority of the death of his dog at the earliest opportunity.”

Great, but it causes me to consider about notification of the loss of a dog because you are now under an obligation where you suffer jail term and heavy penalties if your dog is out, without your knowledge, but you also suffer penalties for an abandonment of a dog. But, Madam Vice-President, there is no positive obligation to prove that the dog is in fact lost, to go to the police station and make a report. That may be something that we wish to do because it helps us with enforcing the concept of abandonment and proving how persons abandon dogs. Look, you are deemed to abandon the dog because you did not avail yourself of the opportunity to inform the police that your dog was lost.

Madam Vice-President, we have an amendment to make in 7(16)(b) there, because I think the reference ought to be to (11) and (14) and not only (11). We then come to the liability as I pointed out earlier in 7(18) to the vet, who is going to be in that circle of passing the buck over in relation to certification of the dog.

Clause 8 takes us where if:

“(1) An owner...of a class A dog who is unable to fulfil the requirements of the Act...”—he—“shall notify the Ministry of that fact and transfer possession of the dog to the Ministry.”

Which Ministry? Next, Madam Vice-President:

“(2) Where the Ministry has taken possession of a class A dog under subsection (1), that dog shall be destroyed, in a manner to cause as little pain as possible...”

Madam Vice-President, when you flip over to clause 21(1)(b), to clause 12(4) and to clause 25 of this Bill, we introduce the concept of the dog being put up for adoption or taken in by an institute that can take care of it, of a stay of execution of the animal. So why is it that if you give up the dog under clause 8, you are responsible, you come forward and you say, “Look, I give up my dog. I cannot mind him.” Why are we immediately destroying the dog without taking avail of the provisions of adoption of the dog, an alternate home to somebody who is able? So there is an inconsistency in the Bill between the insurance provision, between the municipal corporations taking the dog, between the owner voluntarily giving up the dog and when the court considers an issue. In fact, in 22 and 21, those clauses, we see the concept of where there is an appeal that the dog cannot be destroyed. So why do we have this inconsistency? I think it is something that we need to look at carefully.

Madam Vice-President, we have now the issue of 9(3), a very sincere issue. Clause 9(3) says:

“An authorized officer of a local authority may, upon producing if so required, a duly authenticated document in the prescribed form showing his authority, enter any premises...”

But what does this mean? It is not equivalent, Madam Vice-President, to the issue of a warrant under clause 33. We are giving the local authority a potential or an ostensible right to enter premises without a notice, without other provisions. So I think we need to pay some attention here. Are we going to have people saying, “Look, you are not giving me permission to go in here. I have the right of entry; I do not have right of entry?” Which is it? It stands in light of clause 23, where we have the ability for a magistrate to issue a warrant as somewhat curious and we need to look at it.

Madam Vice-President, that, of course, is tied in to the fact that you have problems where there is an issuance of a notice. Clause 9(4):

“Upon being so satisfied, the authorized officer shall issue a certificate of compliance in the prescribed form.”

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Well, when? Sometimes we have the position without the fixation of a time frame where it can go on ad infinitum, and we need to pay attention to that. We ought to prescribe a time frame which can be extended or not extended depending upon circumstances, but it cannot be without a time frame. In similar fashion to the time frame within which the owner must comply, we must also have some time frame for the corporation to apply, particularly when you fix it with a jail term and a sentence.

Clause 10, Madam Vice-President:

“A person who keeps a class A dog which is not licensed in accordance with this Act, commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for three years.”

3.15 p.m.

But, Madam Vice-President, that is hinged upon the licence being issued in accordance with the Act, which requires the insurance to be current, which can give you an avoidance of an insurance policy in circumstances where you are not aware of it. So should we not include a person who knowingly keeps a class A dog to at least give the concept of some form of defence to the owner who says, “Look, I innocently was unaware of the fact that I am in breach of this provision. Should I not have the defence of having been required to know that I was in breach of the licence requirement?” Madam Vice-President, I say so because it is a strict liability offence. So clause 10 means that you are automatically guilty, so we need to think about the exception to the rule where there is an innocent infringer.

Madam Vice-President, that would take us into the example of the customs legislation where you have to plead guilty first before you can get a discharge, or as section 71—reprimand and discharge under the Summary Courts Act—where you plead guilty first and then you ask to be reprimanded and discharged by the Magistrate. The concept of knowingly and wilfully repeats itself in clause 11, which is where I referenced clause 10 to, and that is the concept where your insurance policy may have been avoided *ab initio* in circumstances where you are not aware of it. So do we want to include the issue of knowledge, of wilful and knowing capacity, the animus of the crime?

Madam Vice-President, that is all the much more so when you look at 11(5) where you have introduced here the knowledge of the insurer. Why do I need to tell the insurer that the victim has suffered a loss? Why do I need to do it? [*Crosstalk*] The fact is, should we delete the words “to the knowledge of the insurer”? This is where—[*Crosstalk*] Hon. Senator, “bear meh out nah. Ah hearing yuh in crosstalk. I do not think I am talking nonsense. At least, listen to what I am saying, nah.” Okay?

Sen. George: Go ahead and talk. [*Crosstalk*]

Sen. F. Al-Rawi: The issue of the knowledge to the insurer is a critical one and I think that it perhaps ought to be removed here. The insurer ought to be tracking this claim particularly if there is an endorsement on the policy to the municipal corporation or Ministry such as to require tracking.

Madam Vice-President, we come next to the issue set out in clause 12. In clause 12, the issue set out there is where you have the—[*Interruption*]

Sen. George: Everybody must shut up!

Sen. F. Al-Rawi: Hon. Senator, do you wish me to give way?

Sen. George: “Go ahead, nah, man, go ahead, nah man. Doh take me on, nah, you fix up, yuh talkin.”

Sen. F. Al-Rawi: If you want me to give way, I will give way, you know. [*Crosstalk*] I am not attacking you.

Sen. George: Oh yes, you are!

Sen. F. Al-Rawi: Madam Vice-President, if we come to the issue now of providing for the impound of a class A dog in clause 12, why are we providing for the impound of a class A dog in clause 12 in circumstances which are different if the municipal corporation seizes your dog on the outside and kills it automatically? You hand in the dog because you are being responsible and you therefore say, “Look, I cannot meet the requirements of this Act” and you automatically kill the dog. Why put in this difference here if you cannot meet the insurance? Why one standard to the left and another standard to right? It does not make sense to me. Perhaps, the hon. Attorney General could clarify that. Madam Vice-President, that 12(5), again, comes back with the issue of the destruction of the dog. Why destroy the dog when the insurance policy is up when clause 21 allows you to put the dog up, under the court supervision, for adoption? We need to adopt a certain standard.

The issue of 13(5) and providing 28 days’ notice of intention to institute proceedings, why give the insurance company that fillip when the rights of the victim are at hand? I know that it comes from our general approach to insurance law but we have an opportunity, if we are looking to give a special form of delivery here, to remove the 28 days’ notice provision to the insurer.

Madam Vice-President, we have clause 14:

“A person who owns or keeps a class A dog shall keep that dog under control in his private premises.”

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Well, do we want to have the position for approved locations? I say that because “person”, as I told you, includes a corporation. Well, what is a corporation’s private premises?

Sen. Moore: Premises owned by the corporation.

Sen. F. Al-Rawi: Well then, if it is premises owned by the corporation, as my learned colleague suggested across the floor, then we need to put it on the record, but I must raise it in terms of an interpretation tool. So, we need to look at the issue of corporations with multiple places of business. If I have the Ministry of Health and the regional authorities which are all state bodies, if I have a corporation with multiple offices where its business address is in one location but its other addresses are not the business address, which is the address? That is why I have raised the issue.

Madam Vice-President, I turn next to subclause (4) of clause 14. There is a very useful provision in the English legislation which allows for a distinction between what you would call assault and battery. This clause 14(4) separates out in subclause (a) an assault, that is where you apprehend that you will be beaten but it does not happen, or in this case here, apprehend that you are going to be attacked but the attack does not happen, and (b) where you are actually attacked. That is akin to the criminal law concepts of “assault” where you are not physically attacked but you apprehend you are, and “battery” where you actually received the blows. Why not institute here a graduation of the offence? If you are actually attacked, would it not make better sense in terms of providing a reason to control your dog to provide a higher fine or an aggravated assault for which you would be entitled aggravated damages? It makes sense! In fact, there is some precedent to that effect in England and in the United States.

Madam Vice-President, when we look at clause 15 versus clause 17, clause 15 seems to have a difficulty against clause 17. Clause 17 provides:

“Where a class A dog escapes from any premises, the owner or keeper of that dog shall be liable in civil proceedings for any death, injury or damage caused by that dog.”

Well, why confine it to civil proceedings, one? Two, why have it so when there is no requirement for a report of the loss of the dog? What do we do in relation to clause 15 which says you “...shall not abandon a dog”? That is where it screams out to you that you ought to provide a positive obligation for the person who owns the dog or is responsible for the dog to report the loss. It is a necessary stepping stone to getting to abandonment and to getting to prove civil liability—
[*Interruption*]

Sen. Deyalsingh: Correct!

Sen. F. Al-Rawi:—in an easier point or even criminal liability. It is a key linchpin concept.

Madam Vice-President, we then come to clause 18(2) where a person contravenes this section—sorry, 18(2)—are we going to rely—forgive me, Madam Vice-President, let me rewind, 18(1):

“Notice A person who owns a class A dog or keeps a class A dog on his premises shall cause to be displayed in a prominent place...a notice indicating that there is a class A dog...”

But, Madam Vice-President, in clause 16(2), we treat with a class B dog who has bitten somebody or is reported to the corporation, and therefore is a quasi-class A dog. Well, why do we not provide a notice in those circumstances? It stands to reason that you want to inform the public of that fact and, again, put a positive obligation upon the owner of the dog.

Particularly then, look at subclause (2) there. Again, we come to the person contravening this section. Should there not be a knowledge to that fact? It can be under the Interpretation Act incorporated by way of implication, but in this Act, we have used knowingly in different senses so we are not using implied provisions in the Act, we are using expressed provisions, so there is an interpretation inconsistency that may arise.

Madam Vice-President, clause 19(1) states:

“Where a class A dog injures a person, without reasonable cause whether in a public place...or on private premises, the owner or keeper of the dog commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for five years.”

Then we go:

“(2) Where a class A dog kills a person...”

—or

“(3) Where a class A dog injures a person...”

I would think that we would want to use the concept of aggravation as a term introduced here to therefore allow for the exacerbation of damages, particularly on a civil suit. But, what about the class B dog that you have certified under clause 16(2)? You have identified that dog in a quasi-capacity as a quasi-class A dog, why do we not provide for a criminal offence which is of equal capacity here?

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Because, Madam Vice-President, you will know in the 1960s, it was the Dobermann. You may not know, Madam Vice-President, you are far too young to know that, but in the 1960s, the feared dog was the Doberman; in the 1970s, the feared dog was the German Shepherd; in the 1980s, it was the Rottweiler; we have now come to the Pit bull Terrier and the Japanese Tosa. But the point is, as our perception of dogs increases and our knowledge and association and literature, our sophistication as a society grows, we change our positions in relation to dogs. I think it worthy in clause 19 to introduce the concept of the class B dog under clause 16(2). I think it is important if we want to get it right.

Madam Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. S. Cudjoe*]

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Madam Vice-President. Clause 20(1):

“A person who, without reasonable cause, incites a dog to attack another person causing grievous bodily harm or resulting in death, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years.”

But, why so low? If the dog escapes—\$100,000—and kills, a different fine—well, why on earth, if you incite a dog as a lethal weapon—because dogs can be lethal weapons—would you only want to have a fine of \$50,000?

Sen. Deyalsingh: True!

Sen. F. Al-Rawi: Should we not look at the consistency and scheduling of the fines so that we get it right? [*Desk thumping*]

Sen. Deyalsingh: You have intention here.

Sen. F. Al-Rawi: Madam Vice-President, I do think that it ought to be higher.

If I look at clause 21, that is where I root the inconsistency between previous clauses, and those previous clauses are 8(2), 12(4)(b) and 12(5). We come now to compare that to clause 21. Clause 21(1)(a), (b), (c) and (d) allows for the dog by the order of the court to be sold, it allows for the dog to be sold or given up to an establishment for the reception of stray dogs, it allows for the destruction of a class A dog and it allows for an offender to be disqualified. Why is it that the court is the only place that should give this dog a chance if you are really balancing the rights of the owner included?

A child who loves this dog, the dog was found in public, did not bite anybody, the municipal corporation finds that dog, it is automatically killed! No right of appeal, no form of balance coming in there, but if you go to court, “yuh beg the policeman, ‘Look, please charge me so I could go to court so I could at least have the right to have the dog’—I can be reprimanded, I could get a second chance, I could lose my licence, the dog could be adopted, but we have to have some consistency of approach here. You look at that particularly in the context of subclauses (3) and (4) of 21. That is where the owner may appeal against an order in subclause (3) and (4) that you cannot destroy the dog whilst there is a pendency of an appeal, which makes sense.

But, Madam Vice-President, we do not have that provision for the municipal corporations, we are being required to rely upon the right of judicial review after it is too late. So they pick up the dog, they destroy the dog, you cannot approach the court for judicial review of a decision because it is not communicated to you that they are going to destroy the dog because there is no requirement for notice to that effect. Why do we not have one position where the municipal corporation tells you, “Look, we have picked up your dog because your microchip is there. You have seven days to appeal this decision or else your dog may be destroyed”. In those circumstances, we are providing fairness and equality in the equation in line with our Constitution which provides for equality in similar circumstances.

3.30 p.m.

Madam Vice-President, I look next to subclause (8) of 21:

“Where an owner or keeper has contravened any provision of this Act on more than one occasion, the Court may order that the dog be taken away from its owner or keeper”

Is this the only sanction that we are going to have to 5(a)? Is it that you lose your dog? Should there not be a pecuniary amount attracted to cruelty for the animal? I think we ought to consider that. Are we going to rely on 5(a) being met with 21(8)? I am not sure. I hope that we can go broader by including a pecuniary element to subclause 21(8). That would help to balance the equation for the cruelty aspect.

Madam Vice-President, clause 22:

- “(1) A constable or an officer of a local authority duly authorized to exercise the powers conferred by this section may seize a class A dog or a dog which appears to him to be a class A dog which is in a public place or in a place where it is not permitted to be.
- (2) A dog that has been seized and is required to be destroyed in accordance with this Act, shall be destroyed...”

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What does that mean? What happens if you get it wrong? Where is the notification to the microchip that is in the dog's back? I mean, it is inconsistent. There must at least be a position. Do we want to have the reporting for loss inside of there so that we can actually prosecute the person for abandonment? That is an essential point.

Clause 23 reminds us of the dichotomy faced between the local agent of the authority telling you he may enter or he may enter if required to produce proof. He should be required to produce proof. He should be certified in the beginning. But 23 years where a magistrate gives you authority for a warrant, it is that dichotomy between the two clauses that cause me concern and that is the issue of 9(3), forgive me, that is the entry of the local authority, versus clause 23.

Madam Vice-President, when I look to clause 25(1):

“Where an owner or keeper of a class A dog has not fulfilled a requirement under this Act, the local authority shall issue a notice directing the owner or keeper to fulfil the requirement within seven days and impound the dog until the requirement is fulfilled.”

Compare that to clause 22 where you find the dog in public and you must destroy it. Which is it? I have destroyed it, or I must issue notice? Which way are we going? If we were to grade the requirement of notice into it, it would make sense to the legislation.

Madam Vice-President, I have a concern in relation to the issue of kennels. Clause 27 states:

“Any person who keeps more than five class A dogs shall be deemed to be operating a kennel and shall be subject to the Regulations pertaining to kennels.”

We know from the Interpretation Act that the maximum fine that you can issue for a breach of a regulation is \$500. So, why would I not want to include in here a hefty penalty of the kind for people that abuse dogs in kennels, or that are not operating kennels in accordance with the law? So they lose their licence but they destroyed your property by accident, if your dog is kept there. It makes sense for us to include, in clause 27, a pecuniary sum where the parent Act sets a high enough fine; a court may, on conviction, offer a fine of \$50,000. We may want to include the corporation applying to directors, et cetera, the principle of personal liability through corporations, to lift the corporate veil in *Salomon v Salomon*. The fact is that, I think that clause 27 needs to be met with a pecuniary penalty in particular.

Madam Vice-President, I have quite a bit more to say in committee stage but I just wanted, for the benefit of the team assisting the hon. Attorney General, to flag out some of my concerns. I think it is an excellent start. I think that there has been a great deal of consultation. I do not make an apology for the fact that we want to get it right as a team, on both sides. I think and I urge Independent Senators present, who will be lending their voices of support to this Bill, perhaps, to think very carefully about the terms and conditions. We are being consistent between Houses, in an effort to try to get it right.

I thank you for the opportunity to contribute, Madam Vice-President.

Sen. Subhas Ramkhelawan: Thank you, Madam Vice-President. I welcome the opportunity to contribute to this Dog Control Bill, 2013. Some people that I have spoken to have actually called this a doggish act, which has two meanings. But, I will stick to the proper definition, which is the Dog Control Bill, 2013.

Let me say at the very beginning, like Sen. Al-Rawi, that I support the principle of control of dangerous dogs. I would actually take the matter further, in that why do we need to continue to promote dangerous dogs that have maimed, that have killed our citizens in so many situations, and in particular the pit bull? Why do we need it? It might be that a better approach would be to phase out these dogs altogether than continue to keep them there, because what is happening now is that as we keep them, what we are going to do is really, essentially have legislation for dogs that can only be maintained by reasonably wealthy people.

By that I mean, one, you have to pay for a licence, whether it is \$1,000 or \$1,500, as the case may be. Two, you would have to pay for some microchip which, fees and so, are still to be established, which is my understanding. And most importantly, you would have to pay \$250,000 in insurance.

I want to address this matter of insurance, whether dogs are phased out or whether we continue with these very high bars as to retention of these dogs. And it is this, my own information and research has suggested that with regard to insurance, if that insurance is pet insurance, or if there is insurance where the dog is in the compound of the home, you might be able to access insurance. But on a standalone basis, my enquiries suggest that it would be extremely difficult to provide such insurance and I stand to be corrected. But this is what is happening out there.

I wonder whether the hon. Attorney General, in consulting with the various interest groups, has found out what would be the premium on the insurance for dangerous dogs. It might, one, be very, very high but it might not be existent, in terms of the research that comes out of my own look around the market. So, it is

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something that I think we need to raise here, so that before the point of proclamation, what we do not want is that we have citizens owning such dangerous dogs and finding extreme difficulty in getting standalone insurance for these dogs. It is very important that we get that in place before we get to the point of proclamation.

Madam Vice-President, I want to take a look at the balance of the interest of those who wish to continue to maintain these dangerous dogs and the interest of our citizens that they have safety in public places, as they walk along the streets. The question really weighs more heavily, in my view, to the protection of citizens who must have the freedom to walk in public places and up and down the streets. That has been—should I say dangerous dogs, and in particular the pit bull has been a major impediment to doing that.

Let me declare, though, Madam Vice-President, that I am a dog lover. Since I have had my home, I have always had at least three Rottweilers and probably two pot hounds, as the hon. Attorney General likes to call it, because they are such loveable dogs. But I wanted to go back to the matter of pit bulls because in the legislation, there is no clear definition of a pit bull or a near pit pull or something we call in Trinidad, a mixed breed. So if something is 80 per cent pit bull and 20 per cent something else, how do you categorize that? Would you categorize that as a class A dog? I think the Attorney General ought to provide clarity as far as that is concerned and how it would be dealt with in the regulations.

If you go to your vet and the vet is asked to make a pronouncement on a mixed breed—and some people contend that a mixed breed is even more dangerous than some of the pure bred dogs. If you go to your vet and he says: Well, this is not a pit bull, would you classify that most dangerous dog as a class B dog? Because I think our citizens understand that we are creating two classes of dogs, class A, those that are considered very dangerous and for which you will need insurance and for which you will need a licence from the local authorities and for which you will need a microchip; and class B dogs, which are dogs other than class A, for which you will not need insurance except for specific circumstances, rather for which you will need some sort of training for your dog, if your dog is considered to have shown dangerous tendencies. So, this really is at the core of my concern. One, how would we categorize a mixed breed dog; and two, the question of insurance and how we will ensure that citizens who have these dogs have access to insurance.

But let me turn a bit now to the various clauses in the Bill and ask a couple of questions. The Bill speaks to a constable or a police officer from the municipal corporations. What about those who we call estate police, who use security dogs? How

are they going to be treated? I raise the question in particular, with regard to clause 5. Clause 5(1) really establishes the framework in which a dangerous dog can enter a public place. I tried to see if I could get a better understanding of what this clause in its entirety meant. It says in subclause (1) that no owner or keeper of a dog shall permit the dog to enter public places, restaurants, where food or beverages are sold, commercial mall or a shop. No such dog shall enter unless the dog is a guide dog.

So, what next? But subclause (2) says that—and this is where I have some difficulty in understanding the legislation—subject to subclause (1), which speaks to no dog other than a guide dog can go into a public place. It seeks to ensure that the dog going into a public place, a guide dog, is securely fitted with a muzzle or that the dog is securely held by a person and I wondered, because the subclause (1) is actually limited to only a guide dog. So, is it that there will be guide dogs that will be class A dogs, dangerous dogs, and so on? There is need for some clarification of this part of the legislation because I do not clearly understand it and I hope that my colleagues who are attorneys-at-law will be able to explain it to me.

3.45 p.m.

From my perspective, it is only guide dogs, subsets of guide dogs that could go into public places and if that subset happens to be a class A dog, I was trying to imagine how someone who is visually impaired, who cannot see, would want to have a pit bull as a guide dog and that is why I am trying to understand it and I hope it would be explained to me. Maybe the luminaries amongst us, Sen. Hinds and others, might be able to explain that to me, but that—it does not make much sense.

Just a few other thoughts: I spoke to the matter of a mixed breed dog and how it would be classified; and, finally, I want to raise the question of regulations. When we have special majority regulations, I have held and continue to support the view that such regulations should be by affirmative resolution. I see again, in a special majority Bill, that we have regulations by simple majority, and so I hope that these matters would be explained as we go along.

Sen. Singh: [*Inaudible*]

Sen. S. Ramkhelawan: Yes. I hope that these matters would be explained as we go along.

As you know, Madam Vice-President, we do have the Insurance Bill before us and I would just digress a bit, with your permission, to raise the point that insurance, in any area, is going to become more and more expensive. When you look at the current situation and you look towards the new legislation—that Bill that is before us—we are seeing that the capital requirements for that Bill are very, very, shall I say, onerous and those capital requirements would make the insurance for a dog, I

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would believe, very, very prohibitive and I think we would have to consider carefully how we go forward with regard to the insurance—whether it could be gotten or not and, secondly, whether it is, as I said, prohibitive in expense. So this Bill really can be called a rich person’s dog Bill, beyond insurance, licensing and beyond licensing the micro chipping and so on.

Now, I wanted to turn to clause 5(3)(a) where the requirement is that:

“No owner or keeper of a dog...”

—5(3)(a), Madam Vice-President—

“(a) permit the dog to be dangerously out of control in a public place;”

Now I ask myself the question because, being a dog lover and being an owner of dogs, do you really permit a dog to be out of control or a dog gets out of control? But if you are charged, then what is going to happen? There are significant penalties. How do you permit a dog to get out of control? A dog gets out of control. You are being charged for permitting the dog to get out of control.

Sen. Deyalsingh: That is why you have to raise the issue of intention.

Sen. S. Ramkhelawan: And my legal friends will advise me as far as that is concerned. [*Crosstalk*]

Just to conclude on the thought of the estate police, Madam Vice-President, if we are going to use some of these dogs for security purposes, they must be allowed to go into public places because you are not going to be able to utilize these dogs if they are not allowed to go into public places and clause 5 is very, very limiting as to which dogs can go into public places and I will speak more about that as we go into committee phase because this is, I think, very critical to the whole question of this Dog Control Bill.

With those few words, Madam Vice-President, I thank you.

Madam Vice-President: Minister Moore. [*Desk thumping*]

The Minister of Justice (Sen. The Hon. Christlyn Moore): Thank you, Madam Vice-President, for allowing me to participate in, perhaps providing a different perspective to the Dog Control Bill, 2013.

Let me first of all declare my interest. I am a dog lover and a former pet owner and, certainly, had this Bill been in force when my pet was killed, I would have still been a pet owner.

Madam Vice-President, I think Trinidad and Tobago has evolved to the place where we can admit without shame that pets play an important role in the lives of the people of Trinidad and Tobago. I think that was different from where we were, with

more of an agrarian-type relationship to pets of about 50 years ago. Pets have moved from outside our homes to inside our homes. Animals have moved from being mere appendages to really parts of our families and, in that regard, we as pet owners, have a responsibility, not only to ourselves and the communities in which we raise our pets, but we have a responsibility to treat with our pets, to secure them, to safeguard them and as part of that obligation—as part of the obligation of owning any animal—there is going to be a financial component.

And so I want to start first with the question of insurance. There has been a lot of moment made about the requirement for insurance. There have perhaps been utterances in other places with regard to the size of the insurance, with regard to perhaps it targeting certain persons and it making pets now the purview of perhaps the affluent.

I want to say this, Madam Vice-President: With responsibility comes obligation and the fact is that if you are going to elect—because it is an election—if you are going to elect to be the owner of a class A dog, then with that election must be the preparedness to bear the financial responsibility, the complete financial responsibility for that ownership.

Now, a class A dog, like any other dog, perhaps with the exception of the very sturdy pot-hound, if you will, requires quite a lot of care and attention. As any dog owner who has a temperamental breed would know, the cost of shots are quite expensive, examinations are quite expensive, the housing and care of the dog are quite expensive. Without shame, I confess to having paid several hundred dollars on pet toys over the course of one month—and I know that I am not alone. I have friends and colleagues who have air-conditioned the residence for their pets. I think we have graduated from dog houses and now they are air-conditioned abodes because, of course, we elect—and it is an election—persons elect to import animals that are not native to this hemisphere, that are not native to these islands and so will require special treatment. As part of our obligation, we engage in that activity, so that insurance for the responsible pet owner, the responsible animal owner is a necessary appendage to showing or to demonstrating that responsibility.

That being said, I want to segue into the question of insurance, meaning that the class A dogs—which are the dogs that require insurance—are now going to be, perhaps, resident in some perceived affluent communities rather than others or they are now going to be the exclusive purview of the middle class or the so-called upper class as opposed to persons who are perhaps more impecunious.

I want to suggest that this is how it ought to be. I want to suggest that if you cannot put food on your table, then you ought not to own a pit bull. I want to suggest that if you are tittering on the brink of being impoverished, then you

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ought not to own an animal that can maim and kill people and that can cause those persons hundreds of thousands of dollars in damage, personal injury, property damage when you are not in a position to provide compensation.

Again, the pit bull is not the only dog that can provide an alarm system. The Pompeks are notorious in this regard. If you want an alarm dog, you can get a Pompek, you do not have to get a pit bull.

Sen. Deyalsingh: A turkey.

Sen. The Hon. C. Moore: If you want an alarm animal, quite apart from a turkey, you could get a goose.

Sen. Deyalsingh: Yes.

Sen. The Hon. C. Moore: You can get guinea fowl. Guinea fowls make huge alarms. You do not need a dog at all. So if you are looking for an alarm animal, you have got some options. If you are looking for a dog that will be fearful, you do not need a class A dog. You do not need a Fila. You do not need a pit bull. You do not need the Tosa. You do not need any of these dogs to provide a physical deterrent by virtue of its ferocious look or its sizeable stature or its barrel chest. You can get a Dobermann. That is not a class A dog and they look pretty fearsome. You can get an Akita. That is not a pit bull and it is quite scary looking. You have several options, so that if you decide to elect one of four options, then you also elect to bring on to yourself the financial obligation that comes with making that option.

Remember dogs are as multifarious in types and temperament as humans. There are not six classes of dogs from which the legislation has deemed four as class A dogs. There are literally dozens and dozens and dozens of types of dogs, so that the field is really endless. So that if you have a particular affinity to a pit bull, well then you pay for a pit bull. If you have an affinity to a Fila, then you know, you get your cheque book out and you make sure that your insurances are put in place.

I want to support that in the strongest of terms and this is a move forward. We do not have to look very far to see the destruction of particular types of dogs. Now, I hasten to add that I acknowledge that I have been bitten by a pot-hound, so that there is no class of dog that perhaps will not bite you.

Sen. Deyalsingh: Provoked it?

Sen. The Hon. C. Moore: However, I know of—I am not confessing to provocation—I know of no person who has been torn limb from limb by a pot-hound.

Doing some research for this piece of legislation, I came across the case of an elderly lady in the US where her four pit bulls, for reasons best known to her and them, decided to attack her. She lost both hands and an eye—both hands and an eye! These were her dogs, enclosed in her yard. They did not escape. *[Interruption]* No, no, no. This was abroad. This was in the United States—I think Colorado. The dogs did not escape. They were her dogs, raised by her, never had a history of attack. Those dogs tore that woman's two arms off and she lost an eye.

There are cases in Trinidad and Tobago where pit bulls have killed persons, have significantly maimed persons, so that the decision to isolate these four categories of dogs is not without reason and not without informed and recent precedent. So I do not think we should run from the categorization of class A and class B and I do not think that we have evidence that will suggest that the class A is perhaps too broad of a class.

4.00 p.m.

That being said, I want to allude a bit further to a matter that the Attorney General raised earlier when he spoke about the decision against eradicating the breeds, and the reference to the developing of an underground economy. This is a situation that Hong Kong is dealing with, with their large breed dogs. While they did not impose a breeding policy or an eradication of the breed by way of neutering, they did have certain restrictions on the size of the dog because, of course, the size of their housing and the size of the accommodations. What has been happening, according to the literature, is that there is a huge underground economy for very large dogs.

There are enormous puppy mills trafficking in large dogs into Hong Kong leading to persons having 200-pound dogs in small cages on their roofs. So that the experience of a black-market economy in animals and, in particular, in dogs where restrictions are imposed is a familiar territory and it happens around the world. So I certainly commend the Attorney General for noticing that one way to avoid a black market on animals was to really move away from the eradication of the breed. In addition to which, I do subscribe in part, at least, to the mantra that there are perhaps no bad dogs, only bad owners and that segues neatly, if I may, into the requirement for training of class A dogs.

If you have any dog, your ability to withstand its playfulness is directly proportional to its size. A small playful dog is a very different matter from a large playful dog. I am not getting into whether the dog is dangerous or it is biting or it is a nuisance, I am just talking playful. If you have ever had a 200-pound dog jumped up on you and tried to lick you, it is a very different experience from

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having your pompek “try to jump up on you”. First of all, the pompek is not going to get very far. Secondly, you are very unlikely to be knocked onto the ground, and if you add advanced age into that equation, the danger of the dog has nothing to do with its bite, but it is directly related to its size.

So that the point being that all dogs ought to be trained, but dogs that have a propensity to inflict harm, the necessity for training is all the more heightened. So that the requirement for training in a class A dog certainly comes as a sense of relief to persons who have owned these dogs because there are, of course, persons in the society who see no reason to train any dog at all because these dogs are their families. The difficulty arises, however, when you pass that 12-month mark in the case of the Fila and in certain other dogs that 18-month mark where the dog does not admit anybody else into its circle. So it is a perfect love to you at home, but anybody else it really quite does not have any tolerance for.

So the requirement that class A dogs be trained must come as a comfort because remember training is about discipline. It is about fostering in the dog a lack of fear. Most dogs respond out of fear of changed circumstances, fear of a changed environment and a changed environment could be brought about by simply the introduction of another person or another dog into the environment.

I remember having the experience, quite recently, walking abroad and looking into what appeared to be a show window and seeing about nine or 10 dogs of varying sizes and shapes lying on the ground in what was like a store front window, and it appeared that this was a daycare facility for dogs as it were. Now, that could only happen because those dogs have been trained to interact harmoniously with other dogs, so that they are not fretted when another dog passes by; they are not fretted when a motorbike passes by or a human passes by or a child passes by, and that is the advantage of training.

Training is not training your dog to attack when you say attack. Training is really socializing the dog so that it does not become alarmed in situations where no alarm is warranted. That is a huge element of this legislation that I believe commends itself, not only to persons who own dogs, but for persons who take the responsibility of owning dogs seriously. You cannot consider yourself a serious dog owner regardless of the type of dog you own if your dog is not trained.

Now, I want to hearken at this point to the provision of clause 5(a) of the legislation—

Sen. Deyalsingh: Is it 5(a)?

Sen. The Hon. C. Moore:—yes, 5(a), which speaks to the requirement for owners to provide adequate care and appropriate food for their dog. Now, it is a well-known fact that one way that persons encourage poor behaviour in dogs, whether deliberately or not, is by withholding care, withholding food, withholding space, withholding walks and all these things combine to increase, perhaps, the dog's liability to be angry, let us say propensity to be angry. Those things speak to lack of training, they speak to lack of care, and I think it is very encouraging that the legislation now mandates that persons who choose to keep dogs must provide adequate and appropriate care, food, water, shelter, exercise, attention and veterinary care. These things are not optional.

If you have opted into a responsibility with an entity who cannot speak for itself, then you have devolved unto yourself the responsibility of anticipating the needs of that entity. If you have opted to get a dog, then you have also decided that you will anticipate when the dog needs food, when the dog needs water, that you will find out how much exercise this particular breed requires, that you will find out what are the required shots and attention that the dog needs.

For example, is the dog particularly social, in which case if you are only home once a week, you have gotten the wrong pet, you really need a rock. Is the dog lazy? Well, if you are a marathon runner, you got the wrong dog. You are going to kill the dog. Is the dog aggressive? Well, if you are scaredy cat, you should have gotten a cat. So that these matters are matters that well warrant research because, again, the animal cannot speak and it is up to the pet owner to find out the needs of the animal or anticipate the needs of the animal and make proper arrangements.

So many times I have in my other profession visited persons and seen large, large animals in sheds where they cannot even turn around and they are chained in these sheds. They cannot leave; they are tethered there day in, day out. They are yapping, terrorizing neighbours only because the owner is aggressively irresponsible and has not bothered at all to consider the needs of the animal. So, again, I commend clause 5 as it really speaks to us moving in a different direction as a society.

I always repeat, particularly, from where I sit in the Ministry of Justice, that as a society, we are judged by how we treat the weakest in our society. We are judged by how we treat prisoners, by how we treat elderly people, by how we treat the infirmed and by how we treat animals; all those sectors, all those pieces of our society that have a voice that no one wants to hear, or all those sectors in our society whose voice is easily ignored. A measure of where we are and where we are going, is the mechanism that we put in place to ensure that the voice is not

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only heard, but that we act on it responsibly and in a timely fashion. And so clause 5 really gives encouragement to me as to where Trinidad and Tobago is poised to go, and this is only one of the bits of legislation that gives voice to a hitherto voiceless group, and it is to be commended.

Now, I want to move on a bit to speak about the prohibition against class A dogs in certain places and that would be, I believe clause 14, subject to correction, Madam Vice-President.

Sen. Deyalsingh: No, not 14.

Sen. The Hon. C. Moore: Help me! It is clause 15, I do apologize. I forget, my arrangement of clauses is wrong.

Sen. Deyalsingh: Five, 5—restaurants and so on?

Sen. The Hon. C. Moore: Yes, clause 5.

Sen. Deyalsingh: Yeah 5, page 6.

Sen. The Hon. C. Moore: Thank you. Now, the importance of this measure cannot be overstated because, of course, members of the public who do not own dogs who have no reason to do research into dogs would necessarily have a difficulty with a dog, particularly, a class A dog, in any of these places. We are not yet at the place where we feel comfortable with persons bringing pets into restaurants and, quite frankly, I do not know that we are ready to get there.

However, this legislation signals the use of assistance dogs and, again, that demonstrates, quite clearly, that we are evolving as a society where we have accepted that persons with disabilities do have need for assistance animals, and in order for them to participate fully in the society around them, the animal will need to accompany them to these public places, including shops and commercial malls and so on. So, again, it signals the direction in which we are going; it signals giving more of a voice to a hitherto voiceless group and it is to be applauded.

I want to talk a bit about the electronic transponders. As we speak, this mechanism is being used in Trinidad. Pet owners have been tagging their dogs, simply because dogs have been disappearing, dogs have been running away when you have fireworks, loud noises, bursting of bamboos. Dogs have been quite creative at escaping confinement when neighbouring dogs are in heat and dogs have been stolen. So already there is a response by the pet community, by the dog community, to microchip the animals in the event that the animal is lost or stolen that the animal can be easily identified and recovered.

So what this legislation is doing is really harnessing something that the industry, as it were, has already started to do and has institutionalized it in a most structured way in the legislation. But although the legislation speaks to the microchipping of class A dogs, it is to be noted that the responsible animal care community has already started going in this direction. So that, in a lot of ways, this legislation is really playing catch-up to where the industry already is, and no fault at all can be ascribed to the legislation for commanding or mandating the microchipping of these types of animals.

4.15 p.m.

Now, with regard to clause 22(1)—and let me make sure my numbering is on—which reads:

“A constable or an officer of a local authority duly authorized to exercise the powers conferred by this section may seize a class A dog or a dog which appears to him to be a class A dog which is in a public place...”

Now, on the face of it, it seems controversial, but you know, I really think that is a contrivance. Any attempt to make this clause controversial is a contrivance, because with the greatest of respect, no one will be seizing your Pompek thinking it is a Fila, no one will be seizing your Poodle mistaking it for a Fila, mistaking it for a pit bull. The physiology of these dogs is generally well-known, in addition to which, the classes of dogs put in class A are not 45. You do not really have an opportunity to be confused as to how four dogs look, so that I do not know that there is any room for ambiguity in this clause, or any suggestion that an officer may seize a class B dog, let us say, under the mistaken apprehension that it is a class A dog.

I want to refer to 22(2):

“A dog that has been seized and is required to be destroyed in accordance with this Act, shall be destroyed in a manner to cause as little pain as possible...”

Madam Vice-President, this is a clause that brings me great pain, because my dog, had this Act been enforced, would have been very firmly a class B dog.

Hon. Senator: What is his name?

Sen. The Hon. C. Moore: His name was Bo. [*Crosstalk*] Do not get me started.

Hon. Senator: “Like Bo dong there.” [*Laughter*]

Sen. The Hon. C. Moore: Yes, my dog Bo.

Hon. Senator: Bo, what?

Sen. Hinds: Tewarie! Tewarie! [*Laughter*]

Sen. The Hon. C. Moore: Bo. Bo. No! No! B-o, Madam Vice-President, Bo would have been, quite firmly, a class B dog and Bo was a Rottweiler. And Bo found himself in an odd situation where he went looking for love in all the wrong places, and was unfortunately seized upon by the person in whose premises he went looking for a girlfriend, yes. And the unfortunate thing about the already unfortunate incident, Madam Vice-President, is that the first error, that is Bo went looking for love, compounded by the second error, that a homeowner tried, in fact, successfully detained him in a pen was compounded by a third error, that while detained in that pen the police shot and killed the dog.

Now clause 22 would not have allowed that to happen, because clause 22 would have clearly meant that the official would have known that this was not a class A dog to have been destroyed. Clause 22 would not have allowed this to happen, because the constable, again, would have been informed that not all big dogs are dangerous dogs, and not all big dogs are class A dogs, and class A dogs are only four, and by the process of elimination he would have eliminated all four and would not have gone down the regrettable, distressing and unfortunate road of destroying a dog that was enclosed in a pen.

So that, for me, this legislation is quite important. This legislation, as well as it having mandated microchipping, may have permitted a check to be made to see who was the owner of this dog. So, it would have given Bo several bites of the cherry in his unfortunate escapade to look for love. That being said, Madam Vice-President—you know you will always have persons who are dissatisfied by legislation. I have said it here before that there is no perfect legislation. If we always look for a perfect solution, these Houses would do no work, absolutely no work but, of course, our aim is to address mischiefs in existing legislation or the gaps created in the absence of legislation.

In my respectful view, this Bill goes a very long way to allay fears of the community at large—that is the community who perceives itself to be at risk, and in some instances are at real risk from irresponsible dog owners—as well as balancing the interests of persons who are truly responsible and who are given a bad name by the behaviour of some persons who are not. This legislation, in my respectful view, seeks to reintroduce the balance between being a pet owner and being the owner of a pet that has great possibility for destruction, expensive destruction, and extensive physical destruction, perhaps leading to lifetime disability, and we must not lose sight of this.

This legislation is not about poor people getting the best guard dog possible. This legislation is not about guard dogs for poor people or, indeed, guard dogs for rich people. This legislation is about restoring the balance between being a responsible animal owner, discharging your responsibility to the animal and to the society, and in my view it does a good job in striking that balance.

I want to refer to a concern raised across the floor with regard to the matter of the notice to insurers. My friend seemed to be of the view that 28 days' notice to an insurer with regard to injury committed under this Bill, injury that would have been covered by insurance, that that 28 days is somehow unreasonable. But I want to remind my friend of something that he knows, which is that the 28 days mirror the provision in the Motor Vehicle Insurance Act, which mandates that the insurer be given 28 days' notice if you intend to sue under the policy.

I also want to remind my friend that attorneys have taken that notice a step further, and they have merged it with the CPR requirement for a pre-action protocol letter. And so the norm is that when you issue the pre-action protocol letter, you say that this letter constitutes notice under the relevant statute, because you cannot opt out, or you ought not to opt out of the pre-action protocol procedure, nor can you opt out of a statutory requirement, but you can with some fairly creative lawyering, merge both. So that there is no value to pulling out the 28 days from this statute, because you are back at the CPR which says that you must give 28 days' notice of a claim in any event. So that is a matter for my friend to consider. In my respectful view, it is reasonable to give an insurance company 28 days' notice, because giving them no notice at all and going straight into litigation does not necessarily solve your problem. Not only that, it gives the insurance company a reasonable opportunity to avoid going to litigation. So that I do not view that, with the greatest of respect, as something that takes away at all, or mitigates against the true purport of this Bill.

Now, there is the matter that was raised by my friend with regard to the varying fines for assault and battery, and perhaps I missed it because my friend was going at quite a clip, it was quite a challenge keeping up. But if I refer to clause 14(4)(a) and (b), it appears to me, and I am subject to correction, that deals with your assault and the fine is \$50,000, and 14(4)(b) deals with your battery, and the fine is \$100,000, which is what my friend seemed to have been suggesting, that there be a differentiation in the fine between thinking you are going to be bitten and being actually bitten. So I think the law does cater for that matter raised by my friend.

Now, in winding up I want to say this.

Sen. Deyalsingh: Take your time, you have six minutes.

Sen. The Hon. C. Moore: Thank you very much. I want to say this: dog owners, pet owners, animal owners, persons who are responsible for animals under the common law have, for quite a long time, operated under a certain set of rules. We have moved on; the society has moved on; the world has moved on, and it is really time for regulation of persons who own animals, whether they own these animals for sport, whether they own these animals for private pleasure, whether they own these animals for protection, the time has come where the society and where the Government cannot ignore the responsibility that these people have, that owners of certain animals have towards the community at large. And more than a mere responsibility to the community at large, a responsibility that must be balanced with protecting the community and protecting the owners of the animals.

There is a line between those two divides, and I want to suggest, the line is not a particularly narrow one, it is not a knife-edge at all. If one discharges one's responsibility well, one will protect the society and succeed in protecting oneself. I disagree with the proposition that was suggested, that you can have—I think it was put—"you cannot make a dog dangerous". Was that how it was phrased? "You cannot make a dog dangerous", of course you can. If you refuse to provide training, then you are allowing the dog to follow, perhaps, natural propensities.

What the dog may see as playful may in fact be harmful. If you refuse to feed a dog, then, of course, the dog becomes irritable, it becomes agitated, and anything that is edible is going to be a source of distress—[*Laughter*]—and dogs are not carnivores. Dogs are not carnivores. Dogs do not wake up one morning and decide to eat the family. Dogs have been domesticated. They are not going out and killing sheep, and so on, that is not the society in which we live. So that when you do not feed your animal, what happens, Madam Vice-President, is that your animal goes foraging for food, and in that forage it encounters persons who are between it and food, and so it tries to get to the food before the threat. That is what really happens.

So that I think we have to acknowledge our role in creating dangerous animals, not necessarily by training them to attack, or, you know, baiting them or inciting them, but by simply depriving animals of care we can create dangerous animals that wreak havoc on the society. The time has come for us to accept our responsibility, and move really with one mind into the current dispensation of the interaction between animals and humans, because, again, we domesticated these animals. Dogs have benefited from hundreds of years, thousands of years of domestication. The fact is, they cannot live without us.

The evidence suggests that if you release your dogs they would not go feral, they would die. Unlike your cats, your cats would survive. They would actually regress and become feral cats, and there are enormous colonies of feral cats all over the world, but dogs are different. Dogs actually require care from human beings. So that we have created a situation over the millennia and now it is our turn to be responsible to the situation that we have created, to be responsible to our animals, and to be responsible, by extension, to the society in which we put those animals. Madam Vice-President, I thank you. [*Desk thumping*]

Madam Vice-President: Hon. Senators, it is nearly 4:30 p.m., and we will take the tea break and resume at 5:15 p.m. This sitting is now suspended until 5:15 p.m.

4.30 p.m.: *Sitting suspended.*

5.15 p.m.: *Sitting resumed.*

Madam Vice-President: Sen. Deyalsingh. [*Desk thumping*]

Sen. Terrence Deyalsingh: Thank you, Madam Vice-President, and thank you Sen. George for your desk thumping. [*Desk thumping*] Thank you, Sen. Moore, Sen. Sylvester, Sen. Lambert and Sen. Mohammed, thank you.

Sen. George: You are welcome.

Sen. Singh: You and you alone.

Sen. George: You see who your friends are.

Sen. T. Deyalsingh: Madam Vice-President, I thank you for the opportunity to contribute on the Dog Control Bill, 2013. I must confess that I panicked a bit when Sen. Subhas Ramkhelawan and Sen. Christlyn Moore started their contributions because they both started their contributions with reference to insurance which was going to be the jewel in my contributory crown today.

Hon. Senator: Wooooo!

Sen. T. Deyalsingh: But luckily they did not go down the path that I had intended.

Hon. Senator: “Dratt!”

Sen. T. Deyalsingh: This Bill is a needed Bill, as Sen. Sen. Al-Rawi said in his contribution, and we have every intention of supporting the purpose of this Bill. It is needed. It is required. So I want to make it clear that my contribution is not meant in any way to derail the process, but mainly to make the Bill a better Bill.

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The Bill in its current form is not perfect and we were hoping that the Government will be amenable to some suggestions as far as amendments in the committee stage; as both Sen. Al-Rawi has indicated and Sen. Ramkhelawan.

No Bill, in my three years or coming up to three years in the Senate, has provoked as much public reaction as this Bill has. [*Crosstalk*]

Hon. Senator: Section 34 has.

Sen. T. Deyalsingh: Well let me explain; excluding section 34.

Hon. Senator: Awh.

[MR. PRESIDING OFFICER *in the chair*]

Sen. T. Deyalsingh: This Bill, Mr. Presiding Officer, provoked individuals, my neighbours, friends, to sometimes approach me, berate me—accuse me because the Bill was supported in the Lower House—of supporting bad legislation and this was coming from mainly people who love dogs and who have pit bulls. It is quite good to see the public engaged in legislation like this. I just wish they could be engaged in all pieces of legislation—[*Interruption*]

Hon. Senator: Yeah.

Sen. T. Deyalsingh:—to the same extent. So before I get in, Mr. Presiding Officer, let me state my interests, as all persons have done. Like Sen. Christlyn Moore, I am a dog lover. I was the owner of a most magnificent beast, a Rottweiler, which died of stomach cancer, but a magnificent beast.

Sen. George: For lack of care.

Sen. T. Deyalsingh: I will give you my other piece of public interest which I must declare. As a child I was bitten by a pot hound. On my right thigh and I have the scars to prove it.

Sen. Singh: That explains everything. [*Laughter*]

Sen. T. Deyalsingh: That explains it. [*Crosstalk*] So this Bill really brings out the best in us. So I want to get straight into my delivery.

My main concern with this piece of legislation has to deal with clauses 12 and 13 which deal with insurance. Sen. Al-Rawi would have gone through the Bill in detail and outlined his concerns with individual clauses. Other persons on this Bench will be speaking to specific issues, and I am speaking specifically to the issue of insurance and I hope my words find favour with the hon. Attorney General who piloted the Bill, will find favour with the hon. Minister of Finance

and the Economy, Mr. Larry Howai, because the issue of insurance dovetails with his role as Minister of Finance and the Economy overseeing the Central Bank of Trinidad and Tobago under which the Supervisor of Insurance sits. I am hoping that the Leader of Government Business really listens to what I am saying in the context of the three sides wishing to get together to pass good legislation.

Sen. Al-Rawi: Yeah man.

Sen. T. Deyalsingh: The first thing I have to say, Mr. Presiding Officer, is that this Bill, before proclamation, is going to require serious public education. It is one of few pieces of legislation that we are tending to pass where the offences carry both a fine and imprisonment at the same time; it is not or. And I think dog owners need to be aware of the severity, and justly so, of some of these fines.

It is not a matter of going before a magistrate or before a court and the judge or the magistrate using judicial discretion to give you a fine in lieu of a jail sentence. Many of the fines call for both a fine in terms of dollars and cents and jail time; five years, 10 years. So a serious public education campaign has to be launched.

Sen. Al-Rawi: Yep.

Sen. T. Deyalsingh: And I want to lend my voice to that today and have it on *Hansard* that the Opposition is calling for a serious, serious public education campaign because of the severity of fines.

In dealing with the issue of insurance, Mr. Presiding Officer, I am not an insurance expert, let me say that up front, but I have been able to research the issue over the past couple of days. My understanding is, and Sen. Moore spoke to it, that most people can get insurance coverage under their existing homeowners insurance, where you can get coverage, I believe, for amounts ranging from \$100,000 to \$250,000 to \$300,000, and this is included under the public and personal liability part of your homeowners' insurance. This is good for the persons who actually own their homes and will be owning some of these class A dogs, especially if you have home insurance because of mortgage commitments. The banks are not going to lend you money unless you have insurance.

But the lacuna in this whole thing, Mr. Presiding Officer, is categories of persons who already own class A dogs, who may wish to own class A dogs and who cannot access insurance under their homeowners' policy simply because they are not homeowners. They may own their houses free of mortgage, and therefore do not have their homes insured. They may have their HDC homes under which

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the insurance is already covered and they do not have their individual homeowners' insurance. What about the issue of tenants who may want to own a class A dog, but do not own the property they are renting; they are tenants by lease or by licence. And then I am coming to a fourth category which will give us some trouble under clause 14 of the Bill dealing with households.

So what is happening now, we have a piece of legislation which is going to legislate that certain persons who do not have homeowners' insurance now have to acquire insurance for their class A dogs. My question is, and this is where I am trying to engage the hon. Minister of Finance and the Economy, as I have said he has responsibility for the Central Bank, under which you have the Supervisor of Insurance; is the general insurance industry sufficiently geared? Have they been consulted with? I know when the hon. Attorney General was piloting, he called out all the associations that they consulted with and one was ATTIC. But in that consultation did the insurance companies via ATTIC make it clear to the Government that they are, in fact, seized of the need and the opportunity to have special, let us call it, dog insurance policies as a separate product?

Now, the answer as far as I am aware, in speaking to people in the insurance industry, is that the answer is no. I stand corrected. In speaking to persons in the insurance industry at both a high level, and I will tell you I did call a couple insurance companies myself as a regular person off the street, asking, put me on to your general insurance department. So after you pressed four and five and you hear the telephone music, and about 10 minutes passes—so that TSTT could make some extra money—you will get on to a sales person. I say look, I am renting a premise. I own a pit bull. I need to buy insurance because there is an Act coming. Do you all sell this type of insurance to insure my pit bull?

Sen. Ramnarine: For pit bull, press one.

Sen. T. Deyalsingh: For pit bull, press one. For Doberman, press two; I wish it was. And the answer, Mr. Presiding Officer, is no. Of the three major insurance companies I called, the answer is no. There is none.

But now this Bill, as Sen. Devant says, might create a market; and that is the question. If it is creating a market and the Act is to come into force by proclamation, my question to the Government is: would the Bill be proclaimed after or before the insurance companies have built their products?

In building their products the insurance companies in Trinidad and Tobago can do one of two things. They can construct a new policy product from scratch or they can import a model from abroad and tinker with it to fit local conditions.

Again, in speaking to the senior insurance persons at this time I came up with some difficulties, and this is why I want to direct some remarks to the hon. Minister of Finance and the Economy because he would have a role to play with this. General insurance, from what I understand in speaking to people, if they have to build a new product to accommodate attacks by dogs—class A dogs—they are going to look at two parameters: the frequency of claims and the severity of claims based on the attack, whether it is a bite attack, whether it is one arm being ripped off, or one eye being ripped off. And to construct these policy products the local insurance fraternity is going to need data. They are going to need data on the frequency of attacks. This is going to be driven by the Central Statistical Office (CSO). Is the CSO sufficiently aware of their role now in providing data?

We are going to need data from hospital admissions on dog attacks to help the insurance companies build their products and price their products. We are going to need data from police reports. So the question is: if it is the local insurance industry has to build their new products, are we seized with the data that they are going to need? These are questions that need to be asked before this Bill is proclaimed.

So the first question that needs to be addressed: is this Bill going to be proclaimed without the insurance companies having the products available for the classes of persons I have outlined who do not have coverage under homeowners' policies?

5.30 p.m.

And the question is, these pockets of data have to be fed to the Central Bank to determine now the new statutory reserves of these insurance companies. This issue is wider than we think. What will the Central Bank of Trinidad and Tobago tell each general insurance company that wishes to offer these products? What is it going to tell these companies as to their new requirements under the statutory fund? Are they going to have to put in 5 per cent more, 10 per cent more, 15 per cent more? Because this will then feed into what I think the hon. Minister of Finance and the Economy referred to here once as QUIS, Quantum Impact Studies, because if we do not consider what is going to happen, we do not know if the industry is ready to cope with this new type of product.

The industry will also have to cope with the issue of lapse of payment of policies. They already have models to deal with lapse of payment of life insurance policies because they have the experience. They will have to have their models to feed into their quantum impact studies about either increasing trends in attacks, decreasing trends of attacks, frequency of attacks and severity of attacks. So, I am laying out the groundwork to show the population and to show the Government while we richly endorse the purpose of this legislation, the proclamation of this

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legislation places a burden on the local insurance industry which places a burden on the person who wishes to buy the insurance product. And if the insurance product is not available what is the position of those dog owners?

Scenario two, if it is the local general insurance industry does not build the product from locally driven data; because the data may not be available, is the importation of a foreign model from the United States, England, because we do not have the indigenous data residing here? But there are always dangers, Mr. Presiding Officer, with importing models which are not relevant to local conditions, but we may not have a choice. These are the choices the local insurance fraternity has to deal with. They will have to talk to their reinsurers, which is another knock-on problem. How do the reinsurers of our local insurance industry treat with this matter?

So, if it is we import a local model, what is going to happen is that the local insurance industry is going to have to price their products to consider a buffer so that they could make money. Because at the end of the day this is a new product that they are going to be launching and they are not going to launch at a loss. They may even decide not to offer coverage for certain breeds of class A dogs, which is a problem. So, they may say, "Okay, I will do coverage for the Rottweiler but I will not do coverage for the pit bull." But we already have a population of pit bull dogs in Trinidad and Tobago, so this is another problem that I am hoping the Government is looking at. You cannot compel the insurance industry by law to say you must insure all class A dogs. They will insure dogs at their discretion. If they feel the risk of any particular dog is too high they will simply not insure it; it is the same way they will choose or choose not to insure your car. You cannot compel a company to insure your car, they have discretion, especially for old cars. They will use the same argument for specific breeds of dogs.

So, this is the problem we are going to have, and if it is we import a model, let us say a model from the United States where there is a 0.1 per cent chance of a dog incident happening and we import that model into Trinidad and Tobago, what they are going to do is say, "You see this, I have to make some money, we have no data, you know what I am going to do, I am going to double that. I am going to assume it is a 0.2 per cent chance of this incident happening and price my product accordingly." So, I am just asking the general question, is the Central Bank of Trinidad and Tobago sufficiently aware of these issues? And bearing in mind that we have a new Insurance Bill which has gone before a joint select committee, where they are dealing with specific issues of life insurance, my question is now,

should this now be included in the terms of reference for the work of that joint select committee to look specifically at the legislation governing the insurance for these dogs? So, I throw that out for the hon. Minister of Finance and the Economy, who I believe will be chairing that joint select committee, to look at.

You see, Mr. Presiding Officer, again, I want to reiterate, we are not here to shoot down this piece of legislation. I want to be crystal clear on that, but we are here to lend a second look at it, to identify the pitfalls, to identify the problems, and I always have problems pronouncing this word but I will try my best. How are we going to operationalize this piece of legislation? [*Desk thumping*] Well done. I got it. Normally when I make the error Sen. Subhas Ramkhelawan would say that is one try. That is one, two, but I got it right the first time.

How are we going to operationalize this piece of legislation? It poses a particular problem with the proclamation date, so I want to have it on *Hansard* clear as possible, that this Bill should not be proclaimed until the insurance industry has the necessary insurance products in place so that owners of class A dogs, who do not have coverage under their current homeowners' policy like: tenants, HDC owners, group insurance, that they would have access to insurance. Because this Bill, in my humble view, is predicated on the assumption that everyone can purchase or get insurance coverage under their homeowners' insurance. My investigation tells me it is not so. So, before the Bill is proclaimed there has to be products available to those classes of persons I have spoken about.

The issue of insurance goes a bit further, Mr. Presiding Officer. Is it one policy per dog? That is the impression I get from looking at the legislation. Let us raise not a hypothetical situation but a real situation as even raised by the hon. Attorney General, Sen. The Hon. Anand Ramlogan SC, when he was giving us examples of dog attacks. What happens if two dogs attack one person? There are now going to be two claims for the same incident? The problem is, the insurance companies, especially if you have one homeowner with two dogs, "Dog A", Bo, like Sen. Christlyn Moore's dog insured with "Company A" and my dog—well, my dog that died was called "Quick Silver" and Quick Silver is insured with "Company B". So, one homeowner, two dogs, two insurance policies, attack the same person, we will now have to go down the road of forensic science to determine which dog administered the fatal bite. [*Interruption*] I am just alerting—[*Interruption*]—I am just alerting on some of the practical—[*Interruption*]—Sen. George, if you do not like what I am saying I can give way so you can—[*Interruption*]

Sen. George: Go ahead and talk, nah man.

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Sen. T. Deyalsingh: Thank you very much.

Sen. George: I could *sotto voce*, you know.

Sen. T. Deyalsingh: So, these are some of the practical problems we are going—*[Interruption]*—Mr. Presiding Officer, could I have some protection from Sen. George, please?

Sen. George: Protection from me, I am saying something *sotto voce*.

Mr. Presiding Officer: Continue.

Sen. T. Deyalsingh: Thank you, Mr. Presiding Officer. So, if it is we have this scenario the insurance companies are going to have—*[Interruption]* Mr. Presiding Officer, could Sen. George please pay me the courtesy of being silent *[Cellphone rings]* and take off his phone?

Mr. Presiding Officer: Ease him up, “nah”.

Sen. T. Deyalsingh: Thank you, Mr. Presiding Officer. Because you see the liability as it currently stands under this Bill is \$250,000 per dog. So if you have multiple dogs, multiple policies, the insurance companies are going to look at this issue.

And the reason I raise that, Mr. Presiding Officer, dovetails with the same argument I had earlier. It affects the statutory requirements that these general insurance companies are going to have to place with the Central Bank. These are real issues as I understand it by talking to persons within the insurance industry.

Another real issue, Mr. Presiding Officer, you know when we take out life insurance; if you lose one eye you get paid—if you take out a policy for \$100, let us say, and you lose one eye you get paid \$25, you lose one arm and so on. Does the insurance industry envisage some sort of scale so that if a dog attacks you and you lose one eye but you are insured for \$250 that you get paid x amount, you lose one arm—I am just raising the issues that will go into the construction of these products so that the Bill should not be proclaimed before the products have been built. That is my main argument. I am throwing out real life scenarios that the insurance industry will be seized with in building their products, and I am scared for early proclamation of the Act if the insurance products are not built, are not available.

The insurance companies, as I understand it, will have a particular problem dealing with packs of dogs. The coverage for a single dog or two dogs and how two dogs behave is totally different to how five dogs behave.

In human behaviour we call it “mob mentality”. You and I, Mr. Presiding Officer, seized of our own good sense may behave in a particular way in small groups, but when we are in a mob of people we lose our rational thinking and we do things which we would not ordinarily do; the same applies for dogs working in packs and the insurance companies are going to have to be aware of this. And this brings me, Mr. Presiding Officer, into the realm of what sort of factors or what the insurance fraternity calls, what sort of rating factors that the insurance industry is going to look at to develop their products and, more importantly, price their products, because product development is one thing, but the products have to be priced in a certain way.

So they are going to look at the dogs and pack mentality. Would they look at that as a different risk, the same type of dog but being owned by two different types of owners? So, let us take the same Rottweiler, one being owned by a little 83-year-old lady who only drives her car on Sundays versus the 26-year-old male. Would the insurance companies not only consider the characteristics of the dog but also the characteristics of the dog owner?

From my investigation into this matter these are some of the rating issues that are going to be looked at. So, you could have the same type of dog attracting different insurance premiums based on the characteristics of the owners. These are things that we need to consider before proclamation. Question, Mr. Presiding Officer, should the gender of a dog be a factor for the insurance company in pricing policies? We all know that a female dog when they have pups is a totally different animal—no pun intended—to when it does not have pups. The same dog when it does not have its puppies to guard, most playful amenable soul, but the minute it gives birth, if you do not know that dog, do not go near the dog puppies.

So, the implications of the Bill are far-reaching. The Bill may be relatively simple, but the implications need to be thought out. Again, rating factor to consider, locality. Should an owner who has a pit bull in a house surrounded by 10 acres of land and planting garden pay the same premium for the same type of dog in a residential neighbourhood? These are all the factors.

5.45 p.m.

The question I want to ask the Government, whoever feels competent to answer it: could anyone stand and tell us, is there any approximation of premium cost per \$1,000 of insurance so that the public outside there, listening to this debate can say, well, okay, I am beginning to get an idea by listening to me about the needs for insurance; I am beginning to get an idea of how the insurance companies may build their products; I am beginning to get an idea of how they

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may price their products? What they may want to know, dog owners that is—the same way we say if you insure a car, you pay X dollars per \$10,000 or a house X dollars per \$100,000.

Is anyone on the Government side seized with the information, rough data, that could tell the population, okay, if I want to ensure a pit bull for \$300,000, it is \$10 per 1,000? I think that will go a long way in the public education campaign I spoke about at the start of my contribution because the public education campaign is not only about the rights and responsibilities and duties of a dog owner, but they must also be aware of what their financial obligations are before we proclaim the Act. And that is why again, and I will reiterate because I want it on the *Hansard*, ad nauseam, that before this Bill is proclaimed, these issues in my respectful humble view need to be worked out.

Mr. Presiding Officer, my last bit of contribution and other Members will speak on it more at length, but I will just raise the issue here because, again, it speaks of operationalization issue. I got it right again, Mr. Presiding Officer, for the third time. It is the question of the local authority. The local authority envisaged under this piece of legislation is being given new tasks and onerous tasks. It has to do with how the councils of municipal corporations are to operate, and the THA. They are charged with the registration of dogs within six months, the issue of licences, maintaining a register and database, issue of the metal badge, approval of persons, inspections of persons. Other persons on this Bench will speak to those issues. I just raise them as a flag, again, for the proclamation. Are we going to proclaim this before all these issues have been put in place?

Mr. Presiding Officer, my last little point—and I think it is a point which Sen. Al-Rawi may have missed in his normal examination of the legislation—deals with clause 14(2) of the Bill, which can be found on page 12 under the side heading “Prohibition from certain places”, and if you permit me to read clause 14(2):

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

There is a particular problem as we see it on this side, with the use of the word “household” in the local context.

Mr. Presiding Officer, what is a household in Trinidad and Tobago? I think I understand what the Bill is trying to say, that if you live in a gated community—

Sen. Al-Rawi: There is no definition.

Sen. T. Deyalsingh: Yes, there is no definition. What I think the Bill might be trying to say, is like if you live in a gated community, with condominiums—I could be wrong, but how do we treat the term “household” in a Trinidad and Tobago context? You could have an enclosed piece of land with mother and father—and we know how we do it in Trinidad and Tobago. You marry off the son—

Hon. Senator: You could live in Mohammed Ville.

Sen. T. Deyalsingh: Yes, Mohammed Ville is a good example. Mohammed Ville where Sen. Jamal Mohammed lives, that whole street is a household. [*Laughter*] No, and it is true.

Sen. Al-Rawi: It is everybody.

Sen. T. Deyalsingh: Every Mohammed, parents, “nennen”—and that is how many families live in Trinidad and Tobago.

So you could have an enclosed piece of land; mother and father; son gets married, they build a little house there, an annex; next daughter get married and that is how we tend to do it. Is it that this Bill is saying that a dangerous class A dog is barred from that type of premise? What about the household of one house where upstairs and downstairs are considered separate households, or two apartments within one household where blood relatives live? So the issue of households in the Trinidad and Tobago context, because of our culture, is going to pose a particular problem. So that is another issue which I think needs to be addressed.

Mr. Presiding Officer, I did promise to keep my contribution short. I dwelt only on the issue of insurance. I feel that I gave a good exposé of what will happen if we do not have these insurance products. I want to reiterate there will be classes of persons who cannot get coverage under their normal homeowners’ policies. I would like to hear from the Government’s side, whoever speaks next, what is the solution. I want to hear whether this Bill will be proclaimed without the local insurance industry having coverage for specific breeds. I would like to hear what is the position if the local industry refuses to insure a specific breed.

Mr. Presiding Officer, with those very few words, I thank you for your indulgence. [*Desk thumping*]

Mr. Presiding Officer: Sen. Baptiste-Mc Knight.

Sen. Corinne Baptiste-Mc Knight: I thank you, Mr. Presiding Officer, for giving me the opportunity to involve myself in this Dog Control Bill.

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I listened very carefully to the Attorney General as he presented the Bill, and what I took away from his statements is that the primary purpose of the Bill is to protect the citizenry from dangerous dogs, to promote responsible dog ownership, and mitigate inconsiderate behaviour of some dog owners. Mr. Presiding Officer, I can find nothing that I cannot warmly welcome in those intentions. However, going through this Bill, I find it difficult to equate what I find in the Bill with what is presented as the intention of the Bill. Now, responsible dog ownership cannot only be the province of people who own certain types of dogs. This Bill concentrates on four dogs, three of which are not that well known in the community, but over the past years, I am sure I am not the only one who has been aware of fatal incidents involving Rottweilers, Dobermanns, German Shepherds and other large breed dogs.

Now, in addition to that, where I live in that neighbourhood, there is a little pompek that terrorizes people who are walking early in the morning, and on more than one occasion walkers have taken refuge in my yard because the gate was easily opened. They can come in to keep the dog out. Now, this is a little pompek and on each occasion the victim ended up at Westshore, but that animal is not included in those from which I am to be protected and they tell me that this Bill is to protect me. So I feel quite vulnerable. That animal would not be required to be registered, and the family harbouring it is not required to have a licence.

Now, should owners of similar pets, for want of a better word, not be as easily identified as the owner of what this Bill calls a class A dog? The fact is that under this legislation that dog leaving its accommodation and attacking someone in the street, that dog cannot be identified, and hence no one knows who to hold responsible. Now, I do not think that that is really the purpose of this particular bit of legislation. I feel that the purpose of legislation is to establish equity, and there is no equity here. If your dog is not a class A dog and it happens to create a problem, there is no way of identifying the owner of that dog. That is not right.

I have another general problem with this legislation, and I listened carefully, again, to the Attorney General and I may have missed it, but in enumerating the stakeholders with whom this legislation was discussed at various times, I noted that the veterinary association was not mentioned among those people. Now, I, and I guess many of the citizenry would be aware that there are vets in the Cabinet and in the hierarchy of the PP, but I still think that the veterinary association could have had some inputs into this legislation.

Now, looking at the legislation itself, something grabs me and it is something that I know that the veterinary association has mentioned, and it is the fact that there is no authority that is charged with the responsibility of overseeing the

implementation of this legislation. There are various things that ought to be done, that have to be done for which the local government authorities would be responsible, for which the Ministry do not know which one—because that is not identified here—would be responsible. But we have recently done the Bill to establish the Trinidad and Tobago Anti-Doping Organization (TADO), and there are about a hundred different bodies created, all to oversee certain sections of that Bill. But in something like this that requires an authority—now what will that authority do?

6.00 p.m.

To my mind, there is the problem of overseeing and monitoring the application of the regulations and the implementation of the legislation. Somebody has to set the training and equipment requirements and the qualification for dog trainers. Somebody has to oversee the training for the local government—I call them inspectors; these people who are supposed to visit the domains of these dangerous dogs to ensure that all the conditions set forth in the regulations are being adhered to. Then, there would be dog handlers. Somebody would have to ensure that they are properly trained. If they are going to be going into people's places to check dogs, they ought to be able to handle dogs. Then, there is overseeing the maintenance of the databases and the registers that have to be kept.

I have been told that there is no specific breed standard for a pit bull. There is no known DNA characteristic for a pit bull. So that in order to have this legislation make sense, somebody has to establish what is meant by a pit bull. Because, without that, if a dog looks like a pit bull and somebody says it is a pit bull, and when they take action against the dog, the owner can turn up with breed papers that say this is a Staffordshire Terrier, and it is an American something—an American bully—and it does not have the characteristics that are identified as those of a pit bull, there is a problem. So that “pit bull” has to be defined, because there is no international agency that creates papers for an animal called a pit bull.

I feel too that listening to this discussion, there needs to be an agency somewhere that is going to be requiring information on the behaviour and the incidents of dog bites, of other vicious attacks. Because this is the sort of information that one is going to need in order to keep track of this legislation and how it would need to be revised if it is that more class A dogs have to be created.

Then there is the matter of the management of pounds, kennels and quarantine facilities. Now, if an animal has to be taken from its owner pending a court case, I do not know whether the idea is that the animal is going to be destroyed immediately. If it is not, somebody has to maintain a facility in which this animal will be kept in the fashion which the regulation stipulates that it should be kept.

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But, let me go on to the actual Bill itself with which I have questions. They might sound problematic but they are questions. I note on page 2 that there is a definition of “kennel”. It means any premises where more than one class A dog is kept. So that all of the kennels of security firms, dog breeders, people who bought dogs, unless they are specified for class A dogs or they have more than five class A dogs at a time, they are not kennels. Sounds very strange to me. I will not repeat what Sen. Al-Rawi said because apart from the very legalistic part of his contribution, I agree with a lot of what he stated.

I want to have a look at clause 5. Now, clause 5 talks about the control of dogs. I want to get it clear that except for 5(2), everything here applies to every dog, once it is dog, and according to the definition of dog, that includes “bitch,” all of them, including class A, are subject to 5 and 5(a). Clause 5(2) specifies the class A dog, and I do not have a problem with that except where it talks about in (2)(c): completing a course of training. Here again, underscores my requirement for an authority. Who is to certify the type of training that is considered acceptable? While an owner is attending a dog, does this certificate or this dog training licence or whatever, is this going to be a microchip on the owner so that at any moment, it can be identified? Just a question. I want to know how 5(a)—responsibility for the care of the dog—is going to be enforced. I like the idea of having it there but I want to know how it will be enforced.

Let me turn to clause 6: the registration. It says a class A dog shall be registered in the prescribed form. I would like to know that in addition to everything that a dog owner has to provide at the moment of registration: a certificate from the vet saying that this dog has been vaccinated, that this dog is in good health, because dogs spread leptospirosis and other health hazards that are dangerous to human beings. There is no point registering a dog unless you know—if what you are interested in is responsible ownership, you have to ensure that the dog is healthy.

I want to move on to clause 7 and I note at clause 7(4) that the Ministry, whichever one it is, shall establish and maintain a database, and that database must contain such information as prescribed under clause 28. Now, I would like somebody who is going to get up and speak on behalf of the Government to identify for me in clause 28 exactly what information referring to the maintenance of this database is included there. I might not have had on my glasses but I did not find it.

In clause 7(5)(a)(iv), here again, it says:

“a certificate issued by a veterinary surgeon certifying that the dog is a class A dog.”

And later on, this vet is subject to heavy fines if the information provided is wrong. But the fact is that there being no specific breed standard, as pit bull in particular, I find it very weird. I asked and I was told that no part of the veterinary training involves physical and visual identification of dogs by breed, so I would like to have that looked at again.

Clause 7(10) says that the moneys received shall be retained by the local authority for purposes of administering this Act. Well, that is indeed hilarious because, in the other place, I was listening, and the number of dogs—pit bulls—that would be subject to registration ranged between 100,000 and 800,000. Let us take a mean, somewhere in there, and let us say it is 500,000, which I doubt, at \$1,000 each, we are talking about \$500 million and this is not a money Bill! You realize that that is more money than Government was collecting from property tax?

Hon. Senator: Hmmm! [*Laughter*]

Sen. C. Baptiste-Mc Knight: But assuming, knowing my people, that 400,000 of the 500,000 would probably let the pit bulls go, we would be talking only about \$100 million. But that is a lot of money to use in administering this Act without an overarching authority to literally oversee how that money is going to be spent to provide the facilities, the staffing, et cetera.

Now, clause 8 says that a responsible owner:

“...who is unable to fulfil the requirements...shall notify the Ministry...”

Here again, which Ministry? And it shall be destroyed.

[MADAM VICE-PRESIDENT *in the Chair*]

Question: when a dog is destroyed, is it incinerated? I think we are going to have some serious dog cemeteries or crematoria for all of these dogs.

Clause 10 says that:

“A person who keeps a class A dog which is not licensed in accordance with this Act...”

Now, there is not a window of opportunity beyond the six months after the Bill becomes law for an owner to register a dog, but there is a minimum age below which dogs are not vaccinated, et cetera, treated by the vet, but I do not see any provision, any leeway being allowed in this Bill for that period of time in the dog’s life.

Sen. Deyalsingh dealt with the matter of insurance, and all I would add to that is that my inquiries provided the same information that his did: that an owner, a homeowner, would be granted the privilege of the dog insurance in addition to the home insurance so that if you do not have a home, tough!

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Clause 12(4) says that:

“...the Court shall—”

Now, everywhere else it says “the court may” and I am wondering whether it is a slip of the pen here, that the court is not being given the usual language.

And then I look at 13(4) to (6) and I wonder, all that is being requested here, should this not already be on record wherever the dog is registered? Because it seems to me that under 7(2), all of this information would already be lodged.

In clause 14(6):

“Where a class A dog enters onto private premises, the owner or occupier of those premises may destroy the dog.”

Does that allow the owner or occupier to have the dog destroyed, or does it give that prerogative solely to the owner or occupier? Because if a dog has to be shot on my premises and I “cyah” shoot and I “doh” have a gun, God knows I am going to call my friend who is a straight shot, to take the dog out. But I would not want this clause to mean that my friend is guilty of murdering a dog but if I did it, it would be okay.

Now, 16(2) is very interesting. Clause 16(1) says that the owner of a class A dog must be trained by a certified dog trainer. Who is to certify this dog trainer? It is very important. What authority is going to determine what consists of certification?

A class B dog would only need to have the dog trained after the dog has committed a crime. That does not make sense. That is not encouraging responsible ownership. This is what makes me think that there ought to be one set of regulations for all dogs. If you want to make a distinction, make the distinction in the amount that you charge for registration. But what is the point? A class B dog mauls my child and I can keep the dog, but there is nothing on the dog to identify the owner. You think anybody in their right mind who owns that dog is going to accept responsibility for the dog when the dog has already created a problem? That does not make sense and I hope that it would be changed.

Clause 19: I think where it talks about injury by a class A dog, this should be injury by a dog, period. Because, whether it is a class A dog or a dustbin terrier, there is injury; there should be some recourse.

Clause 20: I guess the way that 20 is written it can apply to all dogs, but 19 should definitely not be restricted to class A dogs.

Now, 21(1)(a) and (b), the owner has no recourse, but for (c), the owner can appeal. Should not the owner be given the right of appeal for all of these? I would think and I would hope. Seizure and destruction, I think this was dealt with already and all I would say is I agree with it.

Under clause 25, I am wondering whether facilities are available. Do existing dog pounds meet the requirements of what I am beginning to understand, are the posh surroundings that class A dogs need?

Perhaps, I should have explained myself beforehand. I am probably in a minority here. I am not a dog lover.

Sen. Cudjoe: You have company.

Sen. C. Baptiste-Mc Knight: But I understand that they should be humanely treated. [*Laughter*]

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam Vice-President, I beg to move that this Senate continue to sit until completion of the business at hand on the Order Paper.

Question put and agreed to.

DOG CONTROL BILL, 2013

Madam Vice-President: Senator, Mc Knight.

Sen. C. Baptiste-Mc Knight: Thank you. Clause 26, I would want confirmation that this applies to all dogs and not specifically class A. And, 26(a) allows the Minister to change the schedule and move class B dogs. But I got to be very honest and say that when I hear people get up one after the other and say: "I have a Rottweiler. I have a German Shepherd. I have a Dobermann" even though these dogs are known to have their odd moments off, I am not very sanguine about the Minister being in favour of putting these dogs from class B into class A. So that I would like him now to do away with the class distinction and let us deal with dogs, all of them, a generic.

As far as the kennels are concerned, as I have said before, I cannot understand that a kennel is a place that only holds Dobermanns and the odd Japanese Tosa and whatnot. A kennel is any place that you have many dogs.

Clause 28, I have already mentioned that what is promised in 7(4) is absent in 28, so it would need to be put in.

I would just like, in closing, to reiterate that this Bill fails to protect the general public from irresponsible dog owners, whether they be category A or category B dogs and there is a crying need for some authority that could be seen

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and known to have the responsibility for ensuring that this Bill, when it is tidied up and properly passed, is properly implemented so that it encourages responsible ownership and does not just target a few categories of dogs, but is really and truly meant for one dog, which cannot be easily identified in proper dog breeding circles. I thank you. [*Desk thumping*]

Sen. Penelope Beckles: Thank you very much, Madam Vice-President. I am grateful for the opportunity to make this contribution on the Dog Control Bill, 2013. Having been a local government councillor, there are particular concerns that I would like to discuss. My concern is really going to deal with the whole issue of local government and the difficulty, as I see it, in implementing this Bill.

As it stands now, there are some corporations that have responsibility, as you know, for dealing with, what we call stray dogs. I start dealing with that because I think that gives us a little indication that when we are taking this to another level, how they presently deal with the stray dogs and dead dogs and what would be needed to bring them up to the level to deal with what is a very important issue, a very critical issue, and one that has divided the population a bit, in the sense of those who, as we say, are dog lovers and those who are not dog lovers and those who have, in a sense, gotten involved with dogs, not really because they love dogs, but a number of persons have acquired dogs because of the security issue in Trinidad and Tobago.

A number of people would tell you that they only feel safe because they have acquired these class A dogs in particular and there is this feeling that once you have those dogs on a compound you are pretty certain that anybody who is passing by your home would not even think about entering your home and I think that is part of the discussion that we may not have paid a lot of attention to. But when you talk to a number of persons, I think that is what has caused the breeding, the experimentation and a number of other things, as well as there are those who are genuinely dog lovers.

But, Madam Vice-President, a number of the corporations—as I said, I have had responsibility for looking after stray dogs. From time to time, those of us who live in different parts of the country, it does not matter whether it is Penal, Barrackpore, parts of Port of Spain or in the east, or as far as Matelot, Marac or Cedros, in some of these areas they have ignored the issue of stray dogs. I think the focus mainly has been in the cities and some of the regional corporations. It is as though it is not relevant for those areas, but the point about it is you have many stray dogs and there are some people in those rural communities who have a good idea as to where the stray dogs live. As a matter of fact, some stray dogs, if I

might use the term, are so bold that they know where to go and sleep in the night. So you get up and you see them under your house every morning and you have to run them and they come back in the night.

I make that point only because I am going to deal with the issue of whether or not a number of these corporations are equipped to deal with this because, too often when we pass legislation we tend to ignore the challenges that many or rural corporations, in particular, face in the implementation of legislation and we do not acknowledge and accept that the corporations in those places have an equal responsibility to deal with legislation and ought to be given the appropriate resources to do so.

6.30 p.m.

So that, Madam Vice-President, if we were to examine, for example, how many corporations have what we call dog pounds and that is where you store a number of dogs after they have been collected, we know that areas such as Mayaro, Penal, Siparia—and I am using those three as examples—they have no dog pounds, so they are not really collecting anything.

There are a number of other corporations that have dog pounds, particularly the cities, they have dog pounds and, if I may use Point Fortin as an example, where there was an allocation of some \$50,000 in this fiscal year for dealing with the collection of stray dogs, they have a unit that is set up, but it would be interesting to visit some of these corporations to see how these dogs are taken care of. We talk in the legislation about:

“Every person who keeps a dog shall provide the dog or cause it to be provided with adequate and appropriate care, food, water, shelter, exercise, attention and veterinary care as may be required to meet the needs of the dog.”

That is clause 5A. Now the fact is that if you do not do this, subject to correction, there is not any penalty. That is a statement that is made and it is a very laudable statement, but like many other pieces of legislation there is no penalty attached for the failure to do so.

Now, the Bill says that the corporation can use moneys and that is at, I think it is 7(10), if I am not incorrect.

“Notwithstanding any other written law, all monies received in respect of licences granted under this Act shall be retained by the local authority for the purposes of administering this Act.”

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Now, Madam Vice-President, when we pass legislation, one expects that one very important issue is to quantify what is the cost to implement this legislation, what—is it seven? Yes, 7(10)—to quantify what it would cost to implement this legislation so that some of the challenges that are faced by local government corporations as they relate to funding will not arise. [*Desk thumping*]

Sen. Hinds: That is forward thinking. They do not do that.

Sen. P. Beckles: Yes, it is a good idea to talk about collection of moneys because we know the challenges they have faced over the years in terms of the development programmes—sometimes challenges for the recurrent—but ideally one would have liked to get an idea, let us say for example, what would it cost the city, what would it cost any one of the corporations—San Fernando, Arima—to implement this.

As I said before, Madam Vice-President, there are a number of corporations where you have no dog pounds and even as we speak there is absolutely nothing in place—assuming that we wanted to proclaim this Act and say that you wanted it to be put in place in a short space of time, the truth is, there are many corporations where nothing exists for this to happen. That is the first point.

Now, Madam Vice-President, if you go through the Bill, you will see that there are many instances where they refer to “Ministry” and I assume that they are assuming that we should automatically interpret that to mean the Ministry of Local Government, but I still believe that they should have had that in the interpretation section.

Sen. Al-Rawi: That is right!

Sen. P. Beckles: I want to go further to say that in a number of instances they refer to what is called the “authorized officer”, and I will give you probably just a couple instances. If we go to clause 9(4), they refer to:

“Upon being so satisfied, the authorized officer shall issue a certificate of compliance...”

Madam Vice-President, that is very important. And then as you go through again, you will see that there are a number of other instances where they keep referring to the “authorized officer”. The “authorized officer” has a number of important responsibilities to ensure that this Act is properly implemented, but when we go to the interpretation section again, there is no definition of “authorized officer”.

Now, Madam Vice-President, let me just start with some other issues. As it stands now, you have the health inspectors in a number of corporations and the health inspectors are the ones who would go out to the districts and deal with the stray dogs and what have you and they come to the various corporations or cities and they are dealt with.

In many of the corporations again, there are no health inspectors, so who are these “authorized officers” that they speak about that will have responsibility for doing the multiplicity of things in this Bill? In Point Fortin, there are five health inspectors; in San Fernando, there are 18; in Siparia, there are two; and in Tunapuna, there is no health inspector. So who is this “authorized officer”? I would be very happy if the hon. Minister could so indicate.

Madam Vice-President, I want to make the point again that if it is, particularly with public servants as you know, that you do not properly designate who is the person who has responsibility to do certain things, I dare say that when the Act is proclaimed, it would not be done or you are going to have people saying—as I am sure Sen. Lambert would know—“that it is not part of my terms and conditions.”

So if you say that the council, for example, starts to designate under this piece of legislation and calls the health inspector or whoever it is you designate and say, “As of today, you are going to do the registration; you are going to go out and visit the premises and issue the certificates.” And they say, “Where in my terms and conditions am I responsible to do this?” [*Desk thumping*]

Hon. Senator: Good point! [*Desk thumping*] [*Inaudible*]

Sen. P. Beckles: Sorry.

Hon. Senator: I am saying you are correct. [*Inaudible*]

Sen. P. Beckles: Well, “yeah”, related duties as assigned, sure. I mean that is how we do business, right? The point about it is that I am simply making the point that it is very easy for us to say that people can assign duties, but the fact of the matter is that when you do the legislation, it must be clear and it must leave no doubt so that when you are implementing it people understand what their roles and responsibilities are, so I am not going to get into an argument about it. I am glad that Sen. Lambert agrees with me.

Sen. Hinds: He is disagreeing with the Minister, but that is normal.

Sen. P. Beckles: So, Madam Vice-President, when we deal with legislation, we try to deal with what is practical.

Now, there are some corporations and so, for example San Fernando, where you have existing kennels and there are other places like Point Fortin and Siparia and other corporations, when they collect these dogs, they are taken to San Fernando. Now the point has arisen as to how are we going to really deal with the destruction of these dogs.

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If we go to clause 25—25, again, talks about impounding or the destruction of a class A dog due to non-compliance with the Act. There are certain requirements that have to be done. It says again that—I am talking about 25(2):

“Where an owner or keeper of a class A dog fails to comply with a notice under subsection (1), the local authority shall inform the owner or keeper of that fact”

And it says again that, at 25(3):

“Where an owner or keeper of a class A dog has not fulfilled the requirements three days after receiving notice under subsection (2), the local authority shall cause the class A dog to be destroyed in a manner to cause as little pain as possible by a veterinary surgeon.”

Now, I suppose some people would ask the question, “What is ‘as little pain as possible’?” Madam Vice-President, as I understand it now, when these dogs are destroyed by the vet, the issue that arises is, where are these dogs taken? Now, as far as I know, in the majority of cases they are taken to the landfills. I have been told that, in some instances, you use incinerators, but the fact is that I think that the public wants to be clear and I think that Sen. Deyalsingh was making the point about education and I believe that it is not something that we should just leave to chance. The regulations ought to be very clear on how these dogs are to be destroyed.

I have looked at it. I have looked at clause 28. It says:

“(1) The Minister may make Regulations for carrying into effect this Act.”

And 28(2) talks about fees. It talks about forms; it talks about registrations, licences, fence or wall, conditions, operations of kennel, the conditions for the care and control of dogs.

So, Madam Vice-President, I am saying that this is a very important matter for us. I do not know when you talk about simply, as what exists, you just take them into the landfills. I think we really want to be clear about that.

You know, Madam Vice-President, if we think about what happens on a daily basis, you could be on the bus route, you could be on the highway, you could be on a secondary road, a primary road, a dog gets knocked down, it is killed and for days you see that dead animal there. As a matter of fact, it gets to the stage where people pass—sometimes it is actually in the middle of the road and everybody is avoiding the animal. So you ask yourself, we do not seem to be able to deal with dead dogs and stray dogs, and therefore how are we going to deal with a very, very serious issue like this one?

I know that under CEPEP there was an organization called DART, Dead Animal Retrieval Team. I do not know what has become of that particular group, but—

Sen. Hinds: They killed that, but they used to pick up every dog within 24 hours.

Sen. P. Beckles: There are so many times when you get the impression that nobody wants to take responsibility for dead dogs in Trinidad and Tobago and the legislation cannot deal with everything you know, but the point is that—you know, you get the impression that you call and if we talk about places like Siparia and Mayaro where there are no dog pounds and they probably have absolutely no facilities, then you do not even know what will happen.

Madam Vice-President, I want to go to the point where—I am specifically now on to the issue of training. Let me just get the clause here. Just before I go to the issue of training, I want to deal a bit with the issue of seizure and destruction. At clause 22, it says that:

- “(1) A constable or an officer of a local authority duly authorized to exercise the powers conferred by this section may seize a class A dog or a dog which appears to him to be a class A dog which is in a public place or in a place where it is not permitted...”
- (2) A dog that has been seized and is required to be destroyed in accordance with this Act, shall be destroyed in a manner to cause as little pain as possible by a veterinary surgeon.”

I think I read that a while ago.

6.45 p.m.

Madam Vice-President, I go back to the point, again, about the roles and responsibilities of an officer of the local authority and a constable. Now, you know, what is very interesting is that we have dealt with all these various clauses that deal with offences and penalties. I think one of the concerns that we should have is the safety of a number of the officers and constables who will be responsible for implementing this Act.

Some of us would recall that as it relates to workers working in St. Ann’s, as an example, that when they are injured—I do not know if Sen. Lambert could correct me—on duty, I have not seen where there has been proper compensation if they are injured in the line of duty.

Sen. Lambert: Workmen’s compensation.

Sen. P. Beckles: Sorry?

Sen. Lambert: They would get it under the workmen's compensation.

Sen. P. Beckles: They could get it now under workmen's compensation but, as we know, the allocation under workmen's compensation, if one is seriously injured by a dog under class A whilst in the course of your duty that is a matter for serious concern. Not only that, if that worker now has to stay off duty for one year, two years, three years, or if as a result of that the worker now becomes permanently disabled, yes you can go and be medically boarded, but the point is that when some workers consider the consequences and the likely compensation, I am sure that a number of them would be very hesitant to go to people's homes and have dogs removed. [*Desk thumping*]

Sen. Al-Rawi: Correct!

Sen. P. Beckles: Right! It may very well be that one may have to look at some special incentive for this particular kind of activity.

Yes, they talk about training and I think—again, I am going back to the point about whether or not the local government authorities are vested with the expertise, the infrastructure, the technical skills and whether or not sufficient moneys are going to be allocated, at least, in the early stages to be able to train people for what is really going to be a specialist area.

Dog handling and handling dogs particularly those that fall under the A class—and I think the Attorney General was at pains to point out that even persons who own the animals, the dog owners, find themselves in a predicament where they themselves cannot control those animals and, therefore, it is a matter that will require some serious training.

Now, under the legislation, it says that the Minister—let me see if I could find that—under clause 16(1) says:

“An owner or keeper of a class A dog shall cause that dog to be trained by a certified dog trainer.

And clause 16(2) says:

“An owner or keeper of a class B dog shall cause that dog to be trained by a certified dog trainer where it has come to the attention of a constable or an authorized officer or a local authority that the dog has been dangerously out of control on at least one occasion.”

So how did they come to this decision? And, again, you see they mentioned this issue of a person working in the local authority; this authorized officer again. Clause 16(3) says:

“A certified dog trainer is a person who is recognized by the Minister by Order, as being approved to conduct such training.”

Now, Madam Vice-President, I am just wondering how the Minister is going to have this expertise to decide who is a certified dog trainer. Now, there really ought to have been some organization that should have this specialist area that, at least, should give a recommendation to the Ministry in order to ensure that this clause is properly implemented under the law.

Madam Vice-President, this is such a subjective clause, this gives the Minister so much power that, you know, one wonders—I am looking at the clause to see if it is that the Minister refuses, what recourse does the individual have. But I have not seen it here, but maybe it is somewhere else, I believe that ought not to be in the hands of the Minister and if it is, that there should be some organization that is vested with that expertise to be able to so recommend to the Minister.

Madam Vice-President, just two other areas that I want to deal with. Just making the point again that I think that the majority of the society would be relieved that some decision—that we are getting closer to having this matter dealt with but, at the same time, we learned from what has happened since the last Bill was passed and could not be implemented for a number of reasons, one of them being precisely the area that I am discussing today, which is the issue of local government.

One would have thought that there should be some comfort to be brought to the citizens and to the various corporations, that there have been some consultations with the corporations and within a reasonable time that they are going to be given the allocation to comply with the legislation and make sure it will be implemented smoothly. But I know as a fact, Madam Vice-President, that a number of the corporations have not been consulted on the implementation of this piece of legislation and, like everything else, if that is the case, then you may very well find some resistance from the corporations in terms of implementing the legislation. One can only hope that, at least, before the proclamation takes place and, certainly, the Minister recognizing that there are some serious issues here to be dealt with, that that would be sorted out.

Now, as Sen. Deyalsingh said and I think Sen. Al-Rawi, we are placed in a very difficult position. Today is the last day I imagine before the Parliament prorogues and for such an important piece of legislation, one would have liked some more time because, you know, the accusation from time to time is that we pass bad legislation and sometimes because of the pressures of society because people have been waiting so long and they tell you, you know, “What is it? Why is it so difficult?” You have the criticism that is so regular that you hear on the political platform from time to time that,

“As usual, the Opposition did not support it and had the Opposition supported it what would and would not have happened.” But the truth is that there are some very important areas here that I think should really have been addressed—and should still be addressed before this legislation is passed.

Now, the Attorney General made the point that, as we speak, Britain probably in the next month or two, would actually implement and pass their new piece of legislation to deal with the amendment to their Dog Control Act in Britain. If we were to examine the manner in which they passed that legislation it is very interesting. As a matter of fact, when the Queen had her throne speech on a particular—well just before the ceremonial session before Parliament officially opened, that speech included the legislation that should have come before the Parliament. So that it is not just the Parliament, but the entire country knew that it was going to be debated.

If you examine—and it is up on the website of the Parliament—the procedure that was adopted before that legislation was passed, it is very, very, interesting. What they did was to ensure that over a period of time they were able to bring before a parliamentary committee all the different experts in the area of breeding, the vets, the various city councils and corporations, the various organizations who are responsible, the animal lovers, those NGOs who establish where you can go and if the corporation does not have sufficient funds or spaces that they can be left there.

So, at the end of the day, when the legislation was passed, the entire Parliament had the benefit of wide consultation and recommendations. Even though there are a number of people who are still not satisfied, at least, the country is satisfied that the Parliament took a particular course that ensured that they had the benefit of all the expertise that was available to them.

So, you know, Madam Vice-President, I would like to say that there are certain areas that I honestly believe could have been simply changed or, should I say, they could have had some changes to especially those areas that I talked about in relation to local government. I am really convinced that unless we clarify and make sure that we are clear in terms of those definitions, you know, what is an “authorized officer”, some other areas, so that you could have no doubt as it relates to that, together with the fact that we should give the local government the kind of resources and the kind of allocations and that should be across the board—whether it is a city, whether it is a borough, whether it is a regional corporation.

A proper assessment should be done to ensure what it will cost to implement the legislation in those various corporations, so you do not go there and find out that they have not yet—Port of Spain has a dog pound, but Siparia does not have

one or Mayaro does not have one; that you do not have sufficient health inspectors; that you have certain vets that are assigned to certain corporations and they are not assigned to others. I think those things need to be cleared up.

The last area, Madam Vice-President, has to do with the issue of regulations. We have seen from time to time that legislation comes before the Parliament and it says here at clause 28(3):

“Regulations made under this section shall be subject to negative resolution of Parliament.”

Ideally, we should get an idea as to what sort of time frame that the Government is looking at. We know that based on the last legislation it could not have been implemented for all these multiplicity of reasons but, ideally, I think all of us who are involved in this debate today would want the legislation to be passed. We want it to be good law and we want it to be implemented within a reasonable space of time. So, Madam Vice-President, that is my contribution.

7.00 p.m.

Madam Vice-President: Prof. Ramkissoon. [*Desk thumping*]

Sen. Prof. Harold Ramkissoon: Madam Vice-President, I thank you very much for giving me an opportunity to make a contribution, a brief one as such, on the Bill before us, the Dog Control Bill, 2013.

Madam Vice-President, before I make my contribution, let me thank the Parliamentary staff for making life easier for us with the Bill essentials. I have always been impressed and continue to be impressed with the efficiency of our Parliamentary staff. [*Desk thumping*] Let me also congratulate the hon. Attorney General on what I thought was a very balanced presentation. [*Desk thumping*]

Madam Vice-President, I stand to make this contribution as both a dog lover and a potential victim. Let me explain, Madam Vice-President. Through the years we have had family dogs on a regular basis, we found them to be a source of pure joy, pure love, but when one departs you feel it, Madam Vice-President. We have had this experience two weeks ago when we lost one of our loving dogs. It hits you, but we take consolation in the fact that the joy that you get with them while they are alive outweighs the sadness on departure.

And now I come to a potential victim, Madam Vice-President. Almost on a daily basis I walk the neighbourhood, sometimes I ride in the neighbourhood, as my friend here, Sen. Deyalsingh, can testify.

Sen. Deyalsingh: With your hat on.

Sen. Prof. H. Ramkissoon: With my hat on.

Sen. Deyalsingh: Buy a helmet.

Sen. Hinds: Is you who sped past me on the highway? [*Laughter*]

Sen. Prof. H. Ramkissoon: Madam Vice-President, I always do this with a fear; a fear that I am going to be attacked by one of the vicious dogs in the neighbourhood and, believe me, we have more than our fair share of vicious looking dogs in our neighbourhood.

Sen. Hinds: If you face this Government every day you need not fear, you are in more danger here. [*Laughter*]

Sen. Prof. H. Ramkissoon: So, Madam Vice-President, I straddle both camps on this issue and also seek a balance.

Sen. Hinds: Yes, put it on George. [*Laughter*]

Sen. Prof. H. Ramkissoon: Madam Vice-President, dog bites do not, in general, make the headline news, as almost on a daily basis someone gets bitten without any major problems in some corner of Trinidad and Tobago. But when the situation arises where a dog mauls individuals, as has been the case in recent years, this makes the news and it is because of the associated public pressure we have, and justifiably so, this Bill before us today.

The Attorney General mentioned some specific cases of attacks. Let me mention some that have come to my mind. In 2011, two cases: four-year-old mauled by German Sheppard, seven pit bulls attack 46-year-old security guard; 2012: pregnant mother attacked by dogs; 2013, four-year-old girl on a bicycle ride was attacked by dogs, and what was very, very disturbing, I think that same year a pensioner was attacked and killed by neighbour's dogs, and there have been many other cases over the last few years.

This therefore calls for long overdue action and the Government of the day, Madam Vice-President, has responded accordingly. During this session of Parliament we have had, to date, a number of what I consider to be good pieces of legislation in this Senate, and I would give you an example of some of them: the Anti-Doping Bill, the Anti-Gang Bill, the DNA Bill, the Firearms (Amendment) Bill and the Electronic Bill, but one of the problems with these Bills has been, and continues to be, the problem of implementation.

Hon. Senator: That is right.

Sen. Prof. H. Ramkissoon: As an example, consider the Anti-Gang Bill. How many people have, to date, been arrested and convicted? As far as I can recall, not more than a few. And that Anti-Gang Bill has a lot of potential, the

problem is effective implementation. My worry is that the same thing may happen with this Bill, it may go the same way—lack of implementation. And, therefore, I think it is incumbent upon us all to take measures to ensure that we do not have a problem of implementation with this important Bill.

What I want to do is to identify some areas of concern in this Bill with respect to implementation. The first one, I ask the question, and others have done so also in some way or the other; quite a few I think have touched on the problem of implementation of this Bill: Does the local government, which has the authority to look after this Bill, or most parts of it, have the capability, the resources, the structural organization to handle this mammoth task? And you know, Madam Vice-President, the Attorney General mentioned today that according to one report we have about 800,000 A class dogs in the country. Even if you assumed that half of that exists, 400,000, dealing with 400,000 dogs and have them all licensed and registered over a period of six months is a mammoth task and, again, the question is: Can the local government handle this problem? In my view, Madam Vice-President, it would have to work closely with non-governmental organizations, and the one that comes to my mind is the Trinidad and Tobago Society for the Prevention of Cruelty to Animals (TTSPCA).

I understand that this organization, an NGO, has been working closely with the regional corporations. I want, Madam Vice-President, since I am familiar with the work done by this organization, to publicly commend them—[*Interruption*]

Hon. Senator: Yeah! Yeah! [*Desk thumping*]

Sen. Prof. H. Ramkissoon:—for the work they have been doing in this country over the years—dedicated citizens of this country—on a voluntary basis. Madam Vice-President, they take abandoned dogs off the street—dogs voluntarily given up by their owners; they cannot cope with them. They take these dogs, provide a temporary shelter for the dogs; they provide meals for the dogs; they provide vet services if required, and then they try to find homes for these dogs. Over the years we have been the recipient of two dogs from that organization, so I know the good work that they are doing for the society. It is my hope that not only would the Government continue to support this organization, but given the fact that they may have a major role to play when this Bill is implemented, the Government should increase the support to this organization. By the way, Madam Vice-President, the TTSPCA claims that on an average, every year, they get about 300 reports of maltreatment by dog owners.

I want to go now to clause 5A., that was touched, and I think very ably dealt with by Sen. Al-Rawi, and I will read that clause again:

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“Every person who keeps a dog shall provide the dog or cause it to be provided with adequate and appropriate care, food, water, shelter, exercise, attention and veterinary care as may be required to meet the needs of the dog.”

Madam Vice-President, that would make dog lovers happy. But I ask the question as has been asked by others: How are we going to implement that? How are we going to oversee that? What are the penalties for violating any of those parts of that clause? That is the big problem. How would we make it effective? How would we ensure it is enforced? There are no guidelines, no penalty, and that I think is a clause that needs to be looked at again. We need guidelines. We need some sort of penalties attached for violation of that clause.

The next concern, Madam Vice-President, given the distinct possibility that there might be large numbers of dogs taking to the streets when this Bill is implemented, being abandoned by their owners who would not be able to afford to have these dogs, what measures are going to be put in place to cope, initially, with this large influx of dogs on our roads? That is a real, real concern.

With the Bill itself there seems to be a lack of structure to support the Bill. I want to go to a paper I have here, again, from the TTSPCA, and the Animal Welfare Network (AWN), entitled, “Comments on the Dog Control Bill 2012”, prepared by Sita Kuruvilla, President of the TTSPCA, dated November 18, 2012. I am talking here about the lack of structure within the Bill to support implementation, and let me quote from the document:

The Act does not create structures that will support implementation of the provisions outlined. Responsibility for implementation and enforcement lies predominantly with the Ministry of Local Government and, to some extent, with the police service. The Act does not however enhance capacity within these organizations. Dog control is recognized in many countries to be a field requiring specialized training, supported with specialized equipment and subject to standards and guidelines ensuring safety of the officers, the public and welfare of the animal.

It goes on, Madam Vice-President:

This legislation—that is our legislation—gives power to local government personnel to enter properties outside of the normal constitutional provisions, but does not provide for the creation of any specified class of officers, such as dog control officers, who are trained to use the powers appropriately, or to operate in situations where they may be exposed to harm when entering premises with class A dogs, or in otherwise, handling class A dogs or class B dogs that exhibit dangerous behaviour.

So we have a problem there with structure dealing with implementation. As hinted in this same clause, there seems to be little or no provision in the Bill to support capacity building, and that was mentioned by some other Senators also. We need to train people to handle dogs, dog controllers—capacity for public education, and one or two Senators talked about the need for education—and I am going to come back to that—and also public awareness.

The other concern, Madam Vice-President, is the handling of dogs, the transportation of dogs, the type of kennels that will be used in housing the dogs. And the question I ask, seeing that this is a mammoth task: Is some of this work going to be outsourced? Is there going to be some outsourcing of the work involved here? In any case, we need guidelines, we need monitoring and we need oversight to ensure dogs are treated properly and not in any inhumane manner.

Madam Vice-President, these are some of my concerns. I want to make two recommendations, and one I feel very strongly about. I strongly want to recommend the setting up of an advisory committee to, inter alia, do the following things: one, assist local government and the police service with implementation, to advise the Minister concerned and to help set up a structured implementation programme.

This, Madam Vice-President, is nothing new. I do not take credit for the originality of this idea. It has been the case in the Bahamas, with the Bahamas Animal Protection Act, 2009. They have created an Animal Protection and Control Board. I would like to recommend, and I think that is the way we should go if we want to avoid chaos.

And I would want to recommend if we are going to set up such a board, some of the members on that board should be the following: of course, a representative from local government, a representative from the police service, a representative from the TTSPCA, and a representative from the veterinary school at Mount Hope.

Hon. Senator: Good point.

7.15 p.m.

Madam Vice-President, the second recommendation is that we need to focus on spaying and neutering of class A dogs. I was very heartened when I heard the hon. Attorney General talking about some incentives to encourage this, and we also need public education. Two or three Senators spoke about public education, public awareness. We need to tell the class A dog owners, what precisely are their responsibilities, what they are supposed to do and when they are supposed to do it. We need to go to the media, use the media effectively. So public awareness, public education is a key to the success of the implementation of this Bill.

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Madam Vice-President, the title of the Bill promises more than is actually contained in the Bill and, I think Sen. Corinne Baptiste-Mc Knight talked about this. The title suggests control of all dogs, not merely three breeds of dogs. Consequently, I believe, that we have missed an opportunity to deal more comprehensively with all dogs and to instill in owners a sense of care and responsibility.

This Bill in my view, Madam Vice-President, deals with half the problem. It deals with the problem, “dog bites man”. It does not deal with the other half of the problem, “man bites dog”. It does not deal with the treatment or maltreatment of dogs so prevalent in Trinidad and Tobago. In some cases dogs are caged in very small enclosures. They are allowed to sleep on concrete slabs. They are underfed and not fed on time. We train them to be vicious dogs, Madam Vice-President.

Dogs I should mention, you know, like men, they are not born evil. Dogs I do not believe are born vicious or dangerous, but they are made to become dangerous by the training they get. If the reason that we train them to be vicious is because of security and the high level of crime in the country, then I say that we need to find other ways of dealing with security in the country. It is wrong, in my view, to take innocent loving dogs and convert them to weapons of attack.

Madam Vice-President, let me end by making the point that while we have a responsibility to protect our citizens, we have an equal opportunity to protect all dogs from inhumane treatment. I thank you very much. [*Desk thumping*]

Madam Vice-President: Sen. Cudjoe.

Sen. Shamfa Cudjoe: Thank you, Madam Vice-President, for the opportunity to make a contribution to this Bill, the Dog Control Bill, 2013.

Now I must express how happy I am to be a part of this—to partake in this debate. I believe that this legislation is being brought to the Senate in order to treat with the numerous high profile cases and incidents that we have been faced with in this country as it relates to dangerous dogs inflicting serious harm and injury on our citizens and in some cases, even death.

So, Madam Vice-President, I commend this legislation and the fact that it is being brought to this Senate because it brings to the fore that with dog ownership also comes some serious responsibilities.

Sen. Al-Rawi: Absolutely.

Sen. S. Cudjoe: I think that this legislation is being enforced in the best interest of the citizens of Trinidad and Tobago especially as we are trying to deal specifically with dangerous dogs.

Now let me state for the record, I am no dog lover, no dog liker; not even a dog on a T-shirt. *[Laughter]* I do not do dogs. *[Laughter]* I am sorry, it is a youthful way of saying I do not like dogs. We say, I do not do this or I do not do that. *[Interruption]*

Sen. Al-Rawi: Shamfa, you tell them.

Sen. S. Cudjoe: So I do not like dogs.

Sen. Karim: No kind?

Sen. S. Cudjoe: Yeah. You are too elderly to understand that. *[Laughter]* There is an age gap. *[Crosstalk]* So, Madam Vice-President, as I said before, I am no dog lover, but I think they should be treated with care. So I really commend this move.

So, at the end of the day we must all agree that pit bulls and the dogs that are mentioned in the legislation, they are dangerous dogs. They are dangerous to children, to adults, to the postman and postwoman, the police officers and so on, and it erodes our sense of safety in our communities and I think that it is high time that this matter be dealt with. We have been dragging our foot on this because it is such a sensitive issue, and we had to come up with a way to strike a good balance. So, Madam Vice-President, we are here today making an attempt to do this thing right and as some of the presenters before me would have mentioned, there are some inconsistencies with reality in the Bill, but I hope that in the committee stage we would strive to get this thing right.

Hon. Senator: Yes.

Sen. S. Cudjoe: So from where I stand or from where I sit as a young person, I have witnessed the proliferation of pit bulls and these dangerous dogs as a new culture, as something that is hip and something that is cool among young people, especially young men. I could go even as far as to say many of them who, as Sen. Moore would have said earlier, are not able to put food on their tables, and even take care of themselves. But, Madam Vice-President, I blame—I think that the music industry, the Internet and the media have all contributed to this great love of these dangerous dogs coming from young men. These dogs are glorified in music videos and these videos play a special, a specific role in making the pit bull the devil dog or the big bad dog *de jure* as you may call it.

So, I think specifically around 1998, I remember when the rapper DMX came on the scene and in all his videos there would be pit bulls; fighting pit bulls just ever present in these videos and the young men sort of glorify these dogs. They specifically like the American pit bull terrier. These are constantly seen starring in these videos. They have become the uber-dog or the ultimate accessory.

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You see, Madam Vice-President, the image and the projection of these dogs seem to be an extension of manhood. They display strength, they display confidence, a zest for living, and these dogs are somewhat very desirous of pleasing their masters. As I said, this is like the ultimate accessory, the uber-dogs. What I have noticed in my district especially, is that some of these young men who own these dogs, they are unable to manage the financial responsibilities and the commitment that come with ownership.

I know after this legislation is passed that many of them would not be able to manage these financial obligations, and many of them would want to, prefer to have the dog turned in or give the dog up.

So, Madam Vice-President, some of them who would have had a relationship with the dog or feel attached, as the hon. Attorney General said earlier; somebody said a dog is like a family member, like a child and so on. Some of these dog owners may be hesitant to give up the dog, especially considering the fact that in clause 8 of the legislation speaks to when you give the dog up, the dog is going to be killed.

I think we should not have to wait on a court matter or any legal case. I think that dog owners should be given a different option where the dog could be sold or if you are giving it to an animal control board or authority, that the dog could be sold or given to somewhere or exported to somewhere to people who love these dogs rather than be killed, even though they are being killed in the least painful way possible.

Sen. Al-Rawi: Yeah.

Sen. S. Cudjoe: I have a problem with that; it just sounds so inhumane. How would we like if a murderer said, well I killed this person in the least painful way possible? It just does not sit right. So I would like that we can review clause 8 of the Bill and provide the dog owner who has a relationship and really loves the dog with some other options rather than turning it into the Ministry for the dog to be killed.

So, Madam Vice-President, some of these dog owners in my area would have to give up the dogs, and this brings to the fore—I recognize in the legislation in clause 4 that this responsibility of seizing the dogs, and holding them and killing them in the least painful way possible, is ascribed to the local authority or in our case in Tobago, the Tobago House of Assembly. It brought to the fore whether or not the Tobago House of Assembly had been consulted on this new responsibility that is now being ascribed. This is no easy task. It may seem simple, but the kind of duties that the local authorities are being ascribed, they are very, very serious

and it calls for significant investment as it relates to finances and technical capacity and human resources and so on. So I do not know if in six months, we would be able in the municipal corporations and the Tobago House of Assembly to really enforce this in the best way possible. So, a major investment needs to be made.

In clause 6, the responsibility is given to the Assembly to register all these animals. Clause 7, the dog owner must apply for a licence. At the Tobago House of Assembly, they are expected to keep a record.

In clause 12(5), this is the part I have a problem with because they are expected to be held and destroyed in subclause (5) and this accentuates the need for the necessary facilities.

Now, what raised my concerns as it relates to the Tobago House of Assembly being involved in this way, it is not that we are trying to abdicate our responsibility in this regard, but Madam Vice-President, we, just like the municipal corporations in Trinidad, right now as it stands we do not have the capacity and not just that, we do not have the authority in the current Tobago House of Assembly legislation to treat with such a matter. It is not our intention, as I said before, to abdicate our responsibility, but I think that the necessary measures must be taken in order to expand our authority and expand our ability to treat with this matter. This highlights the whole issue of constitutional reform, updating the Tobago House of Assembly Act to give us the ability to treat with these matters in a very holistic way rather than piecemeal like it is being done right now.

Madam Vice-President, I recognize that the Government seems to be dodging and dipping and hiding from this whole issue of internal self-government and giving the Tobago House of Assembly the authority and the autonomy, to walk side by side with Trinidad as they would have stated in their manifesto. Even the Prime Minister and the People's Partnership prior to the election in January would have spoken to this issue of internal self-government and constitutional reform being the most important, the most critical issue to the development of Tobago and the advancement of its people. It seems like after the elections that this thing has been dropped like a hot potato, Madam Vice-President.

So I think that a lot of work has gone into doing this. You cannot run from it, you cannot hide because every time we try to improve legislation and we ascribe responsibilities to the municipal corporations and the different bodies and institutions in Trinidad and Tobago, if Tobago is to walk side by side with

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Trinidad, we would have to ascribe responsibilities to the Assembly also, and we need to be ready and willing and able to do that as it relates to our legislative framework and the way we operate.

Now I think that eight years—at least eight years of work has gone into—a lot of time and energy, and resources on both parts, on the part of the central government. I know that committees were set up and technical people were hired to treat with this. Same thing for the Tobago House of Assembly and it is just very disconcerting and very disappointing to see that we have come so far to this point where the finish line is in sight and the whole process is just thrown out like that.

7.30 p.m.

As much as in the consultations—now, before I get to the consultations, as the Minister of Housing, Land and Marine Affairs and the Prime Minister would have stated earlier in conversations with the Chief Secretary, that this issue of internal self-government has been subsumed in this whole national talk, these national consultations on constitutional reform, I find that somewhat unfair because this national consultation has been going on for some time—there is no deadline. It is a somewhat unpredictable process and we are mixing the predictable with the unpredictable, and I find it unfair to the people of Tobago and their legitimate expectations. No matter what you do, no matter how much you run and hide you are going to constantly come back to this issue of constitutional reform in every piece of legislation. *[Interruption]*

So this dangerous dogs legislation and the kind of responsibility that has been ascribed *[Desk thumping]* to the Tobago House of Assembly, probably the—*[Interruption]* I am going to leave Sen. James alone, he is my friend. He is my friend and a friend of my boss and he has influence, so I would not want to interfere with Sen. James, he can get me fired.

So, Madam Vice-President, as much as the Government is trying to run and duck and hide like the question on the Order Paper that has been postponed week after week—four weeks going on this internal self-government Bill—I think we need to let good sense prevail and that both parties, central government and the Tobago House of Assembly, we implement some kind of reconciliation committee to have this dealt with. Because, Madam Vice-President, no matter what you do we are going to have to treat with it in all our undertakings from dangerous dogs, from local public health, from pensions and when the budget comes again it is going to come to the fore. So, Madam Vice-President, I just

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want to keep that issue on the front burner and hopefully we can have some—I know consultations have not been held as yet, but we can have some talks as to how we are going to treat with this matter.

In six months this legislation is expected to be enforced. Everybody is expected to get their dogs insured and the microchip inserted and so on and we must be up and ready to go six months after this legislation is passed. I hope that we would have achieved some kind of common ground on the issue of internal self-government before this dangerous dog legislation—everything will be worked out by then.

So, Madam Vice-President, I have two more points. When I listened to Sen. Moore's story about her dog Bo. No, I am sure it is not Bhoewarrie, it is probably B-U-A-E like Boa. It is Bhoewarrie like Bhoewarrie? Oh, my. *[Laughter]* Now, Madam Vice-President, the fact that the police officer just shot this dog—*[Interruption]*

Sen. Moore: Dogs.

Sen. S. Cudjoe:—these dogs, Madam Vice-President, I find it is very hard to take. Now, if we invest some time and resources in training our police officers and our different officials in how to treat with, how to deal with these issues, because if I were a police and I encounter a dangerous dog I am going to shoot because I am not trained to deal with dangerous dogs, so maybe we should.

Sen. Moore: In a kennel?

Sen. S. Cudjoe: Yes, in a kennel, that is worse. So, we need to—as Sen. Beckles would have mentioned earlier, the members of the city corporation and the people who these new responsibilities are going to be issued to, they must be trained and educated about dealing with dogs and how to treat with them with care rather than shooting them and taking them out and so on.

Finally, like all the other Senators would have mentioned the need for public education for those of us who are afraid of dogs, for those of us who have to treat with this issue, everybody, all the stakeholders, I think there should also be education to try to dissuade people from getting pit bulls simply because they are fashionable and they know well and good that they cannot take care of them. So, I hope that we treat with the necessary facilities and the resources and get everything on board so that this long-awaited piece of legislation and this initiative that we all are pleased to implement and to support today would come into force.

With those few words, Madam Vice-President, I thank you. *[Desk thumping]*

Madam Vice-President: Sen. Dr. Wheeler.

Sen. Dr. Victor Wheeler: Thank you, Madam Vice-President, for allowing me just to say a few words on this Dog Control Bill, 2013. [*Interruption*]

Madam Vice-President, I also, as Sen. Ramkissoon, thank those from the Trinidad and Tobago Society for the Prevention and Control of Animals, in particular Miss Sita Kuruvilla who provided me with some information, in addition to Patricia Greene of the Animal Welfare Network (AWN).

Madam Vice-President, I must declare I am not a dog lover. However, some years ago I acquired dogs myself purely for security. My wife is an animal lover: cats first, dogs second, and as a result of that I was mandated to make a contribution today. [*Laughter and desk thumping*]

Madam Vice-President, dogs are an integral part of our lives. They live in our homes, they provide companionship and, in my particular case, they provide security. And because of the rising crime over the last few years that certainly has contributed to a significant increase in the number of dogs in households and also the unregulated use of dogs by security firms. But, Madam Vice-President, the majority of the negative aspects that society experience today is because of poor ownership practices by members of the public. This also results in large groups of stray roaming dogs that cause transmission of disease, they are a public nuisance, they go and destroy, spread garbage, they injure livestock and they also injure people.

Now, the aim of this Bill is to provide for the control of dogs and to regulate the manner in which certain breeds of dogs are kept by their owners or keepers, and also to repeal the Dangerous Dogs Act of 2000. The heavy focus is because of the threat that the dogs posed to human safety and we have heard several examples where dogs have harmed individuals, and it is because of the public outcry that we are bringing this Bill again in another form today. Nothing is wrong with that. We have seen the effects of the attacks from humans, but information provided by animal welfare organizations like TSPCA and AWN reinforce that it is the widespread irresponsible ownership and neglect and cruelty to animals that contribute to some of the problems that we are having here today.

Now, the northern branch shelter of the TSPCA, I have been told, takes in an average of 8,000 unwanted and stray dogs annually. This is actually a very high number. I have heard that the Attorney General said that there are 500,000 pit bulls or dangerous dogs in the country, and that actually sounds very high. But part of the reason for the irresponsible ownership of dogs many times is due to a lack of knowledge by persons who have dogs, a lack of access to facilities, lack of

support and lack of regulation, and this Bill today is an attempt to deal with the lack of regulation that is so needed. But the passage of this Bill and the proclamation of this Bill alone will not address the problems that we have.

As was said before, by Prof. Ramkissoon and others, it is important to have a public education campaign to let people know what it means to be a responsible owner. There must also be provision of free or low-cost facilities and services for spaying and neutering dogs, because part of dealing with the problem that we face is to limit and control the number of dogs that are around, and there is also the issue of training of owners of dogs in handling dogs. The successful implementation of this will result in protection of the dogs themselves, protection of the public and protection of the society.

Now, as I have said, the passage of this Bill alone will not do what it is meant to do. We have heard that there is a significant cost involved with complying with the Bill once implemented. Sen. Moore has indicated that if you cannot put food on your table maybe you should not own a pit bull, and I actually agree with that. However, in Tobago I have seen significant young men roaming the streets with one or two pit bulls in tow and you know they do not even own a home; they are probably living by some relative, and often these dogs are just tied by a tree or a post in the yard.

There is a significant issue of the cost of insurance if you own a class A dog—and we have heard some of the issues raised by Sen. Deyalsingh. There is also cost in neutering the dogs and there is also the cost of securing your premises. I have been informed that in 2000 with the passage of the Dangerous Dogs Bill of 2000, pit bulls were just abandoned in the streets.

Now, the Attorney General has said that he was told by certain dog owners that in an attempt to blackmail the Government to not have this Bill enforced, that persons would just release the dogs into the streets. But he was only referring to people who can afford to pay this. He was not referring to those many pit bull owners now who would not be able to afford implementing this Bill. And with the reduced capacity of the animal shelters where even if someone brought the dog to them they would not be able to take them, the successful passage of this Bill, I am certain, will result in individuals just releasing the dogs into the streets unless some way is found to assist them in dealing with this problem.

We have heard from Sen. Beckles that the Ministry of Local Government does not have the capacity in the shelters. The other thing is if someone abandons a dog and did not have proper identification on that dog, how are you to prove who is the person who actually released that dog on the street? You would not be able to

prove that, and certainly the person who did that would not own up to doing that, so we will have a problem. Then when you capture these dogs and take them to the pound, and as has been said, they would need to be put down, that will incur a cost. Who is going to pay for that?

At the moment the TSPCA is a totally voluntary organization. I believe it does get minimal support from the Government, but the organization survives mainly on donations, and before this Bill is enforced I would like to suggest that the Government consider significantly increasing its contributions and support of organizations that shelter dogs, because I fear that we will find ourselves in a worse position than we are now if the Bill just comes into force. So, before the proclamation of this Bill when it is passed, and I expect it to be passed, I would like to have some support for these organizations.

Now, just to deal with a couple clauses in the Bill, on page 3 when we come to the definition clause dealing with microchip, it is said that:

“‘microchip’ means an encoded identification device approved by the Minister in accordance with section 7(6) of this Act which is implanted into a dog, containing a unique code that permits or facilitates access to owner information and which information is stored in a database established and maintained by the Ministry.”

7.45 p.m.

Now, I have been told by people in the know, that this database actually should be easily assessable to anyone who has a decoder. So that if a dog is found and you have that decoder, you will be able to quickly identify who the owner is and maybe to provide some assistance to the dog, rather than having the dog being taken away and then destroyed.

At page 4, I think we are dealing with clause 4 (9)(b), where it says:

“the person attacked was in a place where he was trespassing or was in a place where he was not permitted to be and the place was secured by a fence or wall in accordance with section 9;”

This is where if someone is attacked or injured by a dog, the owner of that dog will escape any sanction. But what if you invited someone into your premises and after being invited in, he displays threatening behaviour towards you, and before he actually attacks you the dog attacks him? What will happen in that case? He would not have been in a place where he was trespassing because he was invited in, but after being invited in—and the dogs are very, very sensitive.

There was an incident where my wife was interviewed by a police because of something that happened and she was very tearful, and the dog that we had started growling at the policeman; just sat by her side and started growling and if she did not calm him, he might have just attacked. There were no instructions given to attack. He just sensed that she was in distress and he started growling, and the hairs on the back of his head raised. So something like that could happen where someone enters, the dog attacks. What is going to happen to that owner in that particular case because I imagine the person might want to sue?

Clause 6(3), Sen. Al-Rawi has already said and I agree with him that to properly identify a breed you will need to do DNA testing because the veterinary surgeons may not always be able to identify the different breeds. If in fact, we have two cats and when we went to collect the kittens, the vet himself even had difficulty telling the sex of the kitten, which one was a male and which one was a female, so far less being able to tell definitively the breed of a dog. I could see where they will have some challenges. [*Interruption*] He was properly trained.

Sen. Prescott SC: But where?

Sen. Dr. V. Wheeler: The other concern is or query really, is on clause 7(7) (a) where it deals with the licence fee that is to be paid. It says:

“one thousand dollars per dog where an owner owns one or two class A dogs;”
But if the owner owns more than two class A dogs the fee is \$1,500 per dog, except that the licence fee shall be five hundred dollars per dog where each class A dog has been spayed or neutered. I am not sure what was the reason for this disparity, or if it was to discourage people from having too many dogs. Because I see—

Sen. Al-Rawi: Breeding and aggression.

Sen. Dr. V. Wheeler: Or, breeding and aggression. Right—because I see later on where they say if you own five dogs or more, then you are considered to have a kennel.

Clause 7(16) where it refers to:

“A person who—

- (a) contravenes this section; or
- (b) removes or defaces the metal label, badge, microchip or such other form of identification referred to in subsection (11),
commits an offence...”

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But I am informed that the metal labels or badges that are used on the tags, the information can be easily rubbed off. So is it that we would need to look at the quality of the label that is used on the collars to ensure that just by wear and tear someone may not be charged with deliberately defacing it?

Now, clause 8(2):

“Where the Ministry has taken possession of a class A dog under subsection (1), that dog shall be destroyed, in a manner to cause as little pain as possible, by a veterinary surgeon.”

At the moment the dogs are placed with the TSPCA, and to put a dog to sleep costs money, but who is going to pay for that? That is why I am asking that before this Bill comes into effect, some arrangements be worked out where those agencies that currently are responsible for disposing of the dogs; extra funding is provided to them to be able to adequately handle this additional responsibility because right now we know the Ministry of Local Government certainly does not have the capacity and I would like that to be addressed before the Bill actually comes into force.

Now, this is something I was asked about, the insurance. Sen. Deyalsingh went through at length on insurance, but in 11(4)(b):

“A policy of insurance shall be a policy which—...

insures the owner and any authorized keeper specified in the policy against any liability which may be incurred by him in respect of the death of, or injury to a person caused by a dog in relation to which the policy of insurance under this section, is in force.”

Does this policy or would the policy include loss of earnings while you are recuperating from the injuries; and does it also cover personal trauma?

Now, I was also told to ask if the policy covers fines, but I would imagine the insurance is probably just for injuries to yourself. But specifically, if it covers loss of earnings or personal trauma, I would like some clarification on that; or is this something that the insurance companies, themselves, will have to decide if they offer? I do not know if the hon. Attorney General will be able to assist.

Another question that I was asked to enquire about is: if someone is injured by a dog and is compensated by insurance, can that person also file a civil suit if the damages from the insurance are not sufficient to cover the loss that was incurred—medical expenses, and otherwise? So I would like the hon. Attorney General to at least give a few words on that.

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Clause 15(1) says:

“An owner or keeper of a class A dog shall not abandon the dog.”

But does that imply that if you are the owner of a dog that is not a class A dog, you can abandon a dog if you feel you cannot support it and there will be no consequence? It is not mentioned here.

Clause 22 and this one is actually of concern to me:

“(1) A constable or an officer of a local authority duly authorized to exercise the powers conferred by this section may seize a class A dog or a dog which appears to him to be a class A dog which is in a public place or in a place where it is not permitted...

(2) A dog that has been seized and is required to be destroyed in accordance with this Act, shall be destroyed in a manner to cause as little pain as possible by a veterinary surgeon.”

What if that person is wrong? Is there any room for appeal by the owner of that dog to say, “Look, my dog is not a class A dog”? And as we have already pointed out, the veterinary surgeons themselves may not be certain what class of dog it is. So I do not know if the hon. Attorney General could comment on that aspect. I think that is all I would want to comment on the Bill itself.

Madam Vice-President, as I said before, the passage of this Bill is but one aspect of the problem. As has been recommended by the TSPCA and several other groups, there is need for a permanent public education campaign by Government and civil society; there is also need for a central authority to implement this Act; there needs to be easily accessible free or low-cost services to spay or neuter dogs to control the population of dogs, because I am informed this is one of the ways in dealing with the problems that we have with dogs in the country. There also needs to be support to improve infrastructure—pounds to reduce the number of dogs that are on the streets; and there is need for consultation with stakeholders for implementation.

I agree with Sen. Prof. Ramkissoon that you need to consult with the various agencies, the veterinary association, the University of the West Indies, also the Ministry of Health and the Ministry of Tourism, because frankly the membership of those societies that look after the dogs in the country, the majority of those members are non-nationals.

In Tobago, when the TSPCA has meetings, sometimes it is an opportunity for all the non-nationals in Tobago to meet. You very rarely see any locals here.

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Sometimes, my wife and myself are the only locals present. So, I think the Ministry of Tourism needs to be involved in these discussions because the visitors that come to our shores very often care more about the animals than we ourselves.

Madam Vice-President, Gandhi said:

“The greatness of a nation and its moral progress can be judged by the way”—
in which—“its animals are treated.”

Part of the reason we are having these problems with the dog is because of how we as a society treat our dogs.

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

Sen. Al-Rawi: Well said.

Madam Vice-President: Sen. Hinds.

Sen. Fitzgerald Hinds: Thank you very much, Madam Vice-President, for an opportunity to make a contribution to the matter that has commandeered our attention since virtually 1.30 p.m., or thereabouts today.

Madam Vice-President, what I would say comes against the backdrop of the fact that I find myself preoccupied with one political ambition and, that is, to see the rid of this Government. [*Crosstalk*]

Hon. Senator: “Ah, he start.”

Sen. Singh: What does that have to do with dogs?

Hon. Senator: What is relevant to that?

Sen. Singh: What does that have to do with dogs?

Hon. Senator: I want to know.

Sen. F. Hinds: Madam Vice-President, Minister Moore told us that this Bill is designed in part to allay the fears of the public as it relates to the issues, many of which have been highlighted by our colleagues in the course of this debate, the very many examples of attacks on human beings by dangerous dogs.

So Minister Moore told us that this Bill is designed to allay public fears, and the moment she said that, I remember the Defence Bill which they had told us was also designed to allay public fears about crime. But it lapses today, Madam Vice-President, today being the last day in this session, and I remember my friend, the Leader of Government Business, Sen. Singh, telling us after it was roundly defeated he would bring it back. Well, today is Tuesday, July 09, the last day in this session and it has not come back. Is it that the Leader of Government Business deliberately told us an untruth?

Hon. Senator: Never!

Sen. F. Hinds: The Attorney General told us it would come back. Today is the last day. When we adjourn this evening it will be to a date to be fixed, it has not come back; it has died.

Sen. Singh: A date to be fixed in August.

Sen. F. Hinds: It has died—

Sen. Singh: It is a date to be fixed in August.

Sen. F. Hinds:—and that is the way of this Government. You see why I must have as a burning ambition, one ambition alone, and that is to get the rid of this Government from the faces of the people of Trinidad and Tobago. One! [*Desk thumping*]

Hon. Senator: So says the apprentice.

Sen. F. Hinds: The Defence Bill, just in passing, was designed to give people the impression that there were police and soldiers all around the place to protect us; and police and soldiers and coastguard men and air-guard men and women could arrest. And Minister Moore revealed their dark secret again today, unwittingly, by telling us this is all a facade to give us a feeling, a feel good feeling when the facts are as dangerous as the reality is.

8.00 p.m.

Well, just in passing, and I will come back to him, the Attorney General told us in the debate, permit me, that whenever he goes home, his dog jumps on him with great joy and his wife stays put. I did not really want to hear that. [*Laughter*] I have my suspicions as to why that would be so, but she remains coldly unmoved, so he said.

Madam Vice-President, and finally on this question, Sen. Beckles told us at length here today about the implications for these matters for local government. Well, local government, the life of that institution comes to an end on 26th of this month, I think it is, and so far this Government has not had the courage to tell us the date of the elections, we look forward to it. We call for elections, not local, general elections now! Because, as I said, I have one ambition and one ambition alone, Madam Vice-President, is to get rid of that Government.

But, I saw them at a meeting last evening, and they looked forlorn, they looked dejected, [*Laughter*] a handful of them in a hall somewhere in central Trinidad. My grandmother would say, they looked dishevelled and “bisquankay!” [*Desk thumping*]

Sen. Al-Rawi: “Ah could hear that word, again, sorry?”

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Sen. F. Hinds: “Bisquankay!” Yeah, yeah. [*Crosstalk*] They have not consulted widely, as you heard Sen. Ramkissoon, I think it was, say that the Government has not consulted very widely. I have received correspondence from different organizations saying that they had not an opportunity—

Hon. Senator: Who?

Sen. F. Hinds:—to comment on the latest version of this matter.

Sen. Singh: Name them! Not like your leader, name them!

Sen. F. Hinds: I will name you one. I will name you one: the Trinidad and Tobago Canine Advocates, (TTCA). They indicated that they had not been consulted on the latest version of this Bill and why? [*Crosstalk*] Why? Why not? There are those in the society with experience who described this Bill as being breed discriminatory, the assumption on which the Government proceeded—[*Crosstalk*]

Sen. Lambert: “Alyuh vote for it!”

Sen. F. Hinds: And you hear Sen. Lambert talking about we voted for it. We did! We voted for the Indictable Proceedings, and the Preliminary Enquiry Act as well, we all voted for it, but what we did not know is that they would go and use it in the manner in which they used it, with one result, that is for some of their friends to avoid the reality of the law.

Hon. Senator: And the Lower House said it would be considered in the Senate.

Sen. F. Hinds: Madam Vice-President, they proceed on the assumption that the purpose of this legislation is to reduce dog bites to citizens and dog to human attacks but what causes—and Sen. Moore to her credit; little credit, little credit. I saw she is dressed in green today, as one of my colleagues observed—[*Interruption*]

Sen. Singh: “Like yuh tie.”

Sen. Coudray: “Like yuh tie!” [*Laughter*]

Sen. F. Hinds: And I asked her whether she did so deliberately and—[*Interruption*]

Sen. Maharaj: Like you!

Sen. F. Hinds:—she smiled. There was a certain look in her eyes, but she did not answer. Whether she wore it deliberately, she did not say anything but she smiled, and I saw that look in her eyes as though she has been touched.

Sen. Maharaj: He abandoned the balisier tie for the green!

Sen. F. Hinds: She has been touched! As I was saying—

Sen. Maharaj: “Jack talking to him, yuh know.”

Sen. F. Hinds:—according to the Center for Disease Control of Dogs in the United States—[*Interruption*]

Sen. Maharaj: Jack looking for an apprentice! [*Laughter*]

Sen. F. Hinds:—dogs get engaged in hostile and aggressive behaviour, and there are a number of reasons for that including the early experiences of those animals. You heard the Attorney General say today that the Japanese Tosa is such a dog where if you do not make contact with that dog within a year of its birth, he will treat anyone he comes into contact with thereafter as an enemy. The reproductive status of the dog, it is well known to all of us, when a dog is pregnant, a dog tends to be more aggressive and for obvious reasons. The socialization of the dog, the training of the dog, the health and age of the dog—all of these are factors that determine whether a dog would show anti-social and hostile temperament and otherwise. No mention in the list I have just given you of the breed of the dog.

The point that is being made—and it is obvious—bigger dogs, more muscular dogs, tend to be more dangerous, they do more damage for obvious reasons. In fact, I do not know if this is true—I am a lawyer—but someone told me that horses, for an example, would see—the optics of a horse causes them to see a man or things some eight times larger than it actually is. If that is so, it really shows you how powerful God is otherwise you may not have been able to ride horses, but they feel that we are far bigger than we actually are but that is—I do not know if it affects dogs that way. But, I heard the Senator whose wife instructed him to speak here today say that dogs are acutely sensitive. [*Laughter*] No wonder why all the dogs create panic and havoc whenever a UNC walkabout is taking place in any community. It is quite obvious.

Madam Vice-President, the view therefore is, it is not the breed of the dog but the individual dog and its socialization, its reproductive status—those are the factors, as I outlined a while ago, that determine the behaviour of dogs and if it is we are trying to deal with attacks on human beings and bites, which is what I gathered from the Attorney General and my colleagues on the other side, then we are not heading in the right direction in relation to this.

In the United States—there are no statistics here but I am told in the United States, 84 per cent of their tax are deemed to be as a result of irresponsible handling by owners. We know as a fact that there are many irresponsible people in this world. Therefore, we can deduce that an unneutered, male dog that has

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suffered abuse and has been neglected, that is chained, that is sequestered if you like, segregated from people, is more likely to be aggressive irrespective of the breed. Those are facts and this does not only apply to the dogs that we are focusing on today: the Japanese Tosa—

Sen. Al-Rawi: The Dogo Argentino.

Sen. F. Hinds: Dogo Argentino.

Sen. Al-Rawi: Fila Brasileiro.

Sen. F. Hinds: The brasileiro—

Sen. Al-Rawi: Pit bull.

Sen. F. Hinds:—and the pit bull. Those facts apply to any dog even your ordinary common so-called mongrel. But, of course, as has been pointed out by one of our colleagues, the bigger and stronger a dog, the more damage it would do. There are many, many cases of “lil dog bite” but the result is not as stark as would happen with a pit bull for obvious reasons.

Large, strong dogs are usually used for security purposes, privately and commercially, for people’s protection and these cannot, by any stretch of the imagination, be considered ordinary, companion dogs like Pompeks and the other more friendlies around the place. Dogs are encouraged to be unfriendly by some of their owners. As I said, they are segregated, some of them are beaten, some of them are starved—there are people who believe if you starve them, they will stir that aggression—some never allow the dogs to play or express any signs of dog happiness, if I could put it that way. All designed to create aggression in these dogs, and that really bears the point that it has to do, not with the breed, but the way in which you handle the dog.

Sen. Singh: Genetics too.

Sen. F. Hinds: Some of that as well. [*Crosstalk*] Some of that as well; socialization, as I said. So if the purpose is to deal with those problems, we should really be going to the source, not waiting downstream to take dead bodies out—if I may be permitted a metaphor—but to go upstream and see how the bodies are getting in, in the first place. If what I have said so far is even remotely correct, then we should be dealing with treating with our behaviour as it relates to dogs, because if we do not do those things, there will be less aggressive dogs and less attacks on human beings. We should be outlawing those behaviours and this Bill largely falls short of that. That is a fact!

Sen. Lambert: Do you have any dogs?

Sen. F. Hinds: Clause 15 in this Bill talks about abandonment, and that came no doubt as a result of the very Bill itself. When we began the discussions on this, persons started—because, in fact, while I was driving through Maraval about two weeks ago, and I saw a pit bull looking haggard, unfed, very distressed, just strolling in the street, and I wondered to myself whether that was a reaction to the discussions that were taking place when people heard about all these huge fines and the responsibilities that this legislation would put upon owners and potential owners., they began to abandon them. So we put in clause 15 as a palliative to that.

Clearly, Madam Vice-President, if you believe what I have said so far, there is a direct correlation between dog aggression and dog mishandling or dog abuse, and we should be seeking to make the behaviours that I described unlawful—cruelty to dogs and animals. I see it on the television, it does not exist in Trinidad too much, although people—I must give Trinidad and Tobago some credit, people are beginning to demonstrate a lot more sensitivity to these matters.

I was around when CEPEP had launched a few years ago—about seven, eight years ago—when they had launched the DART, the Dead Animal Retrieval Team programme, and I understood from the discussions that I had with them, and the documents that I read, not just how unsightly and unhygienic a dead dog looks, but for foreigners to come to the country and see dogs up and down the streets, on the Priority Bus Route and all on the highway, Lady Young Road, all over the place—Cacandee Trace.

Hon. Senator: Pierre Road.

Sen. F. Hinds: Pierre Road and these areas that I know reasonably well.

Sen. Cudjoe: Cucharan Trace.

Sen. F. Hinds: Yeah, Cucharan Trace and so on. It really is a sight and to people who are not accustomed to that, who would have come from countries like England, I mean I lived in England for seven years and never saw a dead animal in the street. As a matter of fact, truth be told, I never saw rubbish in the streets in England. Never! But you see, the way they designed those cities, the people put the rubbish behind the stores and the rubbish trucks could go and empty it and even in the markets, they clean it up immediately after use. As soon as the vendors are finished for the evening, they start cleaning their particular spots, allocations, and within half an hour at the close of market on the day, the place is

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impeccably clean, you would never know it had market there until they return another day. But, Trinidad does not demonstrate those progressive behaviours just yet. So we need to punish cruelty as is done in the United States. I see great pain taken, some of these television—on channel 4 and 40 and so on, National Geographic and those channels, you see a lot of activity, a lot of investment in dealing with animals and dealing with irresponsible people who are cruel to animals.

So high walls, hefty insurance premiums, certification as to whether the dog is a Japanese Tosa or Brasileiro or a pit bull and all of that is all fine, but dogs will always escape. I had that experience; at one time I kept about five pit bulls.

Sen. Cudjoe: Wow!

Hon. Senator: Really?

Sen. F. Hinds: Yes.

Sen. Lambert: How many do you have now?

Sen. F. Hinds: That is when the—you know, I was about to tell you the reason but again it might sound political so let me not tell you; it just had something to do with the UNC.

Hon. Senator: What?

Sen. F. Hinds: Yeah. But I used to keep some pit bulls, and one day was cleaning—[*Interruption*]

Sen. Maharaj: In the PNM [*Inaudible*]

Sen. F. Hinds: I am being distracted—one day I was doing “ah lil cleaning in my yard” and did not realize that that dog got out of the gate—he did, one of them—and I was attracted when I heard a scream up the street, and when I looked, I saw my dog in aggressive mode, so I had to retrieve him and thank God he did not have the opportunity to do the kind of damage that may have happened if it were otherwise.

So dogs, notwithstanding the high fences, in fact, pit bulls are known to jump pretty high walls when they are sufficiently agitated and provoked—and climb as well. In fact, that same dog I just told you about—and this is no fun—my neighbours, the La Roches, where I lived in Santa Cruz will tell you—one morning, they woke me up by throwing things on my house to get my attention about 3 o’clock. When I looked outside, I thought it was a little more, and then I realized they were trying to get my attention. The dog spent apparently all night

digging, digging, digging under the wall—this is no fun, this a real—and got over into their yard, and did major damage to their German Shepherd, it lost its life! We repaired the place, I apologized to my neighbours, I assured them that I would replace it and then—[*Crosstalk*] Yeah, man. [*Crosstalk*] Well, I wish I had one now but I do not keep dogs anymore.

8.15 p.m.

I hear Minister Devant Maharaj interfering with me, Madam Vice-President. He wants me to—[*Interruption*]

Sen. Maharaj: He paying attention.

Sen. F. Hinds: Anyway, so dogs will escape. So the high walls and the insurance and all that—and all of this really comes into play after the fact, after someone has been attacked and possibly killed. So we need, really, to look—and a serious Dog Control Bill should also have an element—you could call it dog control if you want, but it should have an element—of dog handler control as well.

Sen. Al-Rawi: True.

Sen. F. Hinds: Because they can escape. There can be accidents and an aggressive dog will do what an aggressive dog will do.

Sen. Lambert: Good point. Good point.

Sen. F. Hinds: Sen. Lambert behaves as though the unions in this country keep dangerous dogs. He is not going around them at all. [*Laughter*] He is not going around them at all. He is now estranged from the trade union. I had to tell him a while ago across the floor, one day, Marcus Garvey, that great African leader out of Jamaica, was asked whether he is a Jamaican or an African, and he pithily replied: “Will I give up a continent for an island?” So, the answer was quite clear and I subscribe to that. I shared his view. Sen. Lambert reminded me of that. He has given up the trade union for the UNC. What a pity! What pity! [*Laughter and desk thumping*] When all of that is over, I ask him, where would he go?

I see former Minister Jack Warner, he used to be FIFA. He used to be everything, Concacaf everything and then I saw him come right down to UNC and then when the UNC melted under him, he now has to form something else to be on. He does not belong to nothing. Anyway, let me get back to the Bill. Sen. Lambert you—[*Interruption and crosstalk*]

Sen. Lambert: When Manning threw you out, you had no way to go.

Sen. F. Hinds: The great PNM was always there. I went nowhere. [*Desk thumping*] You could take a sergeant's stripes, you could take an officer's pips, you could take a general's stars but you cannot take a private's privacy. I remained PNM. Never moved and ah doh have tuh be nutten tuh be PNM. I remain PNM." [*Desk thumping*]

Sen. Al-Rawi: Well said.

Sen. F. Hinds: Madam Vice-President, one of the things that strikes me about these measures is that the Government is proposing—and do not tell me it came from a Member of the House. The Government has accepted, with its majority, that one should have and produce a certificate of good character in order to be able to hold a dangerous dog.

Sen. Al-Rawi: True.

Sen. F. Hinds: The Government has said that. But a certificate of character simply says—and you know we call it a certificate of good character but sometimes it is not always good, because behind the certificate will say what conviction or convictions one would have. That is not so good, but it is there. But you know something, Madam Vice-President, you could get a driver's licence in this country if you were convicted for murder and you got an early release. So, you were convicted for murder, you served 25 years, you get an early release and you could get a driver's permit.

As we have discussed here before and tried to put in the Government's head, criminals use motor vehicles to great effect. In fact, most crimes have something to do with the use of a motor car—

Sen. Al-Rawi: Whether it is stolen or not.

Sen. F. Hinds:—whether it is stolen or whether to get from point A to point B or to use as a getaway car. Sometimes cars are even used to actually, literally kill someone, drive into them; jam a car and then rob the occupants. So, Madam Vice-President—
[*Interruption*]

Sen. Lambert: Junior minister!

Sen. F. Hinds:—so the other question is—

Sen. Lambert: Why did you not pilot a Bill?

Sen. F. Hinds:—you can have a conviction for obscene language.

Sen. Al-Rawi: Yes, Senator.

Sen. F. Hinds: You can have a conviction for possession of a marijuana cigarette when you were 17 years or 18 years of age and at the age of 40 you find it—or 60—necessary to have one of these dogs, a class A dog, with the insurance, with your high

wall, with all the qualifications for your own protection and that of your family, as you advance in years and, according to this Government, you cannot have it. So, you committed the offence of use of obscene language when you were 18 and at age 70, you want a dog to protect you, especially with a failing Government, as it relates to managing crime in this country—

Sen. Herry: “hear you talking.”

Sen. F. Hinds:—and you cannot get it. I think this is something that the Government needs to think again. What offences? If you had said, for example, that you committed and were convicted for offences under the Dog Control Bill, so you mishandled dogs and, therefore, with that on your character record, you cannot get another one, I could easily understand that. But what about obscene language?

Sen. Al-Rawi: Good point.

Sen. F. Hinds: Matters that are totally unrelated to the management of a dog. It does not make sense or it does not make complete sense. I understand why people would think that way because the idea was to prevent so-called criminals from using these dogs in an intimidatory manner, as has happened before. So I could understand the persuasion. But on closer analysis, you got to think about it. How many offences? “One obscene language and you cannot get it?”

“But yuh know something?” I heard last week, a very embarrassing story to the country and the country should hear about this. In some hot spot in this country, contractors went to do work and some of the residents, some of the rude boys, told the contractors—and some of them had dogs “eh”; some of them had some of the dogs you are dealing with here today, so you see the link, they had dogs—that they are not allowing them to work unless they get money and they are not working for it, they just want money. That is where it reach you know. So the contractors called the police and the police came and the young men were up in the police face demanding money from them, notwithstanding, showing no respect or no fear. And I understand that they ended up negotiating with the HDC and they arranged to pay the money to these young men.

I want them to investigate that.

Sen. Lambert: Parliamentary privilege.

Sen. F. Hinds: So I want to know, since you want a certificate of character to hold and control a dog in keeping with the law, whether you need certificates of character to get some of the contracts that they are giving to people all over the place and encouraging the kind of behaviour that I have just described. But the answer to that is none. [*Desk thumping*]

Sen. Al-Rawi: Good point.

Sen. Cudjoe: Good point.

Sen. F. Hinds: [*Interruption*] You see the Minister Devant Maharaj talking about a makeup. I came to this Senate and I spoke about a company called Top Design in the Agricultural Development Bank, that in one year, got about \$10 million worth of work in the Agricultural Development Bank between 2011 and 2012. I did not make up that.

Sen. Maharaj: You make it up! That is bogus.”

Sen. F. Hinds: Yeah.

Sen. Maharaj: Bogus!

Sen. F. Hinds: Well we have questions on the Order Paper for you and more will come.

Sen. Maharaj: Ask the questions. Ask them.

Sen. F. Hinds: And all the corruption will be revealed.

Sen. Maharaj: Ask it.

Sen. F. Hinds: I did not make up that. And when I spoke about Rudy Maharaj, a former Chairman of the ADB here, he defended him.

Sen. Maharaj: Standing Order 35(1), what is the relevance of that?

Sen. F. Hinds: Thirty-five what?

Sen. Maharaj: Rudy Maharaj has a dog?

Sen. F. Hinds: He is your dog. Anyway, let me continue. Minister Moore told us—let me not be distracted.

Sen. Maharaj: “You distracted a’ready.”

Sen. F. Hinds:—and hear this most elitist statement, shocked me—if you are poor and impoverished you should not have a pit bull, or you should not have a class A dog. Now, I find that—

Sen. Maharaj: You taking it out of context.

Sen. F. Hinds: I find that is very elitist.

Sen. Maharaj: Taking it out of context.

Sen. F. Hinds: I know they have all become fat cats. They and their friends and families have all become very rich. They are doing very well but you see they did not consider that someone can have one, or two or three class A dogs, which he or she could use as an investment to earn money in security work. But as far as

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they are concerned, fat cats as they now are, once you are poor, you must stay poor while they grow rich and fat in strange ways that the terms of this Bill does not permit me to elucidate upon, unless if provoked.

Sen. Al-Rawi: Interesting point.

Sen. F. Hinds: It is true. So, I can have five or six pit bulls and I can use them at fetes and other shows, once I have them on proper leash and complying with the law as we have dictated here today and I could earn money from so doing, but they do not want that. Once I am poor, I must stay poor.

Sen. Coudray: And kill people.

Sen. F. Hinds: And I could build big house everywhere else and have all kind of—and drive Range Rovers and promise that I have given it up and when you hear the shout I still have the Range Rover like Minister Moonilal.

Sen. Maharaj: What is the relevance to the Bill?

Sen. F. Hinds: Very relevant .

Sen. Maharaj: Moonilal has a pit bull too or what?”

Sen. F. Hinds: They thieving like dog. That is the relevance.

Madam Vice-President, I am very concerned about that level of elitism.

Sen. Maharaj: He has to withdraw dat.”

Sen. F. Hinds: I said “they”. I called no names.

Sen. Coudray: You mean the PNM.

Sen. Maharaj: The PNM under Manning.

Sen. F. Hinds: According to Bob Marley: Who the cap fits you could wear it. I called no names.

Sen. Maharaj: The master thief on the next side.”

Sen. F. Hinds: Yes, you see. You should withdraw that. Madam Vice-President, let me continue. Let me look at some of the elements of this Bill.

Sen. Maharaj: Calder Hart.

Sen. F. Hinds: Clause 5(2) of this Bill says:

“Subject to subsection (1), no owner or keeper of a class A dog shall permit the dog to enter a public place unless—

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

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(b) the dog is securely held on a lead...”

by someone of not less than 18 years.

Sen. Maharaj: Buy a muzzle.

Sen. F. Hinds: “(c) the owner or keeper, with the dog, has attended and completed a course of training in the control of dogs that is recognized by the Minister by Order.”

This subclause (2) mentions specifically class A dog and, therefore, in subclause (2), we have defined clearly what we are speaking about.

“Subject to subsection (1) no owner or keeper of a class A dog...”

So, in the three subclauses that I have just read, wherever you see “a dog” or “the dog”, one can assume, by way of statutory interpretation, that we are talking about a class A dog. But when we go on to subclause (3), it says:

“No owner or keeper of a dog shall—

(a) permit the dog to be dangerously out of control in a public place;

(b) encourage the dog to be aggressive...”

and so on. In this case I want to know which dog, whether it is a class A or whether it is a class B, because I asked the Attorney General. I read this Bill and I noticed that it mentions and it is trying to prohibit and regulate the management and the handling of class A dogs. So, one gets the impression that as for class B dogs, the regime that we are putting in place here today does not apply or arise. And, therefore, if you had a class B like a Doberman or an Alsatian or a mongrel, you continue business as usual and you are only going to be subjected to the criminal liabilities as in the Summary Courts Act and in a couple other Acts that we are familiar with, touching and concerning dogs and negligence, the regular common law principles in tort.

So, it is important for us to understand this. What are we speaking about? I gather from the Attorney General, on the margins, that what we are doing—and in fact he said so you know. Let me quote him in the other place. He spoke there on June 21, 2013. Sen. Ramlogan is saying at page 107 of the unrevised *Hansard* record, and I am quoting:

“So, anybody in the population who would have been frightened by the headlines they have read recently, about all the huge fines and the terms of imprisonment and so on, if you wish to avoid all that, then just do not have a dangerous dog, you could have any other kind of dog.

I understand him to mean just do not have a class A dog.”

He then went on to say, and I quote again:

“You could have the pot-hong. You could have the rottweiler, you could have, you know, the alsatian, you could have any other dog and you would not have to bear the brunt of the burdens that the legislation imposes. So it is not that we are discouraging people from owning dogs.

Now, that is why the Bill has two classes: class A and class B; class A being the dangerous dogs, and class B being all other dogs, and there is a different regime under the Bill that deals with the dangerous dogs as opposed to ‘none-dangerous dogs.’”

These are the words of the Attorney General on *Hansard*.

8.30 p.m.

So wherever we speak of “the dog” or “a dog”, in this legislation, especially since he has made it clear we are dealing with regulating conduct around class A dogs and not class B dogs, which means “any other dog”, we have to be very clear what we are speaking about. Short of that, this legislation is confusing in the extreme, inelegant, ugly even, confusing and we have to clarify that because it will be a nightmare for lawyers and judges in the courts when that time comes, as indeed it would.

Sen. Maharaj: Not for good lawyers.

Sen. F. Hinds: You are good for nothing!

Sen. Maharaj: Not for good lawyers.

Sen. F. Hinds: Madam Vice-President, let me continue. Clause 14— notwithstanding what I have just read—clause 14 of this Bill says—and the side note says, “Prohibition from certain places”:

“(1) A person who owns or keeps a class A dog shall keep that dog under control in his private premises.

(2) A person shall not keep a class A dog on premises, whether indoors or outdoors, that accommodate more than one household.”

So, if you are living in a condo, a set of condos or a planning-type living where you have communal shared staircases, shared public spaces for recreation, disposing of garbage, you will not be able to keep a class A dog although it is yours and you cannot claim that you are keeping it on the inside—puts other people at risk.

Subclause (3) says:

“A person who contravenes subsection (1) or (2) commits an offence...summary conviction...fifty thousand and imprisonment for one year.”

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Now, this seems to say that if you have a class A dog, you should keep that dog confined to your home, again caging it in, one of the circumstances that I have demonstrated at the top of my discourse in this one, to create aggression. Dogs need space to run around and entertain themselves, otherwise that energy is pent up and they become more likely to be aggressive.

I see, as I said earlier, clause 15 speaks about abandoning a class A dog, but you see, in keeping with what I had said earlier, the problem is not so much the dog; not so much a specific breed nor, indeed, the four breeds that we are addressing here today. The conditions that I have described, you can apply them to any dog, a Doberman or Alsatian, and you will have the same adverse consequences. So abandoning any dog should be an offence, not just a class A dog and I want to recommend this to the Attorney General who, of course, is absent from the Chamber—

Sen. Maharaj: He is in the library.

Sen. F. Hinds: How do you know he is in the library? You have 10 eyes?

Sen. Maharaj: He told me that before he went. He went to the library.

Sen. F. Hinds: “And you believe anything the Attorney General says?”

Sen. Maharaj: “Ah doh believe you. Ah doh believe you and yuh fake email.”

Sen. F. Hinds: I will tell you why I do not believe anything the Attorney General says.

Sen. Maharaj: “He in de library.”

Sen. F. Hinds: Well, you could stay here and say that, you know. I know you know everything. I will come back to that. Let me leave that for the time being.

So, Madam Vice -President, that is something that we need to pay some attention to, and while I support—like my colleagues here and in the other place—in principle, some measures to take control of these animals, I have some difficulty with some of the issues I am raising here and find myself hard-pressed to feeling enthused about supporting this in light of these obvious shortcomings.

So class A dog in the definition section, in clause 4, says:

“‘class A dog’ means a dog of the type listed in the Schedule;”

And we have identified the four of them, but what happens to class B? What happens to Dobermans and Rottweilers that can cause serious harm in the society as well, if not properly handled? So, again I make the point, what we need to be doing in this legislation is improving, by law, the way people handle dogs otherwise we would be back to square one and those dogs could kill people too. Those dogs could kill as well.

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I see in the definition section it says, a “‘dog’ includes a bitch”. Well, I cannot understand that because, as far as I know, a bitch means a female dog. So what are we saying here and why the distinction? Somebody can just help me. I do not know why you have to say that. Maybe they just like the word.

In this Bill, it says, in 4(2):

“In this Act, references to a person being responsible for a dog are to a person who is responsible for a dog whether on a permanent or temporary basis.”

and subclause (4) says:

“For the purposes of this Act, a person who owns a dog shall be regarded as being a person who is responsible for it.”

Well, I trust that they are trying to tell us here that “responsible” must be taken in its ordinary meaning, “in control of”, typically the owner; but if the owner allows someone to walk his or her dog, then that person is in control.

Subsection (6) says:

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

“(a) it injures any person without reasonable cause;”

You see the “it”, Madam, in (6)(a), it says if:

“it injures any person without reasonable cause;”

Now, that “it” means the dog.

Hon. Senator: “Nah!”

Sen. F. Hinds: Yeah? Let me read it over:

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

(a) it injures any person without reasonable cause;”

Now, you think a dog could decide what is reasonable or what is not? This is inelegant.

Sen. Coudray: You have the subject of the sentence backward.

Sen. F. Hinds: I am reading the legislation.

Sen. Moore: You are not understanding it.

Sen. F. Hinds: I am reading it. It says:

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

(a) it injures any person...”

It is not the handler injuring somebody, it is the dog; and it says “without reasonable cause”.

Sen. Moore: Why do you not read that—[*Inaudible*]

Sen. F. Hinds: And (b) says:

“there are grounds for reasonable apprehension that it will injure any person without reasonable cause, whether or not it actually does so.”

It is the dog we are talking about.

Sen. Moore: Yes, there is a definition further down. Read down three more clauses.

Sen. Maharaj: That is for good lawyers, you know. We said that.

Sen. F. Hinds: So the question of reasonable conduct, reasonable cause, these are terms of art that we ascribe to human beings—people, not dogs—

Sen. Moore: Disingenuity.

Sen. Maharaj: Disingenuity.

Sen. F. Hinds:—because when a dog attacks, it attacks. The dog just does what a dog will do. It is the handler who must be reasonable or otherwise. So I think we need to watch this. They can say what they want, but no dog can act reasonably or unreasonably. It does not make sense. A dog will either attack or not attack.

Sen. Maharaj: “It have reasonable dog.”

Sen. F. Hinds: Yes. Okay? Now subclause (8) goes on:

“In this Act, references to a class A dog or class B dog injuring a person or there being reasonable grounds for apprehension that it will do so, do not include references to a dog being used for a lawful purpose by a constable or a person in the service of the State.”

So, as I indicated earlier, if you are handling a class A dog and you are doing it with a lawful purpose by a constable or a person in the service of the State, it is exempted from liability here in subclause (8). So, what about the class B dog? That, as I indicated earlier is business as usual. Why then are you exempting class A and not exempting

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class B specifically here when class B is not the focus of the legislation? It is only the dangerous dog. That is the question. It is ugly, unimpressively ugly and this is something we find coming from this Government over and over again.

Why do you have to exempt class B—

Sen. Maharaj: Even the PNM leave his contribution.

Sen. F. Hinds:—when there is no liability as I said?

Sen. Maharaj: Even your colleagues—

Sen. F. Hinds: For the purposes of this Bill—you are a comedian, you know. Sen. Maharaj is a comedian. [*Desk thumping and laughter*] This is serious business, you know.

Subclause (9) says:

“For the purposes of this Act, reasonable cause includes...” [*Interruption*]

I am speaking. I am speaking to the President. I want to ignore Sen. Maharaj otherwise I would be forced to address him. [*Crosstalk and laughter*]

Subclause (9) says:

“For the purposes of this Act, reasonable cause includes situations where—

(a) the person attacked was committing...”

So, you see, they are ascribing reasonable cause to the dog—I pointed that out—and go on here to say:

“For the purposes of this Act, reasonable cause includes situations where—

(a) the person attacked was committing an offence for which the penalty could be a term of imprisonment;”

So you know what they are saying, Madam Vice -President?

Sen. Moore: Read the whole 27!

Sen. F. Hinds: You know what they are saying, Madam Vice -President?

Sen. Moore: Read the whole thing!

Sen. F. Hinds: “Oh gosh, Minister Moore. Just let me continue, nah.”

Sen. Coudray: He was not saying that when people talking though. [*Crosstalk*]

Sen. F. Hinds: Madam Vice-President, I need your protection.

Sen. Coudray: You asked for that?

Sen. F. Hinds: I need your protection.

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Madam Vice -President: Sen. Hinds, I will give you the same protection as I have given others, even while others were on their legs and you were speaking. So, please continue.

Sen. Mohammed: Yeah, yeah, yeah. [*Desk thumping*]

Sen. George: You have to smile at that one. You have to smile at that one. That one was good.

Sen. F. Hinds: I was expecting a modicum of independence from the green, but I am not seeing it.

Sen. George: It will be coming in time. [*Crosstalk and laughter*]

Sen. F. Hinds: Madam Vice-President, I feel assailed in this House all around, but let me continue. All around I feel assailed, but let me continue.

Sen. George: You assail everybody all the time. You are the number one assailant.

Sen. F. Hinds: Oh gosh, man, you are wasting my time, man.

So it says:

“the person attacked was committing an offence for which the penalty could be a term of imprisonment;”

As I indicated earlier, if the dog injures someone while the person who is injured was committing an offence for which the penalty could be a term of imprisonment, which might include obscene language because people have been sent to prison for two weeks for obscene language. So because they “cuss” and have a conviction; the dog bite them, no liability. That is what they are saying. You could be convicted for drunk driving.

Madam Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. S. Cudjoe*]

Question put and agreed to.

Sen. F. Hinds: Thank you very much, Sen. Cudjoe. What they are saying is once you were sentenced to a term of imprisonment, the dog could mutilate you. Subparagraph (b) says: [*Laughter*]

“the person attacked was in a place where he was trespassing or was in a place where he was not permitted to be and the place was secured by a fence or wall in accordance with section 9;”

So they are saying that once you were a trespasser; the Attorney General said once you were a trespasser, the dog could bite you, no problem; but I will come back quickly to that.

Madam Vice-President, (d) says:

“the dog was provoked into attack by a person other than the person responsible for it;”

Now, Sen. Ramkissoon told you he is simply riding innocently and lawfully by and that agitates dogs. Provoking a dog does not have to mean you are doing something illegal or trespassing or improper. If you are working in your house or on your fence and you are pounding constantly, that could provoke the neighbour’s dog although you are acting quite lawfully. When you are running by, jogging, walking, children riding up and down their little tricycles and bicycles and laughing and chatting, that could be provoking of a dog. What they are saying here is, once the dog was provoked into attack—*[Interruption]* So Madam Vice-President, I want them to contemplate that.

Now let me come quickly, because time is running, to this question of the trespasser. The Attorney General said on June 21, 2013—I notice he did not say it here—maybe because he was embarrassed at what he said, and I will show you why. I am quoting him:

“I propose to look at the point raised by the Member...on this score with respect to making it clearer that if someone is trespassing on your property then the dog—you should have the right to be protected in law if the dog attacks the trespasser. So that if it was there—but I have decided to rephrase it and perhaps to excise it to make it clear that if someone is trespassing on your property and ‘de dog ketch up with dem, and make ketchup...out ah them...then nothing wrong to you. Nutting could happen with you’. The person has no right being there.”

8.45 p.m.

You see how convoluted. I continue:

“So I want to issue a very strong warning to people, those who are bent on invading the homes and privacy and spaces and lawful properties of innocent law-abiding citizens this Bill absolves the owner of the dog from any and all legal liability ‘if de dog rush yuh, and de dog attack yuh and you are injured in the worst manner then that is not the fault of the owner. The question is: why yuh doin dey? Doh climb over nobody fence, doh go in nobody place,”

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That is the Attorney General speaking. He went on July 03, 2013 in the other place, and he said—no, this is Minister Roberts now speaking.

“Instead what we have done is to expand and amend the definition of ‘reasonable cause,’ so that that would provide a defence for persons who are owners of class A or class B dogs, whenever there is an attack. So the expanded definition will now include, ‘where the person attacked was committing an offence for which the penalty is a term of imprisonment.

So if your dog basically attacks an intruder or someone who is attempting to break and enter your premises, then you are not liable.”

Madam Vice-President, the Attorney General owes it to this Parliament and to this country to be more careful, more studied, as to his pronouncements as a lawyer and senior counsel and legal advisor to the Government as Attorney General. That is not a correct statement of the law.

The day I began learning the law of tort as a student many years ago in England—

Hon. Senator: “Yuh still learning.”

Sen. F. Hinds:—I remember the case of the *British Railways Board v Herrington* which was reported from the Queen’s Bench Division. It is a House of Lords matter. It was decided on February 16, 1972 and it is to be found at page 749. Lords Reid, Morris, Wilberforce Pearson and Lord Diplock giving judgments in this matter.

“The plaintiff, a boy aged six, went with his two older brothers to play in a field”...National Trust...At the point where the trodden path reached it, the fence had become detached from one of the supporting posts...The evidence showed that the fence had been in that condition for some time and that people had been using...”—it to go through—”There was also evidence that employees of the board had reported some seven weeks before the accident that children had been seen on the stretch of railway line but no action had been taken...After playing in the field...”—for a while he left contact with his friends and he walked into the area of an—”...electrified rail...”—He was seriously injured—”In an action by the plaintiff, the board”—meaning the British Railways Board—”claimed that they were not liable to him for being a trespasser on the railway track, they owed him no duty of care, nor had they shown any reckless disregard...”

It was held and I quote:

“Although as a general rule a person who trespassed on the land of another did so at his own risk, and the occupier of the land did not owe him the common duty of care owed to persons lawfully on the land, it did not follow that an occupier was never, in any circumstances, under a duty to take steps to protect a trespasser from potential danger; nor was the occupier’s duty limited to refraining from acting with the deliberate intention of doing harm to a trespasser actually on the land or with reckless disregard of his presence there...

Although in failing to take any steps to maintain the fence in good repair the board could not be said to have acted with reckless disregard of the plaintiff’s presence on the track, they had failed to act with due regard to humane considerations and were, in the circumstances, culpable.”

That is a case from 1972.

Madam Vice-President, so when you hear the Attorney General jumping up and talking—he did it several times you know. He told this Parliament and this country that the Cabinet had the right to appoint Susan Francois as head of the FIU. It turned out to be wrong. That was for the Public Service Commission.

Sen. George: “Manning did de same with de police.”

Sen. F. Hinds: He told the police—encouraged them to lock up 250 people under the anti-gang legislation and “we go” get the evidence after. That never, happened.

Sen. George: The Commissioner of Police appointment—

Sen. F. Hinds: They were all freed, Madam Vice-President.

Sen. George: “And he geh rid ah you.”

Sen. F. Hinds: In Atkin’s Courts Forms/Personal Injury (Volume 31(2), under the heading occupiers liability, paragraph 16, “Liability of occupiers to trespassers”. Under the Occupiers Liability Act, 1984 in England—and I just gave you a common law position, but I am giving you statutory support now. [*Crosstalk*] In the Occupiers Liability Act in England:

“...a duty of care is imposed upon an occupier towards a trespasser in the following circumstances:

1. where the occupier is aware of a danger...or has reasonable grounds to believe that it exists;

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2. the occupier knows or has reasonable grounds for believing that the trespasser is in the vicinity of the danger or may come into its vicinity; and
3. in all the circumstances, the occupier may reasonably be expected to offer some protection towards trespassers against the risk of injury...

Where such duty is imposed, the occupier owes a duty... to take such care as is reasonable in all the circumstance...to see that the trespasser does not suffer...on the premises by reason of the danger concerned.”

In 1994, I wrote an article published in a newspaper here, a young man, somewhere I think in La Brea, having become the victim of constant illegal entries into his apartment, he bought a three line and sharpened it. He put three holes on the back of it, the ridge. He set up a spring mechanism and set a trap by the window that he suspected the burglar or the thief was coming in, and he left for work, and a 13-year-old girl, as far as I recalled it—[*Interruption*]

Sen. Coudray: That was not La Brea.

Sen. F. Hinds: Where was it?

Sen. Coudray: In Marabella.

Sen. F. Hinds: It happened in Marabella, my forgiveness. It is a long time.

Sen. Coudray: Bring proper information. It was not so long. “All-yuh always distorted.” [*Laughter*]

Sen. F. Hinds: So he set this trap up, and the reports are, Madam Vice-President that this 13-year-old girl attempted to enter again, so he knew someone was trespassing, and he virtually set a trap. Her arm was severely injured in the process, and there was a lot of discussion in the society about that.

Sen. Moore: You sure this was your client? [*Laughter*]

Sen. F. Hinds: There was a lot of discussion in the society about that.

Hon. Senator: That was not your client. [*Laughter*]

Sen. F. Hinds: Madam Vice-President, I held the view at the time—Mr. Mark Mohammed, now a learned judge, was at that time the Director of Public Prosecutions—I might have been the lone voice in the society saying that man should have been charged for attempted murder or grievous bodily harm because he knew there was a trespasser. He did not spend money securing the window, making it secure to keep the burglar out, he set a trap, and what I have just read for you demonstrates that that is illegal in a serious jurisdiction. I just read it for you.

Let me continue quickly because time has run. In another matter [*Crosstalk*]—and Lord Phillips in delivering a judgment here in *Donoghue v Folkestone Properties Ltd*, 2003, *Three All England Reports* at page 1101—[*Crosstalk*]—Madam Vice-President—

Sen. Moore: What was that? Read it again.

Sen. F. Hinds: You were not listening, just look—[*Laughter*]—do not provoke me here this afternoon. So the judge, as I said, Lord Phillips, quoting Lord Reid in the same case that I quoted *British Railways Board v Herrington*, he cited a passage. This is a 2003 matter—

Sen. Moore: “Oooo! Yuh get recent.” [*Laughter*]

Sen. F. Hinds:—and the passage that he cited at page 796 from Lord Reid, where Lord Reid said:

“First, the duty does not arise until the occupier has actual knowledge either of the presence of the trespasser on his land or of facts which make it likely that the trespasser will come on to his land; and has also actual knowledge of facts as to the condition of his land or of activities carried out on it which are likely to cause personal injury to a trespasser who is unaware of the danger. He is under no duty to the trespasser to make any enquiry or inspection to ascertain whether or not such facts do exist. His liability does not arise until he actually knows of them. Secondly, once the occupier has actual knowledge of such facts, his own failure to appreciate the likelihood of the trespasser’s presence or the risk to him involved, does not absolve the occupier from his duty to the trespasser if a reasonable man possessed of the actual knowledge of the occupier would recognize that likelihood and that risk. Thirdly, the duty when it arises is limited to taking reasonable steps to enable the trespasser to avoid the danger. Where the likely trespasser is a child too young to understand or heed a written or a previous oral warning, this may involve providing reasonable physical obstacles to keep the child away from the danger. Fourthly, the relevant likelihood to be considered is of the trespasser’s presence at the actual time and place of danger to him. The degree of likelihood needed to give rise to the duty cannot, I think, be more closely defined than as being such as would *impel a man of ordinary humane feelings to take some steps to mitigate the risk* of injury to the trespasser to which the particular danger exposes him. It will thus depend on all the circumstances of the case: the permanent or intermittent character of the danger, the severity of the injuries which it is likely to cause; in the case of children, the

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attractiveness to them of that which constitutes the dangerous object or condition of the land”—or allurement—”the expense involved in giving effective warning of it to the kind of trespasser likely to be injured, in relation to the occupier’s resources in money or in labour.”

This is what you call a very powerful statement of the law coming from Lord Reid, as he then was.

So for the Attorney General, supported by the Minister of Justice and the other persons on the other side, to stand in this Senate and give the impression that once you walk in a place as a trespasser, and a man has dogs—Madam Vice-President, to tell you quickly, I know of a case in this country where a man said he saw on his camera a thief coming into his yard, the dogs were loose, he did not take action. The dogs attacked the man. He allowed the dogs to do the damage. When he saw the man was not resisting, he then intervened to save the man’s life. That is not permitted. So the Attorney General’s *carte blanche* is a misstatement of the law to be rejected.

Madam Vice-President, I have demonstrated two things: we all in this society want to see a reduction in cases of attacks on human beings by these vicious animals, all animals. We want as well to see people—[*Interruption*]

Madam Vice-President: Sen. Hinds you have one extra minute so just wrap up quickly please.

Sen. F. Hinds: Much appreciated. So, Madam Vice-President, having said these things, we support the measures in principle, but I have grave difficulty in supporting enthusiastically the Bill that is in front of me, and I look forward to committee stage where we could make adjustments for the benefit of us all. I wish to thank you. [*Desk thumping*]

9.00 p.m.

Madam Vice-President: Sen. Prescott. [*Desk thumping*]

Sen. Elton Prescott SC: I thank you very much, Madam Vice-President. Thank you for the opportunity to contribute to the debate on this Dog Control Bill, 2013.

Madam Vice-President, I would preface my remarks by notifying the general public that a dog is a dog, and there are only a few categories of dog really, you are either a pet, a pup, a big dog or a bad dog.

[DR. VICTOR WHEELER *in the Chair*]

There is no such reason, there is no sound reason for making distinctions, as far as I am concerned, between a dog that has not shown a propensity to be dangerous, and one that does. So if, at all, we are going to be supporting the Dog Control Bill, 2013, it would be against an acknowledgment that maybe the schedule of dangerous dogs needs to be looked at very early in the day.

I have one other warning for persons who are interested in obtaining and keeping dogs. It reminds me of something in the 1960s when there was a great big strike in Port of Spain; the cry then was, "don't buy, pass by". People who are thinking of going out to get class A dogs need to know that it could be very costly. You have to get a licence, you have to get insurance, dog tag, a wall or a fence, or a gate, as the case may be, a police certificate of good character, you have to pay a trainer, you have to pay a vet, you have to pay lawyer's fees, and the chances are that you will be found guilty in some court and have to pay a fine, or found guilty before the civil judges and have to pay damages.

You have to own your own home, or have control of a household that stands exclusive of all others if you are going to be safe from the arms of the law here, and a dog owner of a class A dog. So that the advice to the general public is, stay away from dogs, generally, unless it is a pet kept within your home and not a class A or a dangerous dog. I found in the Dangerous Dogs Act, 2000, which is to be repealed by this Act, section 4 which reads as follows:

"No person shall import into Trinidad and Tobago a dangerous dog, or the semen or embryo of a dangerous dog."

And there is a penalty for an offence contrary to that section. I want to call on the Attorney General to give consideration to retaining that section, or introducing it into the Dog Control Bill, because if, as we have set out to do, our intention is to protect the public, it might be that we are better off thinking of removing from this jurisdiction the very dogs which are identified in schedule 8 of the Bill.

Let us begin to reduce that population by simply putting a prohibition on the importation of that particular type of dog, and then we will remove all the concerns that people have, all the anxieties that people have about which is a bad dog, which is a Brazilian or a Japanese, or an Argentinian dog, or which is a pit bull terrier. People are afraid of dogs because they appear dangerous, and if your society allows you to be put in fear by a dog, I do not think that we ought to spend court time, or anybody's time trying to determine, is this a dog that has a propensity to danger, to attack persons, or a dog which has in fact done so in the past?

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If it is a big dog and it is growling, and it is coming towards you, it is a dangerous dog, and if you are in a position to do something about it, my advice to anybody who I know, is attack the dog, get rid of the dog, because dogs do not tell you what they are going to do. Dogs do not apply reason in the way they attack people, dogs attack people for all manner of reasons. I know that there are those who would say, it is if you provoke them or if you have been ill-treating them, but the very owners themselves have been known to bewail the fact that they had no idea that the dog had run away, or the dog would do such a thing, or turn even on them, the owners. Dogs are not humans, to the best of my knowledge and, therefore one cannot predict what they can do, any more than they can predict what a human being should do. That is my reason for objecting to some of the provisions in this Bill.

One of the contributions you have heard today speaks about the provisions in clause 4(6) of the Bill, and since I am on the question of reason I want to address it. I have heard mutterings from the other side that it is a wrong reading of clause 4, but I do not subscribe to that view. What clause 4(6) says—and I better read from this one, if you will allow me. It says:

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

Well that is fairly straightforward, and:

- “(a) it injures any person without reasonable cause; or
- (b) there are grounds for reasonable apprehension that it will injure any person without reasonable cause, whether or not it actually does so”

Like Sen. Hinds, I read this as saying that the dog must have demonstrated, by its action that it was acting without reasonable cause. And for that reason, what is provided in clause 4(9) simply would not make sense in a court of law.

There are those who say that we are reading the clause wrong, I do not support that view. What 4(9) says, is:

“For the purposes of this Act...”—and therefore for the subclause which I have just read, “reasonable cause includes situations where—

- (a) the person attacked was committing an offence...”

The dog must have attacked a person who, in the mind of the dog, in the reasoning, the rationale that the dog has the attributes of, has committed an offence for which the penalty could be a term of imprisonment. That is how 4(9) is going to be read. Lawyers are going to make money out of this, of course, and maybe there is good reason for it.

“For the purposes of this Act...” reasonable cause,”—

that is to say, a dog has injured a person without reasonable cause but he is free if the person attacked was committing an offence. The dog is free if the person attacked was a trespasser. The dog is free if he was “being used for a lawful purpose by a constable or a person in the service of the State”. The dog is free if “it was provoked into attack by a person other than the person responsible for it”. That is my reading of 4(9). I am not reading the entire thing, of course, but I should like to hear a further view opposite to this and, of course, in my usual modest way I will accept that I am wrong if it has been demonstrated.

I suggest strongly that what we need to have before we leave this House this evening, is someone addressing clause (4)(6) and (9), and putting into proper perspective precisely what is intended. If it is intended that reasonable cause should be attributed to the handler of the dog, then make it clear that that is what this is supposed to be, but right now, in this language, in the way it is structured, it is clearly suggesting that one may expect reason from a dog. *[Laughter]*

I move on. There is something that I would wish to lend my support to, and I hope I could find it. It is a new trend in legislation which expanded and taken to its logical conclusion might please us all. It renders a parent criminally liable for the actions of a child. I am sorry I said that wrongly. The Bill says at clause 4(5):

“For the purposes of this Act, a person shall be treated as being responsible for any dog of which a person under the age of eighteen years in his care and control is in charge.”

If your child under 18 has control of the dog, you are treated as being responsible for the dog, so that the criminal offence which flows from the dog, having done something wrong, or being incited by you or otherwise, becomes that of the parent—and I am lauding the fact that we are beginning to see that it is about time that we introduce legislation that imposes greater parental control on people.

If you permit your child of 17 and 11 months, to go out there with your class A dog and cause destruction then, clearly, you ought to be held liable. And I am hoping that in time to come legislators will see the need to continue an extension of that thinking to include other acts on the part of young people, especially today where our young people are inclined to demonstrate violent behaviours where we would least want it.

Mr. Presiding Officer, I move on. In the Bill at clause 5—forgive me, 5(2)—not in a public place. I am moving now to clause 5, and I have heard it being mentioned before, it appears that clause 5 has created two sets of offences for two different classes of dogs. Clause 5(2), clearly, as it says, limits itself to the class A dog and says:

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It shall not be permitted “to enter a public place unless”—

it is “(a)...fitted with a muzzle...

(b)...securely held on a lead by a person who is not less than eighteen

(c)...and the owner or keeper...has attended and completed a course of training in the control of dogs.”

Of course, what 5(2)(b) tells us, in relation to the person who is not less than 18, and who is capable of controlling the dog, is that there must be some way in determining whether a person is capable of controlling a dog or not. It seems to me the best, and sometimes the only proof of the lack of capability to control is that the dog has attacked or escaped. So what is behind 5(2)(b) is not as clear as it may seem on paper. It says that you may be permitted to take your dog into a public place if you are capable of controlling the dog.

The only time that we will know that you are incapable of doing it is when the dog has attacked, because it would appear strange if people were walking around with certificates that show that you have attended courses of training in the control of dogs, when you go out into a public place. It does not seem to be a requirement of the Bill, in any event, that you must demonstrate by production of your certification that you have been trained in the control of dogs before you can enter a public place.

Sen. Al-Rawi: There is no requirement for a certificate, it says complete.

Sen. E. Prescott SC: The certification does not appear to be part of the legislation either—thank you very much. So that one needs to revisit clause 5(2)(b) for that purpose.

Sen. Al-Rawi: And (c).

Sen. E. Prescott SC: Right. Thank you very much—5(2)(b) and (c). For those who may be listening, clause 5(1) makes it an offence to have your dog in a restaurant, a place where food or beverages are sold or consumed by the public, a commercial mall or a shop. I do not know if any other location has been added to this, and it may not be. But there are so many places where dogs really ought not to be, that one wonders—and I was not here at the time when the Attorney General was presenting—why these places only.

There are places really where dogs ought not to be and I can think of many, but if you took your dog into the library, I imagine it would cause quite a stir, and the libraries appear to be public places. It would cause quite a stir would it not?

What about some of these Government Ministries? Could you take it into the licensing office, for example, where all these people are milling about, people of all classes and hues? It does not seem to me that a security officer, or even a police officer, could say to you, “Do not bring your dog into the licensing office, or the library”. And maybe there is some explanation for the limited number of public places that we are not permitted to carry dogs of any class. It could not be that restaurants, shops and commercial malls are the only places where people are likely to be in danger of a dog infecting them.

9.15 p.m.

What is 5(1) about, that dogs may infect people if they go into restaurants? Is 5(1) concerned with protecting persons in the restaurant from being attacked by the dog? Or is the presence of the dog contributing to the lack of hygienic conditions in the public place? So 5(1) does not quite communicate for us what is wrong with taking your dog into the restaurant or more so into the commercial mall or shop. Until I hear the thinking behind it I would have great difficulty in supporting clause 5(1) and I trust that the hon. Attorney General in his response, in the reply would be good enough to clear that up for me.

I move now to clause 5(3)(a):

“(3) No person or keeper of a dog shall—

(a) permit the dog to be dangerously out of control in a public place;”

And I think that that is a given. One ought not to be concerned about that.

“(b) encourage the dog to be aggressive or to intimidate a person to facilitate the commission of a crime;”

I imagine that means, and it should have said, “in a public place”, in the same way that 5(3)(a) spoke to a public place. I am not certain, I may be wrong on this one because it could equally be that any encouragement of a dog to be aggressive can lead to a conviction, but the fact that 5(3)(a) speaking of permitting the dog to be dangerously out of control in a public place suggested to me that it was intended that all of 5(3) should have been referring to public places. So I invite some clarification on it. And now I move on.

In the very clause 5(3) where the word “permit” is used, might the Attorney General tell us whether “to permit” is a deeming concept? That you are deemed to have done something if your dog is permitted to be dangerously out of control. Does it not suggest that this is some kind of strict liability activity?

Sen. Deyalsingh: That is what we are talking about.

Sen. E. Prescott SC: Is it that maybe the word “cause” might have been more apt? That you are the owner or keeper of a dog who shall cause the dog to be dangerously out of control could find himself guilty of an offence as opposed to permit. Permit—[*Interruption*]

Sen. Al-Rawi: Is more passive.

Sen. E. Prescott SC: To me it is even less than passive. It is somebody who is not taking any action at all. Not somebody who closes his eye, but somebody who is totally unaware of what is transpiring around him. Granted that if you were out with your dog you ought to be alert, but there are times when a dog can take action way beyond the capacity of a human being to predict or to prevent.

Sen. Al-Rawi: True.

Sen. E. Prescott SC: And this is—may I remind you, clause 5(3) is not related to class A dogs.

Sen. Al-Rawi: No.

Sen. E. Prescott SC: It is any dog, dogs of a lesser pedigree; DLP, for example. They may find themselves in this difficulty here and one could address that.

Sen. Al-Rawi: Did you say ILP?

Sen. E. Prescott SC: No, Sir. And in fact, I am sorry I said DLP; dogs of a lesser pedigree. I should not have gone that far. Pardon me.

I now turn to clause 5A and I welcome the inclusion in this Bill of provisions for taking care of one’s dogs. I imagine that it is sufficiently broad. I do not know enough to say anything on it, but it is a welcomed provision. It was introduced in the other place. So presumably some care was taken to ensure that it met the requirements of both sides in that House.

I now come to clause 6. Clause 6(1) reads as follows:

“Within six months of the coming into force of this Act, every owner of a class A dog shall register the dog in the prescribed form with the local authority for the area where he resides.”

My question is—or maybe I should read clause 7 to make a greater sense out of it; 7(1) goes on to say:

“No persons shall own a class A dog unless that person, within six months of the coming into force of this Act, applies for and obtains a licence in the prescribed form from the local authority for the area where he resides.”

So should that person be regarded as an owner of a class A dog before it is licensed?

Sen. Al-Rawi: Registration versus licence.

Sen. E. Prescott SC: Does ownership depend on licence? No person shall own a dog unless it is licensed? Is that what was intended by this piece of drafting? That you shall not be regarded as an owner until you have got a licence for the dog or registered it?

If it is not that then a correction is required whether by way of amendment of this Bill or well—it certainly could not be put into the regulations. It ought to be contained within clauses 6 and 7. So I would invite consideration of that by the hon. Attorney General.

Hon. President Officer, I will now invite the attention of this House to clause 7(13); 7, is it? No. I am sorry. If you would just bear with me. I am using this one. I am straddling between two versions of this piece of legislation and there is—yes, a provision in 7(13):

“An owner of a class A dog shall inform the local authority of the death of his dog at the earliest opportunity.”

Now I imagine that the thinking behind this is that the registering officer, the registering authority, could have a note, that that registration has now expired or been rendered void, but one of the observations that one would make is that you are not required to register that dog before the age of six months or the canines have descended. So that an unregistered dog, presumably, its death need not be reported to the local authority.

Sen. Deyalsingh: But what about proof of death?

Sen. E. Prescott SC: The local authorities have enough to do already—

Sen. Deyalsingh: Some of them.

Sen. E. Prescott SC:—for them to be required by law to make a note of the death of an unregistered dog. Somebody was enquiring about—*[Interruption]*

Sen. Deyalsingh: Proof of death.

Sen. E. Prescott SC: What would be the proof of death or how does one prove it? I do not know. It had not occurred to me to enquire into that. *[Interruption]*

Hon. Senator: “Yuh dog dead and continue with—”

Sen. E. Prescott SC: I do know if you want to keep it after. Clause 8. Now clause 8 speaks to this:

“(1) An owner or keeper of a class A dog who is unable to fulfil the requirements of this Act shall notify the Ministry of that fact and transfer possession of the dog to the Ministry.

(b) Where the Ministry has taken possession of a class A dog... the dog shall be destroyed, in a manner...”

Oh, by the way, may I just pause. It might be a bit of refined drafting, if instead of saying “that dog”—let me read a restructured version:

Where the Ministry has taken possession of a class A dog...that dog shall be destroyed in a manner to cause as little pain as possible—and then say—by a veterinary surgeon.

It might be better to say that dog shall be destroyed by a veterinary surgeon in a manner to cause as little pain as possible.

Hon. Senator: Yeah.

Sen. E. Prescott SC: It is one of my little quirks, but there is no point in separating the terms. So look at it again and just shift it around so that we all will be happy. The dog shall be destroyed by a veterinary surgeon in a manner to cause as little pain as possible. But that was not the point that I was after.

In clause 8(1), what obligation does the Minister have to take possession of the dog? Clause 8(2) implies that he may refuse. It says, “Where the Ministry has taken possession”—[*Interruption*]

Sen. Al-Rawi: True.

Sen. E. Prescott SC:—“the dog shall be destroyed.” Is the Ministry, Attorney General, under any obligation in clause 8(1) to take possession of that dog when this transfer is being attempted? If he is not under obligation to do so, and I could imagine that there will be many circumstances where the Ministry official will say, “What are you bringing that “mangy” dog here for? I am not taking possession of that dog in that condition. And I imagine that an assertive dog owner who wishes to relieve himself of that dog will leave it right there. I do not know if an offence would thereby be created, but until we see it and it may appear in the regulations, that the Ministry is obliged to take the dog to have it transferred into its possession. But there is a lacuna there that we need to address in 8(1) and so I put it out there for the consideration of the Minister.

Really, I am assuming, and I have heard it mentioned by other people, that “Ministry” there means the Ministry of the Minister who has responsibility for local government and it may need to be made clear. But would there not be need to say here also that if this should occur in Tobago that some authority in Tobago should take possession of the dog?

Sen. Al-Rawi: Good point; the THA.

Sen. E. Prescott SC: What distinguishes the Tobago House of Assembly in these circumstances? Might it not be worthy of our consideration that in Tobago if you are the owner of a class A dog and unable to fulfil the requirements, that the authority there, the local authority, the Assembly should take possession of the dog? Maybe it is a minor point. It may be that the Ministry is adequately represented in Tobago and has the space, the room and the manpower, but if it is not so then maybe clause 8 could be looked at once again as to the determination of who should take charge. Then of course, you will give the obligation to that authority to take possession of the dog.

I move now to clause 9. Clause 9 in the marginal note speaks of the obligation to secure premises and it requires that you should have a fence or wall and a gate, of course, of which the dimensions are such as to prevent the escape of the dog. Not easy to achieve, but some people have been known to achieve it.

Clause 9(3) is the one to which I wish to bring attention. It says:

“An authorized officer of a local authority may, upon producing if so required a duly authenticated document in the prescribed form showing his authority, enter any premises upon which a class A dog is kept at all reasonable hours to inspect those premises for the purpose of ensuring compliance with subsection (1).”

What struck me immediately is: can such an officer enter premises if there is no adult at home? To whom would he produce—[*Crosstalk*] it may appear trivia, but to whom should he produce his duly authenticated document?

Hon. Senator: If required?

Sen. E. Prescott SC:—or worst, apart for a document does he not require a taser or some other immobilizing device to get into people’s house when they are not at home?

Clause 9(3) is meant for ordinary people who get jobs as dog catchers in local authorities. How many of them are going to walk into somebody’s premises where there is an Argentino something, a Brasileiro and a Dogo Argentino and a Japanese—[*Interruption*]

Hon. Senator: Tosa.

Sen. E. Prescott SC:—when nobody is at home? It seems to me that if he is in hot pursuit of an animal that has committed an offence that is the time he has to do it. He cannot wait until the proprietor returns home. What is the likelihood of any local authority officer taking that upon himself? Then I ask: Why is the municipal police not similarly empowered under clause 9(3) to enter premises?

Hon. Senator: You have to get a warrant from the court.

Sen. E. Prescott SC: It seems, yes, when you read clause 23—you have to go all the way down to clause 23 and there you will find that the police, as opposed to the local authority, require a warrant to enter premises to search those premises and to seize any class A dog or other thing found there, which is the evidence of a commission of an offence, and must go before a magistrate.

A local authority official may simply walk in brandishing his duly authenticated document in the prescribed form. In practical terms that does not require that the Act be amended, but in practical terms one ought to be ensuring that the regulations address the reality of the situation.

9.30 p.m.

If, as I am wanted to suggest, there ought to be amendment, I would imagine that the municipal police, like the local authority officer ought properly to be able to enter the premises upon production of his precept for the same purpose, to determine whether there is a commission of an offence or to follow up on any reasonable suspicion that an offence is being committed, the offence being that you have a class A dog inside there that is not licensed or registered.

Clause 9(3) speaks only of the class A dog. I started off by saying for me all dogs are dangerous dogs if they demonstrate a propensity to be dangerous, so that I would have included any dog that is dangerous in my 9(3), but I will leave it to those who are better and wiser at these things.

Just a bit of observation about the drafting: subclause (4) goes on to say:

“Upon being so satisfied, the authorized officer shall issue a certificate of compliance...”—but it does not say being satisfied about what.

I assume it means that he is satisfied that the premises where the dog is kept is of such a state, condition, whether as to the height of the wall or the strength of the gate or the fence, that he is satisfied that the premises are rendered safe. But there is something about clause 9(4) and (5) which remains hanging, suspended. That is

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to say, the reference to the authorized officer being satisfied and a failure to say what indeed the officer requires to be satisfied about before he issues a certificate of compliance.

I move from clause 9 if you please. Clause 13(5), as you know, deals with the insurance issue; the fact of class A owners requiring to have taken out insurance coverage for damage caused by their dogs, by their class A dogs, I think. Is that right?

Sen. Al-Rawi: Yes—[*Inaudible*]

Sen. E. Prescott SC: That is clause 13, clause 12.

Sen. Al-Rawi: What clause are you looking at?

Sen. E. Prescott SC: No, the clause which requires you to have insurance is clause 11?

Sen. Deyalsingh: Clauses 11 and 12.

Sen. E. Prescott SC: Oh yes.

“A person who owns a class A dog shall have in force in relation to each dog, a policy of insurance that provides coverage in respect of each claim for injury or death caused by that dog...”

This may be a time to enquire of the hon. Attorney General whether damage to property including other dogs ought not to be taken into account at this stage. It is equally devastating to the farmer whose livestock has been killed by a class A dog. The same for a class B, but let us focus on A for the time being. I think that we have overlooked much of the distress that people experience by simply limiting it to causing injury or death to a person. Now, granted that in reading clause 11 one may be inclined to say, but it does not say claims for injury or death to persons, and if it is that those who prepared this piece of legislation meant that it should be broader than that, then I would be happy to have them say so. I suspect, however, that it is not, because when you go down to 11(4) it says:

“A policy of insurance shall be a policy which—

(b) insures the owner and any authorized keeper specified in the policy against any liability which may be incurred by him in respect of the death of, or for injury to a person caused by a dog....”

So, the coverage must be in respect of injury to a person, and one could imagine greater loss being caused to a person who has suffered loss of his livestock.

Sen. Ramlogan SC: But it shall apply.

Sen. E. Prescott SC: No, no, no, I said injury to a person. I am comparing injury to a person to loss of livestock. Perhaps consideration could be given to it, hon. Attorney General, and I am satisfied that it is not too late for us to begin to think of putting those into effect, otherwise this is going to end up like the 2000 Act. It is going to sit there waiting for someone bold enough to proclaim it, and then we can do nothing with it because all of these things are hurdles in the way of its proper implementation. We would have satisfied the popular view, the popular perception that there is need to introduce legislation against bad dogs, but that is all we would have achieved if we were to put it out in that fashion and leave it that way.

There is a provision in 13 which I find oppressive, if I may take you to clause 13. Clause 13 at (4) it says:

“A person who desires to institute proceedings under this section may require the insured to provide, within”—twenty-eight days—*[Interruption]*

Sen. Al-Rawi: That is (5); (4) is fourteen days

Sen. E. Prescott SC: Thank you.

“...fourteen...the name and address of the insurer, the date of the policy, and such other particulars as may be required to enable him to institute such proceedings.”

And then in subclause (6), a refusal would make him:

“...liable on summary conviction to a fine of fifteen thousand dollars.”

Now, it appears to me that the potential defendant is just as much entitled in civil as in criminal law to keep his mouth shut. And one ought not to treat this as a criminal offence, in my view, that he has refused to give the information. One may say if the claimant in such a case were to proceed to institute the proceedings against that defendant, you could well deem the person to be an owner who has not insured his dog, not taken out insurance in the circumstances, and treat with him nonetheless, because the lack of insurance may not be a bar to the claimant recovering his money, or damages, or whatever.

So, there are so many times in this Parliament when we rush to introduce criminal offences when there is no need for it, and I am thinking that this is one of those circumstances. And may I just add while I am on it, so if the potential claimant has not given notice to the insurer—28 days’ notice—does the insurer have a built-in defence against liability?

Sen. Al-Rawi: Good point. And it is raised all the time in other cases.

Sen. E. Prescott SC: Clause 13(5) it virtually says that. It says:

“...the person shall give to the insurer twenty-eight days notice of his intention to institute proceedings under this section.”

Does a failure to give that 28 days’ notice—if you miss it by a day or two, are you likely to find yourself unable to recover from the insurer because he has this built-in defence that says, “I am sorry, you were too late with the notice.” There is a provision in the Motor Vehicles and Road Traffic Act for a similar notice but I am quite certain that it is—*[Interruption]*

Sen. Al-Rawi: It is fastidious.

Sen. E. Prescott SC: It is at least pliable. We should make it, it is fixed? *[Interruption]* Then one ought to be cautious. One ought not to have permitted it in this circumstance.

Sen. Al-Rawi: I agree.

Sen. E. Prescott SC: One ought not to permit it in this circumstance. There are too many difficulties in determining whose dog it was in the first place. *[Interruption]* And the purpose of the insurance is to provide for the victim. So, do not take it away from the victim in such a circumstance.

Sen. Al-Rawi: Well said.

Sen. E. Prescott SC: May I invite your attention now to clause 13(7).

Clause 13(7) says:

“This section”—the one we have been dealing with about bringing action—
”applies where a claimant brings an action in his capacity as the personal representative of a person who suffered fatal injuries.”

The victim of the attack must have died as a result of the injury. *[Interruption]* Well, it does not really say that. But, you know, the person who suffered the injury may have become disabled to the point where he is unable to bring his own action. Persons with disabilities as know, hon. Attorney General, cannot bring civil actions in their own name—

Sen. Al-Rawi: That is right.

Sen. E. Prescott SC:—and other persons have to be appointed to do so. It may be a child, a guardian ad litem has to be introduced. These persons are alive but they are incapable of bringing their own action. So, this might have been an oversight—*[Interruption]*

Sen. Ramlogan SC: Which clause?

Sen. E. Prescott SC: 13(7). I invite you to consider expanding it—
[*Interruption*]

Sen. Al-Rawi: Personal representative limited.

Sen. E. Prescott SC:—from beyond the limitation to persons who bring action as personal representative of a person who suffered fatal injuries. [*Interruption*]

Sen. Al-Rawi: Or a next friend or diminished capacity.

Sen. E. Prescott SC: Everyone else who has suffered an injury and who is disabled in the eyes of the law, be he child or person with a disability, ought to be equally protected in this fashion.

I now move forward to clause 14 which is the same 14 here.

Sen. Al-Rawi: Private premises.

Sen. E. Prescott SC: Prohibition from certain places, yes.

Sen. Al-Rawi: Yes.

Sen. E. Prescott SC: Grateful. There are some—I could not quite grasp, hon. Attorney General, how it is intended to monitor or manage legislation around keeping a dog in private premises. Here again is a warning to the man who thinks he could own dogs: If you are a tenant or you are living in a barracks you cannot keep a class A dog. Why?

Sen. Deyalsingh: Why?

Sen. E. Prescott SC: Why a man who is a tenant cannot keep a class A dog?

Sen. Al-Rawi: Because he could walk it, he could look after it.

Sen. Ramlogan SC: “He eh ha’ no room. He barely ha’ room for he and he family, why he want with dog?”

Sen. E. Prescott SC: No, you see, he might be a tenant in my place. [*Interruption*] He may be the only tenant in my place. Why can he not have a class A dog?

Sen. Ramlogan SC: Well most people’s leases have a covenant against that, keeping any pet.

Sen. E. Prescott SC: Somebody said it before, you know. Perhaps we were thinking that in today’s West Port of Spain society, everybody lives in these—
[*Interruption*]

Sen. Al-Rawi: Town houses.

Sen. E. Prescott SC:—properties off the ground: townhouse, condominium, apartment, high rise. But there are people who live in households where they could put up a little fence. It is not necessarily their private premises but I gather and trust—if this is what it is, hon. Attorney General, forgive me—I gather what is really being aimed at here, is keeping a dog in a situation where it is likely that other persons may come into the premises lawfully and be placed in danger. Perhaps we could look again at how we have structured it so that it does not seem to be saying to a person who cannot afford to have his own private premises, that he cannot have a class A dog. Somebody here made the point about people who might say, “Well, here is the start of an industry for me.”

Sen. Al-Rawi: Fitzgerald.

Sen. E. Prescott SC: [*Laughs*] Might have been Sen. Hinds. But I am not strong on that, I just think it needs to be—[*Interruption*]

Sen. Ramlogan SC: Which clause is that?

Sen. Al-Rawi: Fourteen.

Mr. Presiding Officer: Senator. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. S. Ramkhelawan*]

Question put and agreed to.

Sen. E. Prescott SC: I am indeed grateful. [*Desk thumping*] I am on clause 14 and I think you need to tell us also, hon. Attorney General, if in dealing with clause 14 you have considered what an incorporate body might do which owns several premises, all of which are private, and a person who himself has more than one—a human being that is—private premises. Can he, for example, leave a dog to watch his private premises when clause 14(1) says if he owns or keeps a dog he shall keep it under control in his private premises. Did you mean to exclude the person who owns premises has them properly enclosed, does not reside there and requires to keep a dog on it to keep trespassers out, granted that such a person would not have the immediate control? Tell us please whether 14(1) was intended to address that kind of circumstance.

9.45 p.m.

I move forward with 14. Clause 14—[*Interruption*] I beg your pardon? Maybe I should say it again. Yes. Thank you. In clause 14(1) says:

“A person who owns or keeps a class A dog shall keep that dog under control in his private premises.”

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I am assuming that the drafter is thinking of “at his residence”, and I am thinking that there are persons who have the capacity to own other premises which they have securely enclosed, et cetera, but they have kept a dog on the premises to keep out trespassers. Did you mean that if you own a class A dog you must keep it in view at all times and under your immediate control in your yard? What if you are a corporation and you own several of these private premises—

Hon. Senator: Or none at all.

Sen. E. Prescott SC:—how is the element of control rolled out in the court? [Interruption] I beg your pardon?

Hon. Senator: Make sure there is a fence.

Sen. E. Prescott SC: Good! Thank you. So I understand 14(1) now, if what the hon. Attorney General says is what we ought to be thinking. If you have private premises at which you do not reside, there is no resident. But you build a sufficiently high fence and you put a sufficiently strong gate, you may keep your class A dog there even though it is not under your immediate control. And if that is the law, then the *Hansard* will record it. I am quite pleased with such a provision.

We now move forward to clause 14(5):

“Where a class A dog enters onto private premises, the owner or occupier of those premises may destroy the dog.”

I am absolutely certain somebody would have made the observation before. [Interruption]

Hon. Senator: [Inaudible]

Sen. E. Prescott SC: “Yeh”, that is not nice. Let me leave it at that. That is not nice. Oh, yes, I notice he is not here today. [Interruption] I am fully aware of that.

Hon. Senator: Oh! Sorry.

Sen. E. Prescott SC: I move to clause 19 if you would permit me, Mr. Presiding Officer. Clause 19 deals with the injury to individuals. It says:

“(1) Where a class A dog injures a person...the owner or keeper of the dog commits an offence...summary conviction...one hundred thousand dollars...”

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I think the words “without reasonable cause” have been introduced again. Is that right?

Sen. Ramlogan SC: Yes.

Sen. E. Prescott SC: So 19(1) now says where a class A dog injures a person, without reasonable cause?

Sen. Ramlogan SC: Yes.

Sen. E. Prescott SC: I think I have commented on that. I do not know that it is enough to say that a dog that is provoked—sorry. Let me leave that alone because it is a fact that if you provoke the dog it might have reasonable cause. But the dog that determines that an offence has been committed—*[Laughter]*

Sen. Ramlogan SC: I think you better “wheel it and come again”—

Sen. E. Prescott SC: I shall read it, Mr. President Officer.

“Where a class A dog”—pardon me?

Hon. Senator: Where are we at?

Sen. E. Prescott SC: Where am I? Clause 19(3):

“Where a class A dog injures a person, kills a person or causes the death of a person on or outside private premises where—

(b) an offence was not being committed

the Court may order the seizure and destruction of that dog.”

What does it mean? Is it reasonable for a dog to kill someone if the dog is provoked? The answer is, yes. Is it reasonable for the dog to kill someone who has committed an offence, hon. Attorney General? I am reading it that way. I remember I almost got locked up for somebody’s bicycle once. I would hate—*[Interruption]*

Sen. Ramlogan SC: You own a bicycle too?

Sen. E. Prescott SC: No, no. *[Laughter]* I almost got locked up for somebody’s bicycle.

Sen. Ramlogan SC: Oh! Sorry.

Sen. E. Prescott SC: Read it how you wish. *[Laughter]* Read it how you wish. But the difficulty we are going to have with clause 19 is determining when the dog could have reached that point in cerebration, where it determines that it has reasonable cause to attack a convicted criminal. I should like that to be given some further consideration.

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I do not know that Senators are permitted to be here with previous convictions. So we are all safe in that regard, but the dog will have to see the certificate of good character before we get away.

Why, once again, are we limiting it to the dog attacking a person? Why should I not feel that if a dog attacks my dog, whether provoked or otherwise by my dog, is entitled to kill my dog? I do not know whether that is what we really want. We already have a prohibition against having this dog in situations where it is out of control, not licensed, et cetera, so it would suggest that it is meant that the dog should not be a danger to any person or thing, or any property of another. That alone should recommend to the legislator that he returns to these clauses and see where some provision ought to be made for dealing with the loss, or damage or death of another living being, and I recommend that to your consideration.

Clause 19, of course, makes it a capital offence for a class A dog to kill a person because such a dog may be ordered seized and put down, and I say no more on that.

Clause 20:

“(1) A person who, without reasonable cause, incites a dog to attack another person causing grievous bodily harm or resulting in death...a fine of fifty thousand dollars...” or two years imprisonment?

I think some proportionality needs to be brought into this because I see that abandonment of the dog has the same \$50,000 provision. *[Interruption]* I beg your pardon? The dogs not kept on private premises, similarly; dogs that are not trained, similarly; dogs without dog tags; dogs whose death you failed to report; all are for \$50,000. A dog who without reasonable cause causes death, \$50,000 for the owner. Some proportionality needs to be given consideration here, Attorney General.

Sen. Ramlogan SC: Which one is that?

Sen. E. Prescott SC: Clause 20(1), \$50,000 for causing death or grievous bodily harm.

Sen. Ramlogan SC: Fifty thousand and two years.

Sen. E. Prescott SC: Well you know the “and” really means at the discretion of the magistrates. So, if by abandoning your dog, or failing to keep it in premises, or not having it trained, the charge is \$50,000, then let us elevate this or reduce the penalty in the other one because causing death, causing grievous bodily harm just seem quite grievous to me.

Sen. Ramlogan SC: It was 25,000.

Sen. E. Prescott SC: And thankfully it moved up to 50,000, but something needs to be dealt with. If your dog does not have a collar, \$50,000. By the way, the defence could cause some concern also.

“(2) It shall be a defence for a person charged with an offence under this section to establish that the other person was committing or had an intention of...”—smoking ganja, of cursing.

An intention to commit a criminal offence, Attorney General! There is an offence under the Pounds Act. He wants to take his dog out of the pound too, that is a criminal offence. The Pounds Act is Chap. 67:03, I think. And you say, “Well, boy, I am sorry for you. My dog caused you grievous bodily harm or death because it saw you light up a spliff, or worse take it out from your pocket.”

Sen. Ramlogan SC: The dog probably wanted a smoke too.

Sen. E. Prescott SC: I now move forward because time is going.

Clause 22 has referred to a power to seize, but I do not see the power written into clause 22. I should like you to look at it again. It implies that there is a power, it speaks to a power, but the power has not been granted under clause 22. Please, give it some thought. Maybe I should just reserve what is left of my discourse for the committee stage because we seem to be running out of time.

[MADAM VICE-PRESIDENT *in the Chair*]

In light of what I have just said, I thank you very much for the opportunity you have granted me to speak—Madam Presiding Officer—on this debate.

Sen. Deyalsingh: Madam Vice-President.

Sen. E. Prescott SC: Madam Vice-President. No, I am going to say this one. Just one more. 21(3):

“Where a Court makes an order under subsection (1)(c)...”—for the destruction of the dog—”a class A dog owned by a person other than the offender, the owner may appeal against the order.”

I think I overheard somebody speak about it, that it is more essential for that person, I would think, to have that right of appeal where he is in danger of losing all his dogs. You see under 21(c) and (d), the court may make an order disqualifying him from owning or keeping a class A dog. That is a very, very oppressive provision if he owns more than one. He can keep no dog whatsoever and he does not have the—

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Sen. Ramlogan SC: I think that is for class A dogs.

Sen. E. Prescott SC: Thank you very much. So all his class A dogs have to go?

Sen. Ramlogan SC: Yes.

Sen. E. Prescott SC: He should be able to appeal against that.

Sen. Ramlogan SC: Sure.

Sen. E. Prescott SC: Maybe you need to write it in.

Thank you very much, Madam Vice-President. [*Desk thumping*]

Madam Vice-President: Sen. Dr. Armstrong.

Sen. Dr. James Armstrong: Thank you very much, Madam Vice-President. I am very pleased to make a very brief contribution to the Dog Control Bill, 2013.

Madam Vice-President, we are in a situation these days where, as far as I am concerned, we need dogs in our homes, and very often many people are keeping dogs these days for protection. We know the situation with crime and in many homes we do have dogs these days. I myself, I have two dogs. I believe I am a dog lover. I take very good care of my dogs and they have been with me for 12 years. They are not classified as class A dogs. One is a Doberman and one is a pompek, but they do offer me some protection and, therefore, I think that we should encourage the proper care of dogs, having dogs in our homes.

However, Madam Vice-President, I am of the view that any dog can be a dangerous dog. Depending on how it is treated, it can very well turn out to be a very bad dog. So the first concern that I have is that this Bill really classifies dogs into class A and class B. I have a bit of concern about that and I hope that we can have another look at that.

I will go through quickly, Madam Vice-President, the Bill itself and indicate those things that I still have some concerns about, and I will disregard those things that have been addressed already. I have quite a few notes here, but a number of the things that I had some concerns about have already been addressed.

10.00 p.m.

The first, Madam Vice-President, is why is it dogs that are actually in the—well, I do not know if I should call it the employ of the State or the employ of someone working for the State—being used by someone working for the State should be excluded as on page 4 which is clause 8, I think it is. Sorry, sorry, that is 4(8), Madam Vice-President, sorry, 4(8) where it says:

“In this Act, references to a class A dog or class B dog injuring a person...”
—and it goes on.

Now, what I do not appreciate here really or I do not quite understand, and if the Attorney General can have a look at that, is why is it that this dog, if it is a dog that is owned by the State or in the service of the State, should be excluded? I would think that this Bill should at least bind the State, and my impression—and I may be wrong and the lawyers can correct me—is that if it is a dog in private ownership then there is some liability, but that if the dog is being used for a lawful purpose by a constable or a person in the service of the State that there should be some exemption there. I do not know if my reading of it is correct.

Then we get to clause 5(1) on page 5 and there we talk about the places where:

“No owner or keeper of a dog shall permit the dog to enter any—

- (a) restaurant;
- (b) place where food or beverages...
- (c) commercial mall; or
- (d) shop.”

I was wondering about, and Sen. Prescott addressed this, but one of the notes that I had here was with respect to public transport for instance, whether if we are going to exclude “restaurant”, a “place where food or beverages are sold”, a “commercial mall” or a “shop”, I was wondering whether for instance one can take a dog onto public transport—bus, water taxi and those kinds of things. If we are going to list those places then perhaps we need to look at some others. Because you will see a little further down:

“(2) Subject to subsection (1), no owner or keeper of a class A dog shall permit the dog to enter a public place unless—”

—and there are those conditions there that if you meet these, that the dog can enter on those premises.

It was also mentioned with respect to the fines, again, I just want to briefly mention that everything seems to be \$50,000 for most of the offences, and I found that some were far more severe than the others, and I think I have some suggestion for some amendments and I will make these when we get on to the actual committee stage.

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Then, on page 7 that is clause 7(5)(d)—thank you—that he:

“has satisfied the local authority that he is able to adequately and appropriately care for the dog.”

How is it to be demonstrated that you can adequately and appropriately care for the dog? Again, I think that is something that needs to be clarified because it was not very clear to me.

The other is the following clause (6) which states:

“The Minister may, by Order, specify the type of microchip to be implanted in a class A dog.”

The infrastructure, the requirements really to address this, I am not sure that we have this in place and not very clear what arrangements would be required for persons to implant microchips in dogs, and that is, again, some concern that I have that we need to really clarify who are the persons, what sort of training and experience would be required and what sort of controls that we would have with respect to implanting microchips in the dogs. So that is something else that I would like to have addressed as well or clarified in some way.

The other is, again, following that clause 7 on page 7, the licence fees to be paid. It says under 7(7)(a):

“one thousand dollars per dog where an owner owns one or two class A dogs, or”

But then in (b), it says that:

“fifteen hundred dollars per dog where an owner owns more than two class A dogs...”

Now, that is not very clear because I will tell you why. If you have \$1,000 per dog and you have two, then that would be \$2,000, but if you look at (b), does it mean that if you have an additional dog—okay, you have to pay more. Does it mean therefore that if you have three dogs, as it says here, the first two would be 1,000, it says \$1,500 per dog for the additional dog, that is not very clear really, whether it is just you paying \$1,000, why not 1,000 for the three? Is this for an additional dog if it is over three? I am not very clear on that. You follow the point that I am making here?

Sen. Prescott SC: Um-hmm, um-hmm. Fifteen hundred for one!

Sen. Dr. Armstrong: It is not very clear to me. It says \$1500—

Sen. Prescott SC: For each dog.

Sen. Dr. Armstrong: So that again is not very clear so I need to have that clarified because if you own more than two, then you are going to pay—

Sen. Prescott SC: Fifteen by three.

Sen. Dr. Armstrong:—\$1,500 by three.

Another point that was made is that this Bill really is the extent to which—it makes reference to the Minister and to the Ministry of Local Government, and I think it has been mentioned by some people here that the THA also has to be involved, and I have a note here really that I am not sure to what extent the THA has been consulted, and whether, in fact, again, the arrangements and the infrastructure would be in place. I think in the case of the Ministry of Local Government, it would be very easy for the Minister to telegraph to the municipal corporations what will be required under this Bill. However, I am not sure that the same would apply in the case of the THA which is not really to be considered one of the municipal corporations, and not under that Ministry. I am not sure—it is not demonstrated here really—that there was adequate consultation and that the level of requirements would be in place, so I think we need to clarify that and perhaps make specific references to that.

Clause 18, where the vet is supposed to issue a certificate. I think this was mentioned and I want to emphasize that I am not sure that a vet has the training to really determine a class of dog or the type of dog in terms of whether it is pit bull versus—and what happens, I think it was mentioned. What happens if that dog is, let us say 80 per cent of one breed and 20 per cent of another breed? Without the DNA, as was mentioned, it seems that once this goes to court we probably will see situations where we would have specialist witnesses and so on—consultants—coming in to then say, “Look, you know, this dog is not really a class A dog because it is mixed” and what is the percentage and so on. So that is there, I think we are going to have a significant amount of difficulties and we need to really determine who are the persons that are qualified to really determine the type of dog. I am not sure that a vet or a veterinary surgeon, as indicated in clause 18, is the person that can do that. If there is a mistake or he believes it to be true and it is not so, then there are some serious implications, so that is something that I think we need to also address.

Just bear with me a little, Madam Vice-President. According to clause 10 where it says a person who keeps a class A dog which is not licensed—now the fine there is \$100,000 and imprisonment of three years. I do not know, I found that to be a bit high, so if we can have a look at that because upon summary conviction, a fine of \$100,000 and imprisonment for three years, I found that to be a little severe.

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Then on page 13, clause 15, obligation not to abandon a class A dog. The concern that I have here is what happens if you have a dog or your neighbour knows that you have a class A dog and you actually abandoned the dog, I am wondering whether we should not have a 15(3), that if it is reported that we make it an offence if the person is not able to identify or to indicate what has happened with a dog that has been abandoned because I do not think that has been addressed here.

What I see happening or what is likely to happen is that with this being passed that many people would then begin to abandon dogs. But what happens if you abandon your dog, your neighbour says, "Look, but there was a class A dog there" or somebody says there was a class A dog that this person had, that my neighbour had, but the dog is not there anymore, that person abandon the dog. I am just wondering whether a provision could be made whereby some investigation takes place and the person is obliged in some way to indicate how he disposed of the dog. So that maybe we can add 15(3) so that a person who is known to have had a class A dog and it is no longer in its possession should be required to indicate the whereabouts of that dog.

10.15 p.m.

In the margin it really should read "obligation to train a dog", not a "class A dog". I am now looking at clause 16. Because, if you look at 16(1) and 16(2), training is required in both cases.

The marginal note at clause 19:

"Injury or death to a class A dog." What happens if all the conditions are met? Why such a severe penalty? You have a fence, insurance, and so on. I think that, again, the penalty is a bit high. And what happens in the case of a class B dog? I think those are the major concerns that I have, Madam Vice-President. I think those are the major concerns.

One other concern had to do with the ministry being responsible for taking class A dogs. I, again, am not aware that the Ministry would have this capability to be taking all these dogs. I am not sure whether it is really the ministry that should be referred to in this case. So that is another concern that I have and I would like to address some of these when we get to the committee stage. I thank you very much, Madam Vice-President. [*Desk thumping*]

Madam Vice-President: Sen. Dr. Bernard.

Sen. Dr. Lennox Bernard: Thank you, Madam Vice-President, for the opportunity to speak on this Bill, the Dog Control Bill, 2013. As we all by now would have agreed, this is not a simple piece of legislation but a bit of legislation that requires extensive

debate. I wish to suggest that, as the Attorney General, in speaking to us at the start, suggested, we are weighing two important attributes: one, public safety, health and welfare of the individual as against our social and cultural relationship to dogs, including the love, the care and affection, the upkeep of these dogs, dogs as an aid to the physically and mentally challenged and as a companion to the young.

I want to alert my colleagues here that research has shown that children that grow up with pets are more emotionally intelligent than their counterparts. So that there is a strong indication that the act of growing up with pets, does help in the development of one's emotional intelligence and it is something that is used in ways in our early childhood education programmes.

Sen. Cudjoe was right when she pointed out something that I think we need to take in a sociocultural context, the whole question of people walking their dogs. It is a new form of youth behaviour. It is sometimes referred to as image enhancement. Some of us older ones would remember the times when people walked with their birdcages and it was a common feature to walk with your birdcage and carry it to an event and put it up on the side and the bird that could whistle the best, the person felt glorious about that. Some of that has come into the movement of our young people, this image enhancement. Some of them not doing it necessarily well. Some of them not able to have the wherewithal to upkeep these dogs well. But as Sen. Cudjoe pointed out, we are seeing this in the culture of our music and through our television fare, on our television stations.

Inherent, therefore, in this piece of legislation, as I have always said to my colleague, Sen. Prescott, there must be a balance between what would be the legal considerations leading to some of his exposé a while ago and to the whole sociocultural dynamics that take place when we create a Bill like this.

I was a little bit hurt and perturbed when Sen. Moore almost suggested that, well more than almost suggested, class A dogs were not really for poor people. I have been in this Senate long enough to wonder: Why is it that all our legislation seems to be harshest with the poor? Why is it that it always appears that the poor will suffer most in what we do? I think Sen. Prescott sought to bring us back in line, to make us know that our intention should be to help some of these who are poor, to enjoy some of the benefits that the others have.

Now, I begin on a note of disappointment when I saw our class A and class B breed and realizing, having read a lot of the stuff coming out of Britain, that in fact it followed almost to a letter the order of dogs that are considered to be very deadly in the UK and in Europe and that part of the world.

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So, in keeping with an almost exact order, they had the American pit bull terrier, the Japanese Tosa, the Fila Brasileiro. Of course, they jumped the gun and they added one that I feel, if argument is made tonight, we might hear the Presa Canario, which is also a massive fighting dog and, of course, the Dogo Argentino. But, of course the British and their lot would have done the necessary research to determine that these dogs are in fact the dangerous ones. I do not think we have done this research here. In fact, the Attorney General tried to disabuse me of this fact by suggesting yes, that in fact the Dogo was here. They were being sold for \$15,000 for a pup. They were called monster dogs. But I tried to find out, and the literature was not available, the list of fatalities that we have had over time and what are the dogs that caused those fatalities.

When I looked at the American scenario, totally different from what the British and the European people have! The American scenario, heading the list, pit bull and this is a 20-year study that the American Vets Medical Association did. Pit bull leading the line, 66 fatalities followed by the Rottweiler. And what we saw was that there was a correlation between old breeds and breeds that had a high prey drive. Unlike what Sen. Moore said, having a high prey drive meant that you had a feeding instinct for carnivorous animals.

It was the Rottweiler next with 23, old breed considered to be one of the oldest breeds, a herding breed incidentally; the German Shepherd third. Although a new breed started in 1885 actually, 17 fatalities; the Husky, which is an Alaskan dog, one of the oldest breeds again, 15 fatalities; the Llop, which is a wolf dog; the Alaskan Malamute. The Doberman is in here. The small Chow Chow is in here. The Great Dane and the huge and seemingly so passive dog, the St. Bernard, is also in there. So, this is the American version to the European listing.

And then there is another version, Centre for Disease Control. Up on the top of the list, pit pull, Rottweiler followed, German Shepherd—almost resembling the American arrangement, Huskies, Alaskan Malamute, Doberman, Chow Chow, Presa Canario got in, the Boxer got in, and the Dalmatian. What does that tell us? That will tell me that we have not done our homework to find out what are the dogs that are in fact causing the fatalities. Are we simply borrowing these other names of these other dogs from some other place in the world in an attempt to show that we are with it in the legislation because these dogs are considered to be bad anywhere? In fact, my hunch is that the people who can own these would either be expatriates or people who have some kind of arrangement, some links—money laundering, drugs, whatever—but not necessarily the average citizen of Trinidad and Tobago.

It takes me, therefore, to the class B breed which one considers to be less dangerous. Now, I travelled in 2011, to the United States, just around the time in California where they were going through the struggles of trying to deal with this, hoping not to follow the pattern of the other states and to come up with something that was new, interesting, innovative, different and they did it. In fact, it is interesting to note that in 2011, when the legislation was first announced that you had various counties making an input as to what should be done.

What the California state law says—and they have created, apart from—they have literally gone to what is called the attributes to dog control. That is, instead of looking at one set of dogs being dangerous and another not so dangerous and another, oh, passive, they said, as Sen. Prescott and others said, all dogs can be dangerous but we have to test that. So, they have created two categories, one vicious, the other potentially dangerous. It is there. The legislation is available for all to see.

Now, a vicious dog, according to them, is any dog that inflicts physical harm that results in a serious illness or injury or kills a human being. And, of course, the other part to it that I think is equally interesting, is it does not necessarily have to be a bite. So that a vicious dog can be a dog that can lead someone to die as a result of its viciousness but which may not necessarily be a bite.

Another element to that category, any dog seized as a result of this harm and upon the sustaining of a conviction of the owner or keeper. So that the intention was to find these dogs. Any dog that, unprovoked, in an aggressive manner inflicts severe injury or kills human beings, a vicious dog. Any dog previously determined to be and currently listed as a potentially dangerous dog which, after the notification of this determination, continues the behaviour described. So they were very clear on what a vicious dog was and a vicious dog would be treated in a manner different from what would be the next category, a potentially dangerous dog.

Now, when one spoke to the people at their town meetings, the argument was that there have been a series of losses, litigation-wise, by governments, by states against people using the category of breed.

10.30 p.m.

In fact, the US State of Missouri, in an attempt to follow the pattern that we are trying to do here, went a little further and, in describing the pit bull, this was the descriptor that they put along with it, if only to secure themselves from the ravages that will come from lawyers who would find loophole in the legislation—and permit me, Madam Vice-President to quote. According to the US State of Missouri, there is a long descriptor about the pit bull. Read it quickly.

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“Any dog which has the appearance and characteristics of being predominantly of the breeds of bull terrier, Staffordshire bull terrier...American Staffordshire terrier, any other breed commonly known as pit bulls, pit bull dogs or pit bull terriers or a combination of any of these breeds.”

It does not end there.

“A pit bull may be identified as any dog which exhibits those distinguishing characteristics that substantially conform to the standards established by the American Kennel Club...An identification using the above standards shall be *prima facie* proof and create a rebuttal presumption that a dog is a pit bull.”

Not leaving it to chance. Not leaving it to chance. There is a case I have somewhere here that I read in Britain with a dog called, I think it was Dumpy, who won his case when they tried to kill him because the judge decided that you came to me here with the word “type” and I want to know what is the difference between “type” and “breed”. Lost the case! Lost the case! And I saw the word “type” here and I think when we get to that second reading, I would want to see if we have a clear indication as to “type” versus “breed”.

So the California State, to my mind, has chosen a path that is proactive in that they are able to tell you these are our vicious dogs; these are what we are going to do with them and these are the potentially dangerous ones that we have to look out for. Let me describe quickly what they meant by “potentially dangerous”:

“Any dog which when unprovoked on two separate occasions within the prior 36-month period...”

That is, there is a time frame within which that dog will misbehave.

“engages in any behaviour that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.”

Straight on to Sen. Corinne Baptiste-Mc Knight’s point. People are walking on the road, the dog is leaving where it ought to be, interferes with the people, the people are seeking some assistance from her. Reported, this little Pompek is a potentially dangerous dog.

Sen. Prescott SC: If he does it twice.

Sen. Dr. L. Bernard: He is then placed in that category and if he does it twice, he is in that category to be dealt with.

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“Any dog which when unprovoked bites a person causing a less severe injury...”

Now they went on to explain in their brief what was meant by “severe injury”.

“‘Severe injury’ means any physical injury to a human being that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.”

Very clear, to the point, so that everything that falls beyond that would then be within the realm of the potentially dangerous.

“Any dog which when unprovoked on two separate occasions within the prior 36-month period has killed, seriously bitten, inflicted injury, or otherwise caused injury attacking a domestic animal off the property of the owner or keeper of the dog.”

Sen. Prescott’s point. Where do we in the legislation take care of other people’s animals? And here it is again, this potentially dangerous animal is then labelled.

What is the structure and arrangement? Maybe seemingly simple because it is on paper, but I trust they would have taken time to put it together. There is an animal control officer or a law enforcement officer who engages in the investigation and determines that there exists probable cause to believe that the dog is either potentially dangerous or vicious and then the chief officer in that jurisdiction or facility will petition the court.

Notice of a hearing concerning a potentially dangerous or vicious dog determination is five days and a person has five days to appeal. After the hearing, the owner or keeper of the dog shall be notified in writing of the determination and orders issue. An appeal is allowed and on determination of the court hearing, the appeal shall be final and conclusive upon all parties.

And it goes on and I think this is the interesting one:

“All potentially dangerous dogs shall be properly licensed and vaccinated. The licensing authority shall include the potentially dangerous designation in the registration records of that dog...The city or county may charge a potentially dangerous dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.”

If there are no additional instances of the behaviour of that dog, the dog can be removed after that three-year period from the list of potentially dangerous dogs. It is not automatic though as what is suggested here.

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They will have to undergo a period of training paid for by the owner, with no less than 50 contact hours, which means that that training programme must be so well credentialed that it is not left to chance.

Now back to the vicious dog, which, as I am trying to establish could be any dog, any dog that has done something of a severe nature to another human being. A dog, to be determined to be a vicious dog may be destroyed by the animal control department when it is found that the release of the dog would create a significant threat to public health, welfare and safety.

If it is determined that a dog found to be vicious shall not be destroyed, the judicial authority shall impose conditions upon the ownership of the dog in order to protect the very same public health, safety and welfare.

“The owner of a dog determined to be a vicious dog may be prohibited by the city...from owning...”

—something I hope to bring up at the next session—

“possessing, controlling, or having custody of any dog for a period of up to three years...”

So you put a little ban on that individual when it is found that the person has done nothing to improve the lot of those dogs.

I am sure there is little inclination by the Government to take me seriously on this because we have designed our thing our way, but I think it is worthy of consideration. In fairness to the Bill, these attributes are in the Bill in various places, but they do not come together. There is no real collusion in terms of getting an understanding as to what would happen.

The benefits of this model coming out of California is that a dog will be classified on its demerits even though current research leads us to predict that the pit bull, undoubtedly in our scenario, would be at the top of the page, either in the vicious realm or within the band related to potentially dangerous dogs.

Control will be proactive, that is, within a three-year cycle you can begin to understand what are the various types of dogs in your society that are either becoming bad for one reason or another. It will allow for the nature of control where these dogs can be monitored by these dog control officers. Animal safety will be of equal importance in the Bill and the law, to my mind, will be more equitable and developmental.

Of course, as was pointed out by Sen. Ramkisson and Sen. Beckles, we will have to have a very strong structural feature. Animal control departments in all regional health authorities, competently staffed with officers in animal control,

data basing, vets who are able to rise for a rapid response to situations, proper enclosures or pounds, training for port officials and dog handlers and a robust form of education on the love of pets from our early childhood, right on to post-secondary and public education programmes.

So, I just thought that—and I came upon this, as I said, just by accident. I have followed the California position. In fact, I read quite recently that the Los Angeles county was about to make some further changes to the definition features related to what are vicious dogs.

In winding up, just a few minor points on the Bill itself. I would not detain us too long. Nothing in the Bill speaks about our hunting dogs. I would have wanted to add herding dogs, but we do not herd animals here like sheep dogs, but we do hunt. What is the status of the hunting dog as it relates to the concept of dangerous dog? There is nothing. We are silent, totally silent on this.

As was pointed out by all my colleagues, we need to have a clarity of purpose as it relates to the training programme and for what it is meant to do.

I agreed with my colleagues that after clause 5A where we did quite well in dealing with the safety of the dogs, we have done nothing to say about the penalties for contravening clause 5A—something I feel should be in there.

Do not deny the fact that spaying and neutering, it is encouraged minimally, but spaying and neutering can be an important additive in our attempt or in our arsenal to keep dangerous dogs at bay.

There is an interesting article by Mandy Mohammed, Madam Vice-President, *Saturday Express*, June 22, 2013 where she stressed the importance of spaying and, in fact, neutering dogs. Quoting from the American Society for the Prevention of Cruelty to Animals, it was pointed out that in the US, more than 70 per cent of all dog bite cases involve unneutered male dogs. We do not have data for that here. An unneutered male dog is 2.6 times more likely to bite than a neutered dog. A chained or tethered dog is 2.8 times more likely to bite than a dog that is not chained or tethered.

Ninety-seven per cent of dogs involved in fatal dog attacks in 2006 were not spayed or neutered and, in keeping with what I said earlier about image enhancement, 78 per cent of dogs were maintained in the United States, but rather for guarding, image enhancement, fighting or breeding.

10.45 p.m.

So, I know we have included something that allows a rebate of \$500, but I wondered if we could go a little further to show our deep intent in seeking to bring some order to this situation.

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One of my neighbours asked me whether you could have a third-party insurance rather than a full comprehensive, that is, be prepared to pay the other person and stand the bounce himself.

Hon. Senator: According to class.

Sen. Dr. L. Bernard: Well, he might not be able to pay more than a third-party insurance, you know. So that point was raised.

I agree with my colleagues that we have to be careful about clause 14(2), page 12:

“A person shall not keep a class A dog on premises whether indoors or outdoors that accommodate more than one household.”

Again, the poor we will have always with us. That came up, the fact that people do live in tenements, they do live in high-rise apartments, they do live in communal living and we do have sibling household where the eldest child is 19 and has to be part of an environment where it is not just one household. So we have to be guarded when we say these things that we do not send the wrong message that, intentionally, that we want to have class A dogs only for those who can afford it, the affluent, the opulent and that group.

That then, Madam Vice-President, is my contribution this evening. I am hopeful that we will get somewhere in the Bill. I am hopeful that this Bill will not lapse again this being our last session. I hope there will be a greater sense of compromise on the Government Benches because we all want to do the right thing in terms of ensuring that balance between public, health, safety and welfare and social and enrichment elements to having dogs. Thank you very much. [*Desk thumping*]

Madam Vice-President: Sen. Balgobin. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Madam Vice-President, for allowing me to rise to say a few words on what is an important and much delayed piece of legislation to address a matter of, I suppose, oscillating public interest and significance and I suppose it oscillates when persons are attacked, injured or killed by a dog, a dangerous dog in particular.

I am very impressed and concerned, however, about certain aspects of this Bill. I am impressed by the effort. I am concerned a little with the process. Because as I understood it as lawmakers, once again, we are in a position where it would be very difficult to make any amendments to what is before us, and if that is the case then really, why is it here? It is unfortunate if that is so, and I hope that we can, perhaps, prevail on the Government to consider some worthy amendments, if possible, so that we pass better legislation.

Very often in the time that I have been here—and I am sure Madam Vice-President, in various capacities you would have had a similar experience—we have been asked to pass legislation we know to be faulty or defective with the promise that we will circle back and fix whatever is deficient, that to my recollection has never ever happened though. So the promises sound good, the actualization, as we say, remains one thing. And so, I will presume that everyone—that certainly the Government will take this on with an open mind and just make a few brief points about various aspects of this legislation which I consider to be important.

As I said, I am very impressed with this second attempt at dangerous dog legislation, and I in particular feel that we should commend the Government for navigating an obviously difficult track. Last year, I think it was the Attorney General's Office had signaled the intention to proclaim the old legislation. There was a significant hue and cry, and a number of people rose up and said that this is very unfair to dogs and dog owners and so on. What was interesting with that, in all of that excitement, was as the Attorney General did mention today when he introduced this piece of legislation, a relative absence of the voices of the victims or their families of these dangerous dog attacks.

As with so many incidents of violence in Trinidad and Tobago, we move on to the next excitement, the next drama, the next bacchanal, and the people who are wounded are left to tend their wounds alone or with their families, and it is a very unfair approach for a society to take but, I think that is the point to which we have descended. And so I would like to take as a jumping off point, the view that there is no question that class A dogs and other dogs can impact the lives of an ordinary citizen or citizens here immensely and quite suddenly.

And so when we talk about making Trinidad and Tobago a safer place, a place where we would like people to walk the streets and so on, I am minded to consider the three things that prevent people from walking the streets would be aggressive drivers, aggressive bandits and aggressive dogs. It used to be that your children could ride in the street—ride a little bicycle and so on and they can go for walks. You can turn them loose in the neighbourhood, not anymore as our fear of crime has escalated to a point where we have lost our neighbourliness, but we also seek to protect ourselves, in some instances, by having these dangerous animals around.

But when these dangerous animals get out in the street they pose not just an active threat to our well-being, but they interfere with our sense of safety to walk down that road the day after and the day after that and the day after that because you know at any point in time that dog that you saw loose can be loose again and so on. So this legislation, quite happily, addresses some of that.

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But I would be very concerned about that simply from the point of view to start, that while it is true to say that the rich and the poor keep dogs and, in particular, it would appear some of the breeds that are referred to in this legislation in the schedule, if you look at the evidence of who is getting killed by dogs, it almost always would be children or the infirmed, the elderly or people who are walking somewhere—they are going to take a taxi, they are coming from work or they are going to work. It is always people who really, for whatever reason, are not being transported in a car.

While rich and poor may keep these dogs, the poor appears to carry a disproportionate share of the burden of biting. We now are here to try to balance the right of individual citizens to roam with the right of a few citizens to own. To own what? Well, to own a dog, but what is a dog? I did not hear anybody really talk about that. What is a dog? Is it something with four legs and tail, two ears and a snout—some canines? That is also a pig.

So, what is a dog? Well there are many ways to define a dog, but there is one thing for sure that we know that dogs are and, that is, dogs are the descendants of and so in a feral form, carnivorous predators. That is what a dog is. A dog is a carnivorous predator. He is not a vegetarian, he is not a fruitarian. A dog is not someone looking for a smoothie or a shake. What we are talking about is an animal that is designed by nature to inflict damage on another animal. It is a hunter. Yes, man has domesticated dogs, but dogs can be dangerous.

So when I look at the definition section of a class A dog, and I note the correlation between what we have in Schedule A and the British legislation which, of course, does not gel or tally with some of the legislation in other developed jurisdictions—and my colleague Sen. Bernard spoke about that, so I would not repeat it—I would say well, okay, we have what looks like a British import.

But, there are dogs that I would consider to be dangerous because I have seen people get bit by them quite viciously which do not have the honour or the privilege of being captured in this Schedule. So I would ask about Rottweilers which are extremely vicious dogs; the Doberman pinscher, the German shepherd. Now, any of these dogs, if you ever witness a dog bite and many of us would have or have been bitten ourselves, you know you cannot prise the mouth of a dog open. It is just like an alligator's mouth I suppose. You could hold it shut. The extender muscles are far weaker than the bite, the clamping muscles. So when that dog grabs on to something, it can grab on for a very long time, and a full grown Doberman pinscher or German shepherd can often stand higher than a child. It is the work of a second to bite the neck of a child. It is the work of a second.

I am wondering what the basis for the designation is, and I note there is a provision in the legislation for the Minister to include other types of dogs, but I wonder whether we should not be considering some of these other big dogs which, if they are trained to be aggressive or are nurtured to be aggressive, can do significant damage or kill somebody.

Aside from particular breeds of dogs, what about specific use dogs, such as, as Sen. Bernard said, hunting dogs; dogs that are trained to be aggressive, dogs that are trained to inflict damage, to maim or to kill? So I had a question about that, and I suppose we could explore that in the committee stage. Then, I really ruminated on the experience in Trinidad and Tobago of people getting killed by dogs, and we have an almost 100 per cent hit rate for the pit bull. So we are passing dangerous dogs legislation, but what we really have is a pit bull problem. At least, that is what the statistics would suggest. And it begs the question therefore why not just outlaw the breed?

Now somewhere out there in TV land, I am sure that this raises the hackles of people who love dogs, who love to keep pit bulls, but a pit bull is a very dangerous dog. And I must weigh your right to own a pit bull with the general sense of safety that I am entitled to feel as a citizen who may be walking past you, while you have a pit bull, and many of these pit bulls can pull their owners, can carry their owners.

11.00 p.m.

So we set some standards in the legislation here and I wonder how do we really measure some of this stuff. So let me just run through some of this very quickly. I will start with subclause (9)(a), which I thought was quite interesting. Well, all of subclause 9 is quite interesting, but subclause (9)(a), I thought—well, (9)(a) and (b) were quite powerful, and let me start with (9)(a). Because what is it that we are saying here? Is it that the dog or the owner can make a determination about whether the offence being committed is one for which the penalty could be a term of imprisonment? And I found that sets a very high standard of judgment for the dog, and even for the owner.

How long does that spliff need to be before you decide that it is not—you are going to jail for it. I think that there is a standard of proof there that I would like some clarification on, and if I took (9)(a) and (b), together, I would ask the question, “Well, how does the dog recognize property?” How does the dog recognize that someone is trespassing? The dog may be territorial, yes, but how does a dog recognize that a person who is being attacked is trespassing, and therefore that is okay?

How do we make sense of that? There are a couple of places in the legislation where that logic seems to reappear, for example, clause 19(1), (2) and (3), where again, this question of private premises; 19(2), again reasonable cause, and 19(3), injures a person inside or outside of private premise and so on. And then, of course, 20(2), which is brilliant because we are placing a standard of *mens rea*, as I understand it, on the dog or the dog's owner, if we are saying that you have the intention of committing a criminal offence, the intention. You are not in the act, you are saying that you have the intention. So I have a bad dog, you watch me funny, I loose the dog on you, and the police come and ask me, "what happen?" I say, "well you look like you were coming to do me something."

So, that same logic applies of course of 19, where I would ask, "Well, how do you prove provocation?" If, for example, I am walking with my child and my child has a flute, and my child blows the flute and a dog is nearby, and the dog becomes provoked by that; is it that the dog owner is entitled to say that my child provoked the dog? And what is my case and my position? I would love some clarification on that. I am sure it is very simple to clarify.

In clause 5, I did not understand the basis for 5(1)(a) through (d). Is it that we are saying that we have a concern about food safety, which is what (a) and (b) would suggest, or is it that we are saying that there is a problem with dogs appearing in a public place, which is what (c) and (d) would suggest? In the case of (a) and (b), most food safety experts would suggest that the greatest risk to food safety actually comes from human beings who do not wash their hands after they go to the bathroom, and so the highest incidents of faecal coliform anywhere in your household is usually in your bathroom. Check your bathroom counter, where your sink is and so on, and so you will see that.

So, I was not quite clear how this ended up in there, and why these four particular conditions were identified. There are many other places where you may not wish a dog to enter. I do not know—an airport; as Sen. Prescott said, a library. I do not know. There are many, many other places that one can identify where you may not wish to have a dog. So, I think that 5(1), (a) through (d), needs either to be clarified to say a public place or place of business, or some such thing, or reworked in some way so that the true intent of that clause is made clear.

Madam Vice-President, 5(2)(c), I think is also useful for us to consider, and I would not say any more on it, other than to reinforce the point already made that attending and completing a course of training in the control of dogs, recognized by the Minister, should be accompanied by some certification, and so we want to say, "successfully completed a course". I have known people who offer courses

which are recognized by various places who will sell you the certificate. You must successfully complete a course and there ought to be some sort of audit trail and evidence that such a thing has been done.

Madam Vice-President, 5(3) had me wondering, whether as a society we are saying that a dog, as an instrument of attack, is acceptable. Is it okay for us to say that we are allowed to have a dog and use the dog to attack people in certain specific circumstances, because 5(3)(c) would suggest so, and so I would have liked clarity on that point. I also think that in (5)(3) there are two aspects which require clarification. The only one that I would mention here would be that there is a focus on attacking people, but we also ought to pay close attention to the destruction of property, because property can be just as important.

I was very, very pleased to note 5A, which everyone has mentioned, because I think that we are all concerned about cruelty to animals, and I had just two quick questions there, which I presume and I would like to be satisfied will be handled in the regulations. One would be, what is the standard for deciding that a dog has not been given appropriate care or appropriate food? You know, there are many people that feed their dogs dhal and rice, and whatever else the household has cooked. Is it that the State is going to regulate Gravy Train and Iams and this sort of thing now?

[MR. PRESIDING OFFICER *in the Chair*]

So, what is the standard for adequacy? And I note the change and welcome the Presiding Officer, whom I shall give as much trouble as possible. [*Laughter*] And what are the penalties? Penalties need to be defined and clearly so, and so that is all I will say about that. I am sure that that can be addressed in regulations.

In terms of 7(4), I would just make the observation that a database to be carried by a Ministry of Local Government would imply that you are talking about the implementation of this at least at the level of the municipal corporations, which is going to be a significant undertaking. So I would like to hear some more about how exactly it is proposed that is to be done. Similarly, in 7(5)(a)(iv), the certification by a vet that a dog is class A confuses me a little bit about mixed breeds, and so the regulations really should define how we know what those breeds are.

In terms of clause 7(13), I was not quite sure how you would inform the local authority of the death of a dog. Is it that you get a death certificate for that, so you have to carry the carcass to a vet? Does the vet certify that the dog is now properly dead? Yes. Do we have a doggy DMO? So just some clarification on that. Is it that you can just call up the authority and say—because it in the legislation so we might as well know how it is going to work.

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Clause 18, purports to treat with vets who knowingly misidentify a dog, but what about in the case of a mixed breed if the vet makes a mistake? So is it that we are saying that if a misidentification occurs that it can only be an act by the vet that he or she knows or believes to be false, or does not believe to be true? So there is a mistake question there that I have. Clause 9(1) raises the issue again of a class A dog, and a person who keeps a class A dog shall ensure the premises on which that dog might be kept are secured.

And, again, I raise the point, there are Doberman pinschers, there are German shepherds, there are Alsatians, there are Rottweilers, which are very dangerous dogs, and which also should be kept to these standards. So either we expand the schedule or we take out this notion of class A, and say, if you have a dog, you should keep the dog in a secure environment, whether it is big or it is small. And for those who mentioned Pompeks and smile, I have seen very big people run away from very small dogs, "eh". There are some people that are just terrified of dogs. Dogs smell fear and, you know, I have seen little dogs run down big people, at quite some pace too.

Again in clause 12 here, on page 10 of the legislation, we are saying that we must inform the authorities. In the same way we must inform the authorities as soon as possible if the dog has died, we must inform the authorities within 24 hours that the insurance has lapsed. I found that 24 hours is quite an aggressive standard when I look at the penalty for that, summary conviction, a fine of \$50,000 and imprisonment for one year. But I am happy to be convinced about the logic of that particular arrangement when we hear the winding up, or perhaps in the committee stage.

When we look at 14(5), this idea of a class A dog enters onto private premises, the owner can kill the dog. Well, okay, I was curious about whether I could kill the dog on the public road. If I am walking on the public road and you do not have control of your dog, am I entitled to kill your dog, or is it that your dog has to be on my property and then I can destroy the dog? And what is really the basis for this? I was not quite clear on that from the debate.

And I would wish, Mr. Presiding Officer, to close on this point. If we have a particular strain of dog which is giving us problems and that is because of its aggressive nature, or its disposition, it is inclined to maim or kill people, then what is the problem with banning that particular breed of dog? Do we have to prescribe all of these stringent controls and put all of this governance in place just so that these few people can have this type of dog? And I am talking here,

specifically, about a pit bull terrier. Why do we need to have that? If it is that these dogs are so dangerous and these dogs are killing people, I think that we ought to consider spaying these dogs and when they die out, we faze them out, and that is that, and we are done with these dogs.

11.15 p.m.

Because I cannot see how we can sit here or stand here and talk dispassionately about, well you know, a couple of people got killed with these dogs. I mean, those are mothers, and brothers, and children and entire lives are wrecked.

So how does that gel or marry with what we are trying to do here? I think that we are dealing with two issues not one. We are dealing with an issue of dangerous dogs, generally, and seeking to impose a standard of behaviour on dog owners which is right and proper, but apart from that, I think, we have a specific issue with pit bull terriers which we should also consider and address because if your form of entertainment or pet keeping or enjoyment is for you to have this dog, but these dogs are killing people, however frequently or rarely. As long as we see this sort of thing we ought to think twice about allowing people to have these kinds of dogs because nowhere in this legislation does it really examine whether a person is fit and proper to have a dog or the disposition of the owner. All of this really comes to after the dog “bite yuh up”, then we will make a determination about what happened. I do not think that is fair for the victim.

So while this sets a standard I do not think that it necessarily does enough to protect the society from a particular type of dog which is wreaking havoc with the consciousness of the pedestrian public in particular. So I would want to engage the Government a little bit more on what we are intending to do about that and a comprehensive answer to that would be critical for my support of the legislation. I thank you, Mr. President Officer.

Sen. Hinds: All fall down? Mr. Presiding Officer, where are we?

Hon. Senator: He went to get—he is the washroom.

Sen. Hinds: He went to get the Attorney General? Where is the Attorney General?

Hon. Senator: He went to the washroom.

Sen. Hinds: The Government has abandoned the Parliament?

Sen. Beckles: You all are dramatist, yes.

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you, Mr. Presiding Officer, and I apologize for not being here. I was in a very engaging discussion with my learned colleague, Independent Sen. Prescott on this matter. [*Crosstalk*]

Sen. Beckles: Are you blaming Sen. Prescott?

Sen. The Hon. A. Ramlogan SC: No. I was not blaming anyone. I was simply explaining the reason for my absence. This has been a very enlightening and illuminating debate that has lasted the entire day. It is now 17 minutes passed eleven. I say that only because when one looks at the Parliament channel with the reruns there is no time. So it is good for people to know the hours that we keep in the Parliament sometimes.

But it has been a rather illuminating and enlightening discussion and debate that we have had on a very important piece of social legislation concerning an issue that has bedeviled us for quite some time. There have been many useful suggestions, and I have listened very attentively to all that has been said, and I think the legislation is richer for all that has been said, both positive and negative. Permit me to take us through and respond to some of those points that have been made.

I believe the first contribution was from my learned friend Sen. Al-Rawi who made the point Ministry was not defined in the Bill although the relevant Minister was. Perhaps it might suffice to say that the intention is that the Ministry when used in the Bill is that of the relevant Minister. Because once you use the term “Minister” and there is a relevant Minister, then the Ministry that is referred to is the Ministry that comes under the jurisdiction and portfolio of the relevant Minister.

I do not think there is any need to amend the law, to make that clear because, I think, in other legislation we have passed the reference to the Ministry where there is a relevant Minister that is identified in the legislation is construed as that person’s Ministry. In any event, having regard to the functions that are outlined in the Bill it could only mean the relevant Ministry that has been identified.

The second point had to do with the definition of “person” and whether it included corporations. I have spoken to my learned friend and we have both agreed that section 70 of the Interpretation Act has nicely taken care of that point because “person” is defined by virtue of the Interpretation Act to include a corporation and that will deal with that.

In the regulations however, I think it may be wise in the application form for not a corporation, but an identified natural person to make the application. That is because when one looks at the nature of the duties that the Bill seeks to impose on the owner that has to do with the care of the animal: the exercising, the feeding, the veterinary health care and so on. Those are personal responsibilities that are really attached to a person and it will simplify the legislation and its administration if when applying for the licence to own a dangerous dog some person is identified as the applicant to whom civil or criminal liability will attach.

So that I am not in favour or in support of a corporation being the applicant to whom liability will attach. The regulations, when drafted, will make that clear so that when the form is filled out there is an identified natural person in whose welfare and care the dog will be.

The definition of commercial malls and whether it should have been defined. When in law legislation does not define something you go to the ordinary use of the word, and that is an elementary principle of statutory interpretation. Mall is defined in the Oxford English Dictionary as meaning a large enclosed shopping area from which traffic is excluded. I am happy to stand by that. If we go and try to define it in the legislation you could run into even greater difficulties because once you define it then, you know. The concept of a mall has been changing as we have seen in the last 10 years and we may find ourselves being outside of it.

In any event “shop” is there and a shop is equally a place where a dog is prohibited from entering and one would be hard-pressed to find a mall without a shop. So it would be covered by virtue of that provision in any event.

Assistance dogs should include dogs used for therapeutic purposes. Paragraph (c) of the definition clause is wide enough to address a dog that is being used for therapeutic purposes in my respectful view. The definition was, in fact, modelled on the term “assistance dog” used in section 173 of the Equality Act, 2010 United Kingdom and it reads as follows:

“assistance dog means—

- (a) a dog which has been trained to guide a blind person;
- (b) ...to assist a deaf person;
- (c) ...trained by a prescribed charity to assist a disabled person that consists of epilepsy or otherwise affects the person’s mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;
- (d) a dog of a prescribed category which has been trained to assist a disabled person who has a disability falling within” the “prescribed kind.”

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It may very well be that in future we can take a look at expanding it as the role and function for which dogs are used continues to increase and grow in our society. But for now I think that assistance dog covers and would be wide enough to take a functional and purposive approach to the interpretation of that particular term to see that it includes any dog that is there to fulfil any utilitarian purpose, ie to provide some form of assistance, hence the reason for the term assistance dog.

In clause 5(3)—we are told in clause 5(3) the problem was the insertion of the words to facilitate the commission of a crime, encourage the dog to be aggressive or to intimidate a person to facilitate the commission of a crime. Now, Mr. Presiding Officer, that provision was in fact inserted specifically as a result of discussions held with the Opposition in the other place because what it read before was encourage the dog to be aggressive or to intimidate a person, and that was going to be an offence. The thinking behind it was simply this. People want to have a dog that they will encourage to be aggressive or to intimidate a person. Sometimes that is the point in keeping the dog. So if we outlawed that, then we would be really interfering with the whole justification—the social justification—of some citizens for having the dog which is for it to be aggressive and intimidate persons.

So what we thought as a compromise would be to put in the words. “It would be wrong to encourage the dog to be aggressive or to intimidate a person to facilitate the commission of a crime.”

So in other words, if someone were to come to rob you and instead of having a weapon they brought a pit bull or in the middle of some other kind of situation that person using the dog—the dangerous dog—to facilitate the commission of a crime, then that is what would be wrong. As opposed to simply someone encouraging their dog to be aggressive or to be intimidatory which will be a matter of your choice.

In section 5A the point was made by many Senators that there is no sanction for the duty of care imposed for animals. Now, that is true. The only provision in the Bill that deals with this is when you are going to apply for the licence the authority must be satisfied that you are someone who can care properly for the dog before they can give you the licence, and you will have to satisfy that each time you come for the renewable.

Now we have to take a very practical approach to this kind of legislation. If the State has to police the treatment of dogs that is going to take an awful lot of resources, and the very people who own dogs will rile up against the State to say, “look, butt out, it is none of your business.”

This legislation is not the legislation where that kind of matter can be treated. That requires a separate policy decision, a separate piece of legislation to treat with matters concerning the welfare of animals, animal cruelty and all sorts of other things.

You put a sanction here for that to say, well look, the State must send people now to ensure that dogs are getting proper care: food, shelter, water, exercise, et cetera, and so on and if that is not happening people could be prosecuted. Do you know what will happen? Nobody will own dogs. Nobody will take the risks, and where is the State going to find police officers or law enforcement agencies to go after that? And even if you do, you know what will happen? “People who like cyat will come and say whey, so wha happen to de cyat and dem? You leave out dem? So all yuh value de dog more and all yuh put people to go and see if de dog getting good treatment, but what about de cyat. All yuh lick up de cyat.” [Laughter] No pun intended. But the point is that, you know, you run into a different kind—the permutations are endless and you run into a different kind of problem.

So, Mr. Presiding Officer, these matters it was a statement of general intention. It was a statement of Government policy, but it was not meant to treat with the larger issue of the treatment and welfare of animals. That is a matter that requires a separate debate in a society such as ours. But it is a point that I take on board that at some stage as a society we will have to take those hard decisions and we will have to see where we want to go. But for now I was content to introduce it as it was a mission statement to signal to the owners that they have a duty of care to the animal, to their dogs.

Now if they breach that provision, mind you, when they come for their licences to be renewed, if they breach that provision then the licences may not be renewed and that is a form of sanction that we have.

Now the other issue raised was the use of DNA and the problem of classifying dogs. Now, this is something that had arisen, time and again, when we were discussing this matter at the Law Review Commission. It is a matter I raised myself and we can go to and fro on it.

11.30 p.m.

“Look, if ah pit bull biting yuh and they lock yuh neck or yuh leg is caught between the jaws of a pit bull and yuh bawling for help and a police walking in the road and he come upon the situation”—

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[MADAM VICE-PRESIDENT *in the Chair*]

“Dog biting yuh, police reach, police pull out he gun and he say, oooh, wait, wait, wait, doh bawl so hard, I ha’ to call ah vet to get the dog DNA, leh meh call the vet before I could shoot, before I could do anything to help yuh.”

It becomes impractical. How is it that other countries in the world have similar legislation: Denmark, United Kingdom, Australia, I mean, many countries in the world have similar legislation where they have in fact banned dangerous dogs and those very countries that we look up to as First World and developed societies and so on, they have had no problem in administering the law.

Now, I went to do some research during the break to find out, well, how is it they were administering it in light of the very trenchant observations made that, look, well you know, some people are saying that they really cannot have a breed without a DNA test and all of that. This is a big story, you know, Madam Vice-President. They have books and thing written on this, you know; dog and cat is big business. [*Laughter*] This book here is the *Dog Law Handbook*. All right? Now, I am sure there is an equivalent of the cat handbook somewhere around, but this is the *Dog Law Handbook*, and this is what it says about the United Kingdom. It is edited by Paul Clayden and Godfrey Sandys-Winsch who is a solicitor and a graduate from the University of Cambridge. This is what they say in discussing the position in the United Kingdom and I am reading from page 30:

“Four types of dogs are named by, or under powers in, the 1991 Act. These are: the pit bull...Japanese Tosa; the Dogo Argentino and Fila Brasileiro.

The Secretary of State may add other dogs of a type appearing to be bred for fighting or to have the characteristics of such a type to this list.”

So they go simply by the characteristics.

“In practice, these measures are aimed at the pit bull terrier, the other named breeds being very rare in this country. On the face of it, the measures would appear to be sufficiently drastic to deal with the situation. The problem arises in determining whether or not a dog is a pit bull terrier. The Act’s definition is ‘any dog of the type known as the pit bull terrier’—so their legal definition in the law is any dog of the type known as the pit bull terrier—“and it provides that in any prosecution it is to be presumed that the dog is a pit bull terrier unless the accused brings sufficient evidence to the contrary.”

Now, we had that in the Bill, but when it was in the other place the discussions within the Government and the Opposition, we felt that the reversal of the burden of proof was a little harsh. So, we decided to remove that provision

and not go ahead with the reversal of the burden of proof, so that you do not say that the dog is presumed to be a pit bull and the citizen now has to bring evidence to disprove that it is not a pit bull.

So, we did away with that, so that the prosecution now has to establish its case beyond all reasonable doubt that the dog is a pit bull. We did away with that, but let us see even in England what happened. They said that:

“The true pit bull terrier is itself a cross-breed; but canine purists...(who are responsible for the legislation) disagree about the breeds from which it is bred. However”—happily—“a case in 1993 provided some clarification. It decided that the provisions described above do not apply only to the breed of dogs known as pit bull terriers, since the word ‘type’ is not synonymous with the word ‘breed’, but apply to a dog having a substantial number or most of the physical characteristics of a pit bull terrier, which is a matter of fact for the...court to decide.”

In other words, you look at the type of the dog, you look at the characteristics.

In Australia, where they have similar legislation, they have something called a dog template and the dog template now tells you what kind of characteristics you have to look out for. “I eh know what dey go put bout the cyat template.” But they have head, head shape, muzzle, upper teeth, eye, nose hole, neck, back, chest, tail, leg, thigh, coat. “Listen, they go down the whole road from yuh chan he to yuh big toe, dem cover tha dog from he nose and he snout to the end of he tail. Every characteristic you could think about dem fellas put it and dey do a dog template.” [Laughter] But the point I am making is, they are going by the characteristics of the dog, because it is the only practical way to administer legislation, and these are countries that have had it in operation for a long time.

The Australian Companion Animal Council Inc, they did a paper called *Dogs in Society Position Paper* on the Pit Bull Identification Template, and they have a lot of discussion surrounding the issue and so on, concerning breed identification. I do not want to go into all the research because it might tie up people here, but the point is they have things like this: Dangerous Dogs Law - guidance for enforcers - Defra, identifying the pit bull types—and this is information that they give out just for general knowledge and they say:

- “When first viewing the dog it should appear square from the side, and its height to the top of its shoulders should be the same distance as from the front shoulder...”

I mean, listen, they have everything: the forelegs, the eye, the rib cage, the knee joint. Everything!

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More care has been spent on this than perhaps “some ah de human legislation they have in some ah dem country,” but it is a very emotional subject. But I want to commend the learning that I have received from the case of *R v Crown Court at Knightsbridge ex p Dunne; Brock v DPP* and in that case in the Queens Bench, in a judgment delivered in July 1993, they simply said that it applies to a dog having a substantial number or most of the physical characteristics of a pit bull terrier.

“So, it doh have to be all. Yuh doh have to get it right. This thing cannot be an exact science, because it is impractical. Yuh go have a set ah man walking out with needle in their back pocket and spranging on dog and taking their blood to run back and get a DNA test.” We are still trying to build our DNA database with respect to human far less for dog, and then you “go” hear somebody coming and say, ‘Well, what about the cat that scrape meh? Wha about that? I aint getting no compensation? Then some fella go come and talk about wha about the cyat that leave meh?’”

Now, the next concern raised by Sen. Al-Rawi was, is this a money Bill? I am advised that under section 66 of the Constitution which deals with the money Bill, this Bill is not one such. The fact that you are required to pay a licence fee is not the same as taxation, raising taxation. You are required to pay a licence fee; it is not the Government raising a tax on you. So that it is not required to be treated as a money Bill. [*Interruption*]

The issue of providing notice to insurance companies under clause 13(5) the 28-day period—now this is a point that Sen. Prescott SC had raised and others had raised it as well. Now, the reason for providing notice to the insurance company when you are about to make a claim is one to give the instance company the opportunity to contact its insured to find out what it is that really went on and, also, it is to give the insurance company the opportunity to admit liability to avoid going to court. Now, that provision is reflected—and it is really reflective of a position as the hon. Minister of Justice quite rightly explained during her contribution—in the civil proceeding rules of court in the pre-action protocol practice direction where you have by law now the procedural requirement to issue a pre-action protocol letter to give an intended defendant 28 days advanced notification. So that whether it is in the law or not it will still have to be done. So it will capture that; and I think in my discussion with Sen. Prescott SC I managed to persuade him on that point.

The other point raised was whether the database could contain sensitive personal data and whether or not something should be done on that. Well, I mean, the Data Protection Act will apply to it, but even so, I mean, “wha’ sensitive data it go have?”

The kind of dog yuh own?" I do not really see what sensitive data—there was no furtherance of that to explain what is the sensitive data that the register would contain such that we should, pause for cause, so I am not minded to give that too much attention.

The point about the notification of loss, if your dog is known or unknown they can go to the police station and make a report. Now, this is a point that came up before and having regard to the kind of injuries these dangerous dogs can inflict, if you create a defence of being able to say that your dog was lost it opens up a whole can of worms. How is someone who is injured—"a man dog bite yuh up on yuh face, yuh neck, yuh back, all over and you now have to prove—all the man have to come and say, well, the dog de loss, how you going to disprove when he say the dog geh loss that he lying?" It is virtually impossible. So, that was a deliberate policy decision to close the trapdoor on that and to not allow that escape hatch to remain open.

Now, the point about the inconsistency between clause 8 and clause 21 where the Ministry can destroy the seized dogs and the court can order the dog to be sold or given to a facility, in addition to its destruction, I think that is a valid point, and what we can do is, in the regulations when the Ministry takes custody and possession of the dog, I think we should allow for a grace period before any action is taken to destroy the dog. I think I would say, perhaps, maybe, one can contemplate between three to six months to allow for some good samaritan to come forward to claim the dog. If that does not happen then perhaps we go to stage two, but I take the point that, as framed, it perhaps gives the impression that one is automatic whereas there are options that the court has—and we can treat with that in the regulations to say that when the Ministry takes possession of the dog what should happen to the dog and how it should be treated.

The other point was in clause 10, and the point made in clause 10 was the use of the word "knowingly". They said that we should include the word "knowingly" where a person keeps a class A dog which is not licensed. Now, you see when you put that word "knowingly" there, that opens up a whole Pandora's box. You have to go to court now—"man get ketch with pit bull and he say, well, I didn't know it was ah pit bull. Ah blind in one eye. I eh really thought it was ah pit bull, is if the thing was a pot hound."

Look, we have to be serious about this, you know. When you look at the horrific injuries sustained as a result of vicious dog attacks, violent attacks by dogs, the people who are the victims of these attacks their whole lives are destroyed. The trauma inflicted upon them is permanent and the emotional state of mind, it renders them in a state of utter depression for perhaps the rest of their lives. So I am not concerned about knowingly.

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The onus is on you the citizen. If you want to own a class A dog, go by a vet and check it out, let them certify it. Err on the side of caution. The State is not going to err, take that responsibility for you. You take the dog to a vet before you decide to carry it home and say, "Mr. Vet, check it out." When you get the certificate, that is a good defence in law because the certificate from the vet is conclusive evidence on your part that, look, this is the kind of dog that I bought because it is stated here, because you are not an expert. But if you decide, well, I did not know, because you choose not to find out or not to know, it is because you did not want to know and I am not prepared to tolerate that. I do not think that is right, quite frankly.

Now, Sen. Ramkhelawan during the course of his contribution, I think, raised the point about the mix again and the breed of the dog. What if it was 80 per cent, 20 per cent pit bull, what happens and so on? Now, again, those are matters that will have to be worked out when the vet gives that certificate, and in the regulations, will have to consult with them to see what is the regime; what kind of regime we will work out, but in other countries they have come up with practical administrative mechanisms which focus on the characteristics of the dog because, really, once you get too scientific about this, you know what will happen? The court has a backlog of murder cases, do you really think I want to give them a backlog of dog cases? They cannot even clear murder cases. The court is creaking beneath the sheer weight of the volume of cases, so let us be practical and sensible about it.

So, I think at the end of the day the vets are the ones who are the experts with the competence in this area to determine whether the dog is a pit bull or not, and based on that certificate, knowing that it is a criminal offence if they knowingly falsify that certificate then I think that is the best we can do and I am comfortable with that.

11.45 p.m.

Now, the other point raised was the insurance point: how do we ensure that citizens who have these dogs have access to insurance? Now, it is a point made by several colleagues who spoke in the course of this debate. In our discussions with the insurance industry, we got the distinct impression that once the law is passed, they will fashion a product based on the demand. But the insurance industry which is known for creating and fashioning new products all the time to meet a demand, they are not going to fashion it before we pass the law. They are not going to do that. But if there is a demand by virtue of the law, of course, they will fashion it. Insurance companies are in the business of making money and selling policies, so that they will insure anything provided you are prepared to pay for it. It is \$250,000 insurance, so they will fashion a product that will allow for coverage with various conditionalities and various permutations.

If you want to cover damage by death, damage by injury, property, whatever it is, they will deal with that. But I take note of the point and that is why in our consultations we specifically consulted with ATTIC. But I have no doubt that once the Bill is passed, the insurers will step up to the plate to fashion a product that will meet the remedy.

Sen. Ramkhelawan: Thank you for giving way, hon. Attorney General. Will you give us the undertaking that this Bill will not be proclaimed until such a time that insurance is available?

Sen. The Hon. A. Ramlogan SC: I think it would have to be that the insurance is available before the Bill is proclaimed. So, yes, I am prepared to give that undertaking that insurance would have to be available for people to take advantage of it. That is something the insurance industry will no doubt respond to once this thing becomes law.

Now, we come next to the fees for the microchip. Now, again, I do not know what the fee is, but I am advised that it is certainly nothing that they cannot afford because it has been going on for quite some time apparently and that is determined by private market. The State will not want to get involved in that, in terms of the fees.

The loan facility when it is difficult to provide insurance and to stop promoting pit bulls and phase them out: now, I hear you, Sen. Ramkhelawan. Maybe there are many people who hold that view, we should simply take the position that we go for absolute prohibition and extinction of pit bulls, but when we tried that and we tried to proclaim the old law we saw what happened. The outcry was huge in the society and people said, “well, you cyar just come and—any dog could be a dangerous dog, whey you focus on de pit bull”; why it is you want to make them extinct and all of that. “So it is like damned if you do, damned if you don’t.” You could never find any perfect legislation as the Minister of Justice said. So we are trying to please everybody which is impossible. We are trying to find the compromise to strike some kind of balance in the thing.

But I hear you and I note for the record your position is that we should simply phase them out and go for absolute extinction. That may not go down well with the people who protested at Queen’s Park Savannah and threatened to shut down Port of Spain. I am not talking about pit bulls in any labour movement and so on. I am talking about dog owners who were there in the Queen’s Park Savannah.

Sen. Deyalsingh raised the point as well about the insurance industry and, again, that is a point I think we will have to treat with the insurance industry to ensure that they fashion a product to meet the demand, but we must first pass the law to give them the trigger for that to happen.

Sen. Baptiste-Mc Knight said there was no authority to implement the Act. That is true, but the authority that will oversee the implementation of the Act is the Ministry of Local Government via its regional corporations. To create a separate authority to administer and implement this Act will make it more bureaucratic. In the local government bodies there already exist that function with respect to stray dogs, they already have their pounds and I take on board fully the point that for this to happen, as Sen. Beckles said, you would need an injection of resources.

So that I can see that the Government will have to consider increasing the subvention to the various dog pounds, the NGOs, the TTSPCA, the Animals Alive in Oropouche and all those areas, to actually increase their capacity to be able to handle those persons who may wish to give up their dogs and that is something we will have to look at. But in the meantime, I think the scheme as it is through the Minister and the various local government bodies, I think that should be adequate. If we set up a separate authority—anytime you do that, there are financial implications to the taxpayer; it is an additional institutional bureaucratic burden, a layer of burden that you are adding and it really does not always work that well.

Hon. Senator: We share a group position also.

Sen. The Hon. A. Ramlogan SC: The next point made was, why did we use the word “shall” or “may” in 12(4)? This is where the owner of a class A is convicted, the court shall, in addition to making the order to take out the policy, impound the dog. Well, that is deliberate. If you do not have your insurance because the policy lapsed, there must be no question of discretion on the matter. That policy of insurance means life or death to someone. Any potential or actual victim of a dog attack by a dangerous dog, that policy of insurance is their only lifeline and if you are putting it in the law and someone does not have it, then we say that the court shall impound the dog and order the owner to take out the insurance. You take out the insurance and you come back and you collect your dog. Nothing is wrong with that. So the use of the word “shall” there is deliberate and I am comfortable with that.

Sen. Baptiste-Mc Knight wondered whether the standards in the dog pounds would meet the “posh” standards to which some of these dogs have been accustomed. I cannot really say that the dog pounds would meet the posh standards to which they are accustomed. I do not know what standards they are accustomed to, but the fact of the matter is I cannot go and create a Hyatt and a Hilton Hotel in the dog pound because somebody choose to treat their dog like it

is a luxury item. I cannot do that. We have competing expenditure priorities, “we ha to get bed in hospital for people to lie down and make children, to get better”, you know. We have serious other competing priorities. So that the dog pounds will, you know, deliver the basic minimum health care requirements for the dogs, consistent with the interest of the welfare of the animal, but I cannot say that the State can assume responsibility for meeting any posh standards.

Sen. Baptiste-Mc Knight: Will you give way?

Sen. The Hon. A. Ramlogan SC: Sure. Certainly.

Sen. Baptiste-Mc Knight: Thank you very much for giving way. I got the impression that the finances that would be raised from the registration, because if we are talking about 100,000 dogs, you are talking about a minimum of \$100 million coming in, and that money is supposed to be used in the administration of this Bill. Would that not be enough to upgrade the conditions of the holding areas, pay staff, et cetera?

Sen. The Hon. A. Ramlogan SC: The answer is, I do not know because remember you are talking Tobago, San Fernando, Chaguanas, Oropouche and Port of Spain. So I do not know, but I hear you. It may very well be—but you know a million dollars is only going to take us that far. It will require—
[*Interruption*]

Sen. Baptiste-Mc Knight: One hundred million.

Sen. The Hon. A. Ramlogan SC: Well, I do not think you might get that much. I am not sure what the dog population is.

Sen. Baptiste-Mc Knight: One hundred thousand multiply by 1,000 is 100 million.

Sen. The Hon. A. Ramlogan SC: Yes, but I do not know what the dog population is, ma’am. So I do not want to speculate.

Sen. Baptiste-Mc Knight: You are the person who said that it was between 300,000 and 800,000.

Sen. The Hon. A. Ramlogan SC: Well, that is neither fair nor correct. I did not say that. I quoted a newspaper article and I quoted the person’s name and I said I doubted if the figures were correct. What I did say is there are, in fact, no figures to tell us what the dog population is. So I cannot speculate on that.

Now, the other point made by Sen. Baptiste-Mc Knight was whether there should be some kind of grace period to treat with the dogs, to give some ample time for people to comply and so on. Now, there are two points to note in that

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regard. The first is that the law has to be proclaimed. So people are already on notice from now. It is not like if people are going to have to hire a carpenter in the morning and start raising their fences and doing all that is necessary. It is not something that has to happen overnight. There is a window of opportunity now between the time of its being passed and its proclamation. But even when it is proclaimed, remember we doubled the time in the House from three months to six months. So even when the law is proclaimed, you still have that additional six-month period and six months is a long time for a man to put up a fence or throw up a couple rows of bricks on top. *[Interruption]* Sorry? If you do not want to do that, I am sorry. Give up the dog. You cannot have your cake and eat it at the same time. You cannot blow hot and cold. So that period is in my view, outright.

As I indicated before, bear in mind that we are not in virgin territory. In Australia, Bermuda, Denmark, Portugal and even neighbouring Puerto Rico, they have had this kind of legislation. Yes, there will be an outcry in the initial period, but after people are finished crying, they have to comply, because that is the law.

Now, I turn next to my friend, Sen. Prescott SC, who raised the point I believe—the first point was clause 4 and the concept of reasonable cause and I am grateful to Sen. Prescott SC, for having a discussion with me on these matters which shed some further light on his thoughts. Now, what constitutes reasonable cause? Now, this amendment came about as a result of discussions we had in the other place with our colleagues on the opposite side, and we thought we came up with a nice compromise with this provision. Now, the concern that has been raised here is whether the reasonable cause is for the dog or the owner or which.

Now, let me try and explain it this way. The dog does not commit any offence. The dog cannot go to jail. The dog cannot be fined. The dog is not liable in criminal law for anything. In civil law you cannot sue the dog. De dog cannot pay you compensation; the dog “doh” take out de insurance; the dog doh add three row ah brick on de fence to make it higher, so he cyar jump over”. The whole philosophy and purpose and intention of the Bill, was to encourage and promote responsible dog ownership. So the accent is on the owner, the spotlight is on the owner. It is the owner who will be liable whether in criminal law or civil law. So the “reasonable cause” here is a defence that the owner can invoke if he is being prosecuted or if he is being sued. That is the intention of the law that the owner will be available to avail himself or herself of one of these defences if it is he is being prosecuted.

Hon. Senator: It is the intention, but does it say that?

Sen. The Hon. A. Ramlogan SC: Now, that is the compromise we had hammered out in the other House with the Opposition when we discussed this matter. In fact, you will notice that the old subclause (9) was completely deleted and this was the new subclause that was introduced as a result of our discussions.

Now, I understand the concern that—could it be interpreted as meaning the dog has reasonable cause as opposed to the owner? I think it is neither. Look, if the owner is charged or if the owner is sued, these are defences the owner can invoke.

Sen. Hinds: It is the drafting.

Sen. The Hon. A. Ramlogan SC: But I hear my learned friend, Sen. Hinds, about the drafting. Okay, fine. Well, if the drafting needs to be fixed we can reflect on that and in a later stage sometime, we can perhaps look at those things.

Sen. Hinds: Once drafting can reflect that intention.

Sen. The Hon. A. Ramlogan SC: Well, I am saying that we can take a second look at that to make it clearer that it really is a defence that the owner can invoke. But I am saying it here for the record that that certainly was the intention of the Opposition and the Government, when we crafted this particular subclause, that this would have been defences really that would have been open to the owner to say, well, look, this is my defence. The dog attacked someone, yes, but that person was an intruder. The dog attacked someone because that person was committing a criminal offence.

12.00 Midnight

Sen. Prescott SC: I will be inclined to admit though that I did suggest to you that the language does not create a defence.

Sen. The Hon. A. Ramlogan SC: It does not?

Sen. Prescott SC: It does not, in fact, create a defence, it puts a burden on the prosecutor to establish that there was no reasonable cause.

So I am inclined to say if you want to go away from here and your reflection on it would lead to us being presented with a different kind of languaging, I would be prepared to go along with it.

Sen. The Hon. A. Ramlogan SC: Well, I was coming to that. Now, in the clauses, there were consequential amendments which we made, and that is why in most of the offence provisions, we inserted the words “without reasonable cause” throughout. Now, that was done to make it clear, we thought, that look, these are the defences that would apply.

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Sen. Prescott's point is that look, it could equally be interpreted as an ingredient or a constituent part of the offence itself and I appreciate that. I am saying for the record what the intention was. It is something that I am prepared to take a second look at to see if we can tighten up the language to make it clearer so that there can be no doubt and it can be resolved without any doubt in mind.

The second point raised by Sen. Prescott was in clause 5(2)(b). Clause 5(2)(b) is where a class A dog is not permitted in certain places unless:

“The dog is securely held on a lead by a person who is not less than eighteen years old and who is capable of controlling the dog;”

The question was: How would you know if the person is capable of controlling the dog? The answer is: I do not know.

Sen. Prescott SC: Only when it attacks.

Sen. The Hon. A. Ramlogan SC: Well, yes.

Sen. Karim: You have to get a birth paper for the person too. [*Laughter*]

Sen. The Hon. A. Ramlogan SC: Well, you see, you do not know. [*Laughter*] It is an observation but you do not know, but all over the world, they have that provision. You could have a fat, strong man and the dog get away, you know.

Sen. Prescott SC: Do not describe anybody in this Chamber. [*Laughter*]

Sen. The Hon. A. Ramlogan SC: Good, right. So I think—[*Interruption*] Sorry.

Madam Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. G. Singh*]

Question put and agreed to.

Sen. The Hon. A. Ramlogan SC: Thank you very much, Madam Vice-President. Now, just to wrap up that point, it is a valid observation. “Yuh could have ah strong man holding ah dog, but he suffering from sweaty palm and the lead—the leash pull out ah he hand, yuh know. Yuh could have ah thin fella walking and he eh ha no sweaty palm and he holdin it strong.” But, anyway, I am not going to belabour that point, I think Sen. Prescott has conceded it, as it were.

Now, the other point was clause (5)(1) and whether or not the restaurants and the places they said. They made the point, well, maybe you could have a library and all that. The list is not meant to be exhaustive, but the idea is that places

where you have food, and hygiene is important, you should not have the dog there. If you go to the library, then you are going to ask; what about the bank, what about this—“yuh go down the road”, so we try to just cull a few to deal with the food places as it were.

On clause 9(3), I think Sen. Prescott made the point that, well, what if an adult is not home and they come. I think that is a valid point, you know, that really they ought not to come if an adult is not at home. So having dealt with it in the Bill, I think in the regulations, we will make it clear that when the person comes, it must only be when there is an adult at home. That will not apply in clause 23 when they get a warrant however, but it will apply under clause 9(3).

Now, you mentioned in clause 11 that, well, you know, you should have not just death and injury to a human being but what about livestock and so on. Now, it might be true to say that, but I mean, where does one draw the line really, colleagues? Yes, to the man who “minding he foul and duck and thing in de pen, yes, the dog attacking the duck might be more important than if the dog attack the child”. I could see that happening, fine. But really, where does one draw the line? “To the man who has the urn with ashes from he first wife on he mantelpiece and the dog knock it over, he too go be hurt, so I should insure the ashes too then?” So, I mean, you know, I think the intention was to really focus on life, limb and property, to focus on death or grievous bodily harm or personal injury.

Sen. Prescott SC: Clause 11 does not cover properties, that is what I was saying. It should!

Sen. The Hon. A. Ramlogan SC: No, well yes, injury to the person.

Sen. Prescott SC: It should!

Sen. The Hon. A. Ramlogan SC: Yes, injury to the person. I hear you on that but that is why I made the point earlier. When the insurance industry comes out with its product, I have no doubt that they will, perhaps, treat with that, so that they will, perhaps, give the option of, well, you know, pay “ah lil extra \$10 on the premium and you cover something else”. But, again, this could be something that, look—as the hon. Minister of Justice said, sometimes you have to take a little plunge and make a start. If we do not make a start, we will never get anywhere. We will continue to debate and discuss, debate and discuss, and you get nowhere. As with other countries that have had this legislation, they made a start.

You know, when we introduced the Civil Proceedings Rules of court, there was a great outcry from the legal profession, and for almost 10 years, we kept that on ice, and eventually after, in spite of bitter opposition, they made a start and having made a start, they found out about all kind of problems and the Chief

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Justice has had to amend those rules several times, but the point is the longest journey begins with a single step and we must take that start. So will there be teething problems? Absolutely! Is this perfect? No! Will we ever get it perfect? No! But we must make a start and we will come back and we will review it. [*Desk thumping*] But, I think, if we do not make a start, we will remain in perpetual vacillation and we simply really will not get anywhere. I think, you know, those were primarily the main points.

This Bill comes as a result of some consensus from the other place, but I have listened to my colleagues; this is the Upper House. I have listened to my colleagues. I believe that there are matters that can cause one to pause and take a moment of detached reflection to look at a second time. I am quite happy and prepared to do that and come back, subsequently at sometime in the future to take a second look.

There may be other issues that may arise that we cannot all think about now but I want to urge Senators, this has been an issue since 2000 when we passed the law—13 long years passed, over a decade and no one had the political courage to proclaim the law. We took that step to proclaim the law and there was an outcry from the society. We then said, “Look, let us have consultations”. Those consultations lasted almost a year and after you consult and you listen, you bring a Bill. No matter what you bring, there is going to be two sides to the coin, anything you bring, [*Desk thumping*]

But, I want to make a plea with Senators, let us make a start because while we are fiddling, while we are debating, while we are thinking, some dog is attacking and someone is being injured, and that could be you, your brother, your child or your sister. So, I want to make a plea for us to, at least, let us trigger this. Let us make a start on the understanding that we will never get it right, no one is perfect, no one is infallible, but that we will at least have started the race and we will clear those hurdles as and when we come across them.

With those few words, I—sorry, Sen. Prescott wants to—

Sen. Prescott SC: Madam Vice-President, just to the hon. Attorney General, this might be a good stage for him to consider that if he were to offer to defer proclamation, say until within a reasonable time of the commencement of the next session, by which time, the amendments which appear to be required are prepared, then he would have good ground for saying let us go forward with this piece of legislation. We will take the step by step approach in respect of those other amendments which may be of lesser urgency. It is a recommendation I would like to make to you and I think now might be a point for you to say, “Yes, I shall defer.” [*Laughter*]

Sen. Al-Rawi: Hon. AG, would you?

Sen. The Hon. A. Ramlogan SC: “Nah, it is no problem!”

Sen. Al-Rawi: Thank you, hon. AG. If I could just echo on behalf of the Opposition Bench with my Leader’s direction that we too are prepared to not allow the scuttling of this Bill by way of a lapse because it is important for all of us to see it proclaimed. The PNM’s position is that it is prepared to support provided there is a clear and unequivocal commitment that there will be no proclamation, and that you would have a reflection of it. We have spoken already with the Leader of the Government Business, and perhaps, we could then just, in committee stage, identify the areas for a second look and that we could deal with it appropriately.

Sen. The Hon. A. Ramlogan SC: Madam Vice-President, I would be prepared to give such an undertaking if I receive a reciprocal undertaking to receive in writing the comments from my colleagues within a reasonable time. Once I receive those comments, then I will feed them into the nodes of the consultation process on the Government. So that if I can have that undertaking to get from them their written comments within, say a month, whilst it is fresh on your minds, then I will be prepared to give that undertaking.

Sen. Prescott SC: You will give the undertaking on the assurance that you get it?

Sen. The Hon. A. Ramlogan SC: Well, I giving the undertaking on the basis of your undertaking, so you have to give me your undertaking first. [*Laughter*]

Sen. Prescott SC: Yeah, do not—[*Laughter*]

Sen. The Hon. A. Ramlogan SC: Now would be a good time!

Sen. Al-Rawi: Thank you, hon. AG. Regrettably, I do not mean to be political at this hour of the night on this Bill, the position that we have is that we want to put the observations on the *Hansard*—[*Interruption*]

Sen. The Hon. A. Ramlogan SC: Sure.

Sen. Al-Rawi:—lest there be room for disagreement. So that perhaps the undertaking could be that we clarify those which we put on the record now in committee stage lest there be some discrepancy as to who said what in relation to things. Because, the intention is really good, we just do not want to have any room to escape wittingly or unwittingly from what it is we have said specifically we consider important. The real reason is also too that whilst it is fresh in our minds as a collective unit in the Senate that we would like to get it clear, of course, not proposing that we go ad infinitum and ad nauseum in committee stage either.

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Sen. The Hon. A. Ramlogan SC: Well, Madam Vice-President, I will take those utterances as an undertaking by my learned friends that they will give us, having outlined their position for the *Hansard* during committee stage, that I will have within a month their written elaboration of and confirmation of their positions with respect to those changes that they want us to consider.

I am not for a moment giving an undertaking that I will give favourable consideration to all of their suggestions because I do not find merit in all of them.

Sen. Lambert: Well said! [*Desk thumping*]

Sen. The Hon. A. Ramlogan SC: But those that I see merit in, I will most certainly give them consideration and we can return at a future date. I am happy having, regard to all the time that has been spent on this matter, to not allow the guillotine to fall and simply let it be wasted. So that is the position basically.

I think the other leader of the PNM wants to say something now. [*Laughter and crosstalk*]

Hon. Senator: He spoke already on behalf of your—

Sen. Hinds: The PNM has one leader, let us get that clear. But, let me just say this, since you are not going to give a *carte blanche* undertaking, as you have just put it, because you do not find merit in all that we may have thus far said, we will then have to determine tonight which items you find have merit and which items not.

Sen. Al-Rawi: Yeah.

Sen. The Hon. A. Ramlogan SC: Yeah, well, it is obvious.

Sen. Hinds: Okay, fine, and that way, we may have to deal with committee stage in far more detailed terms than we may have wanted.

Sen. Al-Rawi: You cannot give the undertaking [*Inaudible*]

Sen. The Hon. A. Ramlogan SC: Well, I want to say that I am under no illusion about that. Of course, I will let my learned friends know, as I always do, what I think of their suggestions—valuable or invaluable. But the position is, for the record, that this Bill has come here as a result of a consensus position. It was voted unanimously in the other place by each and every single Member of Parliament from the PNM and the People's Partnership, and the Bill has come here by consensus and after three days of debate. So, if there are further amendments that the Opposition wishes to propose, of course, I will treat with them, that is not a problem, so we will deal with that.

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But, you know, Madam Vice-President, this matter has been around a long time, I will simply urge upon us, let us make a start and let us be practical and sensible about it, and let us be realistic about it. The subject matter is about dangerous dogs; that is where we should focus the spotlight, that is where we should train our attention and where we should focus our gaze. If we do that, then we will not get distracted by the peripheral matters and the tangential matters.

With those few words, Madam Vice-President, I beg to move. [*Desk thumping*]

12.15 a.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Sen. Al-Rawi: Madam Chairman, in relation to clause 2, not any amendment but simply to say that we wish, subject to the rest of the committee stage, to propose that proclamation be deferred until the Bill has been amended in such manner as the Senate may agree during the course of committee stage on a subsequent sitting; it being the position, at least from the Opposition Bench, that we support the intention of this Bill. We do not wish the work that has gone into this to lapse. If this Bill were to lapse upon prorogation later today at midnight, then we would be prohibited from bringing this Bill back for six months and for that purpose and so as to save the valuable work that has gone into this, our position later on, with respect to proclamation, will be that the proclamation be deferred so as to allow for amendments as may be necessary. I just wanted to put it on the record. Thank you.

Madam Chairman: Thank you, very much. This is commentary and recorded in *Hansard*.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

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

Sen. Al-Rawi: Madam Chair, perhaps, the independent should go.

Sen. Dr. Armstrong: Clause 4(8) where it makes reference to—"In this Act references to a class A dog or a class B dog..." Are you seeing that on page 4?

Sen. Ramlogan SC: Yes, yes.

Sen. Dr. Armstrong: AG, could you explain why does that exempt the State? That is not very clear to me and I raised that in my contribution.

Sen. Ramlogan SC: Okay, one second.

Sen. Dr. Armstrong: A dog being used for—

Sen. Ramlogan SC: The reason is that it is being used for a lawful purpose.

Sen. Dr. Armstrong: Yes, but what happens if it is being used for a lawful purpose, I do not know, whether it is a sniffer dog or a police guard dog or whatever. I am minding my business—

Sen. Ramlogan SC: Yes.

Sen. Dr. Armstrong:—I am attacked by the dog, I am injured by the dog, why is the State being exempted and an individual is bound by this legislation? Why does it not bind the State?

Sen. Al-Rawi: Hon. AG, I had also referred to this, reminding that the usual exception is with respect to negligence or willful misuse of the dog, et cetera. And in this clause, subject to the fact that I have other recommendations for matters prior, I wondered what “person in the service of the State” meant, because the State as an entity is a very broad one and this would include every company which has a controlling interest by the Government of Trinidad and Tobago. So it is extremely broad and is not really confined to police service or customs per se. State would include all State corporations, et cetera.

Madam Chairman: AG just to point.

Sen. Ramlogan SC: Sure.

Madam Chairman: The victim may not always be someone who is innocent. The victim could also be someone—

Sen. Ramlogan SC: Yes, I think the intention here, really, was to get at the police dogs, and so on, if they are in the exercise of their official law enforcement duties and you have to set the dog upon someone, for example, to chase them down to prevent them or restrain them from committing a crime, as the case may be.

Sen. Dr. Armstrong: AG, I understand that you know—

Sen. Ramlogan SC: Yes.

Sen. Dr. Armstrong:—but what I am saying is okay, let us say you set the dog on a criminal—

Sen. Ramlogan SC: I see your point, I see your point, yeah.

Sen. Dr. Armstrong: I am standing next to the criminal and the dog does not differentiate well look, that is the criminal and the dog attacks me.

Sen. Ramlogan SC: Yeah, if you are an innocent bystander.

Sen. Dr. Armstrong: Yes.

Sen. Ramlogan SC: Yeah. I take the point. So we would have to probably look at maybe an innocent bystander. I think the question here is not the purpose and the lawfulness of the purpose. The question is whether the State should be exempted from the ordinary law of negligence.

Sen. Dr. Armstrong: Right.

Sen. Ramlogan SC: Is that the point you are making?

Sen. Dr. Armstrong: Yes.

Sen. Al-Rawi: And malice or willful misuse by an errant agent of the State.

Sen. Ramlogan SC: Well negligence will more than cover that. It is the law of the two.

Sen. Al-Rawi: Understood but, it is not only an innocent bystander. Let us say a policeman or a customs officer has a legitimate enquiry. A sniffer dog went up to the suitcase and was sniffing, et cetera, but an altercation arose between the officer and the person that the dog was sniffing and they got into some heated words and the fellow, incited the dog to attack or show aggression, that would be a case where the officer went beyond the call of duty and could potentially have a defence here, which we would not want him to have, which is not negligence. It was willful in that instance.

Sen. Ramlogan SC: But he would not have been using the dog in that situation for a lawful purpose. If he incites the dog to attack a man who does not provoke him in a situation where it is unjustified, he would not be using the dog for a lawful purpose.

Sen. Al-Rawi: Understood. That is a good point. My concern was to put qualifying words similar to what we would have in other legislation where we give State immunity and that is to say, the exceptions in which the State would not have immunity—negligence or willful whatever, et cetera. I do understand your point that lawful purpose may capture that. My preference would have been to have it clear as it is in other pieces of legislation, one and two, the whole position of “in the service of the State”, that other bit.

Sen. Ramlogan SC: Well the other thing to do would be to take it out and if you take it out you fall back on the ordinary common law of negligence.

Sen. Prescott SC: If you know that will have the effect.

Sen. Al-Rawi: That is very commendable.

Sen. Prescott SC: Or you may say this Act does apply to the State.

Sen. Ramlogan SC: Yes.

Sen. Prescott SC: You may say it either way.

Sen. Ramlogan SC: Well, I will have a look at it. I think it may be a cleaner fit, rather than to try to contemplate all the permutations here to just take it out because it will fall back on the ordinary common law of negligence. So that Dr. Armstrong's point will be that the person will be able to sue the State.

Sen. Deyalsingh: AG, that may be wise because you may want to cover an unprovoked attack against a member of the public.

Sen. Ramlogan SC: Yes, that is what I am saying.

Sen. Deyalsingh: So that is here.

Sen. Ramlogan SC: That is the point.

Sen. Al-Rawi: AG, I heard something in crosstalk a little moment ago, which I want to be cautious about, where we say that the Act binds the State. I do not necessarily agree that the Act should bind the State at all.

Sen. Ramlogan SC: No, no, I am not prepared to conceded that the Act will bind the State.

Sen. Al-Rawi: Right, good.

Sen. Ramlogan SC: But what I am prepared to do is to, perhaps, consider whether clause 8 should be taken out altogether and we will take a note of that.

Sen. Beckles: Clause 5?

Sen. Ramlogan SC: No subclause (8).

Sen. Al-Rawi: Clause 4(8).

Sen. Ramlogan SC: It is 4(8), yes. In subclause (9), Sen. Prescott.

Sen. Prescott SC: I think the language needs to be tightened up.

Sen. Ramlogan SC: Tightened up?

Sen. Prescott SC: Yes. May I just pull it out?

Sen. Ramlogan SC: Yeah, sure.

Sen. Prescott SC: Clause 4(9) speaks to there being reasonable cause in certain situations. My contention is that as it stands, you have placed the burden on the prosecution to demonstrate that there was reasonable cause for the dog to act in the—

Sen. Ramlogan SC: If I say, “For the purposes of this Act it shall be a defence—

Sen. Prescott SC: To demonstrate, yes.

Sen. Ramlogan SC:—“to demonstrate that there was reasonable cause, which would include situations where—”

Sen. Prescott SC: Yeah, that ought to suffice?

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: Then I would have only one further reservation in (a).

Sen. Ramlogan SC: (a), yes.

Sen. Prescott SC: It must be that—

Sen. Ramlogan SC: Yes.

Sen. Prescott SC:—that the offence to which (a) refers is an offence against the person, of the owner or the property of the owner.

Sen. Ramlogan SC: We had discussed this and I think the intention in (a), was—this is where it requires, it gets a little ticklish. Now, the idea was if the person attacked was committing an offence for which the penalty could be a term of imprisonment the dog should not be penalized if it attacked. Now that is to cover the intruder, the trespasser goes all the way up.

Your analogy is well look, you are walking your dog and the dog attacks a man who is smoking a spliff or a man who is cursing or any other offence that carries a term of imprisonment. Now, it will be one thing to confine it to say the offence is against the owner, the property or any invited guest, you know, because then we went on to children and so on in the discussion. If you confine it to an attack against the owner or a criminal offence being committed against the owner, then what about the owner’s child, what about the uncle, the “nennen”, et cetera.

But the other point is this, what if a man is walking his dog in the park and a woman is screaming for help bawling: Rape! Rape! and the man sets his dog upon the guy to get him off the woman?

Sen. Prescott SC: He cannot be the judge.

Sen. Ramlogan SC: Now, that is where we have to have a little discussion because he cannot be the judge. What are you saying, he must ignore the cries for help from the woman who is the alleged victim of the rape?

Sen. Prescott SC: He ought not to “shook” the dog at the person on the basis that he has concluded that an offence is being committed. Even police officers tell you they do not intervene in some domestic situations because they never know who is the attacker and who is not.

Sen. Ramlogan SC: The woman is bawling: Help! Help! Rape!

Sen. Prescott SC: I want to suggest—may I suggest a compromise?

Sen. Ramlogan SC: Sure.

Sen. Prescott SC: That what we really are aiming at is an offence against the person or property. If you say committing an offence against the person, it would mean that lady and if you say against property of the owner of the dog, that will be the second category. So he and his child are covered. His child and his wife and his—

Sen. Ramlogan SC: Against the person.

Sen. Prescott SC: The person attacked was committing an offence against a person.

Sen. Ramlogan SC: Yes, I could live with that. Against a person, or the property of the owner.

Sen. Prescott SC: Would you like to try that instead?

Sen. Ramlogan SC: I am thinking about it.

Sen. Al-Rawi: Or the property of the person.

Sen. Ramlogan SC: Yeah, well he said that.

Sen. Prescott SC: Against a person or the property of the person—of the owner.

Sen. Ramlogan SC: No, I do not think he is contemplating an extension beyond the property of the owner.

Sen. Prescott SC: Not even on your mango tree, if it is my mango tree.

Sen. Ramlogan SC: Yes, so that would satisfy the situation where you are walking your dog and someone is crying for help.

Sen. Prescott SC: Take your chances with that, yes.

Sen. Ramlogan SC: Because I would want to take my chances.

Sen. Al-Rawi: AG, while you are looking at that. The dichotomy between owner and person/property of that is something to consider. I am not sure because we are not seeing it on paper and how it is drafted. I do not know if there is room or not or circumstances that would permit it.

Sen. Prescott SC: Shall we look at it again?

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: It says, “For the purposes of this section, reasonable cause—*[Interruption]*”

Sen. Ramlogan SC: For the purposes of this Act.

Sen. Prescott SC: Pardon me, Act, reasonable cause includes situations where—(a) the person attacked was committing an offence... I am suggesting that we delete the rest of that and instead substitute an offence against a person or the property of the owner”.

Sen. Ramlogan SC: Yes.

Sen. Prescott SC: So a person and, therefore, property of the owner is not included in it.

Sen. Ramlogan SC: Sure.

Sen. Prescott SC: They are two separate categories.

Sen. Ramlogan SC: I think that is a healthy compromise.

Sen. Lambert: Senior Counsel.

Sen. Prescott SC: You leave me “outta” your thing “eh.”

Sen. Ramlogan SC: Okay, I think that is it for that subsection. Mr. Prescott, what is your suggestion for the beginning of subclause (9), “For the purposes of this Act it shall be a defence...”

Sen. Al-Rawi: As suggested by you, AG.

Sen. Ramlogan SC: No, “ah” just want “tuh” hear him. No, go ahead.

Sen. Prescott SC: The policy seems to be that it was meant to be a defence.

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC:—and, therefore, it needs to be stated specifically.

Sen. Al-Rawi: Stated positively.

Sen. Ramlogan SC: Right, well good. We are in agreement on that.

Sen. Al-Rawi: Yeah.

Sen. Ramlogan SC: Good.

Sen. Hinds: In terms of the hon. AG.

Sen. Ramlogan SC: Yeah.

Sen. Hinds: The point was made during the course of the debate—

Sen. Ramlogan SC: Sure.

Sen. Hinds:—that the law of negligence, the common law, envisages circumstances where you have a duty of care even to a trespasser.

Sen. Ramlogan SC: That is why we are overriding it by statute.

Sen. Hinds: Yes. So, are you saying here then, in your attempt to override it by statute—

Sen. Ramlogan SC: Yeah.

Sen. Hinds:—that once someone is a trespasser—

Sen. Ramlogan SC: The “dog have” the right to attack them, yes.

Sen. Hinds:—you owe absolutely no duty of care?

Sen. Ramlogan SC: That is correct.

12.30 a.m.

Sen. Hinds: You can allow the dogs—I gave an example during the course of the debate where it came to my attention that a homeowner, looking at the cameras from his living room, actually saw someone creeping up to his gate, opened the gate, uninvited, and came in, obviously with ill intention. That homeowner allowed the person, seeing him and knowing that the dogs were loose—a couple of his dogs were loose—allowed that person to come up and the dog launched an attack. He knowingly witnessed this situation and saw the person die under the attack of three dangerous dogs. Do you consider that to be lawful and proper and to be excused with a statutory defence?

Sen. Ramlogan SC: If that same person were passing and saw a child drowning in two feet of water and they simply walked by and did not offer any assistance, they committed no crime. That is the law as it stands in this country.

Sen. Hinds: Statute or common law?

Sen. Ramlogan SC: Both. They committed no offence, but—

Sen. Al-Rawi: There is no Good Samaritan law.

Sen. Ramlogan SC: There is no Good Samaritan law, exactly, Sen. Al-Rawi has got it right.

Sen. Hinds: So, you equating that—

Sen. Ramlogan SC: So the point is—

Sen. Hinds: So, you are equating that—

Sen. Ramlogan SC: No, no hold on. Let me finish. I highlight that to point out that the law is hard and fast in some situations. In this case, I prefer to err on the side of the owner of the property such that if the dog attacks a trespasser or an intruder, that the person has a defence because that is the whole point and *raison d'être* for their having the dog in the first place. It is to protect and defend life, limb and property.

Sen. Hinds: The trespasser may very well be a child coming to pick some mangoes.

Sen. Ramlogan SC: I agree.

Sen. Hinds: Do you think that we should legitimize the conduct of someone seeing that and allow the pit bulls to kill the child?

Sen. Ramlogan SC: It is not about legitimizing it.

Sen. Hinds: Well, that is what you are doing. We are making law.

Sen. Ramlogan SC: Hold on, hold on, hold on!

Sen. Hinds: This is legitimizing. We are overriding common law with statute.

Sen. Ramlogan SC: In this situation, what we are doing is making a hard choice between persons who want to have a dog to defend their property and persons who must know between right and wrong that you are not to enter. Bear in mind, the fence will be high, the gate would have to be locked, there would be a sign saying, "Beware, there is a dangerous dog on the premises." Bear in mind, they would have put in place their insurance and so forth. They are being asked to comply with all of this and in those circumstances, you have to err on the side of the dog owner and the homeowner to say that if there is a trespass, that it would be a defence that they can invoke to say, "Well, look, the person illegally entered my premises."

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To have any kind of contrary position to that affects the whole social justification for people having their dogs and people outside there—if it is the PNM's position that dogs must not be allowed to attack intruders and trespassers, then that is a serious, radical policy to take.

Sen. Hinds: No, that is not what we are saying. The common law, as you admitted a while ago, now caters for a duty of care even in respect of a trespasser.

Sen. Deyalsingh: That is right! That is right!

Sen. Hinds: In other words, you are now creating a statute to override, to use your words, an existing common law position.

Hon. Senator: That is very important.

Sen. Hinds: And you are now saying, forget that! You come, you are a child, you can be killed. I can sit there and watch my dogs mutilate and kill you. I do nothing. That is what you are saying and I do not think that is a good public policy position for a Government or the Parliament of this country to take.

Sen. Ramlogan SC: Well, permit me to point out firstly that the Opposition voted unanimously for this and—

Sen. Hinds: That is not the point.

Sen. Ramlogan SC: Hold on, please, let me respond to you. The first thing I want to say is that the Opposition had no difficulty and voted unanimously for the Bill in its present form and that provision was a special insertion as a result of discussions held with the Opposition.

Sen. Hinds: It may have been done *per incuriam*.

Sen. Ramlogan SC: It may have been done *per curiam* as well, but the point is—

Sen. Hinds: It appears not. I saw no sight of it in none of the debates from the *Hansard*.

Sen. Ramlogan SC: Well, the point is that we have to draw the line somewhere and if you have a proposal to make, I am willing to listen to hear what the proposal is.

Sen. Hinds: Well, before I can make the proposal, I need to get your principled agreement that you are now legitimizing an excessive use of force in the formulation that is now before us.

Sen. Ramlogan SC: I am not conceding that at all. I am saying that the Government's position is that there is a hard choice to be made between people who own their dogs to secure their property and that if there is an illegal entry by an intruder on that property, having regard to the specific requirements we have imposed on the owners with respect to the height of the fence, with respect to the notice being posted, the gates having to be locked, the insurance having to be taken out, you cannot now, having done all of that, come and say to them, "Well, you know X, Y, Z." But one has to also bear in mind, you know—one would be hard-pressed to see that someone would see that happening to a child and not come out and do something, but perhaps—

Sen. Hinds: But it is the same type of individual who will see a two-year-old drowning child, based on your example, and go by, knowing that there is no legal sanction.

Sen. Ramlogan SC: And no law has been passed to deal with that.

Sen. Hinds: But no, we are dealing with something else here and we have an opportunity to address that here as a matter of public policy.

Sen. Moore: There is no clamour on behalf of—

Sen. Ramlogan SC: Indeed, yes. But then perhaps—I think Dr. Wheeler was about to say something.

Sen. Dr. Wheeler: On this same point.

Sen. Deyalsingh: AG, on this same point, there is the common law doctrine that you do owe a duty of care to a trespasser to use reasonable and proportionate force to repel him and we had the case in Trinidad where there was a man stealing coconuts and the homeowner shot him and that owner went to jail because the force he used was disproportionate to the threat being posed.

For instance, now, if my neighbour's 2-year-old son climbs my fence to get to my Julie mango tree and the dogs attack him, is that reaction proportionate? It has nothing to do with a PNM position. It has to do with the common-law position, that the force used to repel a trespasser should be proportionate. If that is the position to go against that common law doctrine, say that.

Sen. Ramlogan SC: No, but you see, the fundamental flaw in the analogy is this: where you have the concept of reasonable force coming into play is where the person does something like self-defence. "In that case, the man take a gun and shoot." The situation here is that the dog is in the yard, the man may not be home.

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Sen. Hinds: No, no, I am just—*[Interruption]*

Sen. Ramlogan SC: Hold on a second please. “The man eh home, the dog in the yard or the man upstairs watching TV in the middle of the night with the wife and children and an intruder comes there to rob the man and to break in his place and the dog attacks him.” That is the situation that this particular clause has within its contemplation. Sen. Dr. Balgobin?

Sen. Dr. Balgobin: I think Sen. Hinds wants—*[Interruption]*

Sen. Hinds: The first thing we have to clarify in our heads is that what we intend is one thing, but what the law says is something else because we could intend as we want, someone will have to interpret this law when a matter comes before him or them.

I am saying that the example you gave with someone not being home is quite different from the one we gave. The example that we have offered you is a situation where the man is aware of the danger. He is seeing the risk that the intruder is on and the dogs, as we have discussed in the debate, could be as lethal as a firearm. He does not do anything to avert or repel the excessive force that he could use and he does so watching all of it.

Sen. Ramlogan SC: Let us hear, Sen. Balgobin.

Sen. Dr. Balgobin: I would just like to make two quick observations here. The first is that unlike what obtains in many other jurisdictions, we are tacitly and, in some cases I suppose, almost explicitly accepting that we are using dogs as instruments of defence. I think we have to accept that. In many other jurisdictions, these dogs are pets. Given that, and given that a dog cannot be expected to exercise or demonstrate the discrimination that—it may be beyond the dogs capacity to know when to stop and in fact that is the experience we have with these dangerous dogs.

I think that it is reasonable to leave it to the court’s interpretation as to what the owner should or should not do, depending on whether the owner is or is not present because even if the owner is present, it is not to say, necessarily, that the owner can prevent the dog from harming the intruder. In fact, in many instances when dogs set up on people and they taste blood, it is quite difficult to stop the dog. So, I think we can—let us try to move on and see how we can progress through the rest of this Bill.

Sen. Al-Rawi: AG, two reflections there, in the (9)(a) that Sen. Prescott SC suggested, “an offence against a person or the property of the owner”, one question crossed my mind particularly when you look at (c): “the dog is being

used for a lawful purpose by a constable or a person in the service of the State;” Let us assume that the dog is being used by a corporate security provider as part of a canine unit, then the property which we are putting into (9)(a) is never going to be the property of the owner. So, I have hired a canine dog, a guard and a dog—in fact, companies offer that service, a guard and a dog and he is not protecting the property of the owner. The problem with qualifying it, too—offence against a person, I agree with, the problem is the limitation on the offence with respect to property of and qualifying it by the word “owner.” It may not be your property.

Sen. Ramlogan SC: Well, you know the concept of private security firms arose during the discussion on many occasions both during the Law Review Commission and in the Lower House. It was felt that no special exception should be made for private security firms and situations like that.

The thinking was that once you have legitimized the use of dangerous dogs by private security firms and you make exceptions, then you are going to create an entirely different type of risk to society. So the policy position taken by both sides in the other place was that, look, no special arrangements will be put in place in the legislation for security firms. They can have non-dangerous dogs, but not class A dogs.

Sen. Al-Rawi: Thank you for that explanation. I did not see that—not that I am disputing it—in the discussions in the *Hansard* that I read because the last bit of it was not produced in time for this debate or the committee stage. I am just wondering aloud whether subclause (9) applies to both reasonable cause for class A dogs and class B dogs.

If you look at subclause (9)(b):

“the person attacked was in a place where he was trespassing or was in a place where he was not permitted to be and the place was...”

Sorry that was the place we just discussed about trespass and the duty of care, but look at the end of that sentence, AG:

“...and the place was secured by a fence or wall in accordance with section 9;”

Sen. Ramlogan SC: Well, it really was meant to deal with dangerous dogs.

Sen. Al-Rawi: I understood that, but the bit of concern now comes in with clause 16(2) which talks about a class B dog who the municipal corporation has essentially said, “Look, this dog has had a first bite; it has been reported and special care needs to be had.”

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In other words, then it is going back to the position of the knowledge and awareness that the dog is a dangerous dog, not a class A dog, but a dog demonstrating the propensities of a class A dog. So that clause 9 wall would cause an exclusion out for that class B dog which was a dangerous dog.

Sen. Ramlogan SC: I do not understand why that would be so.

Sen. Al-Rawi: Because there is no requirement for a person, for a class B dog which has been deemed by the corporation to be dangerous, to actually construct a wall in accordance with clause 9.

Sen. Ramlogan SC: I see what you mean. You mean once that dog has been deemed to be dangerously out of control, it should be subject to the class A requirement.

Sen. Al-Rawi: And in fact when we got to 16, I was going to suggest that we look at a special treatment of that dog which has been identified. So he is on that watch list.

Sen. Ramlogan SC: There is no need for special treatment. The simple thing would be that it will now be subject to the class A requirements.

Sen. Al-Rawi: To those provisions.

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: So when we got there that was the suggestion I was going to ask which would cure this reference to clause 9.

Sen. Ramlogan SC: That would solve that problem, yes. We will deal with it in 16(2).

12.45 a.m.

Sen. Hinds: Just for an understanding of this.

Sen. Ramlogan SC: Yes.

Sen. Hinds: Is it the case that we are here dealing with class A dogs and regulating the management of them—

Sen. Ramlogan SC: Sure.

Sen. Hinds:—and class B dogs meaning any dog other than the four we have identified in the Schedule. The status of them continues as exists today. We are not interfering with those at all. Is that the case?

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Sen. Ramlogan SC: Well, I read out in my presentation all of the provisions that apply to class B dogs. So it is not business as usual, no.

Sen. Baptiste-Mc Knight: Could you repeat those for us?

Sen. Ramlogan SC: Well, one second.

Sen. Dr. Bernard: Attorney General—

Sen. Ramlogan SC: Clauses 5(1), 5(3), 5A, 16(2)—5A—

Sen. Hinds: Just run this again, AG.

Sen. Ramlogan SC:—“A” as in apple.

Sen. Hinds: Clause 5(1)—

Sen. Ramlogan SC: Clauses 5(1), 5(3), 5(A), 16(2), 20(1), 21(1), 26(2), 26(A)(1) and 28(2)(h).

Sen. Al-Rawi: After 20(1) AG, what was that one? I just missed that one. So, 16(2), 20(1) and then—

Sen. Ramlogan SC: Clauses 20(1), 21(1)—

Sen. Al-Rawi: Right, and then 26(2).

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: “Got yuh,” thank you.

Sen. Dr. Bernard: Mr. Attorney General—

Sen. Ramlogan SC: Yes.

Sen. Dr. Bernard: So you are giving no credence to the fact that we were suggesting that you could add to your class A list, Rottweiler, Dobermann and German Shepherd.

Sen. Ramlogan SC: No, not at this time, Sir. No.

Sen. Dr. Bernard: Not at all?

Sen. Ramlogan SC: Well, no because I mean, you know, the literature on this really has suggested that it is really the four dogs that we have identified that pose a serious threat to society at the moment.

Sen. Al-Rawi: And if I could point out that the Bill itself proposes that the Minister may by order amend the Schedule of dogs thereby increasing it, but if we take care of the amendment in clause 16 later on for a class B dog that is vicious, that could probably take care of those circumstances.

Sen. Ramlogan SC: Yeah. You see, Senator, I mean, as I said during the course of my presentation, any dog can be a dangerous dog, and once you start from that premise, if you increase the number of dogs you put in the class A schedule, the greater the outcry from the population in the absence of strong empirical evidence to show that there is a demonstrated propensity for violent and vicious attacks by those dogs. The literature, thus far, and the legislation in other countries in the world, they are really confined to these four dogs that we have dealt with.

Sen. Dr. Bernard: Well, I had hoped in my contribution to have shown you that in our part of the world the Dobermann, the Rottweiler and the German Shepherd are considered to be within the dangerous dog range, and that what you are getting is a West European model which, in fact, suggests that three out of those four dogs are not very popular here.

Sen. Ramlogan SC: Sure.

Sen. Dr. Bernard:—not popular at all, and may not be for a long time.

Sen. Ramlogan SC: But once any of those dogs demonstrate a propensity to attack, what will happen is that the restrictions imposed on a class A dog will be applied to that dog, but it will not be breed specific to include those classes of dogs. I mean that is a position I take that there is consensus on both sides with the Opposition and the Government. I know the wider you cast the net, the greater the invasion on people's right to choice in terms of ownership of the dogs. So, I am content to let it rest with these four.

Sen. Dr. Bernard: Just one last point.

Sen. Ramlogan SC: If, in future, for example, there is evidence to suggest, the Minister can add that particular breed to the Schedule but, for now, the problem based on the evidence that we have, suggests that the pit bull is the problem.

Sen. Dr. Bernard: Well stick with the pit bull alone.

Sen. Ramlogan SC: No, but the other three, they are present. Well, one of them is present in small numbers, but if you start with the pit bull, given that they are already established to be as dangerous, if not more dangerous, it makes sense to put them there rather than to play musical chairs and come back.

Sen. Baptiste-Mc Knight: Madam Chair—

Sen. Dr. Bernard: And secondly, oh sorry.

Sen. Baptiste-Mc Knight: Finish.

Sen. Dr. Bernard: Did I hear you say that the security agencies or services will not be allowed to use class A dogs?

Sen. Ramlogan SC: Well, what we are saying is that we are not making any special exception for the security agencies, so they will be subject to the normal provisions of the law if it is they are going to use these kinds of dogs.

Sen. Dr. Bernard: Thank you.

Sen. Baptiste-Mc Knight: Madam Chair, from what the AG is saying, do I gather then that the case of a German Shepherd, for instance, is on record as having mauled a child, that particular dog would then be classified as a class A dog?

Sen. Ramlogan SC: It will not be classified as a class A dog, but the requirements that would apply to a class A dog, given that situation, will now apply to the dog. So it is not that the breed will become a class A dog. So it is not that all German Shepherds will be required, but that particular dog.

Sen. Baptiste-Mc Knight: But that particular dog.

Sen. Ramlogan SC: Yes.

Sen. Baptiste-Mc Knight: So how would that be reflected in this legislation?

Sen. Ramlogan SC: Sen. Al-Rawi and I just discussed an amendment to clause 16.

Sen. Baptiste-Mc Knight: Okay, fine.

Sen. Ramlogan SC: You see, so that we will insert a subclause in clause 16 that will treat with that point.

Sen. Baptiste-Mc Knight: Very well, thank you.

Madam Chairman: Sen. Armstrong.

Sen. Dr. Armstrong: AG, given the fact that you agreed to remove subclause(4), (8), look at (9)(c).

Sen. Ramlogan SC: Sorry, sorry. I am sorry, I missed you, sorry.

Sen. Dr. Armstrong: Given the fact that you agreed to remove subclause 8, 4(8)—

Sen. Ramlogan SC: Yes.

Sen. Dr. Armstrong: Look at (9)(c).

Sen. Ramlogan SC: Subclause (9)(c), yeah.

Sen. Dr. Armstrong: Should you not remove that as well, as a defence? “The dog is being used for a lawful purpose by a constable...? Because it is the same problem that I am having.

Sen. Ramlogan SC: Well, you see, the dog being used for a lawful purpose does not necessarily mean that you cannot sue for negligence. The police, for example, will be in the pursuance of their lawful duties—

Sen. Dr. Armstrong: Um hum.

Sen. Ramlogan SC:—but that does not prevent them from being sued if they act negligently. You follow?

Sen. Dr. Armstrong: All right! All right! I will take your word for it.

Sen. Ramlogan SC: But I will try to make it—it is something I can think about and see if it can be made clearer.

Sen. Al-Rawi: AG, while you are thinking about that, if a class A dog is being used by the State for lawful purposes, by the State, police or whatever, the question is, will these dogs be required to be muzzled, to be restrained, et cetera? We need to be clear about that, perhaps, even now.

Sen. Ramlogan SC: Well that will come in the regulations. You cannot deal with that now.

Sen. Al-Rawi: No, but what I mean is, all class A dogs, regardless of who the owner is, whether the State, the police or a private individual, are going to be subject to this Bill in terms of their public work.

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: Right. So if that is the case then, I looked at Sen. Dr. Armstrong’s question in that light. The dog was being used for lawful purpose, so do we contemplate the Canine Unit of the police with a pit bull on a muzzle being guarded, et cetera, by the handler, sees somebody, requires the dog to go into action, removes muzzle. Because I do not think a bandit is going to be troubled by a muzzled dog being held by the police.

Sen. Ramlogan SC: Well, yes but, I mean, you know, the police really do not use the class A dogs but, more importantly, I mean, you know, they would be hard-pressed to set the dog upon the person. If they have a gun upon them they should shoot.

Sen. Al-Rawi: No, but sometimes the dangerously out of control or the assault side, as opposed to the battery side, is often used by the canine where you make the dog—in fact, the command is speak—the policeman will tell the dog speak, and the dog snarls and then starts to ruff, ruff, ruff, and to bark considerably.

Sen. Ramlogan SC: Yes, but the police do not use the class A dogs.

Sen. Al-Rawi: Right. So that is why I said I saw Sen. Dr. Armstrong's question in that regard because here is a class A dog exception for the State.

Hon. Senator: Yeah.

Sen. Al-Rawi: So if they are not using the class A dog, that is where I understood his position, do we want to delete subclause (c)?

Sen. Ramlogan SC: I mean the reason this was put in, as a result of our discussions, was you do not know in the future—

Sen. Al-Rawi: “That’s meh point.”

Sen. Ramlogan SC:—what would happen. So it was felt that we should protect the State, having regard to the functions.

Sen. Al-Rawi: I understand, which is why I asked whether we were being clear on the record as to whether this dog now must be muzzled.

Sen. Ramlogan SC: If they are using a class A dog, it would be subject to all the requirements. The answer is yes.

Sen. Al-Rawi: But now are we then putting—sorry to take it to extensions, but sometimes speaking it aloud helps to work through the idea. So, the policeman is using a class A dog, the class A dog is met with the requirements of the Act, muzzled, et cetera, and we take off the muzzle, now the police are in an automatic breach of the legislation. How else would the dog be effective when I say “speak” or for the bandit to cower in fear because this dog is capable of listening to a command that says, “Watch him”?

Sen. Ramlogan SC: I do not think the intention really was to envisage the police having a pit bull to let loose on people. That was not the intention. I think the intention was that, for example, if in future you have a dangerous dog as in schedule A, but the dog is one that can perform some specialized function—whether it is in the Bomb Detection Unit, whether it is as a sniffer dog for drugs, whatever the case is—that we should provide some protection, and that was the thinking.

Sen. Al-Rawi: All that I would ask you to do, AG, is to speak to the police like the Canine Unit. Is the dog capable of operating with a muzzle on in those circumstances? Will it stymie the dog's position? If that is the case, then we need to think about what we are doing with it in terms of the legislation.

Sen. Dr. Bernard: The police will never move to a pit bull. They have chosen the German Shepherd for two important reasons.

Sen. Al-Rawi: Sorry, Senator. I was not thinking about that. The future of this Act allows the Minister by order to bring somebody up. So let us forget pit bull, Brasileiro, Argentino, et cetera and let us think about a German Shepherd being brought in as a class A dog for some reason—

Sen. Dr. Bernard: The German Shepherd as a class B dog and will always be used by the police for two important ingredients: the aggressiveness and intelligence.

Sen. Al-Rawi: If it becomes a class A.

Sen. Dr. Bernard: From the mood here, it is not becoming a class A dog.

Sen. Al-Rawi: “No, you cannot say that.”

Sen. Dr. Bernard: Well, the feeling I got was that we are staying with four. But the German Shepherd is known, since in 1885, they started off as herders and then they became very, very, important as intelligent dogs and aggressive dogs, and they have been used by police departments all over the world.

Sen. Prescott SC: Chairman, may I propose an intervention please. I know that clause 5 does not permit the police to use—

Sen. Ramlogan SC: Clause 5?

Sen. Al-Rawi: Is it 4(5) or 5 itself?

Sen. Prescott SC: No, clause 5.

Sen. Al-Rawi: Clause 5.

Sen. Prescott SC: Clause 5 seems to be applicable to the police that they shall not permit dogs to be in public with a muzzle; class A dogs.

Madam Chairman: Hon. Senators, we are still on clause 4.

Sen. Prescott SC: Oh, pardon me.

Madam Chairman: Would you prefer—

Sen. Prescott SC: I would wait yes.

Madam Chairman: Can we go ahead and move the question that it be approved.

Sen. Ramlogan SC: Could I just say one thing to wrap on this. Look, clause (9) deals with the concept of reasonable cause but it covers all dogs, not just class A dogs. The mention of the dog being used for a lawful purpose by the State, by a constable and so on, that would apply to any dog that the State uses, but it provides the State with a defence to say, “Well, look, the dog was being used for a lawful purpose.”

Now, I take on board the point about the decision earlier that if there is negligence on the part of the officer or there is some kind of, you know, deliberate act, that the fact that the dog was being used for a lawful purpose should not avail the State of a defence. But I do not see how one can reconcile both to say well, look “I deliberately set the dog upon someone but the dog was acting on a lawful purpose.” But I understand the grey area of concern, and it is something I will direct my mind towards.

I would welcome Sen. Armstrong if you have any further comments on it, but I think the idea would be to make it clear that if the dog is being used for a lawful purpose, that the State is not going to be liable. If, however, there is any negligence or otherwise, then the State would be liable. But if the dog is being used for a lawful purpose then you will have some measure of latitude there. So we can think about it.

1.00 a.m.

Sen. Al-Rawi: Before you get off clause 4, two quick mentions prior to this and this is in the definition clause at 4(1) specifically, the issue of a definition of “assistance dog”. It says at (c):

“a dog which has been trained to assist a disabled person;”

The question was whether people who have been—what is a disabled person in the context of somebody who may not fit the classic definition, but may be in need of a dog for therapeutic purposes as prescribed by a psychologist, say a child. I am just asking you to note them, so you could look at it. And then the second position is the lack of a definition of “Ministry”, as it is referred to. Is it that the fact that “Minister” is confined to the person who is prescribed for local government, that will capture it.

Sen. Ramlogan sc: Yes, I think so. I think so.

Sen. Al-Rawi: Okay. The last position, I would like to just mention for the record, is the use of the word “responsible” in subclauses (2), (3) and (4). The word “responsible” repeats throughout the Bill, but it becomes first apparent in subclauses (4) and (5), as being responsible for a dog. I am not sure if ownership, et cetera, comes into that factor as including responsibility other than vicarious ownership. Those are the positions I would like you to keep in mind in looking at this.

Sen. Prescott sc: I think it is covered in (5).

Sen. Ramlogan SC: Okay.

Sen. Prescott SC: May I just intervene.

Sen. Ramlogan SC: Yeah.

Sen. Prescott SC: In 4(1), the definition of “local authority”, should the word “Act” be removed after Tobago House of Assembly? Is it not meant to refer to the House rather than the legislation? The

“‘local authority’ means the Council...or the...Assembly...?”

Sen. Ramlogan SC: “‘local authority’ means the Council of a Municipal Corporation...”

Sen. Al-Rawi: Is the word “council” used in the THA Act? That would solve the question, if council is used in the THA Act.

Sen. Ramlogan SC: Well, when you read it as it stands, “‘local authority’ means the Council of...”

Sen. Al-Rawi: Section 10 of The Municipal Corporations Act in fact defines “council”. It is in the definition section, and then section 10 of that Act provides it. The simple question to this would be whether “council” appears in the THA Act.

Sen. Ramlogan SC: We can look at that. I do not think that is a big issue.

Sen. Prescott SC: I think you just need to remove the word “Act”.

Sen. Ramlogan SC: Yes, I think so. That might be a simple thing to do.

Sen. Prescott SC: It is either the “Council” or the “House of Assembly”.

Sen. Ramlogan SC: All right.

Sen. Hinds: Clause 4(6).

Sen. Ramlogan SC: Subclause?

Sen. Hinds: Yeah, 4(6).

Sen. Ramlogan SC: “Yep.”

Sen. Hinds: It says at (a):

“it injures any persons without reasonable cause;” and “it” meaning the dog.

Sen. Ramlogan SC: Um-hmm!

Sen. Hinds: Is the AG willing to concede that that should be redrafted, since it gives the impression that it is the dog that must exercise reasonable care and cause?

Sen. Ramlogan SC: No, I think it is clear.

Sen. Hinds: Yeah?

Sen. Ramlogan SC: Yeah.

Sen. Hinds: “For the purposes of this Act”—

Sen. Ramlogan SC: What is your suggestion?

Sen. Hinds: No, I am just thinking that this seems to suggest, on the face of it, reading it, it speaks to “it” in three places, in (a) and (b), and (a) says,

“it injures any person without reasonable cause;”

(6) says:

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

(a) it injures any person without reasonable cause;”

I think I understand what the intention is.

Sen. Ramlogan SC: Yes.

Sen. Hinds: But insofar as the dog is concerned, there is no question of whether it will act reasonably or not, it is whether it attacks or not, if it does damage or not. I think this should be reformulated so as to put the responsibility for exercising reasonable cause on the owner or keeper.

Sen. Ramlogan SC: Well, you see, no, because you see the problem there is this, the owner may not be with the dog when this happens. You see, so you have to leave it as is. The owner may not be with the dog, so that is why it is drafted the way it is.

Dog Control Bill, 2013

Wednesday, July 10, 2013

Madam Chairman: Can “cause” also be interlinked with “provocation”? If you used interlinked as in reasonable provocation on the part of the dog, if it will satisfy Sen. Hinds, because “cause” might refer to a reasoning? Provocation is provocation.

Sen. Hinds: The way it is drafted here just strikes me as suggesting that it is the dog that is expected to act reasonably.

Sen. Ramlogan SC: Well, no, as I indicated before, no liability attaches to the dog in the Act, so that wherever that thinking arises, it is down the wrong lane.

Sen. Hinds: Well, we understand that, but I am just talking about the drafting of this—

Sen. Ramlogan SC: What is your suggestion?

Sen. Moheni: If I could just make a statement please.

Madam Chairman: Sen. Moheni.

Sen. Moheni: I think it is clear, because it states here that:

“...a dog shall be regarded as dangerously out of control if it is not being kept under control...”

So the following statement is prefaced by the first—

Sen. Ramlogan SC: Exactly!

Sen. Moheni:

“...if it is not being kept under control;”

So the onus is on the owner to keep it under control, failure to do so, then the dog could do—

Sen. Hinds: All right. If as the Attorney General suggested that this could envisage a situation where the owner is not present at all, right; what are you talking about, if somebody as a trespasser in somebody’s home?

Sen. Ramlogan SC: I do not know.

Madam Chairman: The owner does not have to be there.

Sen. Hinds: Or in a public place?

Madam Chairman: It could be anywhere.

Sen. Ramlogan SC: It does not matter, it could be anywhere.

Sen. Hinds: No, well if it is anywhere; if it is in a public place without a handler, could you tell me how that could possibly be reasonable? So then if it cannot possibly be reasonable, how are we talking about “without reasonable cause”? If you are talking—

Madam Chairman: Link it to (9).

Sen. Hinds: No! No! If you are speaking about a situation where the dog can be on its own, other than in the secured premises, and you said “anywhere”, meaning away from the premises of the owner or handler, and then you are talking about “without reasonable cause”, I cannot envisage any situation where—with the dog away from the premises on its own, where you could expect that it should act,—it could be reasonable.

Sen. Ramlogan SC: Yeah. Look, Chair.

Sen. Hinds: Are you with me?

Sen. Ramlogan SC: No, I am not with you at all. I think as worded, as Sen. Moheni quite rightly pointed out, the thing is very clear. I do not think that this thing is being read correctly.

Sen. Hinds: Can you help me then? Show me.

Sen. Ramlogan SC: No, you are the one making the point. If you have a suggestion for me to consider, you know, if you propose something I will consider it in terms of an amendment.

Sen. Hinds: I am proposing that this be redrafted.

Sen. Ramlogan SC: No, but what is the redraft that you want?

Sen. Hinds: Because it appears from its wording that we ascribe the concept or the need for reasonable cause to the dog rather than the handler.

Sen. Ramlogan SC: Well, I do not—

Sen. Hinds: In discussions on the matter—

Sen. Baptiste-Mc Knight: Omit “without reasonable cause” in both (a) and (b).

Sen. Hinds: Yeah, permit.

Hon. Senator: Omit.

Sen. Hinds: Yeah, omit.

Sen. Baptiste-Mc Knight: Omit “without reasonable cause” in both (a) and (b).

Sen. Hinds: Yes, because if you are saying that it is possible the dog could be on its own.

Sen. Ramlogan SC: No, but you see the “reasonable cause” is necessary because later down we have defined “reasonable cause”, and it gives you a defence, so we have to leave it there. Look, Sen. Hinds, if you have a concern about it, I will be happy to, you know, we have said we will take some time. So think about it and send me something in writing to tell me what is your proposal, as to what is—

Sen. Hinds: In terms of a redraft?

Sen. Ramlogan SC: Yes, and I will consider it, but as it stands right now, I really do not see that there is any room for any doubt or ambiguity.

Sen. Cudjoe: In the case of the meaning of “local authority”, page 2, I checked the Tobago House of Assembly Act and there is no council.

Sen. Ramlogan SC: One second.

Sen. Cudjoe: Sorry.

Madam Chairman: Members, I would like to beg your indulgence. I know for the record many of you would like to have your amendments or proposals for *Hansard*, but seeing that this is the last session today, this morning, seeing that no amendments will be done now at this stage, is it possible that you can submit, in writing, your proposals and considerations for amendments in the redrafting and the drafting which can be considered? Because at this point we still have two other matters on the Order Paper.

Sen. Prescott SC: Madam Chair, I got the impression from what I have been hearing that if it were made clear that there would be no proclamation of any part of this Act—*[Interruption]*

Madam Chairman: Yeah.

Sen. Prescott SC:—until such amendments have been considered and until—*[Interruption]*

Sen. Ramlogan SC: I said that already, and I am happy to repeat it. Look, in any event it was never envisaged that this proclamation will take place right away. The regulations have to be drafted, you have to have the capacity and the infrastructure put in place, so that I am quite comfortable in giving that. I do not propose that this would be proclaimed before I come back to you with the amendments.

Sen. Prescott SC: That is what I would be satisfied with.

Madam Chairman: Yes, so could we proceed?

Sen. Ramlogan SC: As the Chair has rightly said—look, if you cannot deal with the amendments now, I would welcome the suggestions in writing for the redrafts and we will deal with it.

Sen. Hinds: We had proposed that before. The only difficulty with that suggestion about in writing is because you have made it very clear that you are not giving an undertaking that you are going to make any of the additions or amendments on all of our submissions and, therefore we are now, as a result of that, obliged to find out from you now, which of them.

Sen. Ramlogan SC: But why?

Sen. Hinds: Why not?

Sen. Ramlogan SC: Why do you have to find that out now?

Sen. Hinds: Why not? Otherwise, the next thing we send you a list and you say you are not taking any of those because it is not worthy in your opinion, and that is the end of it. We have no opportunity to treat with it again. That is why we have to deal with it now.

Madam Chairman: Sen. Balgobin.

Sen. Dr. Balgobin: Yes, thank you, Madam Chair. This being our last sitting, you know, this really has me uncomfortable. My own view is that we should seek to extract from the Attorney General a commitment which we place on the *Hansard*—

Sen. Ramlogan SC: Which I have already given.

Sen. Dr. Balgobin:—that he will come back. And if it is that—and let us take this thing clause by clause and put these things to a vote and move forward, because if it is that we are not taking any amendments tonight, then I see no reason to labour through every single clause of this Bill. So I fully support this suggestion. I understand Sen. Hinds' concern, but I think it can be addressed in this way, if we get this commitment to circle back, and if we are comfortable or not comfortable with that, then we are entitled so to vote.

Sen. Hinds: You see he gave a qualified undertaking. The Attorney General said—

Sen. Ramlogan SC: I cannot concede to—[*Interruption*]

Sen. Hinds: Well, no we cannot—[*Interruption*]

Sen. Ramlogan SC: I cannot say that.

Sen. Hinds: Well, that is fine, but we would like to know which ones you are going to agree or concede—*[Interruption]*

Sen. Ramlogan SC: But you have not even formulated your amendments.

Madam Chairman: Senator, the Bill comes back for debate, so the question of amendments will then be debated again.

Sen. Hinds: The Bill will come back for debate, Madam Chair?

Madam Chairman: Yes.

Sen. Hinds: No.

Madam Chairman: The amendments will come back.

Sen. Al-Rawi: Madam Chair, if I could just echo what my learned friend and brother is saying. By the way, this is why I usually suggest that we take the definition clause last because it usually causes a lot of complication, which may have been sorted out by dealing with the other clauses. I think that once we get over this particular clause we would be fine. I think there are only two more points to make on this clause. The benefit of going through this, Madam Chair, is that, one, not only is it on the record, but we may very well let go of a number of points which have been adequately explained, thereby truncating the whole process and the perception. So, Madam Chair, if I could just beg for a little tolerance to just go through them. We will try to go through as quickly as possible.

Madam Chairman: Before you do, I would like to—and I think every committee stage, especially those that go very late—ask and it happened in the past, in your Standing Orders it is very, very clear; every Bill that comes up for debate, you are free, in fact you are instructed and advised to propose amendments in writing before debate, so that it comes through. You can look at it and it is circulated, and all of these things can be dealt with even in discussion, informally as well as formally, and you can propose it in your debate, so that when it comes to committee there is normally some sort of an understanding that would have come from your suggestions proposed. So I would like to ask Members, please.

Sen. Al-Rawi: Madam Chair, perfectly correct, save for this fact, number one, the *Hansard* is not yet available for the last debate; number two, this was received by electronic form; number three, we are here at this late hour, because we are on

the cusp of prorogation, and the fact is that we are trying to save the work that all sides have put into this, so we are not in the usual circumstance where we can produce amendments—

Madam Chairman: But Senator, with all due respect, I do not think the usual is that amendments are circulated in writing, whether it is the last session, so I think that is something that—it is just the last one. Let us go on, I would like this to finish. Sen. Prof. Ramkissoon.

1.15 a.m.

Sen. Prof. Ramkissoon: Madam Chair—

Hon. Senator: Sen. Cudjoe.

Sen. Prof. Ramkissoon: Sen. Balgobin has put forward a proposal—
[*Interruption*]

Madam Chairman: Sorry. Sorry. I am not seeing your light.

Sen. Prof. Ramkissoon:—which I fully support and I think we should put it to a vote and then move on from there.

Madam Chairman: Yes. I agree. I did—Sen. Cudjoe, you did have one point.

Sen. Cudjoe: Yes. I was making a point before all this.

Sen. Al-Rawi: You checked the THA Act.

Sen. Cudjoe: I checked the Tobago House of Assembly Act and there is nothing of a council in the Act. So what I would prefer in—by striking the word “Act” at the end of it and if we can put, in the case of this legislation, “refers to the Tobago House of Assembly Act”—

Madam Chairman: House of Assembly.

Sen. Cudjoe:—because “local authority” cannot mean the Tobago House of Assembly, so we can strike the word “Act” and just put, “in the case of Tobago, refers to the Tobago House of Assembly Act”.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Sen. Al-Rawi: Madam Chair, I take it that the amendments as proposed are part of the record, and that the AG will continue to look at them in the manner he suggested.

Madam Chairman: Upon circulation.

Sen. Ramlogan SC: For the record, I have said it before, but for the record once I receive the proposed amendments in writing which I take it will come, in a short space of time, I will give it due consideration.

Sen. Dr. Balgobin: But listen.

Sen. Al-Rawi: Madam Chair.

Sen. Dr. Balgobin: Madam Chair, this is now unconscionable. We are having another debate after the debate, and this happens too often. And since it is the last time what I would like to suggest is this, either we trust the Attorney General and the Government's word or we do not. If we do not, then we are not voting for it, and if we do then we will give it our support in the expectation that you come back and do what you committed to do. How about if we just treat it like that and be done with this because it is 16 minutes and 45 seconds past one a.m. and we have several other matters to address.

Sen. Ramlogan SC: Bear in mind that this is a unique situation where the Bill came with unanimous support from the Lower House.

Sen. Al-Rawi: Quick suggestion. The SEC model that we did for that debate was that the Government went through the *Hansard* in committee stage, made draft amendments out, then the parties looked at them. If we could ask your resource team to do that it will be much appreciated, even if though you may not take all on board, you may have taken some on board and you could circulate that. That would help; a draft Bill, we did that for the SEC.

Sen. Ramlogan SC: I would really prefer to receive the suggestions that you all have so that I could consider it, and you know, that is all.

Madam Chairman: So can we move on?

Clause 5.

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

Sen. Dr. Armstrong: Could I make a quick suggestion?

Madam Chairman: Sorry.

Sen. Dr. Armstrong: Under 5(1)(a), (b), (c), (d), could we add an (e) for public transport? Could you take that into consideration?

Sen. Ramlogan SC: You see, if you are blind and you have a guide dog and you are using the bus? What you want them to do, leave the dog behind?

Sen. Dr. Armstrong: No. But then that would come under (2).

Sen. Ramlogan SC: Ah?

Sen. Dr. Armstrong: That would come under (2).

Sen. Prescott SC: You are not interfering with this?

Sen. Dr. Armstrong: No, I am not interfering with this. I am talking about under 5(1).

Sen. Ramlogan SC: Right, under 5(1).

Sen. Dr. Armstrong: I am saying.

Sen. Ramlogan SC: Yeah. I see, I got you.

Sen. Dr. Armstrong: Yeah. Public transport.

Sen. Ramlogan SC: But you see the accent here was on food places really. You see, once you go public transport you have to consider the library point by Sen. Prescott. You have to consider, you know, from brothel to go up the road. I mean, you know, where will you stop?

Madam Chairman: The airport, everywhere.

Sen. Dr. Armstrong: Just food.

Sen. Ramlogan SC: I hear you, but you know.

Sen. Prescott SC: It would be put in writing for you.

Sen. Ramlogan SC: Yeah. I would appreciate that. Thanks. I really appreciate that. Thank you very much Senator for putting it in writing. Thank you. Because there may be other examples you may wish to consider, public transport, the library, there may be others.

Hon. Senator: The airport.

Sen. Ramlogan SC: The airport. "I doh know."

Hon. Senator: The hospital.

Sen. Deyalsingh: Madam Chair, just to put on the record, my concern with 5(1), by listing four entities—*[Interruption]*

Sen. Ramlogan SC: I would take off this extra, yes.

Sen. Deyalsingh:—I would have preferred to see the catch-all phrase of "public place" used so that we encompass a hair salon, whatever, public transport. I just want to put it on record that we will be submitting something to that effect.

Madam Chairman: It is difficult.

Sen. Ramlogan SC: Well, I am grateful for that undertaking to submit something in writing, and it will be considered because whether it is the hair salon, “whether it is de rum shop, whether it be by de doubles vendor, we go be here whole night and whole morning till we reach from pholourie and saheena to kachori and doubles.”

Sen. Al-Rawi: Clause 5(2), Madam Chair. AG, if we could look at 5(2)(c):

Sen. Ramlogan SC: Sorry.

Sen. Al-Rawi: In 4(2)(c).

Sen. Ramlogan SC: “Yuh gone back to 4?”

Sen. Al-Rawi: No. No. 5(2)(c), sorry.

Sen. Ramlogan SC: Boy.

Sen. Al-Rawi: 5(2)(c) “the owner or keeper, with the dog, has attended and completed a course of training...”. I would have preferred if we could put in the fact that he has been “certified as,” because anybody could say I attended.

Sen. Ramlogan SC: Those things would be dealt with in regulations. That is not for here. Those are regulation points.

Hon. Senator: Yeah.

Sen. Ramlogan SC: We would deal with that in regulations.

Sen. Al-Rawi: Okay. That is my position on that.

Madam Chairman: Noted.

Sen. Baptiste-Mc Knight: Madam Chair.

Madam Chairman: Who is—?

Sen. Baptiste-Mc Knight: Me.

Madam Chairman: Oh.

Sen. Baptiste-Mc Knight: Would you consider omitting class A in 5(2) so that all dogs would have to be muzzled in public places?

Sen. Ramlogan SC: No.

Sen. Baptiste-Mc Knight: Why?

Sen. Ramlogan SC: Well—[*Crosstalk*] yeah. “Go ahead nah.”

Sen. Moore: I “doh” know that if we extend this provision to deal with class B dogs that we would not be making a nonsense of the point of the statute. So that we now have a situation where we are muzzling from pompek to pot hound. I mean, where else in the world does that happen, and why are we blazing a trail in this direction which seems to be going nowhere? I do not know, Sen. Baptiste-Mc Knight, perhaps has a particular mischief in mind that she wishes addressed, but I am not too sure that this might be the route.

Sen. Baptiste-Mc Knight: The mischief I have in mind is not having people “bite yuh” in public places.

Hon. Senator: People?

Sen. Moore: Yes. But I do not know that people biting you, this Bill will help with that, with the greatest of respect, but I think it would be a bit too wide.

Hon. Senator: That would be ridiculous.

Question proposed.

Sen. Al-Rawi: Sorry, sorry, sorry. Last point. Clause (5). I flipped the page thinking that it was not there.

“A person who contravenes subsection (3) commits an offence and is liable on summary conviction....”

I wondered whether we would include the words “without reasonable cause”. Subclause (3) refers to 5(3)—[*Interruption*]

Madam Chairman: Commits an offence without reasonable cause.

Sen. Deyalsingh: 5(5).

Sen. Al-Rawi: 5(5), Madam Chairman, subclause (3):

“No owner or keeper of a dog shall—” permit the dog, encourage the dog or incite the dog to attack. The question is, there may be circumstances where you may want to do that. You may want to incite the dog to attack. So the issue was putting the caveat into subclause (5) a person who contravenes subsection (3) without reasonable cause, wherever we may put those words. [*Crosstalk*]

Sen. Hinds: Very worthwhile.

Madam Chairman: So that would—[*Interruption*]

Sen. Ramlogan SC: I would give consideration when I receive it.

Sen. Al-Rawi: AG, just to make it clear. I am suggesting a little bit later as we did for the good work that we did on the SEC legislation, just for resources, if the staff can pull out. That is what I am suggesting.

Sen. Ramlogan SC: No. And I am saying no.

Sen. Al-Rawi: Or perhaps the *Hansard* can then be circulated on the bits, in pursuance. What we did on the SEC, just to remind you, two seconds. We took the *Hansard* report. The Assistant Clerk of the Senate, Mr. Ogilvie is here he can tell you that what we did is we circulated the *Hansard* points and then persons submitted recommendations; just as a process to help us to get there.

Sen. Ramlogan SC: The *Hansard* is available online within a week of a debate being concluded. I have said I would want to receive this within a month. So that I do not think it is too much to ask that you all put your proposals in writing for the Government to consider within a month. That is reasonable and realistic. So could we move on, Chair?

Sen. Dr. Wheeler: Madam Chair.

Sen. Dr. Balgobin: Madam Chair.

Madam Chairman: Dr. Wheeler.

Sen. Dr. Wheeler: I thought that we agreed that is what would take place. I did not know that we were still going through clause by clause debate.

Madam Chairman: Well it seems—[*Interruption*]

Sen. Dr. Balgobin: Madam Chair, I find that my intelligence is severely challenged and I recognize that I may be deficient in this area. But as far as I understood it, the Government was not taking any amendments, and if that is my understanding then getting a Government commitment on the *Hansard* really has no bearing whatsoever on the law that we are going to pass.

So it is either we accept that we can trust the Government to receive our amendments or not. I am not sure that getting the Attorney General or anybody else to sit here and say they will amend it or accept the amendment has any force whatsoever, given that at the end of all of this, you are going to say this is put to the Senate without amendments. So I am a little confused about that, and perhaps someone could clarify for me whether my confusion is based in any sort of logic at all or not because I am not really sure what concessions we can extract at this point.

Sen. Ramlogan SC: Well this is the point. You know, Madam Chair, look, the Standing Orders provide for the Government to receive written formulations of amendments—[*Interruption*]

Madam Chairman: Yes.

Sen. Ramlogan SC:—that are proposed by any Senator and the Government is entitled to receive that in writing so that it can consider it. And I am saying I have given a commitment to this honourable Senate that the Government will be prepared to receive and give due consideration to any such proposals received from any Senator, but I do not think that it is prudent—[*Interruption*]

Madam Chairman: To go through debate any time.

Sen. Prof. Ramkissoon:—to go through it, here and now, because that is just a waste of time. [*Crosstalk*] But is not going to achieve anything.

Madam Chairman: Well in light of that, could we do all as a block? So could we—no—[*Crosstalk*]

Sen. Ramlogan SC: So put it to the vote, let us deal with it.

Sen. Al-Rawi: What is the point?

Sen. Dr. Balgobin: You are going to vote without amendments.

Sen. Ramlogan SC: Put it to the vote. Put it to a vote.

Madam Chairman: So clause by clause.

Sen. Ramlogan SC: Put it to the vote en bloc. You know, we still have two other things to deal with—we would be here all night. [*Crosstalk*]

Madam Chairman: Just finish off 6.

Mr. Ogilvie: 5.

Question agreed to.

Clause 5 ordered to stand part of the Bill.

Clauses 6 to 30.

Question proposed. That clauses 6 to 30 stand part of the Bill.

Sen. Hinds: I am beginning to feel uncomfortable about what is developing here. I am beginning, as a Member of the Opposition, to feel a little uncomfortable about what is happening here.

Dog Control Bill, 2013
[SEN. HINDS]

Wednesday, July 10, 2013

In order to attempt to explain what Sen. Dr. Balgobin has asked, my understanding, very clearly, is that today is unique; this is the last in the session. We had a lot of work done on this Bill up to this time. Any amendment tonight from this Senate will effectively mean that this legislation dies tonight, because the other House having already been put at an end will not be able to accommodate and to adjust to those amendments.

It is with that goodwill in mind that we conceded that we will support this legislation and in so doing, support the Government in this legislation in this Parliament.

However, we did say in the course of the debate that there are certain concerns we had in terms of the way some of the clauses have been drafted because we recognize that while we have one intention, the wording of the law might be different. And other people had views too, including the Independents. As a result of this we got the Government, and it expressly indicated that it was prepared to consider these recommendations for amendment or suggestions for amendments and it will do so and accommodate those at the first or at a reasonable time when we come back here in the next session. That was the understanding.

Madam Chairman: Uh-hmm.

Sen. Hinds: The Attorney General along the way then said he is not prepared to give a carte blanche understanding that whatever we propose will be accepted as amendments, and I can understand that. In light of that—

Madam Chairman: Uh-hum.

Sen. Hinds:—we then felt it necessary to try to determine from the Attorney General which matters we raise will get favourable consideration for amendment and which matters would not.

In order to achieve that, we then had to get into more details than we had anticipated because we now had to elicit from him which of the matters. In the absence of that we could very well send the Attorney General a list with 15 proposed amendments, and on the basis of what he told us he could reject all, we would have passed this Bill tonight and we would not have seen any of the amendments that we wanted. That is the reason we are getting into more details than we wanted.

1.30 a.m.

It is fair for the Attorney General to say that. He is entitled not to accept our proposals. But it is also fair as a result of that for us to try to determine tonight the matters that he is prepared to consider amendments over or not, otherwise we will be going home with cat in bag.

Sen. Ramlogan SC: Senator, are you finished? You know, the short point here, Madam Chair, is that I cannot equally buy cat in bag. Not a single amendment has been circulated for the Government to consider, but—

Sen. Al-Rawi: We did not have time.

Sen. Ramlogan SC: But, hold on—but I have had discussions with my learned friends and I have replied, and in my reply I gave clear indications as to where the Government was looking to make concessions. And I have also said that I will receive and give due consideration to the proposals once I receive them. But, look, since you do not yourself have the proposed amendments formulated, it is a better use of our time to get past this, to get on to the other Bills and you will, in due course, formulate the amendments with some maturity upon reflection, take your time, get it to me and I will consider them. There is nothing wrong in that.

Sen. Drayton: Mr. AG, if I may, there is one point that I would like to clarify and one statement I wish to make—

Sen. Ramlogan SC: Sure, Ma'am.

Sen. Drayton:—and that is if even we had circulated amendments tonight the Government had no intention of accepting any amendments tonight. That needs to be placed on *Hansard*. Because we do not want to leave here with the impression that there is a need for amendments and had we brought written amendments the Government would have entertained those amendments. So let it be clear, the Government had no intention and has no intention of accepting any amendments. I feel rather than abuse Parliament this way; we should simply put the matter to a vote.

Sen. Ramlogan SC: And we are in agreement on that, because the short point is, the Bill having been passed by both the Opposition and the Government unanimously in the other place and having come here, the position was that there was not going to be any amendment. During the course of the debate, as I said in the winding up, I have listened to the contributions very carefully and some valid points were made as a result of which the Government was prepared to reflect and review the Bill in accordance with the points that have been made.

The point I am making is, no amendments having been circulated for us to consider in writing, it may be a more prudent use of our time to take the time to reflect, formulate it in writing, send it to us, we will consider them and we will get back, at some future date, to come back to the Parliament. But it is not a question of any gamesmanship at play. It is a simple question of us receiving those amendments subsequent to tonight and we will give due consideration to them.

Sen. Drayton: One other point to be clarified, whatever transpired in the other House has nothing to do with our conscience in this House.

Sen. Ramlogan SC: And I did not for a moment suggest that.

Sen. Drayton: I do not think that has any bearing on the matter. I think we should just stop this abuse and take a vote on the Bill.

Sen. Ramlogan SC: Well, that is what we have been trying to do.

Sen. Drayton: If we feel that the Bill needs amending, then we should not be voting for the Bill. It is as simple as that. Whoever wishes to vote for it, fine.

Sen. Ramkhelawan: Madam Chair, I think tempers are getting a little frayed. I think it is late in the evening. The objective of this exercise is really to preserve the work of the Parliament that has been done previously and it requires a measure of compromise in order to facilitate that objective. In order to achieve that I think that we can take two approaches: a combination of Members who can circulate and forward to the office of the Attorney General the recommendations; and secondly, we can also incorporate that what has already been incorporated as amendments in *Hansard*, and those two areas would be considered for amendment of the Bill.

Sen. Dr. Balgobin: Madam Chair, just to clarify, because I think that we are asking not simply for compromise, but also for trust. I would just like to ask the Attorney General and perhaps the Leader of Government Business, whether in fact they would be prepared to commit—

Sen. Ramlogan SC: I have done that already.

Sen. Dr. Balgobin: No, no, no, I did not tell you what I want you to commit to yet. To commit to bringing an amendment Bill to address this matter in the next session of the Parliament.

Sen. Ramlogan SC: Yes. I had said before that the Bill will not be proclaimed until such time as we bring the amendments to the House.

Hon. Senator: Could we get an undertaking?

Sen. Dr. Balgobin: Could we say the next session, would that be too much?

Sen. Ramlogan SC: Well, I would hope so but I cannot commit the Leader of Government Business because, as you would appreciate, that involves two Houses and I cannot give a commitment to bind the Leader of Government Business in the Lower House.

Sen. Dr. Balgobin: Okay.

Sen. Ramlogan SC: So, I do not want to go there, but what I am saying is that the Act will not be proclaimed until such time as Parliament has had the opportunity to consider amendments to the Bill.

Sen. Dr. Balgobin: Amendments received—

Sen. Ramlogan SC: Amendments received by my office from Senators.

Sen. Dr. Balgobin: Okay.

Sen. Deyalsingh: So, we start over the debate again.

Sen. Singh: No, no, no, we will debate the amendments, but not the Bill.

Sen. Ramlogan SC: We will debate the amendments. That is all, so let us put it—

Sen. Hinds: Send the amendments to the Lower House?

Sen. Ramlogan SC: No, here and then it goes to the Lower House.

Sen. Singh: Both Houses.

Sen. Ramlogan SC: “Oh”, you have to do it in both Houses. Both Houses have to do it.

Sen. Dr. Balgobin: Both Houses have to do it?

Sen. Ramlogan SC: Yes.

Madam Chairman: The amendments would be circulated.

Sen. Ramlogan SC: It would be an amendment to an Act. [*Crosstalk*]

Sen. Singh: Look, we have had this model already with the Securities Bill so there is need for us to move forward.

Sen. Ramlogan SC: Yes, she is putting it now.

Sen. Drayton: [*Inaudible*]—to bring a Securities Bill in six months, there is not an undertaking the Government has given in this Senate that has been honoured within the time frame or period. So this is not a matter of trust, this is a matter of the people’s business and we ought to be passing a Bill if we think that the Bill is right. If there are problems with the Bill we ought to say no. But the whole purpose of Parliament—there are going to be different views, put it to the vote and let the chips fall where they may. What is the point at 1.37 in the morning, carrying on with this Bill about bringing amendments when you cannot take any amendments.

Sen. Ramlogan SC: Well, that is the point.

Sen. Drayton: So, exactly.

Sen. Ramlogan SC: Let us put it forward.

Madam Chairman: The question is, clause 5A—

Sen. Ramlogan: You are not putting the whole clause?

Madam Chairman: No, we have to do 5A separately.

Sen. Al-Rawi: Madam Chair, with respect to 5A, our proposal is that 5A be subject to a sanction so that it is meaningful and the amendment could specifically be done in clause 7—AG, perhaps you can help me—there is a clause that says “if there is any breach of this Act” and it provides for the dog being taken away.

Sen. Ramlogan SC: Well, Senator, it is noted.

Madam Chairman: Yes, there were other Senators who made recommendations to have sanctions as well so it is noted, yes.

Sen. Ramlogan SC: Yes. Put the whole Bill.

Clause 5A ordered to stand part of the Bill.

Clauses 6 to 30.

Question proposed: That clauses 6 to 30 stand part of the Bill.

Sen. Prescott SC: Madam Chair, I have some reservations about 7, 8, 9, 11 and 12. I shall put them in writing for the AG and I expect to see them in the amendment Bill.

Madam Chairman: Thank you. Thank you very much.

Sen. Al-Rawi: Madam Chair, I have reservations and proposals for amendment in respect of clauses 6 to 13, 15, 17, 18, 20 to 25 and 27, specifically.

Madam Chairman: Thank you.

Sen. Al-Rawi: However, Madam Chairman, just for the record, because of the method that is being proposed tonight, I am not permitted the opportunity to put on the record the specific amendments that I wish to put on the record, and that I would prefer that we do as a Senate, because we are supposed to really put clause by clause through the Senate. So I think that this procedure is improper and I do not think that we are complying with the rules of the Senate or the intention of committee stage at all.

Sen. Ramlogan SC: Sen. Prescott SC.

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Sen. Prescott SC: Much obliged. Chairman, forgive me, I had first thought that I had heard 6 to 13 and so may I just add to the list that I had given: 21, 22 and 26, please. Thank you very much.

Sen. Dr. Armstrong: Madam Chair, may I? Is it necessary to say what amendments I might have now or just submit it later on?

Madam Chairman: No, just the particular clauses. Yes, you do not have to say it now.

Sen. Dr. Armstrong: Thank you.

Madam Chairman: Sen. Deyalsingh.

Sen. Deyalsingh: Madam Chair, just to state that this Bill raises revenue and the point was raised earlier, is it in fact a money Bill and does the Speaker need to certify it? I just want to have that stated.

Madam Chairman: Well, that statement—you were not in the Chamber, I think, but the statement was indicated based on an explanation by the Attorney General, so it is not.

Question put and agreed to.

Clauses 6 to 30 ordered to stand part of the Bill.

Schedule ordered to stand part of the Bill.

Preamble approved.

Question put: That the Bill be reported to the Senate.

Sen. Ramkhelawan: Chair, I would like to make a comment before the matter is reported to the Senate. And that is, I heard the hon. Attorney General say repeatedly that this Bill was agreed to in the other place by the Government and the Opposition. What is clear though is that in the Senate there is another Bench made up of five separate voices and that would be those persons on the Independent Bench—

Madam Chairman: Nine.

Sen. Ramkhelawan: Nine separate voices, I think I said.

Madam Chairman: You said five.

Sen. Ramkhelawan: Okay, it might be late in the night—

Sen. Ramlogan SC: I take objection to you lumping the other four with the Opposition or the Government, thank you, Sir.

Sen. Ramkhelawan: I correct myself by saying nine separate voices. Sometimes I think that matter is lost; that in the Senate we do have another Bench, and I hope that the hon. Attorney General would take that into consideration in the future when we get to points in times like this where we get to a stage where the matter cannot go back to the other place without the Bill lapsing.

I am grateful to the hon. Attorney General for putting on record his consideration of my own commentary with regard to insurance and with regard to mixed breed. So, I just wanted to put that on record.

Madam Chairman: Point noted, Sen. Ramkhelawan. The Bill will now be reported—*[Interruption]*

1.45 a.m.

Sen. Beckles: Madam Chair, can I also make a point before the Bill is reported? I also want to make the point that from time to time it is said, as it was said this morning, that when the Bill is voted for by the Opposition in the Lower House, to give the impression that the Opposition in the Senate cannot make recommendations for changes, and I want to just correct that because the fact is that if at times there are things that are drawn to our attention, particularly, when the Bill is being passed in the other place as it is now, that you really have very short notice to debate some of these Bills, and you cannot, even in the Lower House, even when the Opposition agrees to things, it does not mean to say that there are certain things that we may or may not miss as we do in the Senate at times.

Therefore, to put or appear to be putting pressure on the Opposition in the Senate, to suggest that we cannot make changes, I just want to make it abundantly clear that our objective, both in the Lower House and in the Senate, is to assist in the governance of the country, *[Desk thumping]* to ensure that Bills are passed, but that proper law is made. And if at any point in time we believe—I mean, we consult with the Leader of the Opposition, and if we take a particular position at times where we feel adjustments need to be made, we will do that.

It does not mean to say that we do not understand what the Government is doing, but I am of the view that the Attorney General, at the end of the day, also would appreciate that we are all in it to make good law. Okay? We have heard his undertaking, we will make our submissions and we are supporting the Bill clearly on the undertaking that has been given.

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Madam Chairman: Noted, and it is the recognition of the Chair. Sometimes I have to tell you from where I sit, it is an amazing experience to see despite all of the arguments in the debates at the end, the national interest, and I think Sen. Beckles' words just now, it really does encompass the spirit this morning when we do have Bills like this.

Sen. Ramlogan SC: Permit me to just have a quick word in, to say that the Government is interested always in what hon. Members of both Houses have to say. The Government has demonstrated time and again that it is receptive and open to suasion and it comes to the Senate with an open mind. Hence the reason for the prolonged and historic sessions we have had at committee stages in this Senate, it is because of the Government's attitude and approach to things. So we are all interested in making good law, and that is why we have arrived at a place that there can be some consensus and compromise, in the Lower House, and now in the Upper House. Thank you.

Sen. Al-Rawi: Madam Chair. The last bit. Our position is, I just want to be abundantly clear—no, no, no, just a quick question I had mentioned across—that there will be no proclamation prior to the amendment of the Act. Correct?

Madam Chairman: Sure. Yes.

Sen. Ramlogan SC: I am not prepared to say that.

Sen. Al-Rawi: Sorry?

Sen. Ramlogan SC: I am not prepared to say it. I am fed up saying it.

Hon. Senator: Again?

Question agreed to.

Senate resumed.

Bill reported, without amendment.

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

The Senate divided: Ayes 28 Noes 1

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

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Howai, Hon. L.
Moore, Hon. C.
George, Hon. E.
Karim, Hon. F.
Bharath, Hon. V.
Mohammed, Hon. J.
Moheni, Hon. E.
Maharaj, Hon. D.
Ramnarine, Hon. K.
Lambert, J.
Sylvester, D.
Herry, Miss P.
Beckles, Ms. P.
Hinds, F.
Henry, Dr. L.
Cudjoe, Miss S.
Al-Rawi, F.
Deyalsingh, T.
Ramkhelawan, S.
Balgobin, Dr. R.
Ramkissoon, Prof. H.
Wheeler, Dr. V.
Prescott SC, E.
Armstrong, Dr. J.
Bernard, Dr. L.
NOES
Drayton, Mrs. H.

Dog Control Bill, 2013

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Mrs. C. Baptiste-Mc Knight abstained.

Question agreed to.

Bill accordingly read the third time and passed. [Desk thumping]

**SUGAR INDUSTRY CONTROL BOARD (REPEAL)
(VALIDATION) BILL, 2013**

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Good morning, Madam Vice-President, and good morning ladies and gentlemen of the Senate, at 1.52 a.m.

Madam Vice-President, I beg to move:

That a Bill to validate actions done pursuant to section 4 of the Sugar Industry Control Board (Repeal) Act, 1995, be now read a second time.

Madam Vice-President, according to Standing Order 40(1), I have 60 minutes speaking time allocated to me, and that should take us until about three o'clock, and assuming the responses go in a similar fashion, we should be here until about five or nine. However, I will not detain you long. My presentation in piloting this would not be as long as 60 minutes.

The Bill before us seeks to validate all acts required to be done under section 4 of the Sugar Industry Control Act, 1995 which were done or purported to be done after expiration of six months of the date of commencement of the Act, or were omitted to be done. Further, Madam Vice-President, the Bill needs to be passed with a three-fifths majority in both Houses of Parliament, as it is inconsistent with sections 4 and 5 of the Constitution. Section 4 of the Constitution presents the fundamental human rights and freedoms of all citizens of the Republic, while section 5 enshrines these rights. This Bill was passed unanimously in the other place and is now being presented to this esteemed Senate for Members' consideration and support.

Madam Vice-President, the Bill as presented to this Senate has five clauses. The first clause is the short title which reads very clearly in the Bill itself: "This Act may be cited as the Sugar Industry Control Board (Repeal) (Validation) Act, 2013."

Clause 2 of the Bill states the proper interpretation.

Clause 3 of the Bill indicates that this Bill is inconsistent with sections 4 and 5 of the Constitution.

Madam Vice-President, as a responsible administration, at two o'clock, I wish for this Senate to note we recognized that this Bill has the very real potential of impacting on citizens' rights. As you know, Madam Vice-President, the surplus from the assets to liability ratio was distributed to the cane farmers. However, after considerable consultation with the cane farmers, consensus was reached with the Ministry of Finance and the Economy and the Ministry of Food Production, Land and Marine Affairs, to put the excess into the Consolidated Fund. For this decision to be enforced it needs the support of all Members.

Madam Vice-President, clause 4 of the Bill calls for a validation of all activities required to be done under section 4 of that, which were done after the expiration of six months of the date of the commencement of the Act. Madam Vice-President, this honourable Senate fully grasps what the Government is asking of it to do. I beg your leave to elaborate on this clause.

The Sugar Industry Control Board was incorporated on November 01, 1966 under Act No. 14 of 1966, and it was amended by Act 40 of 1970 and Act 45 of 1979, to enhance the operations of the sugar industry. Section 4 of the Sugar Industry Control Board Act provided for a member of the board to be appointed to hold office for a period not exceeding three years as may be defined by the Minister responsible for agriculture.

In addition to this, Madam Vice-President, subsection (5) of the Act, provided for dealing with the resignation, revocation, vacancy and other such matters of members of the board. It should be noted, that the last board of the Sugar Industry Control Board was appointed in 1985 and, as such, the members of this particular board would have expired naturally in 1988. However, in January of 1987, all members of that board resigned en bloc and, therefore, the Sugar Industry Control Board had no duly constituted board in place after January 01, 1987.

A decision to dissolve the sugar industry board was taken in 1987 and this was justified on the grounds that since its establishment in 1966, a number of changes had taken place in the sugar industry. In particular, the Sugar Industry Control Board was primarily established to manage the relationship between the manufacturers and the cane-farming sector. By this time—that is in 1987—sugar companies had changed from being privately owned to State owned, and this negated the need for the function performed by the Sugar Industry Control Board.

Madam Vice-President, in addition to this, on April 28, 1994, the Government of Trinidad and Tobago agreed to dissolve the Sugar Industry Control Board and to dispose of its assets, and the disposal of its assets should stand. As a result of

this, a Cabinet-appointed committee on May 10, 1994, gave recommendations as to the way forward. The report of the committee noted that the Sugar Industry Control Board Act made no provisions for its dissolution. Accordingly, on March 31, 1994, the Government of Trinidad and Tobago requested and agreed that the Attorney General and the Minister of Legal Affairs expedite arrangements for the repeal of the sugar industry board to formalize the dissolution of the board.

Approximately one year later, 1995, the Government of Trinidad and Tobago agreed that the Sugar Industry Control Board be dissolved on July 18, 1995, in which the Sugar Industry Control Board (Repeal) Act was assented as Act No. 15 of 1995 in terms of Repeal Act. Section 4(1) of this particular Act provides that:

“Within six months of the date of the commencement of this Act the Divestment Secretariat of the Ministry of Finance”—now the Ministry of Finance and the Economy—“in conjunction with a Cabinet appointed committee, shall—

(f) take action”—which I will outline—in order to facilitate winding-up of this particular board.

2.00 a.m.

It includes:

- (a) Arrange for the appointment of the former auditors of the board—at that point in time, Pricewaterhouse and it is now called PricewaterhouseCoopers—to prepare a statement of the affairs of the Sugar Control Board and undertake any accounting work necessary for disposal of the assets of the board.
- (b) To meet the cost of preparation of a statement of affairs and any other work pertaining to the distribution of assets from financial resources of the board.
- (c) Apply the assets of the board to meet the debts and other commitments of the Sugar Industry Control Board, including payments of the outstanding stipends to the secretary.
- (d) In the event of surplus of assets over liabilities, utilize such surplus in a project that would benefit the cane farming sector.
- (e) In the event of a deficiency of assets against liabilities, meet such liabilities in accordance with the Companies Ordinance in order of priorities of debts.
- (f) Take such other action that would facilitate the orderly winding up of the affairs of the Sugar Industry Control Board.

Sugar Industry Validation Bill, 2013
[SEN. THE HON. D. MAHARAJ]

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Accordingly, Madam Vice-President, the winding up of the Sugar Industry Control Board was due to be completed by January 17, 1996. However, this was not achieved because there were several unresolved disputes, including a pending High Court matter. These matters were resolved in 2005 by the Divestment Secretariat of the Ministry of Finance.

Madam Vice-President, the Cabinet-appointed Committee noted the following:

The Statement of Accounts prepared by PricewaterhouseCoopers as at September 29, 2006, indicated that the Sugar Industry Control Board's surplus asset comprised of \$654,641.00 held in the Roytrin Money Market Fund.

Item 4(1)(d) of the repeal Act stated that in the event of a surplus of the assets over liabilities, the Sugar Industry Control Board should utilize such a surplus in a project that would benefit the cane farming sector or cane farmers.

The committee, having considered the money paid to approximately 3,420 cane farmers in the amount of \$82 million for transitional support as a condition of their exit from the sugar industry, recommended that the surplus funds be deposited in the Consolidated Fund. The Government of the Republic of Trinidad and Tobago by a Cabinet Minute No. 2860 of October 20, 2011, accepted this recommendation.

The money and the accumulated interest totalling \$876,815.51 as of June 05, 2012, were deposited in the Consolidated Fund in June of 2012. The aforementioned action in pursuance of section 4 of the Sugar Industry Control Board (Repeal) Act, 1995 served as a trigger for the Ministry of Finance and the Economy and the Divestment Division and Cabinet-appointed committee to initiate proceedings to have the Sugar Industry Control Board dissolved.

Madam Vice-President, the chronology of events and activities serve to remind Senators of the need for the validation as set out in clause 4 of the Bill.

Clause 5 of the Bill provides for a reporting mechanism for the work of this Senate. This clause calls for the Minister to lay in this Senate a copy of the report outlining the winding up of the affairs of the board, within three months of the commencement of this Act, and as is the custom of the People's Partnership Government, we give the assurance that this will indeed be the case.

Madam Vice-President, with these few words, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Faris Al-Rawi: Much obliged, Madam Vice-President. *Assalamu Alaikum Wa Rahmatullahi.*

Sen. Mohammed: *Wa Alaikum Assalaam.*

Hon. Senator: Okay!

Sen. F. Al-Rawi: Ramadan Mubarak to you, Madam Vice-President, [*Desk thumping*] and to all our Muslim brothers and sisters. At 4.34 a.m., it will be *Waqt Al-Fajr*, which is the time that we should begin to contemplate making prayer and *salaams* and *salaats* to Allah The Almighty, and this is the holy month of Ramadan properly, the moon having been sighted last night and so it is only fitting that with contemplating a Bill such as this which dealt with the sugar industry which was really the vehicle by which our diaspora was born, and by which many of our Muslim brothers and sisters came to Trinidad and Tobago, that we enter into the holy month of Ramadan where fasting and focus upon God is the essential position. [*Desk thumping*]

Sen. Hinds: Allahu Akbar.

Sen. F. Al-Rawi: Allahu Akbar. Allahu Akbar. Allahu Akbar. God who is the greatest. God who is the greatest. God who is the greatest, is perhaps the focus that we should all have, and I am sure that we all join in celebrating our vigil and prayer during this month.

Madam Vice-President, the hon. Minister of Finance and the Economy, in fact, tabled this Bill, as he sits comfortably opposite me now and we had the pleasure of the hon. Sen. Devant Maharaj, who is wearing campaigning colours, piloting this Bill on this very early morning. I am very pleased to note that his campaign colours include red: that beautiful balisier red shirt that he is wearing. [*Desk thumping*] I welcome him to the prospects of a victory in central Trinidad where this Bill pays particular focus as well.

Sen. Hinds: Ameen—[*Inaudible*]

Sen. F. Al-Rawi: The purpose of this Bill is really to retire and validate moneys. The sugar industry and with the closure of Caroni saw, in the very simplest terms, a surplus of some 800 odd thousand dollars which was, in fact, already deposited into the Consolidated Fund. This Bill requires a three-fifth majority. The hon. Minister has not told us why, and perhaps I should put it on the record as to why we are doing that. [*Crosstalk*] Perhaps, I missed it because I ran quickly—[*Crosstalk*] I am sorry?

Sen. Maharaj: I did say why.

Sen. F. Al-Rawi: Okay, forgive me, Madam Vice-President, apologies to the hon. Minister. I did step out of the Chamber for a quick moment between committee stage and this, for a human break.

But anyway, clauses 4 and 5 are called into aid here because we are really acting in a trustee and beneficiary relationship between the Government of Trinidad and Tobago acting in essence as a trustee for the persons who ought to benefit under the Sugar Industry Control Board (Repeal) Act. So, we are taking the 800-odd thousand dollars which should, in fact, go to benefit the sugar industry which no longer exists, and now transferring it into the Consolidated Fund, and because we are dealing with property, we are required to pass this with a three-fifths majority.

Madam Vice-President, just to put on record a few very simple points, I do not propose to be long at all. The first position is that Caroni (1975) Limited, as the successor to Tate & Lyle—

Sen. Deyalsingh: Tate & Lyle.

Sen. F. Al-Rawi:—came about by way of a very profound acknowledgment on the part of the People's National Movement to secure the welfare of the sugar cane industry, which at that time was under foreign control, and which saw—for want of a better explanation—exploitation of our local and indigenous production and cane farmers. Indeed, this particular board, as it was set up, was meant to deal with price regulation, and it formed a very essential tool in balancing the equality between the sugar-industry takers and the sugar-industry providers. It allowed in particular for price—[*Crosstalk*] I am sorry?

Sen. Moheni: It was passed in the “NJAC peoples Parliament” on March 12, 1978.

Sen. F. Al-Rawi: I am sure Sen. Moheni will contribute in a short moment. [*Laughter*] But, it was passed as an essential tool to balance our society and it is important that we do reflect, in fact, upon that shift in gear which happened in birthing Caroni (1975) Limited, and the equality of bargaining power which the People's National Movement saw fit as a unified purpose with all of Trinidad and Tobago to getting there.

The sugar industry in Trinidad and Tobago, and in the region—the CARIFORUM region—has gone through significant changes, and it is important for us to put that on this record. The changes in the industry, in particular, happened

when, in 1987, the NAR Government then, in coalition with the United National Congress, had cause to take the sugar industry into a different level; indeed, 1987 was the year. But the real material marker came about on June 10, 2000, and I am referring, of course, to the execution of the Cotonou Agreement. The fact is that the sugar industry was premised upon a viability based upon preferential treatment into markets—a concept which is very familiar in this Senate we having just recently debated the CARIFORUM Bill, the EPA Bill.

In particular, the viability of this industry was allowed on the basis of two points. The first point was the subsidization of the Government of Trinidad and Tobago into the sugar-cane industry which was running habitually at a loss. Secondly, on the basis of the sustenance and subvention that came by way of the non-reciprocal trade agreements which we had under the Lomé Conventions, starting first and then continuing into the Cotonou Agreement which was signed in Benin as we are all aware. Those two markers are important for this record because it was with the execution of the Cotonou Agreement—

Hon. Senator: Please!

Sen. F. Al-Rawi:—that the 20-year span and clock began to run. By that, the Government of Trinidad and Tobago in 2000, under a UNC Government, accepted the fact that there would be an unwinding of the subventions that the European Union provided by way of non-reciprocal trade agreements at subsidized bases. So the fact then came to Trinidad and Tobago that the subvention removal would equal to an increase in the unprofitability of Caroni (1975) Limited.

That being the case, it is a fact that the European Union engaged in subventions to the EPA grouping—if I can use that recent term—to the Cotonou grouping to the ACP grouping—that is Africa, the Caribbean and the Pacific Islands—to the tune of some 15 billion euro in the first instance, and then some 25-odd billion euro in the second instance, and that the Government of Trinidad and Tobago was able to receive direct grants from the European Union to allow for that unwinding of the subvention and preferential trade on a non-reciprocal basis by the European Union.

But, Madam Vice-President, there is also a very important factor which is a third limb upon which this Bill requires some reflection. That is, that the workforce of Caroni (1975) Limited, the descendants of indentured labourers and other workers that came in, in particular, into the Caroni basin—if I can call it that—that workforce was the recipient of a very important position in Trinidad and Tobago, and I am referring, of course, to the Education Acts that the PNM

Government brought in. That position, stoutly resisted in its days by the then Opposition—in fact, save for one person in Opposition, who happened to be my grandfather, who broke ranks—Lionel Seukeran—and voted for the Education Bill, and received a lot of criticism for it on the basis of wanting to see equal education open to all of Trinidad and Tobago, with free education and access to full education by all, the working class cane-cutting community in Caroni was permitted with a very important opportunity, which they took full advantage of very commendably, [*Desk thumping*] and that was that their children took avail of education and excelled, Madam Vice-President, but excelled away from the plantation. So the workforce to return to the cane field is another very important factor that was absent in the future of the cane industry.

If I can also put onto the record that having had the obligation to honour the Cotonou Agreement, the People's National Movement began the process of unwinding Caroni, even though started by another Government—in this case, the UNC Government. The process of unwinding Caroni (1975) Limited did see a surge on, into an attempt to breathe life back into the profitability of sugar-cane production.

2.15 a.m.

In particular, deep consultation was had with the trade unions and more particularly, attempts to shift cane manufacture into better forms of agricultural product was a stated and intended and applied method to try and revive the cane industry. Of course, you were looking for better fibre and better weight from the material of the sugar-cane roots and stalks itself, but that, Madam Vice-President, regrettably, did not materialize.

Very importantly, in the removal of the beneficiaries for this Bill, that is the persons in the sugar industry who should have benefited from the surplus provided by this 870-odd thousand dollars which has been paid into the Consolidated Fund, by the removal of that beneficiary base, the PNM was very careful to ensure that the workers received in the wind-up of Caroni (1975) Limited, the very fairest deal that was possible and in that, a mixed package of benefits was put forward for the trade unions and for the members of the trade unions, in particular, including, tax-free payments, land, lump sum payments upon settlement and training for transitioning into another workforce, but very importantly for agricultural land, two acres, in fact, to be provided for each worker. A lot of resources were then poured into the preparation of those packages, that is both in cash and in kind. In kind, including the development of land, physical land and also the development of the land.

Sen. Singh: “Faris, yuh is ah revisionist.”

Sen. F. Al-Rawi: In fact, that resulted in a conservative sum of at least \$7 billion into the hands of the sugar cane workers on the wind-up of Caroni (1975) Limited and that is a fact.

It is incumbent also to reflect upon the value of the land that was provided to the workers. Because in developing the land, both for residential purposes and for agricultural purposes and gifting it quite properly to the well-deserving workers of the sugar cane industry, the Government of Trinidad and Tobago, be it the UNC, which intended to wind down the industry on signing the Cotoneau Agreement, as my learned colleague, the hon. Attorney General reflected upon in his contributions in the newspapers when he wore the hat of a writer then, saying that Basdeo Panday had presided over the demise of Caroni (1975) Limited, as he put it, performing aarti and all.

Madam Vice-President, whether it be the UNC’s entry into that or the PNM’s need to follow it through for the reasons that I have just stated, the value of land is a very critical point to reflect upon for those beneficiaries who cannot now receive this \$800,000 now put into the Consolidated Fund. In fact, I would be very interested if the hon. Minister in his wind-up, could tell us why a decision for the benefit of those workers could not be had, with respect to that \$800,000 because it is perhaps, still a potential.

But, pausing on the value of land for the use in agriculture and also for the use in housing, it is very important to address the issue of supposed revisionism that my learned colleague, the Leader of Government Business, Sen. Singh has just said. I just wish to raise two small examples but which are far-reaching examples. Sometime ago, in fact, in the budget presentation in October of last year, I raised an issue in this honourable Senate and I asked the Government then to conduct an interrogation into the value of certain lands in the Caroni basin which were valuable lands and the sale and disposition of which should be investigated. I in fact raised it in the context of the Prime Minister’s then call for an investigation into the Milshirv Project in Tobago and I said that like must be met with like. In fact, I raised the issue of a particular parcel of land, some 50 hectares in this particular basin, which is on the record as having been bought for \$5 million in 2010 and then, contracted for sale to the HDC in July of 2011, if I am not mistaken, for—

Sen. Singh: This is Caroni workers, land?

Sen. F. Al-Rawi: Yes—for \$175 million. So, we had the position, and I called for this and I have heard steadfast silence, deafening silence on this issue, notwithstanding prosecution, apparently, in relation to the Milshirv lands in

Tobago; the lands which we raised in this Caroni basin for beneficiaries who had these in their hands, which, in 2010, were bought by a company called Point Lisas Park Limited, from a fellow called Sookdeo Deosaran for \$5 million; a deed prepared by one Roopchand Chadeesingh and a deed dated the third day of February, 2010. Very soon after, this land was sold to the HDC for \$175 million.

Sen. Deyalsingh: What?

Sen. F. Al-Rawi: But, this is showing you the value of lands given to Caroni (1975) Limited workers. What was very conspicuous in that circumstance was the fact that Cabinet Minute, dated June 06, 2012, that is Minute No. 1538 and confirmed on June 14, 2012, with a copy going to the Auditor General and the Director of Budgets, relied upon in making the case for purchase of this land, the valuation report of one Lyndon Scott who, and next to that note, described the land as being in net worth, \$52 million. So you buy it for \$5 million in 2010. In 2012, Lyndon Scott values it for \$52 million and the Cabinet Note, which obviously is approved then says: “No, no, no, not \$52 million, it is really worth enough to fetch a sale for \$175 million.” The Government of Trinidad and Tobago should feel comfortable to spend \$175 million on lands that is net valued at \$52 million. And it did so on a very curious basis. It did so on the basis of a government valuator’s letter dated April 26, 2012, which assessed the open market value at \$180 million.

Madam Vice-President, in my contribution to the budget dealing with these Caroni lands, lands that were vested in this area, what was very conspicuous in calling for an investigation into this land, how could one buy land for \$5 million and sell it for \$175 million? I called for an investigation. I had at that time postulated, by way of an educated guess in my experience in the legal fraternity, that the value of the development of the land could not have been more than \$20 million. It turns out that I was so close to the money that it is remarkable.

Quite interestingly, in preparation for this debate, I received some correspondence in my mailbox. Do you know what I discovered?

Sen. Lambert: Emails.

Sen. F. Al-Rawi: It did not come by email. It came by hard copy. Madam Vice-President, a company named SIS Limited which—

Sen. Hinds: Um-hmm. Again?

Sen. F. Al-Rawi: may be familiar to Senators present—in fact was the developer of this project.

Sen. Hinds: “Is so?”

Sen. F. Al-Rawi: And SIS Limited, through its principal, one Mr. Lalla—

Sen. Deyalsingh: “Mamoo, mamoo.”

Sen. F. Al-Rawi:—sets out the fact that the development cost of this land was \$19,761,275. I had estimated \$20 million. It turns out it was \$19,761,275.

Sen. Hinds: Not too far off.

Sen. F. Al-Rawi: I was not too far off. But, what I found extremely interesting in the document provided to me was this statement, Mr. Lalla’s position: selling price of development, \$175 million, less commission fees. Do you know what the figure is for commission fees, Madam Vice-President? Wild guess.

Sen. Hinds: “It have any code next to it, EM or anything?”

Sen. F. Al-Rawi: Fifteen million dollars in commission.

Sen. Hinds: Oooh goooooo!

Sen. Beckles: “Nah, that cyah be possible.”

Sen. F. Al-Rawi: Right? So I have a document in my hand called Computation of Settlement. It actually says “Private and confidential”. I got it in my mail box. What do I have here with these lands that we are talking about, vested in this Bill? Something bought for \$5 million, 2010; valued at \$55 million by a reputable valuator; sold for \$175 million to the HDC but in the statement under the label: “Mr. Lalla’s position of SIS Limited” commission paid on this deal, \$15 million. [*Interruption*] Well, that is the point.

My learned colleague is very sharp at 2:26:32 a.m. Do you know why commission paid to whom is required? Not having heard anything at all from October 2012, when I raised this issue first, having had hot pursuit of the Milshirv deal by the Government; hot pursuit by people including 18 members so described by Members opposite, nothing having been said in relation to this deal, I now call upon this Government, yet again, and the Integrity Commission to tell us who received \$15 million in commission. [*Desk thumping*] Because tonight as a Parliament, we are acting as trustees, essentially, for the beneficiaries of the sugar-cane industry.

Sen. Hinds: In the month of Ramadhan.

Sen. F. Al-Rawi: And this type of deal originates out of lands in the Caroni basin. Can we say that somebody was robbed, figuratively speaking, where a value at \$5 million then goes to \$175 million but somebody gets a commission or

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a kickback, maybe, of \$15 million? Well we need to know who. I join with Sen. Ganga Singh, the Leader of Government Business, in calling for an enquiry into this and for finding out who received this money. [*Desk thumping*]

Madam Vice-President, the second point in relation to land that I wish to make, it having been identified that this is agricultural purposes. It is a very interesting position and we talked about revisionism in crosstalk. But this is the position. We have here, a past Minister of Food Production, now Minister of Trade and Minister in the Ministry of Finance. We have here a present Minister of Food Production who in fact piloted this Bill. But we have a very curious circumstance in Trinidad and Tobago and it behooves me, this being my last point, that I reflect upon the stance of the Government of Trinidad and Tobago, in relation to food production.

Madam Vice-President, food production is the critical element that we must control in this country. We should be seeking to be self-sufficient. We have seen the import Bill go up in relation to food production. The hon. Minister of Trade has told us that has happened as a result of prices having increased, though volumes have not. In fact, volumes have gone down, as he said; something which my learned colleague, Sen. Hinds and Sen. Beckles have disputed. But in any event, that is what was said. And we have a very interesting position by the Government of Trinidad and Tobago first raised and put to the test, in fact, in the year 2012, is it or 2011?

2.30 a.m.

Madam Vice-President, what we had happen was in fact on April 24, 2011—I have got my dates slightly wrong. On April 24, 2011, Trinidad and Tobago was gifted to the news that bulldozers from the HDC, bright yellow bulldozers, were rolling into crops of sweet potatoes, cassava, pumpkin, bodi, at lands called Pineapple Crescent. So we were gifted to that, Madam Vice-President. In fact, there was serious uproar in relation to that and in an article entitled “Food Face-Off”, appearing in the *Trinidad Express* newspaper, by Akile Simon, on April 25, 2011, it says—and permit me, Madam Vice-President, to make quick reference:

“Scores of heavily armed officers—” [*Interruption*]

So Akile Simon has written this report, but I will come to who writes reports in just a moment.

“Scores of heavily armed officers from the Guard and Emergency Branch and the Inter-Agency Task Force took up strategic locations as bulldozers tore through more than 60 acres of land at Pineapple Crescent.”

Madam Vice-President, HDC is identified as having gone on to those lands:

“A Government source said farmers were issued with notices two years ago to vacate the lands.

Attempts to reach Minister of Food Production Vasant Bharath and Housing Minister Dr. Roodal Moonilal proved futile, as calls to their cellphones went unanswered...

President of the Agricultural Society of Trinidad and Tobago Dhano Sookoo said farmers had no issue with developing the nation since they too wanted to be part of this process. She said”—that lands belonging—“to the State but”—were—“leased several years ago to two farmers in the area.”

Madam Vice-President:

“Terrance Haywood, president of the National Food Crops Farmers Association, who was also at the site, condemned the actions...He said on March 16, a meeting was held between Moonilal and farmers regarding the lands. Haywood said at the meeting Moonilal indicated the Government intended to build houses on the land...He (Moonilal) said he would get back to us.”

Sen. Mohammed: Madam Vice-President, Standing Order 35(1), what is the relevance of this to the validation Bill that is before us?

Sen. F. Al-Rawi: Perhaps I could tell you, Madam Vice-President. I will link it for my learned colleague. I am speaking about the value of the beneficiaries for this eight hundred and seventy-something thousand dollars that cannot be identified—

Hon. Senator: No, no, no, that is a stretch.

Sen. F. Al-Rawi: I am not finished yet. Madam Vice-President, those beneficiaries, who are unidentifiable at this point, having received certain lands—I am talking about value of lands and, in this case, agricultural purpose, squarely defined into the replacement of the sugar industry. I am not stretching it.

Hon. Senator: Is it that these people want land for beneficiaries or are supposed to be beneficiaries?

Sen. Hinds: You will have your time.

Sen. F. Al-Rawi: So, Madam Vice-President, the fact is that:

“Farmer Karan Kabesingh was brought to tears as the bodi and pumpkin—in which he invested more than \$100,000...He said his bodi crop was fully grown...farmers were betrayed by Minister Bharath who recently made”—promises.

“...’My crop ready to reap...before my eyes I couldn’t do nothing. That’s for a man to kill, not only to cry. And somebody have to be responsible for this.”

So, Madam Vice-President, the point is, the Government of Trinidad and Tobago, bought bulldozers, went in and destroyed very valuable crops in this basin. Land in the hands of ex-Caroni (1975) Limited workers, who are beneficiaries in this position. So, many of these persons in there are dealing with the issue of agriculture and value.

The reason why I started here and to peg into more direct relevance, I should say for the record, that the hon. Sen. Vasant Bharath then went and stood up with those same persons standing up for their rights, saying that there would be food security and nobody would later be thrown off of lands that are producing agricultural worth and that the Ministry of Food Production, in fact, kept to its word by making significant investments into the food industry and in protecting the tenure of aggregable land in this country.

But Madam Vice-President, my point closer to this debate, which will satisfy hon. Sen. Devant Maharaj, is that lands in this area—

Sen. Maharaj: Which area?

Sen. F. Al-Rawi: In the Caroni area. Lands of Caroni (1975) Limited workers, and I will name the lands in just a second. Lands in this area have now come into the fore and they have come, in fact, as Sen. Deyalsingh said, into sharp focus so we are now squarely dealing with Felicity Lands—no dispute where Felicity is. Felicity Food Crop Project, Madam Vice-President, and the tale behind this particular piece of land, which is supported by the Ministry of Food Production wholeheartedly—at least in the past—

Sen. Mohammed: No, that is totally wrong.

Sen. F. Al-Rawi: Perhaps even in the present as my learned friend is saying opposite, it I catch him right.

Sen. Mohammed: No.

Sen. F. Al-Rawi: So, Madam Vice-President, upon the closure of Caroni (1975) Limited, a gentleman who is an ex-manager and a manager at the time of Caroni (1975) Limited, a gentleman by the name of Lyle Donawa, now deceased, in fact, identified two phases of land: phase one, where there were heavy T&TEC electrical wires on a particular piece of land near to mangrove swamps; and phase two, where there was a coconut area, which was identified for housing for Caroni (1975) Limited workers at that time.

Madam Vice-President, upon the identification of phase one and phase two, the following institutions went into gear:

the Agricultural Society of Trinidad and Tobago;

the Ministry of Agriculture, Land and Marine Resources, as it was called then;

the EMBD, the Estate Management Business Development Company;

the ADB, the Agricultural Development Bank;

NAMDEVCO.

These institutions came forward and in a pact with the ex-Caroni (1975) Limited workers and other persons on those lands in Felicity, allowed the formation of Felicity Food Crop Project and on that land, that very aggregable land, both phases went into production and, specifically, the EMBD agreed that the housing identified for Caroni (1975) Limited workers on that phase two land would be relocated and that the two phases of land would be used for full agricultural production. [*Interruption*]

So, Madam Vice-President, what is very curious is that the Ministry of Food Production then, through the hon. Minister Vasant Bharath, went into proper development of the land. Roads were created, drains were cleaned, irrigation systems were put in, millions of dollars poured in at the hands of the last Minister of Food Production.

Then, Madam Vice-President, by the year 2009 we see those lands yielding, in fact, three million pounds of sweet potato.

Sen. Singh: We came into the picture in 2010.

Sen. F. Al-Rawi: We then have, in 2012, those same lands now producing five million pounds of sweet potatoes, showing you the value of the lands that the Caroni (1975) Limited put into the hands of agriculturalists in this country.

What is very interesting to note as well is that the Centeno Research Station and the Holland Research Institute have been engaged in soil analysis, have provided the farmers with advice on what is required to be introduced into the soils by way of nutrients, have provided effluent analysis so that the mangrove swamps are not badly affected through the farming and the use of chemicals, et cetera, and Madam Vice-President, in 2011, these lands and the Felicity Food Crop Project received state land status for food production and, in fact, these people farming there received farmers' badges.

What now is the policy of the Government of Trinidad and Tobago? It can be found very clearly in two interesting articles which would lead me to my conclusion. The first one is an article in the *Trinidad Express* newspaper, which was written on June 29, 2013, and it says:

“What Kamla said”

And I am quoting here, Madam Vice-President.

“During her presentation of Khadijah Ameen as the United National Congress candidate...upcoming Chaguanas West by-election,”

The Prime Minister is quoted as saying with respect to the People’s National Movement’s candidate, Avinash Singh, the following words:

“The PNM has chosen one of your children from Felicity to fight against your party. He has made the wrong choice in standing as a soldier for the PNM.

I ask you tonight to show him his error and vote against him. Instead of standing to fight for what is right and what is best for Chaguanas West and Trinidad and Tobago he chose the side of oppression and neglect. He embraced those who subjected you and him as well to the worst form of abuse and discrimination. And that is why you have to fight against him, you have to show him the power of the righteous,’ Persad-Bissessar said.”

Madam Vice-President, July 04, 2013, Renuka Singh, *Trinidad Express* newspaper:

“PNM by-election candidate faces eviction”

The article says:

“...commercial farmer Avinash Singh, evicted from his 100-acre farming project.

A new twist in the build-up to the Chaguanas West by-election could see People’s National Movement...”—being evicted.

Madam Vice-President, Avinash Singh is reported as meeting with the PNM Leader Dr. Rowley, at Balisier House to collect his deposit cheque and he learned at that moment that agencies of the Government were breaching the Felicity Foodcrop Project where he, and his family and almost 100 other farmers had crops.

“Members of my family who were present on the farm called and passed the information to me that authorities were actually on-site and they’re actually threatening my workers, my staff, my family members and all the other farmers in the area,’ Singh said.”

Madam Vice-President, Mr. Singh said he and other farmers occupying the State lands had status. A document was given to them by the State for permission to be on the land.

He said that the—

“document was recognised by the Ministry of Food Production and the Commissioner of State Lands...”

‘All the members have legal documentation and legal rights to produce...’

He said this was the first time he was approached in the nine years he farmed that land.

Housing Minister Dr. Roodal Moonilal and Food Production Minister Devant Maharaj both yesterday confirmed their visit to Singh’s 100-acre farmland.

Moonilal said Singh was illegally squatting on the land and would be evicted, but denied that it had anything to do with the upcoming by-election.

‘That land has been earmarked for residential housing for the ex-Caroni Ltd workers. I think he (Singh) and the PNM is getting too nervous too soon.’

Moonilal said it was not just the Singh—and his—“family that would be removed but almost 100 farmers that utilised that illegal farming project...”

‘We have no evidence that he has been there for nine years but we do have evidence that he was served eviction notice...’

Singh said Minister Maharaj visited the project last year and endorsed it.

While”—Minister Devant—“Maharaj admitted that he visited the land, he said at the time he was unaware that it was illegal.

The Government will not tolerate any squatting...”

So, Madam Vice-President, we have, in 2011, the example of the Government of Trinidad and Tobago saying that bulldozing will go on for evictions. We have the Minister of Food Production, now Minister of Trade, Industry and Investment saying that will not be tolerated. We have agencies of the Government recognizing the rights of workers of Caroni (1975) Limited, saying there will be no vindictiveness. We have a Minister of Food Production visiting the lands, but we now have Minister of Housing, Land and Marine Affairs, Dr. Roodal Moonilal, saying you are going to evict somebody and it is no coincidence; it has nothing to do with the by-election.

Madam Vice-President, the fact is, this reeks of discrimination. The fact is, this is a breach of the established rights of farmers in that area. It is a breach of the specific undertakings offered by the Minister of Food Production and a representation by an agent binds the principle. This was a reason for which the Minister of Food Production then went on to the lands and this was a reason why it is a travesty beyond measure for the Government of Trinidad and Tobago [*Desk thumping*] to seek to persecute one man by destroying crops in Trinidad and Tobago and, more particularly, when Minister Moonilal could stand up and say, “They call meh the bulldozer man. I am coming”, on a public platform.

So, Madam Vice-President, if we want to talk vindictiveness, if we want to talk lack of consistency, if we want to talk abuse of Caroni (1975) Limited workers and ex-Caroni (1975) Limited workers who are beneficiaries of this Bill and who should be receiving this \$875,000, in addition to the valuable lands which are being sold at high prices elsewhere and lands which are not going to be used for housing, as Government agencies are aware, then we must contain this Government’s appetite for vindictiveness and we must put an end to this.

Madam Vice-President, we stand to support this measure. We agree that these moneys should be retired. We agree that the validation should happen in respect of these moneys but, Madam Vice-President, the hon. Minister should try and identify the beneficiaries of this money so that the Caroni (1975) Limited workers can receive these moneys to their benefit in proper form and fashion. We also call upon the investigation into the \$15 million commission into the lands that I have pointed out yet, again, nearly one year later—

Sen. Singh: Unrelated!

Sen. F. Al-Rawi:—and we call, Madam Vice-President, for consistency of approach on the part of the Government of Trinidad and Tobago so that farmers will not be persecuted in this land. I thank you, Madam Vice-President. [*Desk thumping*]

2.45 a.m.

Madam Vice-President: Sen. Ramkhelawan.

Sen. Subhas Ramkhelawan: Madam Vice-President, I welcome the opportunity to contribute to this, the Sugar Industry Control Board (Repeal) (Validation) Bill, 2013. As I did yesterday, when I contributed to the Dog Control Bill, 2013, I hope that I will be brief today in speaking to this particular Bill.

The chronology has already been given by the hon. Minister of Food Production, and the basis and reason for the validation seem to be clear in terms of that was done leading up from 1995 until now, but just to briefly recap, this transition would have taken place across several administrations from July 1995—

Hon. Senator:—1997.

Sen. S. Ramkhelawan: No, I am speaking to the validation, the repeal, 1995, up until this time 2013, and several things have happened in that chronology. The first is that the Ministry of Finance and the Economy, through its Divestment Secretariat, had given certain undertakings with regard to the orderly winding up of the affairs of the Sugar Industry Control Board within six months of the commencement of the Act which is July 1995. This would have taken us into early 1996—January 1996—and, thereafter, the winding up, as we are advised by the hon. Minister, would have been held back in the main, by a High Court matter which took several years and was resolved in 2005.

Next, the question of the auditors, Pricewaterhouse—now PricewaterhouseCoopers—were appointed to prepare a statement in order to aid the winding up of the affairs of the board, and such statement was submitted in 2006.

The matter of the surplus which was originally designated for beneficiaries being the cane farmers, has now gone or did go to the Consolidated Fund in 2012 in an amount of \$876,000-odd, but that is after payment to these cane farmers in the amount of some \$82 million over the period and, of course, there are matters pending with regard to how further support will be given to the cane-farming community out of the European Union funds, and I believe that matter is still to be settled, but I stick to the core of the matter today, which is the question of validation of these various actions that would have taken place.

It has been pointed out already that the Bill requires not less than a three-fifths majority. The matter, as I understand it, has already been passed in the House, and it is now up to the honourable Senate to pass this particular Bill and give effect to the validation of all the various actions that have taken place.

And so, therefore, once these matters are, shall we say, properly verified, then it is rather a simple matter for us now to validate and validate on the basis that delays would have taken place more on the fact that a court action took quite a substantial amount of time to be settled, and when settled in 2012, actions were taken relatively quickly thereafter to bring us to this stage where the affairs of that board can be effectively wound up.

I draw your attention to clause 5 of the Bill which is that:

“Within three months of the commencement of this Act, the Minister shall cause a copy of a report on the winding up of the affairs of the Board to be laid before both Houses of Parliament.”

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And that should, therefore, take us to the end of September, I would think, and we look forward to seeing that record. In the circumstances, I am prepared to give support to this particular Bill. I thank you, Madam Vice-President. [*Desk thumping*]

Madam Vice-President: Anybody else? Minister.

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Madam Vice-President, as I wind up—[*Crosstalk*]

Sen. Al-Rawi: Do not take any bait—

Sen. The Hon D. Maharaj: No, I have no choice, Madam Vice-President, but to take some of the bait here tonight. I thought this would have been a little brief session here and tried to stay away from the politics in my piloting but, unfortunately, the magnanimous gesture was not reciprocated by my erstwhile colleague, Sen. Al-Rawi. [*Desk thumping*]

I want to treat directly with some of the issues raised by Sen. Al-Rawi before I get into the meat of my response to him, and to answer some of his questions specifically. He asked the question, why this sum of \$876,000-odd was not paid to the Caroni (1975) Limited workers directly. But, Madam Vice-President, he forgets his political history.

I mentioned in my presentation perhaps on his many exits out of this Chamber, he did not hear it. There are TVs around, he could listen. Even the Attorney General is here paying attention to the contribution. In May 1994, the PNM appointed a committee to look at the treating of this money—your very own administration—and that committee recommended that given the moneys already expended for the transitional support of the Caroni (1975) Limited workers that the money be deposited in the Consolidated Fund. However, due to the court matters as mentioned by myself and repeated by Sen. Ramkhelawan, it dragged out, and I will get into that in a little while. However this administration followed through on that committee's recommendation, and we are here today to validate the action.

Madam Vice-President, Sen. Al-Rawi attempted to paint the PNM as the saviour of the sugar industry as he said that the PNM birthed Caroni (1975) Limited, but that is not what the PNM will be remembered for with Caroni (1975) Limited, Sen. Al-Rawi. They will be remembered forever for killing Caroni (1975) Limited and destroying the lives of thousands of Caroni (1975) Limited workers. [*Desk thumping*] You would not be remembered for birthing Caroni (1975) Limited.

Sen. Lambert: Let him talk.

Sen. The Hon D. Maharaj: Do not try to enter into revisionism of history at this point in time. We really did not want to go into this level of politics at this hour of the morning you know.

Sen. Lambert: “The whole country knows doh worry, the whole country knows.”

Sen. The Hon D. Maharaj: Madam Vice-President, Sen. Al-Rawi thinks that we would forget, the people of Trinidad and Tobago have short memories, we are foolish. We will not forget so easily, the blood, sweat and tears of thousands of Caroni (1975) Limited workers who laid the foundation for this country’s economic growth, its agricultural activity, that lay on the hands of then Minister of Agriculture, Minister Rahael at the time.

We understand on this side that the crux of this debate is this \$800,000-odd from the accounts of the defunct Sugar Industry Board to the Consolidated Fund, but we cannot allow the final nail into the Caroni (1975) Limited coffin to go without setting the record straight because, clearly, Sen. Al-Rawi attempted this morning to mangle that history and reconstruct it in a PNM twisted vision. He attempted, like so many within the PNM, to get rid of the ghost of Caroni (1975) Limited that haunts and will forever haunt the PNM.

We must begin with a holistic understanding of what exactly brought us to this juncture. Sen. Al-Rawi has attempted to side-step the issues: the lack of their political will to deal with Caroni (1975) Limited, the malice of their vision and the fatalism in their vision of the sugar industry, the lack of their understanding of the restructuring and the closure and the arrogance of their posturing at the time, and the empty promises of their maladministration and their total failure to deliver what was promised to the Caroni (1975) Limited workers in a timely and fashionable manner.

When it came to delivery of what was promised—and Sen. Al-Rawi mentioned that the fairest deal possible for the trade union, land, training, agricultural land—he went on. These were promised, but were they delivered? Were they delivered? The European Union, in their 2006 regulations, stated that the funding that was supposed to be provided be done in a timely manner to ensure that economic and socioeconomic fallout would not take place. This did not happen.

Again, Sen. Al-Rawi repeated what could have been predicted. We know the hymn book that the PNM sings from when it comes to Caroni (1975) Limited. It could have been predicted that the PNM would have said that the woes of Caroni

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(1975) Limited included subsidies, the removal of the preferential trade agreement. I did not stand in amazement here when he cited the Lomé Convention and the Cotonou Agreement. These were predictable.

The high cost of production—I am surprised he did not mention that the inability to compete with European sugar and other such things as lower labour cost and the claim that Caroni (1975) Limited was a drain on the Treasury of Trinidad and Tobago for 30 years, but what they did not say is that for 30 years, the PNM did nothing to modernize the sugar industry to make it competitive. They inherited an industry and allowed it to deteriorate, and then they condemned it subsequently.

Prof. Brinsley Samaroo, most recently, Madam Vice-President, in a contribution in the *Express* in May 2013 in an article entitled “Life after sugar” stated and I quote from him here:

There was a marked unwillingness to upgrade the methods of production by installing modern machinery, introducing new varieties of sugarcane or the production of high-end sugar products such as pharmaceuticals, ethanol or even soft drinks for the local and international markets.

The issue here was not that sugar was making a loss. The real issue, the crux of the matter, was not only mismanagement and corruption which were the hallmarks of the PNM administration, but was the lack of political will to deal with the challenges of Caroni (1975) Limited. [*Desk thumping*]

Sen. George: Yeah! Yeah!

Sen. The Hon. D. Maharaj: Karen Nunez-Tesheira, in her contribution in 2009, stated almost dismissively in a contribution in the House, and I quote directly from here:

The fact that industries come and go you do not hold on to something because you have done it for 20, 30 or 40 years.

Shutting down Caroni (1975) Limited and sending home thousands of people whose lives depended on it—

Sen. Lambert: Ten thousand! Ten Thousand!

Sen. The Hon. D. Maharaj:—was no big deal for PNM—sent home 40,000/50,000 people from central Trinidad. It does not affect you. Nobody voted for you there, you do not care about them.

Sen. Lambert: Fifteen thousand daily-rated.

3.00 a.m.

And, Madam Vice-President, this is the issue, because the PNM perceived the Caroni workers as supporters of the UNC, because they were located in traditional seats of the United National Congress—before it was the ULF and the DLP. So under administration after administration in the PNM, they dismissed central Trinidad and Caroni (1975), and, in fact, in the end, they felt to decimate Caroni would eventually lead to the destruction of the Opposition at the time, and that is inclusive of Chaguanas West.

That is why in the last election they barely scraped 1,400 votes. Nobody wants to hear, smell or see PNM in central Trinidad. And that is why today the PNM is barely campaigning, they are allowing Jack Warner to campaign for them. Where is Sen. Faris Al-Rawi campaigning with Avinash Singh who he boasted about as a million-dollar campaign?

Hon. Senator: Why he [*Inaudible*] election?

Sen. The Hon. D. Maharaj: Where is Sen. Deyalsingh in Chaguanas West? They are not on the streets. We are on the streets in Felicity. [*Desk thumping*] Where is Sen. Fitzgerald Hinds? I am not seeing him in the streets of Felicity.

Sen. Al-Rawi: Were you screened for Chaguanas West?

Sen. The Hon. D. Maharaj: You will be welcomed.

Sen. Ramlogan SC: Yes, Penny is always welcomed [*Inaudible*]

Sen. The Hon. D. Maharaj: Not the rest of them.

Sen. Ramlogan SC: Penny and Henry, nobody else.

Sen. The Hon. D. Maharaj: Sen. Al-Rawi points to the fundamental problem of the PNM. They only saw Caroni (1975) Limited as a balance sheet item. They did not see the shutting down of Caroni (1975) Limited as having social implications of laying off some 20,000 sugar workers, and the abandonment of close to 8,000 cane farmers.

The affected communities of central and south Trinidad suffered as a result of the closure. The actions of the PNM with that closure caused dismay, pain and suffering, frustration among all those workers, and that you will never be forgiven for. [*Desk thumping*] Prof. Brinsley Samaroo in that same article, noted the loss of medical clinics, educational support—the same education that Sen. Al-Rawi boasted about that the PNM started in many areas, but that closure resulted in a loss of educational support given to schools in the sugar area; the maintenance of recreational facilities, roads, access roads, traces, sluice gates, cemeteries, spraying—mosquitoes are rampant now in central Trinidad, some from outside. [*Laughter*]

Sen. Ramlogan SC: You have 45 minutes again.

Sen. The Hon. D. Maharaj: I am taking my time.

The Sugar Industry Welfare Committee played a very important role in the establishment and the sustenance of villages in the cane areas. The Caroni (1975) Limited provided loans for housing at affordable rates, the development of infrastructure, maintaining several areas. The death of the sugar industry widened the net of the socially displaced. When you look at what evil that the PNM perpetrated on the people of central Trinidad with the closure of Caroni (1975) Limited, and the ills associated—it is easy for you to laugh you know, because you all are not affected. You did not see the rise of alcoholism. You did not see the demise of families. That escaped you, right, so you laugh because you are in north Trinidad, part of the PNM family. You hide behind the cloak.

Sen. Al-Rawi: “Sen. Deyalsingh did not born in Caroni.”

Sen. The Hon. D. Maharaj: You hide behind the cloak of the VSEP package which Caroni workers were essentially forced to take, and we heard it again mentioned earlier by Sen. Al-Rawi. The Voluntary Separation Programme promised severance benefits such as monetary enhancement, pension, land for agricultural purposes, housing, counselling. As an initial step, most of these promises, if not all, were unfulfilled under the PNM.

So Sen. Al-Rawi talked about lands being promised, training being promised, agricultural land, housing lots, all, if not all, were unfulfilled by the PNM. You have boasted on something which you have not delivered on. Madam Vice-President, between 2003 to 2010, less than 5 per cent of the lands promised by the VSEP to former Caroni (1975) Limited were distributed—less than five. [*Desk thumping*]

Hon. Senator: Oh goooooood!

Sen. The Hon. D. Maharaj: So what were the lands you were talking about in your contribution that were delivered? I do not know if it is the Avinash Singh land alone that was distributed.

Sen. Ramlogan SC: A hundred acres.

Hon. Senator: “Bulldoze all of them. Bulldoze dem.”

Sen. The Hon. D. Maharaj: We focus on time, and the Opposition is now talking about time to wind up, but time was not important for the Caroni workers.

Sen. Ramlogan SC: “Dey wind dem up.”

Sen. The Hon. D. Maharaj: They “wine” them. These employees, these former employees of Caroni (1975) Limited were forced to take their issue to the courts of the land, and the then Prime Minister was prepared to carry this as far as possible to the Appeal Court, even the Privy Council, if they had their way.

The judgment that was delivered by Justice Deyalsingh on December 07, 2007 will never be forgotten by the Caroni (1975) Limited workers, when he ordered the Government, on or before June 30, 2008, to grant agricultural and residential leases promised to the VSEP workers, with all proper infrastructure including access roads, drainage, irrigation facilities and electricity. In light of all of this, unfulfilled promises, the then Minister of Finance, Karen Nunez-Tesheira, in 2009 had the nerve to tell this nation that the \$7.7 billion spent on shutting down Caroni (1975) Limited was money well spent.

People were losing their lives, families disrupted, workers had to carry the Government to court, but that, again, is another trademark for the PNM—fight down the population, you have to go to court in order to get your way. Now, if this was money well spent, “so well spent”, according to the PNM’s Finance Minister, why in 2013, did Prof. Selwyn Ryan in his report, “No Time to Quit: Engaging Youth At Risk”, for which Sen. Bernard may have appreciation, why did he recommend in that, and I quote:

“A specific policy should be designed for job creation for those who suffered job loss with the closure of Caroni (1975) Ltd. This could include an employment agency specifically geared towards this group.

A counselling centre with trained psychologists/psychiatrists should be established in Central Trinidad to facilitate traumatized former employees of Caroni 1975 Ltd.

Employment creation should be considered to compensate for job losses in Central Trinidad due to the closure of Caroni 1975 Ltd, recreation facilities, and education and training to alleviate a growing alcohol abuse and domestic violence problem in Central Trinidad.”

But was not the VSEP supposed to address all of these issues? Was not the VSEP, so where the money went? Where did the \$7.7 billion go under PNM? Sen. Al-Rawi is wondering about \$150 million here, why is he not wondering about the \$7.7 billion?

Sen. Al-Rawi: It is right there.

Sen. The Hon. D. Maharaj: Perhaps you should go to former Sen. Saith to find out.

Sen. Al-Rawi: Yeah, and he would tell you exactly where it was.

Sen. The Hon. D. Maharaj: And you are calling for an investigation into this one, \$150 million, I should ask the Attorney General to look into this \$7.7 billion to see where it went.

Your administration, the PNM administration placed their friends and families in strategic positions in Caroni (1975) Limited, and as soon as they did that, millions of dollars at Caroni were pocketed, spirited away, carted away, assets just disappeared, was misappropriated, or left to rot. Up to recently one of the chimneys fell.

Sen. Singh: Rao was related to that?

Sen. The Hon. D. Maharaj: Friends and family were hired. The Employers' Consultative Association—I do not know if you are familiar with that, "Louis Lee Sing sister running that"—Employers' Consultative Association was given some \$16 million to \$18 million to retrain workers, yet the Ryan report is asking for workers to be retrained. *[Interruption]*

Sen. Al-Rawi: *[Inaudible]* some figures went—

Sen. The Hon. D. Maharaj: Talk about traitors. Your figures alone right. Then when we look at Utharo Rao, the famous "EMBD Romeo", he was hired by the PNM to head up this company after the closure of the sugar industry in 2003. And most recently, in a Public Accounts Committee meeting in 2011—I think Sen. Hinds chaired that committee—several issues were raised regarding financial impropriety of that organization, including an investment of \$50 million in Clico, which was done in his name. Utharo Rao took \$50 million of taxpayers' money and set up a policy on his name.

Sen. Lambert: Wow! Sen. Hinds know about that in the joint select committee?

Sen. The Hon. D. Maharaj: He knows about that.

Sen. Lambert: And he has not mentioned it.

Sen. The Hon. D. Maharaj: Why is Sen. Al-Rawi not calling for a commission of enquiry, an integrity commission investigation on that? The EMBD wrote off some \$9 million in bad debt, and there is no documentary evidence to prove anything otherwise; they shred all the documents. EMBD cannot explain another \$9 million in management fees, proceeds from contractors, who extracted from Caroni (1975) Limited. Some \$1.2 billion was spent on developing the lands in Caroni (1975) Limited, and another \$2 billion is missing.

We just assume that money missed under the PNM management of Caroni (1975) Limited, and we are talking about the billions of dollars. Sen. Lester Henry who occupies himself with economics for the PNM, is not concerned with the \$2 billion that was missing, just simply unaccounted for. EMBD, like HDC and UDeCott, under the PNM was a failure. *[Interruption]*

Sen. Ramlogan SC: You have 40 minutes again.

Sen. The Hon. D. Maharaj: Yeah. *[Laughter]*

Sen. Beckles: It is 3:11 a.m., you know.

Sen. The Hon. D. Maharaj: Yes, we have time.

In the contribution of Sen. Al-Rawi, he spoke as if unions of this country were against this administration. It was only one union, and they are closely aligned to the PNM because they have the leader and the leadership of the PNM speaking on their platform. But he did not speak to what did the union of Caroni (1975) Limited have to say about their march and how it relates to the assets of Caroni (1975) Limited.

I would like to quote from their press release as to why they refused to participate in that march—and I quote from their release, and they said:

The callous and brutal shutdown of the sugar industry, without any proper mechanisms in place to alleviate the subsequent hardships of thousands of persons dependent on the industry and the treatment of the ex-Caroni workers at the hand of the PNM, was tantamount to an abuse of power and the blatant discrimination perpetrated on one segment of our population and nation.

Hon. Senator: Is not you write that?

Sen. The Hon. D. Maharaj: That it is All Trinidad Trade Union—Nirvan Maharaj, the President General of All Trinidad. But I want to come back to EMBD, because we are talking about the assets and disposals as introduced into the debate by Sen. Al-Rawi. EMBD was charged, as mentioned, for developing the two-acre agricultural plots, as well as the residential lots for the Caroni workers. In 2004, Madam Vice-President, EMBD began work on some 17 agricultural estates to produce 7,248 two-acre plots, and on 22 residential sites to produce 7,664 residential lots. By 2008, EMBD had spent \$1.2 billion in doing infrastructure work, and having spent \$1.2 billion, Sen. Beckles, not a two-acre plot nor a residential plot was completed. You spent \$1.2 billion and not one single two-acre plot, not one single residential plot was completed. Is that value for money?

Sen. Al-Rawi: So none of that money was spent there?

Sen. The Hon. D. Maharaj: Well, where was it spent? We should find out how much Utharo Rao took in court settlement for sexual harassment.

Sen. Al-Rawi: Where is the court case?

Sen. The Hon. D. Maharaj: They settled out of court. On December 07, 2007, Justice Deyalsingh delivered a judgment that mandated by June 2008 to deliver all the residential and agricultural land to the Caroni workers.

Hon. Senator: I remember that. [*Desk thumping*]

Sen. The Hon. D. Maharaj: Instead of acknowledging that they owed the Caroni workers something, instead of making amends by implementing the judgment, what did the PNM do? They decided to appeal, fight down the workers and working class as has been their strategy, and they launched an appeal, soaking up more time and more money, hoping that some of the workers would die out—they have no claim again.

3.15 a.m.

Between 2008 and 2010, the EMBD spent a further \$800 million in developing these agricultural lands, having spent \$1.2 billion they spent a next \$800 million.

Madam Vice-President, when we came into office in May 2010, we realized not a single residential lot was completed for distribution for the Caroni (1975) Limited. They spent close to \$2 billion. Where did the money go?" They distributed some 800 agricultural leases—[*Crosstalk*]

Sen. Hinds: “Yuh aint deal”—[*Inaudible*]

Sen. The Hon. D. Maharaj:—but the poor infrastructure—the poor atrocious infrastructure—did not allow Caroni workers access to the agricultural lands to perform any sort of farming on these two-acre plots. What we inherited was—[*Interruption*]

Sen. Hinds: Was a \$150 million.

Sen. The Hon. D. Maharaj:—\$2 billion spent by the EMBD, no proper approved infrastructure work on the agriculture lots or the residential lots that were promised close to a decade before.

In fact, Madam Vice-President, what appears to be perpetuated on the people of Trinidad and Tobago was a great hoax. What EMBD did, led by their general Uthara Rao, “was PVC pipe dat just ram in de ground with nothing below”.

So when you drove by these areas you used to see these PVC pipes sticking out and you assumed that there was some infrastructure that flowed through that PVC. Well when we came into office and we pulled it out, we realized “dey was planting pipe”; [Laughter] [Desk thumping] planting pipe, not infrastructure.

Hon. Senator: They were hoping it would grow.

Sen. The Hon. D. Maharaj: That is why you failed at agriculture; pipe does not grow. [Laughter]

Sen. Singh: “Dey use de pipe man in front of it.”

Sen. Ramlogan SC: Yeah.

Sen. The Hon. D. Maharaj: Madam Vice-President, there were roads that they paved, I mean, the PNM’s common sense leaves a lot to be desired. Roads were paved and two cars could not pass there. A car and a bicycle could not pass there. [Crosstalk]

Sen. Al-Rawi: Try your land rover.

Sen. The Hon. D. Maharaj: Right. “Dat is why we hatuh use ah range rover because we going over pavement too.”

Sen. Al-Rawi: You should try one.

Sen. The Hon. D. Maharaj: They built underground corridors where they put electricity and water in the same thing. They created a disaster with EMBD. Who supervised that? Who was the Minister in charge?

Sen. Lambert: “Well you cyar blame Hinds, he was out of it.” [Laughter]

Sen. The Hon. D. Maharaj: Madam Vice-President, these are just some of the scandalous, corrupt practices and expenditure of the last administration, the PNM. [Crosstalk] So when you hear the Caroni workers asking for their lands— [Interruption]

Hon. Senator: How much more—[Interruption]

Sen. George: Forty-five minutes. [Laughter]

Sen. The Hon. D. Maharaj:—and not being able to develop—and not being able to get these lands, you understand why.

Sen. Deyalsingh: “Yuh own side, boy.”

Sen. The Hon. D. Maharaj: Madam Vice-President, in May 2010 when we came into office, EMBD had a debt of \$4 billion. EMBD had a debt of \$4 billion and two months before we came into office not a [Crosstalk] [Laughter] No. No. No. There were some [Desk thumping] \$200 million in contracts; \$200 million in contracts given [Crosstalk] out without the proper tendering procedure being followed. The ironic part, Madam Vice-President—[Crosstalk]

Hon. Senator: Nobody will defend you again. [Crosstalk]

Sen. The Hon. D. Maharaj:—is that when we came into office there was no documentary evidence of this. What happened instead, documents were shredded, contracts were destroyed. [Crosstalk]

Sen. George: You have 45 minutes again. Keep going.

Sen. The Hon. D. Maharaj: “Ah going.” [Desk thumping and laughter] I want to repeat. Over \$4 billion in debt, \$200 million in contracts and not a shred of evidence.

Sen. George: Yes.

Sen. The Hon. D. Maharaj: It was destroyed.

Sen. Ramlogan SC: Why? “Drop pipe in dey tail, man.” [Laughter]

Sen. The Hon. D. Maharaj: Uthara Rao had done a job of hiding and destroying those documents.

Now, Madam Vice-President, I want to turn now to the infamous Felicity Food Crop Project—[Interruption]

Hon. Senator: Oh, my God.

Sen. The Hon. D. Maharaj:—as mentioned by—[Interruption]

Hon. Senator: Ahhh.

Sen. The Hon. D. Maharaj:—Sen. Al-Rawi.

Hon. Senator: We now getting warm.

Hon. Senator: Waxing warm.

Sen. The Hon. D. Maharaj: In his position as PRO of the PNM defending a candidate who he has perhaps never seen the constituency for. [Crosstalk] He mentioned that I visited the farm and I want to give him the background to that. As Minister of Food Production, I am approached by farmers across the length

and breadth of this country to visit their farm, see their operations. I have visited farms from Toco to Cedros and at the ADB's office in central Trinidad, I was approached by a farmer to visit a farm. He gave me directions and I visited him the next day.

I assumed that he had a lease for the land. I did not ask him to see his document, as I have never asked any farmer to see the lease. I assume that the land that they occupy they have some sort of legal right to be there.

Hon. Senator: "Yuh going good."

Sen. The Hon. D. Maharaj: I visited several farms in the area however, on a recent visit to the Felicity area I, along with Dr. Moonilal, was approached by a mob of Caroni workers crying out for their residential lots, and they carried us to a spot called "the coconut" in Felicity, claiming that these individuals were squatting on State land that was originally identified as residential lots for the Caroni workers.

Sen. George: "Oh, gooooood!"

Sen. The Hon. D. Maharaj: And this 100-acre parcel formed one part of it. The question is: who gave Avinash Singh 100 acres? Who gave Avinash Singh 100 acres? Was it Sen. Al-Rawi?

Sen. Al-Rawi: Caroni (1975) Limited.

Hon. Senator: Was it Sen. Deyalsingh?

Sen. The Hon. D. Maharaj: Or was it Sen. Hinds? Because I know it was not the Commissioner of State Lands.

Sen. Al-Rawi: It was Sat Maharaj.

Sen. The Hon. D. Maharaj: I know it was not the Ministry of Food Production. So what you had here was individuals descending on State lands and grabbing lands. Grabbing lands and seizing lands to plant it up. They then took land, water—a water supply illegally—[*Interruption*]

Sen. Al-Rawi: "How de ABD lend dem money?"

Sen. The Hon. D. Maharaj:—to the property.

Sen. Al-Rawi: What de ABD—

Sen. The Hon. D. Maharaj: They acquired no EMA clearance, ECEC, to do what they did there. [*Crosstalk*] I would like to know at this point in time, Madam Vice-President—[*Crosstalk*—is the PNM's position that they approve of squatting on State lands? Does the PNM, as a policy—

Sen. Al-Rawi: What is the Government's position for agricultural production?

Sen. The Hon. D. Maharaj:—accept squatting on State lands?

Sen. Al-Rawi: Your Government—

Sen. The Hon. D. Maharaj: This Government's policy is that we do not tolerate infractions of the law—[*Interruption*]

Sen. Ramlogan sc: Yeah! Yeah! [*Desk thumping*]

Sen. The Hon. D. Maharaj:—including squatting, but the PNM seems to embrace lawbreakers.

Sen. Al-Rawi: “Why the ABD geh dem money?”

Sen. The Hon. D. Maharaj: They take them up and put them up as candidates.

Sen. Al-Rawi: Why Food Production lend them money? Why NAMDEVCO—[*Crosstalk*]

Sen. The Hon. D. Maharaj: And it is by adopting a legalistic approach to lands and the Ministry of Food Production activities that this administration has seen a decrease in food inflation from 29 per cent in 2010 to 9 per cent in 2013. [*Desk thumping*] It is this adoption of a legal and proper procedural approach to food production that we have seen a move from negative 32 growth in agriculture to positive 2.6 growth. [*Desk thumping*]

Sen. Karim: “We go call de [*Inaudible*] right here.”

Sen. The Hon. D. Maharaj: And this is why, Madam Vice-President, all illegal occupiers of State land—[*Interruption*]

Hon. Senator: Must go.

Sen. The Hon. D. Maharaj:—must go and the PNM must say if they tolerate squatters.

Madam Vice-President, it now 3.23 a.m. and with these few words, I beg to move. [*Desk thumping*]

Sen. Ramlogan SC: Who is the second speaker from our side? Jamal?

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 5 ordered to stand part of Bill.

Sen. George: Everybody looking in Al-Rawi's direction. [*Laughter*]

Preamble approved.

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

Senate resumed.

Bill reported, without amendment.

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

Madam Vice-President: This Bill requires a three-fifths majority.

The Senate voted: Ayes 30

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.

Howai, Hon. L.

Moore, Hon. C.

George, Hon. E.

Karim, Hon. F.

Bharath, Hon. V.

Mohammed, Hon. J.

Moheni, E.

Maharaj, Hon. D.

Ramnarine, Hon. K.

Lambert, J

Sylvester, D.

Herry, Miss P.

Beckles, Ms. P.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.
 Deyalsingh, T.
 Ramkhelawan, S.
 Baptiste-Mc Knight, Mrs. C.
 Drayton, Mrs. H.
 Balgobin, Dr. R.
 Ramkissoo, Prof. H.
 Wheeler, Dr. V.
 Prescott SC, E.
 Armstrong, Dr. J.
 Bernard, Dr. L.

Question agreed to.

Bill accordingly read the third time and passed.

3.30 a.m.

JOINT SELECT COMMITTEE REPORT

**Insurance Bill, 2013
 (Adoption)**

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai):
 Madam Vice-President, I beg to move the following Motion standing in my name:

Be it resolved that this Senate adopt the Report of the Joint Select Committee appointed to consider and report on a Bill entitled, An Act to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes.

Madam Vice-President, hon. Senators will recall that on Tuesday, May 28, 2013 the Insurance Bill, 2013 was introduced in the Senate. During the debate on the Bill which took place in the Senate on Tuesday, June 18, 2013, I indicated that the Bill also intends to address those allegations of abuse from the members of the public who have complained about our insurance industry over the years and to maintain confidence in and promote the soundness and stability of the financial system in Trinidad and Tobago.

Consequent on the debate and second reading, this Senate agreed that a joint select committee should be established to consider and report on the Insurance Bill and consequent on the agreement of the House of Representatives, the Senate also agreed to appoint the following Senators to serve on the committee: Mr. Larry Howai, Dr. Bhoendradatt Tewarie; Mrs. Christlyn Moore, Mr. Subhas Ramkhelawan, Mrs. Helen Drayton and Mr. Faris Al-Rawi.

On Friday, June 21, 2013 the House of Representatives agreed that a joint committee should be established, and proceeded to appoint the following members to serve: Mr. Stephen Cadiz, MP; Mr. Jairam Seemungal, MP; Mrs. Carolyn Seepersad-Bachan, MP; Dr. Delmon Baker, MP; Mr. Colm Imbert, MP and Miss Marlene Mc Donald, MP.

This committee was empowered to consider the general merits and principles of the Bill and was required to report to the Parliament by July 09, 2013. The committee held its first and only meeting on Friday, June 28, 2013. At that meeting I had the honour to be elected as its chairman. The committee was cognizant that the Third Session of the Tenth Parliament was nearing an end and the discussions at that singular meeting centred on how to effectively progress the work of the committee within the limited time. The committee identified the following elements as essential in the progress of its work:

1. Stakeholder consultations would be conducted prior to the consideration of the details of the Bill.

[MR. PRESIDING OFFICER *in the Chair*]

2. Written submissions on the Insurance Bill, 2013 would be requested via the print media with a deadline of August 31, 2013.
3. Representatives of the Central Bank, because of the involvement in the drafting of the legislation would be invited to make a presentation to the committee.
4. Written submissions would be used to determine other entities or individuals to be invited to give evidence to the committee.
5. An independent expert would be sourced via the Parliament from a Commonwealth country.

In the report of the committee that is now before the Senate and which has already been adopted by the House of Representatives, the committee recommends that:

1. the Parliament take note of the progress made by the committee thus far;

2. in the Fourth Session of the Tenth Parliament, that a similar committee be appointed to complete the work began by this committee; and
3. This new committee be empowered to adopt as part of its records the work done to date.

Mr. Presiding Officer, I beg to move. [*Desk thumping*]

Question proposed.

Question put and agreed to.

Report adopted.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. Presiding Officer, before I move the adjournment of the House, I wish, having regard to the fact that it is the beginning of the month of Ramadan, I wish to call upon my colleague, the hon. Minister, Jamal Mohammed, to say a few words and bring greetings on behalf of the Government.

Eid Ul Fitr Greetings

The Minister of Communication (Sen. The Hon. Jamal Mohammed): Thank you very much. Mr. Presiding Officer, on behalf of the Government of the Republic of Trinidad and Tobago and on my own behalf I would like to take this opportunity to extend greetings and best wishes to the national community and especially members of the Muslim community, on the commencement of the holy month of Ramadan for this year.

The month of Ramadan is indeed a very special time for Muslims here in Trinidad and Tobago and the world over. It is a period of fasting and in fact we have just under one hour's time to start the fast for the first day of fast in the month of Ramadan. It is a special time; a time for charity; a time for discipline; a time for peace; a time for togetherness and a time for love, sharing and hope, on behalf of the Muslim community and the world over.

We are so lucky here in Trinidad and Tobago that members of the Muslim community here can perform our duties and responsibilities as Muslims in relative peace and calm compared to other parts of the world like in Syria or in Egypt, where even now in this month of Ramadan there is great turmoil and uncertainty. So, we are grateful for the opportunity. We are guaranteed the right of worship in our country, we cherish that right, and as we observe this month of Ramadan we

want to learn all the lessons that are available in this great month of Ramadan. When we fast during the day we come level and equal with those who do not have food on a regular basis, so it is a great lesson for all mankind.

I want to recommend fasting for all members in this honourable House and for the people of Trinidad and Tobago. There are great benefits that can be derived from fasting. It teaches you numerous lessons. We have this one month of Ramadan which will culminate in Eid ul Fitr sometime in early August and we want to take this opportunity to extend best wishes to the Muslim community and the people of Trinidad and Tobago as we observe another holy month of Ramadan. Thank you very much. [*Desk thumping*]

Sen. Faris Al-Rawi: Thank you, Mr. Presiding Officer. Bismillahir rahmanir rahim, bismillahir rahmanir rahim, bismillahir rahmanir rahim. It is in fact four minutes past the time of Fajr, which is literally the beginning of our particular fasting time.

The month of Ramadan, just for those anecdotally—“ramad” means the hottest or driest. It is scorching literally in Arabic, and Ramadan is meant to be the month of the driest time of the year. It is the time in which Muslims by edict from the Qur’an specifically recognize fasting for the receipt of the words of the Qur’an, because it was then that the Hadith tells us, that the Qur’an tells us that there were revelations made. In fact, in the month of Ramadan there is a Laylat al-Qadr which is the night of power, which comes towards the end of the month of Ramadan.

It is in that time that great revelations were made to the Prophet—may peace rest upon him—Muhammad and that mankind was gifted with the words of the Almighty Allah. It is meant to be a time of reflection and prayer and, indeed there are certain five pillars of Islam, very importantly including the giving of alms or Zakat. Fasting, of course, is a prerequisite and fasting is meant to bring greater rewards to the spirit than any other time of year. But it is particularly in the giving of alms, and it is particularly in the Iftar which is the end of the day when you all gather together and you break your fast and you sit as a family and as a community.

In the Middle East, in fact, it is a village-wide or city-wide celebration where the Sheiks’ homes are open and the entire area comes to feast together and to pray together. So, it is a really special time all through the world.

As the child of a Muslim father, a Presbyterian mother, a Hindu grandfather, raised in a Catholic school, I think I can say with full testimony that Trinidad and Tobago brings together the best elements of religious tolerance, of charity and of

Eid Ul Fitr Greetings
[SEN. AL-RAWI]

Wednesday, July 10, 2013

kindness, and to all of Trinidad and Tobago, on behalf of the PNM, and for us all, I wish Ramadan Kareem, which is how you would say it, which is a blessed or generous month of Ramadan, so that we may all reflect together in humanity as one purpose. Thank you, Mr. Presiding Officer. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Ramadan Mubarak to all my brothers and sisters of the Muslim faith.

It is indeed a special time, not only for our Muslim brothers and sisters, but for all of us in Trinidad and Tobago, as we share in this wonderful month of sacrifice. Because sacrifice brings its own results and I can attest to that when I see my Muslim brothers and sisters enjoy the month while at the same time they endure the fasting.

So, I want to, on this the first day of fasting, extend my very best wishes to the Muslim community. And to our Muslim brothers and sisters within the Senate here, I pay special tribute to you knowing that you are going to make a significant sacrifice over this month.

But, Mr. Presiding Officer, before I close, it is the last day of this year that we are going to meet as a Senate, and I am speaking about the parliamentary year, and it has been a challenging year for us all, and the work that we have had to do has been rather extensive. I want to extend my best wishes and congratulations to all in the Senate and to the staff, in particular, who would have had to bear with us, not only those from Hansard, but our clerical support and our security support as well. I extend to you best wishes for some modicum of rest, when we no longer have to carry these long days and nights.

And to my colleagues on the Independent Bench, I wish you all the best and look forward to seeing you, each and every one of you in the next term as it commences. [*Interruption*]

[MADAM VICE-PRESIDENT *in the Chair*]

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

Madam Vice-President: Hon. Members, as informed by Minister Karim last night—I have to say last night—I know the new moon was sighted and it sends a signal of the commencement of the holy month of Ramadan. I know you all would have brought greetings, and so I wish to add for my own part, the opportunity to say Ramadan Mubarak to the Muslim community, and I know that you are engaging in a very strong and intense time of Iman or building of faith as you go through this period. So, I wish you all Ramadan Mubarak to the Muslim community.

Eid Ul Fitr Greetings

Wednesday, July 10, 2013

I would like to also take the opportunity, as we shall be proroguing this Third Session of the Tenth Parliament tomorrow, well today, to thank each and every member of this Senate, as well as those who have served on a temporary basis, from time to time, for the support and all the effort in carrying out all the duties and responsibilities with which we are all entrusted in ensuring the upholding of the sanctity of this honourable Parliament. It has been an honour to serve you and to serve with you.

I would like in particular to thank the Parliament staff by recognizing the Marshal and Deputy Marshal, Mr. Caesar and Mrs. Marlene Andrews, as well as the security officers assigned to Parliament, Miss Sharon Debisette at the President's Office, Mrs. Nataki Atiba-Dilchan and Mr. Julien Ogilvie, and all members of the Senate Secretariat; [*Desk thumping*] Hansard officers guided by the very able and competent Miss Kathleen Mohammed for the professional and courteous service and support to us all.

I also would like to recognize the leaders of the three Benches, the Government, the Opposition and the Independent Bench for what I said earlier as effective and far-reaching collaborative efforts in ensuring smooth proceedings of the Senate sessions of this Parliament. So, I would like to wish each and every one of you as we move on, a very successful period before I meet you again.

Hon. Senators, the question is, this House do now adjourn to a date to be fixed.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 3.46 a.m.