

Leave of Absence

Tuesday, May 13, 2014

SENATE

Tuesday, May 13, 2014

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Anand Ramlogan SC and to Sen. The Hon. Embau Moheni, who are both out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency The President, Anthony Thomas Aquinas Carmona, S.C., O.R.T.T:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
 CARMONA, O.R.T.T., S.C., President and
 Commander-in-Chief of the Armed Forces of
 the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
 President

TO: MR. CHRISTOPHER JOEFIELD

WHEREAS Senator the Honourable Anand Ramlogan is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, 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, CHRISTOPHER JOEFIELD, to be temporarily a member of the Senate, with effect from 13th May, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator Anand Ramlogan.

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 12th day of May,
 2014.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
 CARMONA, O.R.T.T., S.C., President and
 Commander-in-Chief of the Armed Forces of
 the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona O.R.T.T. S.C.
 President

TO: MR. LARRY LALLA

WHEREAS Senator the Honourable Embau Moheni is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, 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, LARRY LALLA, to be temporarily a member of the Senate, with effect from 13th May, 2014 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Embau Moheni.

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 13th day of
 May, 2014.”

OATH OF ALLEGIANCE

Senators Christopher Joefield and Larry Lalla took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Venture Capital Incentive Programme for the year ended September 30, 2007. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Venture Capital Incentive Programme for the year ended September 30, 2008. [*Sen. The Hon. L. Howai*]

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Venture Capital Incentive Programme for the year ended September 30, 2009. [*Sen. The Hon. L. Howai*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Venture Capital Incentive Programme for the year ended September 30, 2010. [*Sen. The Hon. L. Howai*]
5. Audited Financial Statements of the Deposit Insurance Corporation for the year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
6. Annual Administrative Report of the TAURUS Services Limited (TAURUS) for the fiscal year ended September 30, 2011. [*Sen. The Hon. L. Howai*]
7. Annual Administrative Report of the Government Human Resource Services Company Limited (GHRM) for the year October 2010 to September 2011. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
8. Annual Report of the Police Complaints Authority for the year 2013. [*Sen. The Hon. G. Singh*]

SELECT COMMITTEE REPORTS

(Presentation)

(Ministries (Group 1) and on the Statutory Authorities and State Enterprises)

Sen. Elton Prescott SC: Mr. President, I have the honour to present the following report as listed on the Order Paper in my name:

Eighth Report of the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 1) and on the Statutory Authorities and State Enterprises falling under their purview on Primary School Education.

Planning and Facilitation of Development Bill

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Mr. President, I have the honour to present the following report as listed in the Supplemental Order Paper in my name:

Report of the Special Select Committee of the Senate appointed to consider and report on a Bill entitled, "An Act relating to the Planning and Development of Land and to repeal and replace the Town and Country Planning Act, Chap. 35:01, the Planning and Facilitation of Development Bill.

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, you will recall that questions 72 and 73 were deferred last week because of the absence from the country of the Minister of Education. In those circumstances, by agreement with the hon. Member, Sen. Camille Robinson-Regis, those questions will be answered by the Minister of Education today. We will ask for a deferral of questions 74 and 76 for one week and we will also answer question 75. So 72, 73 and 75.

The following questions stood on the Order Paper in the name of Sen. Camille Robinson-Regis.

**Laptop Programme
(Details of)**

- 74.** With respect to the “Laptop Programme” for Secondary School entrants, could the hon. Minister of Education indicate to this Senate:
- (a) the actual expenditure to date on the Programme;
 - (b) the cost of repairs to date and the name(s) of persons or firms contracted to effect the said repairs of these laptops; and
 - (c) the name(s) of the manufacturer(s) of the laptops and the supplier(s) of same, if different?

False Allegations Investigation

- 76. A.** Would the Attorney General indicate the status of the police investigation, into the alleged conspiracy to pervert the course of Public Justice, arising out of revelations by one Dhansam Dhansook, that the said Dhansam Dhansook made false allegations against two (2) former ministers of government and following which, the Director of Public Prosecutions referred the said matter to the police for its attention and investigation?
- B. Is/are any other agency(ies) of the State conducting this/these investigation(s)?
 - C. When are these investigations expected to be concluded?
 - D. Based on the current status of these investigations, are criminal charges a probable result?

Questions, by leave, deferred.

**Textbook Programme
(Details of)**

72. Sen. Camille Robinson-Regis asked the hon. Minister of Education:

In regard to the “Textbook Programme”, could the Minister indicate to this Senate:

- (a) the actual cost of the “Programme” for the years 2010, 2011, 2012 and 2013 and the projected cost for 2014?
- (b) the amounts approved by the Cabinet prior to the actual expenditures for this programme, for each of the years at (a) above?
- (c) the actual number of textbooks purchased in each of these years by the Government, in order to facilitate this programme?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Thank you very much, Mr. President. The textbook programme for primary schools, secondary schools, Early Childhood Education Centres and special education schools—we have approximately 134 secondary schools, 476 primary schools and over 190 Early Childhood Education Centres, 14 Government special education schools and 11 private special education schools.

We purchased textbooks, equipment and material for all these schools in Trinidad and Tobago. The purchase for 2010 for primary schools was \$13,451,578.59. And may I be privileged to just round it off—or if you want the exact details in cents I will give it. The secondary schools is \$4,422,641.89, making a total expenditure of \$17,874,220.48 for 2010.

In 2011 for primary schools, \$17,931,100; secondary schools, \$15,450,000; special education—for the first time we were providing money for special education materials in 2011—\$2,280,900, a total of \$35,662,000.

In 2012, primary schools: we made a big jump because in 2012—we had been asking the teachers and the principals, in 2011, what textbooks they want to have used in the schools because previously textbooks were provided and they were not used by the teachers and the principals and the textbooks were dumped in a corner and not used and remained in cellophane plastic wraps and so on. So in 2011 we made a decision to ask the teachers to indicate which textbook they want to have for which particular subject. We completed that exercise in 2011, so in 2012 we purchased textbooks that were in keeping with what was being used in the schools. Therefore, in particular subject areas, parents did not need to purchase

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any other textbook than the one we provided for the students in these relevant subjects. From Infant Year 1 to Standard 5 and from Form 1 to Form 6, all of these books that are being used had been recommended by the principals on the advice of the teachers who use these textbooks in the classroom.

1.45 p.m.

In 2012: primary schools, we spent \$46,454,477.98; the secondary schools, \$33,422,700.25; and for special education—we made a jump—\$4,980,411 totalling in 2012, we spent \$84,857,589.23.

In 2013: primary schools, \$31,087,739.85; secondary schools, \$33,805.971; and special education—we continued to give them more and more support because they are critically important—\$5,134,902.25. So in 2013, we spent \$70,028,613.10.

Mr. President, projected for 2014—because when we purchased in 2012, these books are to be used in a three-year cycle with a 10 per cent top-up every year on the original purchase for loss, for pilferage and for defacement of the textbooks, et cetera. So projected for 2014, primary schools we project we will spend \$28,020,590; secondary around \$10,334,141; and for special education, \$2,876,605.

So, Mr. President, between 2010 and 2013, four years, we have spent close to over \$245 million in providing textbooks for the students of Trinidad and Tobago; approximately \$245 million. [*Desk thumping*]

As far as the amount approved by Cabinet prior to the actual expenditures for the period 2010—2013: in 2010, Cabinet approved the expenditure of \$35,790; 2011, \$35,201,457; 2012, \$94,074,633.26; and 2013, \$82,448,306.14. Approximately \$247 million had been approved by Cabinet for 2010—2013 to purchase the textbooks for the students.

Mr. President, the textbooks purchased in each of these years by the Government for the period 2010—2013: From Infant Year 1 to Standard 5—it is important to note that the students use the same books in Standards 4 and 5. We use different books for Infant Year 1, Infant Year 2, Standard 1, Standard 2, Standard 3, but the Standard 4 textbooks are used in Standard 5.

In 2010, we purchased 247,105 textbooks; in 2011, 195,704 textbooks; in 2012—which was the year we began to do the initial purchase again, not a top up—756,685 textbooks; in 2013, 239,791 textbooks. So for primary schools from 2010—2013, Mr. President, we purchased 1,439,285 textbooks for just primary schools in our four-year period. [*Desk thumping*]

For Forms 1 to 6: In CAPE subjects Form 6, in unit one and unit two they use the same textbook. So from Form 1 to Form 6, in 2010, we purchased 107,537 textbooks; in 2011, 146,366; 2012, 436,463; and in 2013, 120,196 textbooks for Forms 1 to 6. Mr. President, that came up to 810,562 textbooks for secondary schools students. [*Desk thumping*] So, in total, 2010, we have purchased 354,642 textbooks; 2011, 342,070 textbooks; 2012, 1,193,148 textbooks; and 2013, 359,987 textbooks. Mr. President, in total between 2010—2013, the Government of the Republic of Trinidad and Tobago provided 2,249,987 textbooks for the students of Trinidad and Tobago.

Thank you. [*Desk thumping*]

Sen. Robinson-Regis: Supplemental, Mr. President. Minister, would you be able to state how many textbooks each student gets in the secondary, primary and special? Thank you.

Hon. Dr. T. Gopeesingh: For each one of the subjects, language arts mathematics and social studies in the primary schools, we gave one textbook per subject for the students. In the secondary schools, we have eight compulsory subjects up to Form 3, and for each of these eight subjects one textbook was provided. For Form 4 and Form 5, the textbooks were provided basically based on the subject areas that were being done in Form 4 and Form 5, and there are about 34 subjects that are being offered at CSEC level and various schools will do different. But the textbook where the students wrote a particular subject, they were provided the textbooks for those subjects.

At CAPE, I believe we do about 24 subjects—that number I will have to be just a little cautious about. But for each one of the subjects done at CAPE, we provide a textbook for the student at unit one—that is the lower sixth form which they use in the upper sixth form as well.

Sen. Robinson-Regis: Sorry, and these special?

Hon. Dr. T. Gopeesingh: I do not think I am able to give you the details of the special. But the special education involves both instructional materials for the special-needs students and some textbooks which are relevant to their development.

Sen. Robinson-Regis: Further supplemental, thank you. Minister, are you aware that in many instances the students get these textbooks very late? Is there some mechanism being put in place to ensure that this does not continue?

Hon. Dr. T. Gopeesingh: Sure. When we came in the system was relatively weak because there was the absence of the ELMED, which is the mechanism for determining which textbooks to use. So, we took some time to establish a proper

system and through that then we had to tender. There are certain books that certain publishers have a monopoly on, and certain textbooks that we have to import from abroad with the publishers. So some of these importation, they used to bring them by boat and we paid now for them to be brought by air. So there were some delays by the publishers themselves trying to seek the textbooks and to print the textbooks locally because you saw where we needed over 2 million textbooks for the four-year period.

So, for the first time in 2012, we had four established printers in Trinidad and Tobago printing the textbooks in Trinidad and Tobago, rather than the printing being done in India and China which was done previously. [*Desk thumping*] So for the first time in 2012, the textbooks being used in our schools were being printed and work given to the publishing companies and the people, so we had more employment practices for the people.

Minister Stephen Cadiz brought to my attention that the printers were complaining and we immediately stepped in to make sure that the printing was done locally, and from then we began to get the textbooks in a more appropriate time. The distribution takes some time but, by and large, we finish within about a two-month period for the distribution. There are certain times where we may not have completed the distribution for one reason or the other, but we work towards ensuring that all the students get their textbooks at best as possible on time.

Sen. Robinson-Regis: Further supplemental. Thank you, Mr. President. Minister, you talked about the time, but most of the students tend to get these books very late even though they are now being printed here. But as the mother of young children, I am well aware that they get the textbooks quite late.

Hon. Dr. T. Gopeesingh: Well Senator, I am very happy to indicate that I am sure that your twin children will be able to get their books when they are needed and we hope that we will be able to guarantee that. We take your point that some of the books have not been delivered on time, but as we move from year to year we have closed in on the lag time and we have improved the efficiency and effectiveness of the delivery of the system. [*Desk thumping*]

Sen. Robinson-Regis: Further supplemental, Minister. Minister, could you indicate whether all students get these books? When I say all students, I mean students who are in government schools, government-assisted schools and private schools?

Hon. Dr. T. Gopeesingh: We purchased the textbooks so that all students should be given, and we try as much as possible to link with the principals and the supervisors to make sure that the students get their textbook.

If for some reason the student has not been provided with a textbook, that would have been brought to our attention which we would have remedied at some time. And as far as the private schools are concerned, I have to come back to you on that. It is to be determined. We have 76 primary schools that are private. I am not sure we purchase for them, but I know we give them a lot of the materials for the examination purposes. We have 18 private/secondary schools which we work with as well, but that answer can be forthcoming if you ask me subsequently again.

Sen. Robinson-Regis: Thank you, Minister, because I know at one point there was some concern that the private schools were not in the ambit of the programme and I think that needs to be sorted out.

Hon. Dr. T. Gopeesingh: I am sure we take all measures. Because no students must be left behind and we will take all measures to ensure that all students in our country—quarter million students—no one is at advantage over another and no one is disadvantaged over the other. [*Desk thumping*]

Sen. Robinson-Regis: Thank you.

Sen. Al-Rawi: Further supplemental as I welcome the hon. Minister to this Senate, officially. Hon. Minister, would you be in a position to tell us whether there has been any thought of marrying the distribution of texts, particularly locally published texts, via electronic means, particularly insofar as we have taken as a nation a very large step into providing the hardware aspect of this?

Hon. Dr. T. Gopeesingh: Thank you Senator. In fact, just recently through Cabinet, the Prime Minister instructed the Minister of Education to work towards ensuring that these textbooks are provided in the e form, so that the burden of having to carry these textbooks to the schools by students of an early age will be a thing of the past. So, I have already started discussions with the 24 publishers we have locally and about 10 that we get books from internationally. So far, it seems to be relatively rewarding, but further discussions are taking place and further information will be given to the nation as far as that is concerned. But it is actually being discussed. [*Desk thumping*]

Sen. Al-Rawi: Further supplemental. Hon. Minister, is the process for the procuring of these texts, et cetera, something which is managed by the Central Tenders Board, or is it managed in another mechanism?

Hon. Dr. T. Gopeesingh: Through your last administration, the management of the purchase of textbooks was handed over to Educational Facilities Company Limited. We continued with that practice, and EFCL has been the company that has been tendering with an open tender for the purchase of these textbooks, but

about 80 per cent of these generally have sole publishers. In addition to that now, we are moving to set up an ELMED team and we are advertising pretty shortly for individuals, nationally, who want to assist the Ministry in helping us to determine which textbooks should be used in which schools. Not just the principals and teachers submitting, but amongst the lot in a particular subject might be about seven or eight authors and eight textbooks.

So we have to make a decision which one to purchase and, therefore, we need the competence and the hands of people who are knowledgeable in this field in the assessment. So we are setting up the programme and advertising for people of competence to come forward and give some assistance in that. But the tendering is done with full transparency and accountability at all times.

2.00 p.m.

**Secondary Entrance Assessment Candidates (SEA)
2010—2013
(Details of)**

73. Sen. Camille Robinson-Regis asked the hon. Minister of Education:

Would the Minister indicate the number of Secondary Entrance Assessment (SEA) candidates for years 2010, 2011, 2012 and 2013?

The Minister of Education (Hon. Dr. Tim Gopeesingh): Thank you, Mr. President. The number of students who wrote the SEA examination in 2010—well, from 2010—2012, they averaged approximately 17,600 candidates, but the breakdown of it: 2010, 17,268 wrote; 2011, 17,280; 2012, 17,863 and 2013, this year, 18,345.

Hon. Senator: 2014.

Hon. Dr. T. Gopeesingh: 2014. I seem to have missed out the figure for 2013 but I will get that back to you. This year, 2014: 9,312 males wrote and 9,033 females. We had requests for special considerations of students who were having difficulties, whether special-needs students or students with some form of—*[Interruption]*.

Sen. Robinson-Regis: Sorry, Mr. President. Excuse me, Minister, I did not hear you clearly because I was being disturbed by the Leader of Government Business. Could you kindly repeat the breakdown? Thank you.

Hon. Dr. T. Gopeesingh: 2010, 17,268; 2011, 17,280; 2012, 17,863 and 2014, 18,345, with 9,312 males and 9,033 females. This year, we had special consideration for 359 students who we had to give extra length of time and look after them carefully, because they had one form of dysfunctionality or the other.

The birth rate is approximately 17,500 per year so the amount of students—now, who were placed? We placed 97.7 per cent in government and government-assisted schools, private secondary and pre-vocational centres; 92.4 in government and government-assisted, that is in 2010; 97.6 placed in schools—government and government-assisted and private secondary and pre-vocational centres. Approximately, 2 per cent of the students go to pre-vocational centres and approximately 3 per cent—2.9, 2.8, 2.7—go to private secondary schools and approximately 92, 93 per cent go to government and government-assisted schools.

There are students, about 2.3 per cent of the students, annually—around 2 per cent—who write the SEA and are under 13 years of age after March 31 of the particular year, and whose average composite scores were 30 per cent or less, were allowed to repeat the SEA and standard 5. We have found that they continue to benefit from this repeat on the basic competencies of numeracy and literacy.

Mr. President and hon. Senators of this House, we have witnessed from 2010—2013, we had about 123 primary schools underachieving by virtue of the tests that they were given in standards 1, 2, 3 and 4 in different subject areas. We have now moved 100 of those schools to achieving and 100 moved from achieving to excelling. [*Desk thumping*] So, 100 of these schools have moved to achieving now, and those that were achieving, 100 have moved to excelling.

We have had an improvement in the language arts aspect of the examination, 10 per cent. In fact, on the international benchmarking by PISA, out of 48 countries studied, we have gained at least 35 points which is equivalent to a six-month improvement for the students in standard 3. [*Desk thumping*] We still have far to go but we are working assiduously to reach there. We have had a 12 per cent improvement in creative writing.

We have also witnessed a dramatic lessening of the students getting less than 30 per cent in their exams from 14 per cent, when we came in, to 6 per cent now. We want to reduce that to zilch. [*Desk thumping*]. Students obtaining greater than 50 per cent, we had about 58 per cent at one time. Now, we have moved to 72 per cent of our students getting greater than 50 per cent. [*Desk thumping*]

This year, Mr. President, out of the students writing, you know we have reviewed the Early Childhood Education curriculum reform; we have done that. The last administration did some good work on that and we want to thank them, [*Desk thumping*] but we have gone a little further to bringing about some numeracy and literacy in that. We have now reformed our primary school curriculum. It is totally re-written and we have now introduced, for the first time,

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since 2012, issues as morals, values, ethics, citizenry development, character development, physical education, visual and performing arts, health and family life education and agriscience.

This year, in 2014, 20 per cent of the marks for the SEA went towards the assessment of the students in standard 5 in these subject areas. These were moderated by 270 officers who were properly well trained to moderate the examination process, and further moderation took place with CXC. So, it has been a tremendous effort on our part to bring that together, Mr. President. [*Desk thumping*]

Mr. President and hon. Senators, the areas that we examined the students by continuous assessment were: character and citizenship education, science, drama and English language arts writing, which is called creative writing. Next year, 2015, in May, 40 per cent of the marks will be given to the continuous assessment component, and students in standard 4, this year, would have been given, by the end of this academic year, 20 per cent which they will carry over into standard 5 next year for the next 20 per cent. And so, the SEA examination in May 2015 will be written to give 60 per cent of the marks in language arts and mathematics which will be the examination and 40 per cent by continuous assessment.

Mr. President, we have had a number of statements made on the question of the SEA examinations. I believe that this Government is on the right path towards ensuring a better type of examination process. The continuous assessment component will now be contributing 40 per cent and we await our stakeholders' consultation to give us more on what the nation, as a whole, believes on how we should continue to move beyond the 40 per cent continuous assessment and 60 per cent for the examination for language arts and mathematics. [*Desk thumping*].

Sen. Robinson-Regis: Supplemental question, Mr. President. Minister, well, first of all, thank you for indicating that the previous administration did some good work. [*Crosstalk*] I am surprised at your generosity. But, seriously, Minister, could you indicate what is meant by—how do you assess a school that is underachieving, one that is achieving and one that is excelling?

Hon. Dr. T. Gopeesingh: In standards 1 and 3, schools are given examination, at the end of the year, on particular subjects. I believe standards 1 and 3 is in social studies and something else, and in standards 2 and 4, they are given examinations as well, in language arts and mathematics. There is an examination at standard 3 where they compile the assessments done in standards 1, 2 and 3, they bring them together and they are able to determine which schools

need a lot more help. That has been one of the areas that we have been working with the schools, to help determine which of the 476 schools we need to focus on to help lift their standards. The work that we have done has shown results to some other results. Previously, we had about 42 schools, I remember, in 2010, getting students placed in the first 200 in the SEA. Now, we have 81 schools getting students in the first 200. [*Desk thumping*]

So, the assessment tool that we are using by the Division of Educational Research and Evaluation, we continue to work with that and providing the ammunition for empirical data to substantiate decision-making as to what we do with the schools. We have found that the implementation of a number of policies and programmes for intervention in these schools has paid rich dividends and rewards, so that we have moved the level of performance to where we want to go. We have not reached there totally yet but we are well on the way to achieving a better level of education in all our primary schools.

We had discussions with the heads of the denominational boards. Some of their schools were not doing very well. We identified them, we identified the schools, and we have been working with the denominational boards to help strengthen, and they have been collaborating and cooperating in a remarkable way, all for the benefit of our students in Trinidad. So, our input, when we achieve Universal Early Childhood Education by 2015, all our 36,000 students will be taken care of in a formal manner, the input into the primary schools will be better, and the input from the primary schools will undoubtedly reflect on the performance of the students in the CSEC and CAPE.

We have now, more than—previously, about 3,500 students were writing CAPE, now, 4,500 students are writing CAPE. [*Desk thumping*] And previously, where about 27 schools were getting open and national scholarships in the CAPE examinations, generally denominational board schools, we now have 41 schools getting open and additional scholarships—secondary schools—and 11 of those are government schools, so that government schools are doing better. Mr. President, thank you.

Sen. Dr. Mahabir: Supplemental, Mr. President. Yes, thank you very much for giving way, Sen. Camille Robinson-Regis. On the last point, Minister, I am interested in knowing what the specific measures implemented by the Ministry which will account for the improvement in the school performance and student performance in the underperforming schools are. Thank you.

Hon. Dr. T. Gopeesingh: Thank you, Senator. Mr. President, it has been a multifaceted approach. First of all, we identified the issues in the school and the performance. We brought it to the interest of the denominational boards and the principals of the schools and the school supervisors. So, we have set about with a

better school-based management system. We have had interventional policies to ensure that literacy and numeracy become a significant part of the education process. So, when they would have had one or two periods, or a few periods, per week, we doubled those periods and so we were able to see better performance in language arts and mathematics. So school-based management, intervention of the boards to make sure that they are looking at the schools a little more.

Literacy and numeracy programmes: we had 82 teachers who did a master's degree in reading. We made sure that they were spread across the entire school system where these schools were not performing so they added an impetus in terms of the literacy. And the mathematics, we began to use more manipulatives in the system from early and so that has been proving to be an additional boost for the students' competency in the numeracy aspects.

Sen. Al-Rawi: Further supplemental, Mr. President. Thank you, hon. Minister, for such very excellent news. We are all warmed by this kind of news. Hon. Minister, insofar as we have made significant progress in the primary school and early childhood development, administration to administration, what is of concern—and I am wondering whether you have or are in a position to address this. If we look at the figures, just quoted a moment ago by you, of 4,500 CAPE candidates, when we compare that figure to some 18,000 children born, birth rate at 17,500/18,000 passing through SEA, we realize that as a nation, we are doing a pretty good job at SEA level. But, 4,500 students out of that is 25 per cent of the mark. It seems that the chasm really exists in the secondary school environment. I accept that you may not be in a position to answer this now but I am very interested. Is there anything in train to deal with the secondary school performance in particular?

2.15 p.m.

Hon. Dr. T. Gopeesingh: It is multifaceted again, but I know I only have 18 seconds again to answer. But a lot of the students, the Minister of Tertiary Education and Skills Training will tell you, that a lot of them stay at the O level/CSEC, and they go on. A lot of them will go on to do the four-year programme, the associate degree and the bachelor's degree in the tertiary learning institutions, most of which are private. So some choose to stop at CSEC and some choose to go on to the CAPE.

We have also had very good results in CAPE, moving from 86 per cent getting grades 1—5, to now 93 per cent of the students in CAPE getting grades 1—5. I am not fully satisfied with the CSEC Examination results, but we are working

assiduously to bring the level of performance up. This is why we are visiting schools, one by one, speaking to principals, getting the supervisors more interested, having school-based management—in fact, in a number of areas we are implementing programmes to lift the standard of the students doing the CSEC Examination.

Sen. Dr. Singh: Mr. President, a further supplemental for the Minister, if that is okay? I would like to know if the special needs students you spoke about, if you are aware, if they receive textbooks when they go to the vocational schools as well as their laptops that are due for Form 1 students? Because those schools do not have form levels in them and usually—those schools do teach IT, but from what I am aware of, they do not receive their laptops.

Hon. Dr. T. Gopeesingh: The hon. Prime Minister asked me recently to check into that issue of the need for assisting those special needs schools with equipment and instruments that would facilitate and improve the education process for the students—those with special needs.

We have 14 Government schools with special needs, and 11 private, catering for about 3,000 students. We believe that the special needs population is about 30 per cent of our student population, but we are working feverishly to begin to determine and identify early problems—well, prevent first, identify early and manage and treat. Because of our Student Support Services division, we have increased that to over 730 personnel, with one guidance counsellor per school, school social workers, behavioural, educational and clinical psychologists. We are taking personnel on to help with the students who have special disabilities.

We intend to build a number of schools for students with special needs, and we are looking at autism, dyslexia, attention deficit hyperactive disorder, visual, hearing—Minister Khan has been helping as Minister of Health, in visual and hearing screening, and visual and auditory. We are also looking at the Down's Syndrome, those with cerebral palsy and those with other types—emotional, behavioural and psychological abnormalities. We have special education teachers in schools. We are pulling them out of the system, and we are bringing them now to train them in identifying these difficulties at an early age.

Sen. Dr. Singh: Further supplemental?

EXTENSION OF QUESTION TIME

Mr. President: Senator. The time has elapsed for question period. So I will call upon the Leader of Government Business to indicate his position.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, having regard to the interest indicated by the Independent Senator, Dr. Kriyaan Singh, I think we should allow the supplemental to be completed in this particular question, having regard to the fluidity of the answers given by Dr. Gopeesingh. So at the end of this, then we will go on to the other business at hand.

ORAL ANSWERS TO QUESTIONS

Sen. Dr. Singh: Thank you. I just wanted to know if the Government has any intention of starting to print or ask for the textbooks to be printed in braille, or to be audibly provided for the blind and for the visually impaired, because they have been requesting provision of materials for education.

Hon. Dr. T. Gopeesingh: Well, that is part of the discussions that we are having, and in furtherance of that, the Prime Minister had instructed me to purchase some braille machines. We have purchased over 200 braille machines for students who are visually impaired in schools, and for the School for the Blind. We are moving now to see exactly what you are speaking about to get the textbooks printed in braille, so that the students can use them. In addition, all of the libraries in Trinidad and Tobago now have braille machines and JAWS Machines, to help the visually impaired as well. [*Desk thumping*]

Mr. President: Supplemental?

Sen. Robinson-Regis: Yeah, just one further supplemental. Thank you very much, Mr. President. Minister, you said that 2 per cent of the students go to pre-vocational centres, can you tell me what happens to this 2 per cent with the pre-vocational, do they end up in vocational centres or are they eventually absorbed into the regular school system?

Hon. Dr. T. Gopeesingh: I would really like to—I have not done any analysis of that in any detail, but we know that they are benefiting, and as far as—we have been working with Servol. In fact, the Early Childhood Education Centres, Servol runs 71 of these for us. We continue to work with them. The vocational centres, they assist us as well, but we are looking more dedicated to see the performance of the students, and what way we can continue to work and collaborate with Servol to bring about a better student, in terms of tech/voc education.

Previously, only 42 secondary schools were doing tech/voc. Now, we have 102 secondary schools doing tech/voc education. We have over 950 teachers, teaching in technical/vocational education subjects remember, it is compulsory up

to Form 3. So we are moving more and more schools, and my colleague Minister Karim is very happy that we have been able to give more input into his work on technical, vocational and skills training. More students now are benefiting from the programmes.

Sen. Robinson-Regis: Thank you.

Sen. Roach: Further supplemental? Minister, could you please indicate what is the policy or initiatives being engaged by the Ministry of Education, in terms of making all public schools physically friendly, I mean disabled—friendly at this point in time?

Hon. Dr. T. Gopeesingh: You mean environmentally-friendly, physically-friendly?

Sen. Roach: Yeah. In terms of access.

Hon. Dr. T. Gopeesingh: Well, I have visited over 130 schools, and just yesterday I visited a number of 10. The new construction programme we are doing certainly has access for that. Those that are there now, I would have to look to see how we can make them a lot easier for the students who are physically challenged. I can give you the guarantee that all—we have constructed 14 primary schools already, 17 more are under construction. I visited three yesterday, they all have ramps that are providing some access for the physically challenged.

With secondary schools, we are doing the same thing. We have completed eight secondary schools, we have 15 under construction, and we have 15 more to go. We have 17 primary schools under construction, having completed 14. We have 21 more on the drawing board to start pretty shortly. Well, you know, we have built 53 Early Childhood Education Centres, but that is a level playing field and that needs no type of special addressing. But for the primary schools and the secondary schools, we are working feverishly to put in access where they are actually needed. We have an idea of how many students in the school will need the physical infrastructure to facilitate their movements, and we are trying to work to provide that.

We also have done over 3,000 repair and maintenance projects in all our schools in Trinidad and Tobago over the four-year period, at a cost of close to \$550 million, and in over 800 schools over the period of time. And part of this is to make the school more user-friendly, environmentally-friendly and the physical infrastructure improved to a considerable extent. [*Desk thumping*]

EXPIRATION OF QUESTION TIME

DNA Sample Storage

(Details of)

75. A. Would the hon. Minister of Justice kindly indicate the name and general location of the Unit/Department that stores DNA samples for future identification purposes?
- B. Would the Minister further indicate which State official has responsibility for this unit?
- C. Would the Minister advise as to whether such samples are held at only one agency and whether there is any other repository of such material?
[*Sen. C. Robinson-Regis*]

Question time having expired, question 75 was not dealt with.

NURSES AND MIDWIVES REGISTRATION

(AMDT.) BILL, 2014

[Second Day]

Order read for resuming adjourned debate on question [February 25, 2014]:

That the Bill be now read a second time.

Question again proposed.

Mr. President: Hon. Senators, the debate on the following Bill which was in progress when the Senate adjourned on Tuesday, April 15, 2014 will be resumed, a Bill to amend the Nurses and Midwives Registration Act, Chap. 29:53.

Those who spoke on the last occasion on Tuesday, April 15, 2014 were: The Minister of Health, the mover of the Motion, hon. Dr. Fuad Khan; Sen. Avinash Singh; Sen. Helen Drayton; Sen. The Hon. Fazal Karim, Minister of Tertiary Education and Skills Training; Sen. Stuart Young; Sen. Dr. Victor Wheeler; Sen. Diane Baldeo-Chadeesingh; Sen. Anthony Vieira; Sen. Faris Al-Rawi; Sen. Dr. Dhanayshar Mahabir; Sen. David Small; Sen. Elton Prescott SC and Sen. Dr. Aysha Edwards. The hon. Dr. Fuad Khan, Minister of Health commenced his response and he has another 30 minutes of original time. [*Desk thumping*]

Hon. Dr. F. Khan: Thank you very much, Mr. President. First, let me thank the hon. Senators on the last occasion for their contributions, and also bringing home, Mr. President, my deficiency of legislative drafting, being trained as an urologist and not a legislative drafter.

I have taken the decision after being placed under such scrutiny, and looking at amendments which I have taken on board from everyone, that I am thinking of doing the LLM in legal drafting, [*Laughter*] because I understand it is now here in

the University of the West Indies in St. Augustine. So when, Mr. President, I return as the Minister of Health, when the People's Partnership wins the next election, [*Desk thumping*] for another five years, then we will be able to have a shorter time in the drafting processes of the health Bills.

You see, Mr. President, I must say I learnt a lot from the hon. Independent Senator, Mr. Prescott and he has continued his teaching ways by tabling some amendments to the legislation, which I have taken on board, and I will speak about.

I have also tabled some amendments which I hope the Opposition will look at, because I will go through them because I know it is a bit late, and I want to—forgive me for being a little late with them, but I will definitely be walking it through as we speak. Yes?

Sen. Al-Rawi: Hon. Minister, thank you for giving way. I thank you for the long list of amendments. I was wondering insofar as we are gathered a month after we did this debate, just two days short of a month, is there a track change version of not only the Bill, but the Act which is to be amended to follow the extent of amendments that have been tabled this afternoon, so that we can appreciate what is being said?

I have taken a look at this having just gotten it. It proposes amendments to the Bill and also amendments to the Act by way of a new section, but fitting it into the context so that we can have a meaningful discussion in relation to it, would be assisted sincerely by a marked-up version of the Bill or Act. Is that available perhaps through your parliamentary counsel that has assisted you in this?

Hon. Dr. F. Khan: Hon. Senator, I am very glad you raised that because that was the CPC, I think, parliamentary counsel that looked at it. There is a sort of a marked up version, but I think we will gain a lot by—since we have a lot of time today, and this is the only Bill on the Order Paper. We will gain a lot by just walking it through, and I have certain parts of it which I could share with you as we move forward.

There are certain parts that were placed, new areas, however, everything was done based on the debate last day, and it has not significantly changed, Mr. President, the Act in any great extent. What it has done was define certain parts of the Act to bring it into the system where the Senators brought about certain concerns. So walking it through or if after I do walk it through, you decide that you want to have another part of it, so be it.

Nurses & Midwives (Amdt.) Bill, 2014
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Now, I would like if—while we are going through it, if you would like to ask questions on it, we will be glad to answer and also at the committee stage.

Now if we turn to the actual—[*Interruption*] Sure.

Sen. Robinson-Regis: Would you give way?

Hon. Dr. F. Khan: Yes sure.

Sen. Robinson-Regis: Thank you kindly. Mr. President, in light of what the Minister just raised, and given the fact that these amendments are quite—there are quite a number of amendments, we would probably want some time, even after you have gone through them—as you said, you are going to walk through them—for us to look at these amendments in detail, just for us to be sure of what we are amending, and for us to have an idea, you know. We will need some time, because we have only just got these.

There are quite a number of amendments—to clause 32, three pages of amendments and on both sides. I would like to indicate that we will be asking for some time to look at these amendments carefully, because this is a matter that is making some serious changes to what is the norm. We will be asking for some time. So I would like to put that on the table.

Hon. Dr. F. Khan: Hon. Senator, I take on board what you just said, but what I would like to ask is that you let me go through the system and then afterwards if you so desire, we could at least put it to the vote and see if you get—[*Inaudible*]

2.30 p.m.

Sen. Al-Rawi: Hon. Minister, thank you. While I am factoring, while you are winding up, hon. Minister, the list which was circulated says, “List of amendments made in the House of Representatives during Committee Stage of the Nurses and Midwives Registration (Amdt.) Bill”. Is it that this is what the House made that was not tabled in the Bill that we debated, or are these amendments to be included? I am not quite sure which version is which because they are not dated. Perhaps on the other one.

Hon. Dr. F. Khan: I think you have the wrong one.

Sen. Al-Rawi: These are amendments to be moved in the Senate further to those listed in the House?

Hon. Dr. F. Khan: Yes.

Sen. Al-Rawi: Right. And is there, just while you are wrapping up, a consolidated version of the Bill itself? Forget the Act!

Hon. Dr. F. Khan: I will ask for it, but there is something there that I do not really want to put on the table just yet, until I am finished.

Now, Sen. Prescott has also listed some amendments, but let me just go through a short précis of what this is about. The Nurses and Midwives Registration (Amdt.) Bill speaks to developing two categories of new nurse levels: one, the nurse intern; and two, the advanced nurse practitioner.

The nurse intern is a new concept as well as the advanced nurse practitioner. The nurse intern will be those who have not yet written the licensing exam and who will be afforded a provisional certificate for a period of time in order to work in the system under supervision and then, doing so, write the licensing exam over a period of time. That was argued the last day, on the time given for that, and we have looked at it and changed a lot of the time for the provisional certification. So we will look at that as we go through the amendments.

The advanced practice nurse is another new category of nurse that is one above that of the actual registered nurse and those nurses who have experience, who have a master's degree, a Ph.D., or a long period of different service, who can now function under supervision at the level of primary health care, doing possibly prescriptions, as well as examinations and possibly interactions with injections.

So those are the basic two categories of this Bill. In addition, it speaks to that of what we call the male midwife and that part of the Bill has also been amended. I would like to start by looking at the amendments circulated.

The first amendment is clause 5A of the actual amended Bill. It says here to insert after the clause 5 the following new clause, which is section 3 of the Act amended.

“The Act is amended in section 3(2) by inserting after the words “enrolled as” the words, “advanced practice nurse”.

Sen. Prescott has indicated that “enrolled” should not have two ‘l’s; it should have one ‘l’. So we took that on board. That is one part of it.

The other section, if you look at clause 6, the amendment that Sen. Prescott has moved, he has indicated that we delete the word “midwifery”. Senator, if we delete the word “midwifery”, midwifery personnel is a specific group of nurse, so that cannot really be deleted as you have indicated.

Sen. Prescott SC: Mr. President, would you guide us please? Should we do the amendments now, or should we reserve them for the committee stage, when I should be free to interject?

Mr. President: I will leave it to the Minister to decide how he wants to pursue it. What I did understand from earlier enquiries is that there was some anxiety, if you like, to see the perspective of the new amendments *vis-a-vis* the existing Bill and the Minister undertook to perhaps take us through it. I think he is best placed to determine how he should proceed.

Sen. Prescott SC: Well, I was observing, Mr. President, that I was being denied, unless I choose to be obstreperous, the opportunity of responding as I would have in committee stage in a less formal way. So, for example, as to the amendment suggested by me, I am now getting an explanation why it is ludicrous perhaps, or unnecessary. Should I get up and commence defending my position, or should I await the committee stage.

Mr. President: I would like to suggest that you await the committee stage. What the Minister is saying is his point of view. He is winding up the debate as he is entitled to. You may disagree with what he says. When we reach the committee stage, if you want to take a position relative to a position that the Minister has adopted, we will give you that latitude at that point.

Hon. Dr. F. Khan: Thank you, Mr. President. Another one of the amendments that has been tabled is that of clause 7, where the word “Minister” is going to be changed to “Ministry”, a representative of the Ministry. That has been taken on board and we will table that amendment to suit.

There are other parts of it, such as changing the word “nurses” to indicate advanced practice nurses at different levels. Clause 12, Mr. President, speaks to changing the word “six” and replacing it with “three”. If you look at clause 12, it says here:

“Where the Council receives an application under subsection (1) it shall, within six months of such receipt consider the application and give such directions in respect of the application as it thinks fit.”

We have decided to amend that and, instead of six months, we are putting three months; and the other sections (2B), (2C) and (2D) will be deleted.

Clause 13, we have placed after the word “Council”—because this was a subject of contention—the words “for a period of four years in the first instance”, commenting on the provisional nurses certificate. We have also changed, after the word “nurse”, defining it and putting the words “nurse intern”.

In subsection (c), we have deleted subsections (6) and (7) and inserted a new (6):

“Where a nurse intern fails the”—license exam after—the “third attempt, the Council may require him to take a one-year remedial programme before he re-submits himself to” the license exam.

This was a subject of contention about the remedial exam and the time taken for the license exam. So we took that on board and we changed that area about as many times as possible. We have placed it as a third—three times.

In (f), what we have indicated is that the original provisional certificate granted under subsection (1), when it has expired, the nurse intern will be issued another. This is in keeping with the arguments placed that the provisional certificates will be given over as many times as possible. However, we are deleting (11), (12) and (13) and have changed once again to six months.

In the new clause (8), where a nurse intern completes a remedial programme under subsection (6), the part that we have deleted, “he shall be issued a”, has been taken off and it has been placed—delete the words “Provisional Nurse’s” in both instances and replace with the words “nurse intern”;

delete the words “certificate to practise as a nurse” and replace the words “nurse intern’s certificates to practise as nurse interns”;

and the provisional certificate shall only be there for two years rather than the four-year period that was initially said.

A provisional certificate can only be issued to a person for a maximum of two times, so you have two years, four years and one year, that is seven years total.

We have placed a new clause 21 where there is the appeal clause where the Permanent Secretary, if the council does not deal with an application within three months’ time, the applicant can submit to the Permanent Secretary—those who feel aggrieved—and the Permanent Secretary has a time limit—that was indicated—of six weeks and shall cause the matter to be investigated in six weeks of receipt of the complaint.

“Upon receipt of the report of the investigation...the Permanent Secretary shall forward the report to the Council requesting that action be taken on the complaint within one month”—time limit; and

“(4) For the purposes of this section, ‘Permanent Secretary’, means the Permanent Secretary in the Ministry”—of Health.

For the male midwife, dealing with the male midwife, section 22 of the Act, we have deleted section 22 of the Act and indicated in Part III, which speaks to overall midwives, that the Act is amended in Part III by deleting the words “she”, “her” and “herself”, wherever they occur, and substituting the words, “he”, “his” and “himself” respectively.

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We also placed in, new clauses 24 and 25, which speak to that of the register of the advanced practice nurse and registration of the advanced practice nurse. Renumbered clause 26 speaks to section 41, where the council in the Act itself speaks to the council making regulations with the approval of the Minister. In all of the legislation that we do have, the Minister makes the regulations in consultation with the council. So the Minister makes regulations, in consultation with the nursing council.

In section 51B, there is an area, insertion, where the Minister may, in consultation with the council, by Order, permit nursing personnel who are registered to practise—“advanced practice nurse” is inserted—nursing or midwifery under the laws of the governing country as part of a visiting planned, education or teaching programme or medical visiting treatment team, for the purpose of providing specific skills and technology and such persons may be deemed to be practising as if the licence had been issued under this Act.

Mr. President, these are the basic amendments based on exactly what was debated here the last day. There may be a lot of amendments, but what they are really doing is taking on board everything that was put on the table, everything that we looked at to create the drafting excellence of the Act itself and, although you have quite a lot of pages of amendments, it basically speaks to not many new clauses and not many new ideas.

So, Mr. President, without delaying any longer, I think we should be able to look at the legislation and deal with it, as you say, in a substantial manner. With these words, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

2.45 p.m.

Mr. Chairman: Are we ready? So, we should have before us the Bill to amend the Nurses and Midwives Registration Act, Chap. 29:53 as well as two sets of amendments to be circulated: one by the Minister of Health and the other by Sen. Elton Prescott SC.

Sen. Al-Rawi: Mr. Chairman, may I enquire—this is for the ease of the work of the Parliament this afternoon—the amendments tabled—the proposed amendments to the Bill as tabled which in itself proposes amendments to the Act—it is rather proper to do it that way, but it is also rather fastidious getting it

on the table at 1.30 this afternoon and thereafter to consider the double-reference point. Do we have available a track-change version of what the Bill should look like as amended and also a track-change version of what the Act as is proposed to be amended would look like? That is the only way that we can really factor this work responsibly. I just want to put on the record, I consider it irresponsible to go to amend legislation this way, particularly, when we have had a month's recess to do this work.

The second point, Mr. Chairman, is from my cursory glance of these amendments, I can see that there are a number of consequential amendments required to the Act itself which have not been contemplated. So, I do propose to raise the cross reference, two areas in the Act that are rendered otiose or complicated or may need clarification as a result of the amendments proposed on April 15 and those now proposed on May 13. So, perhaps, the Minister could inform whether something is available to consider.

Mr. Chairman: I did make the enquiry myself. Perhaps, we could get an indication from the Government Bench as to whether a track-change document is available.

Dr. Khan: There is no track-change document at this time.

Sen. Al-Rawi: So, Mr. Chairman, will we be then permitted some time to factor these amendments? As a practitioner in court, Mr. Chairman, this is unheard of.

Mr. Chairman: What I suggest, Sen. Al-Rawi, is that let us proceed and any clause which we feel more time is required for consideration, then we will ask the Government on the question to defer that issue. So we may defer a number of sections maybe because—I am not predicting what the outcome of that will be, but I am just saying, in the interest of time and being efficient and effective, that we start. Any matter which requires deeper and further consideration we defer, and we go down with the remaining sections, so that we have set aside, if you like, a number of sections that are deferred and then we would raise the question again as to whether more time is needed to consider that.

Sen. Al-Rawi: It is a very laudable approach, Mr. Chairman. My fear is that amendments require not only the specific locus of the amendment to be considered, but its inter-articulation with the whole Act.

Mr. Chairman: I understand that perfectly.

Sen. Al-Rawi: That is my fear.

Mr. Chairman: But if we could start the process, maybe 100 per cent requires deferring, I understand, but there are some simple amendments within it, and I think that it would be, in the interest of time and efficiency making a start will help us there.

Dr. Khan: Thank you, Mr. Chairman.

Clause 1.

Question proposed: That clause 1 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, may I enquire, even though this is the short title of the Act, from my reading of the Act itself—this is the Nurses and Midwives Registration Act—this is requesting of the Minister a legal opinion, through him, of course, to his advisors. The Act itself defines a nurse. The Act is structured to be relative to nurses and midwives. It is agreed that there is a requirement to introduce the concept of male midwifery, however, from my reading of the Act, insofar as the register of nurses permits the council to have subcategories of nurses, the issue arises as to why in law do we need to specify something which is already specified. I wish to put that upon the evidence which exists out of the Ministry of Health. There is a practice of advanced practice nurses right now in existence—there is a booklet, there is information, et cetera—the question is whether it needs to be in the law.

Sen. Dr. K. Singh: It is not in the law.

Sen. Al-Rawi: I am hearing Sen. Singh in the back saying it is not in the law. The law as it is crafted says that the council could have a register of nurses and that it may have sub-registry specialities included there. Why do we need to put that in here insofar as that exists?

Dr. Khan: The advanced practice nurse?

Sen. Al-Rawi: Yes.

Dr. Khan: It would be for better regulation.

Sen. Al-Rawi: How?

Dr. Khan: If it is not spoken to in the law itself, one would not be able to regulate the qualifications; one would not be able to regulate quite a bit of what category of nurse you are dealing with.

Sen. Al-Rawi: Even though the regulations, hon. Minister, are subsidiary legislation, we need to amend it at will?

Dr. Khan: You need to put the definition in the parent Act; the parent part of it. Well then, if that is the case, then we should just put nurses and nothing else. In 1961 you had nurses and midwives. If the council was able to specify things as you said they are able to in categories, then what you are trying to say then is midwives are redundant.

Sen. Al-Rawi: Section 15 of the Act itself says:

“The Council shall keep for the purposes of this Part a register, to be known as the Register of Nurses, on which it shall cause to be entered the names of all persons who are entitled to be registered as nurses in accordance with this Act...

(3) The Register of Nurses may be divided or classified according to the manner in which the Council deems most appropriate, into male and female nurses, and into nurses qualified for general nursing or for such special classes or branches of nursing as the Council may from time to time specify.”

What is imprecise about that?

Dr. Khan: It is very imprecise. A branch of nursing could be mental health nurse; that is not a specialist nurse. An advanced practice nurse is what we call a specialist nurse.

Sen. Al-Rawi: And special classes?

Dr. Khan: A special class, a class is not a specialist. Classes of nurses: you could be a mental health nurse; you could be, let us say, a phlebotomist nurse, a nurse with blood transfusion. So, you have different categories of nurses. An advanced practice nurse as well as a midwife, they are a different category of nurse.

Sen. Al-Rawi: So, how was the Ministry of Health able to have in published form an entire system for advanced practice nurses in Trinidad and Tobago?

Dr. Khan: That was just a document looking to the future of what an advanced practice nurse will be; the duties of an advanced practice nurse.

Sen. Al-Rawi: There were no advanced practice nurses in operation at all.

Dr. Khan: None.

Sen. Al-Rawi: And the view held by the Government—just for clarity—is that notwithstanding the specific wording of section 15(3) of the Act—*[Interruption]*

Dr. Khan: You could not have done that.

Sen. Al-Rawi:—which permits the council to determine special classes that you require in law a definition for an advanced practice nurse.

Dr. Khan: Because then you go into the other realm of indemnity and other aspects of the medical profession.

Sen. Vieira: If I could just comment.

Mr. Chairman: Sen. Al-Rawi, I do not see the connection between advanced placement in the short title to the Bill.

Sen. Al-Rawi: It does, because if it is—*[Interruption]*

Mr. Chairman: You want to introduce another category.

Sen. Al-Rawi: Mr. Chairman, I would link it for you. The Nurses and Midwives Act—if I am not dealing with the nurses on this category, I may be dealing with midwives alone—the short title may be imprecise, and that is why I raised it at the outset.

Sen. Vieira: I follow Minister that one of the objects of this amendment is to provide for this new category of nurses. Now, my understanding of the advanced practice nurse is someone who has either specialised training or who has gotten specialized skills, and that is why the register can say, well this is a nurse that has post-graduate degrees say in oncology or anaesthetics or this is a nurse that has specialized skills over experience and time. So you have a register and that will be a way for the public and other members of the profession to know, well what they are capable of doing or not doing.

Dr. Khan: Quite right, and also it would allow the public to know who can practise as an advanced practice nurse; who is on the register to practise as an advanced practice nurse.

Now, if you look at the legal fraternity, I do not think the legal fraternity has specialist legal defined into legal specialist. So if you want somebody, let us say a corporate lawyer, or somebody with conveyancing, you may find that anybody could say he or she could do that because he or she is a lawyer. However, in this case, what we do in medicine, we define things so people cannot practise in areas that they are not suitable to do so.

Sen. Vieira: Well, you would have an inner bar and an outer bar, and I suppose to that extent there is a degree of specialization.

Dr. Khan: This is what I am saying. So, in other words, we are defining who can practise as what, unlike that of the legal fraternity.

Sen. Vieira: I think the point you are making—*[Interruption]*

Sen. Al-Rawi: You are unwittingly arguing my case, hon. Minister.

Sen. Vieira: I think the point you are making, Minister, is that without this amendment—[*Interruption*]

Dr. Khan: Anybody could practise.

Sen. Vieira: Yes, so it is a necessary amendment.

Dr. Khan: And to the detriment of the public.

Question put and agreed to.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, you are going a little fast for me. I am so sorry. Yes, Mr. Chairman, okay.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3.

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

Sen. Prescott SC: Mr. Chairman, I have circulated an amendment.

Mr. Chairman: We have an amendment from Sen. Prescott.

Sen. Prescott SC: It really is to correct the spelling of the word “advance”.

Dr. Khan: We will take it on board.

Mr. Chairman: Is that an indication that you will accept it?

Dr. Khan: Yes, we will accept it.

Mr. Chairman: Clause 3 is amended in line 2 to:

Delete the word “advance” and substitute the word “advanced”.

Question put and agreed to.

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

Clause 4 ordered to stand part of the Bill.

3.00 p.m.

Clause 5.

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

Dr. Khan: Mr. Chairman, we will like to amend clause 5 to insert after clause 5 the following new clause as follows—

Mr. Chairman: That is a new clause. We have to leave the new clauses until we complete the entire Bill then we will come back to it. Fair enough?

Dr. Khan: Fair enough.

Sen. Al-Rawi: Mr. Chairman, is it possible we could not do that? 5A after 5 makes very good sense for what happens later.

Mr. Chairman: Certainly by agreement of this Senate, we can do anything. If there are no naysayers to us dealing with 5A, then can we deal with 5 now and when we come we can deal with 5A provided there are no dissenting voices in this Senate. So shall we deal with clause 5 now?

Hon. Senators: Yes.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Mr. Chairman: Are there any naysayers against dealing with clause 5A as the Minister has circulated in his amendments? Is there any reason why you do not deal with it now?

Sen. Prescott SC: Mr. Chairman, I propose that we deal with the amendments submitted by the Minister at this time.

Mr. Chairman: Is there any voice that says no? Therefore we will deal with clause 5A as being more appropriate and to make the sense of it now.

New clause 5A.

Question proposed: That clause 5A stand part of the Bill.

Dr. Khan: Mr. Chairman, I propose a new clause 5A which reads as follows:

<p>“Section 3 amended</p>	<p>5A. The Act is amended in section 3(2) by inserting after the words ‘enrolled as’ the words ‘advanced practice nurses,’.”</p>
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Sen. Al-Rawi: Mr. Chairman, perhaps Sen. Prescott SC first and then me after?

Mr. Chairman, 5A proposes—5A inserted, which is the first in the column of amendments proposed into today’s circulated version, proposes:

“The Bill is amended by inserting after clause 5 the following new clause as follows:

The Act is amended in section 3(2) by inserting after the words ‘enrolled as’ the words ‘advanced practice nurses,’.”

That takes us to section 3 of the Act itself. Section 3 of the Act subsection (1) creates the body corporate with perpetual succession, and subclause (2), which is where the amendment is proposed, proposes inserting in the last line after the word “as” “advanced practice nurses”.

What I wondered inside of here is—[*Interruption*] Mr. Chairman, I am not sure if everybody has a copy of the parent Act.

Mr. Chairman: I do.

Dr. Khan: All we are really doing is inserting the “advanced practice nurse” to put inside. That is all we are doing.

Sen. Dr. Mahabir: Just for clarification, Minister, why did you not add nurse interns as well in addition to the advanced practice nurse? Is there any reason for that? You see, you are going to exercise disciplinary control over the advanced practice nurses alone, but I thought we were also dealing with the other category as well, the nursing interns.

Sen. Al-Rawi: I have just found my note—that is exactly it. I thought that we had left out one category.

Dr. Khan: Point taken. Sen. Dhanayshar Mahabir, we will insert also the nurse intern.

Sen. Dr. Mahabir: Nursing assistants.

Sen. Prescott SC: May I in the circumstances, Minister, without the advanced reading, is there going to be a register or enrolment of nursing interns?

Dr. Khan: Of the nurse interns? They would have a register with the provisional certification.

Sen. Prescott SC: If you look again at section 3(2) of the Act, you will find it deals with the registration or enrolment of such persons, and there is no registration or enrolment provided for, for the nurse interns. I do not think nurse interns should be in there at all.

Sen. Al-Rawi: Mr. Chairman, in all honesty, hon. Minister, the problem is the flipping through in terms of tracking to make sense out of some things which no longer require advocacy and others which can be contemplated. The difficulty is literally just tracking it on the spot, so that we are thinking aloud as opposed to making positive points. It is not an intention to cause difficulty—

Dr. Khan: No, I agree; I understand.

Sen. Al-Rawi:—so the problem is literally the process of flipping through the various pages.

Dr. Khan: Let us go through as far as we can. I understand.

Sen. Al-Rawi: I had the note as to the nursing interns later on. The question mark on my paper here was whether to include them in, but it is that there is a separate section to deal with them.

Dr. Khan: As Sen. Prescott SC has just indicated, and he is quite right, that there is no register of the nurse interns, so you will not have that here. There is a register of the advanced practice nurses, there is a register of the nurses, there is a register of the midwives and also nursing assistants.

Sen. Prescott SC: Before you commit, you might want to consider if indeed it is the policy to subject nurse interns to disciplinary control by the Council, to insert the words “nurse intern” after the word “over” in line three. So it will say:

“disciplinary control whether by way of imposition of fines or otherwise, over nurse interns and persons registered”—if it is your policy.

Sen. Vieira: I just wanted to point out that where nurse interns were concerned, my understanding was that they would be on a provisional nurses roll, so they do tie in that way. So they are not on a register, but there is a roll with their names on it.

Dr. Khan: There is a roll.

Sen. Al-Rawi: It is in clause 13 that creates the new 16. The question though inside of there was: Did you want to cast your eye over them?

Dr. Khan: Yes.

Sen. Al-Rawi: Right, if so, how?

Dr. Khan: They should be subjected to disciplinary procedures. So if “nurse interns and persons registered”—yes, we could take that on board. That would cover that. After the word “over”, “nurse interns and persons registered”.

Dr. Balgobin: Hon. Minister, could I just ask a question, a sort of process question. I get what has been discussed so far, but I really have to wonder: Do you feel that this discussion would benefit from more reflection and perhaps a whole document that brings all of these things together? Because we have the parent, which is a big parent Act; we have a number of amendments to the Bill. Some of these amendments are quite new, and I would not want to feel—and I know you would not want either, having regard to your meticulous nature—that we are taking decisions here almost by “vaps”, for want of a better term.

I do not mean to diminish at all the quality of the conversation we are having, but that we may be making decisions and decide to throw people into the pot, throw them out, bring them under the umbrella or not, and we may come to regret this later. And as we know, it is easier to pass legislation than to fix it. So I do not know how you would feel about that, but perhaps some opportunity might be had for us to get the whole document that allows us to hang this whole thing together. Do you feel that perhaps we could then get through this a lot faster? I think everybody here is on the same page, same page, same side. Perhaps we would be the better off for it, and we might very well pass a better Bill.

Mr. Chairman: In any event, may I indicate to the Senate, my intention is that whilst I allowed consideration of 5A, I will not be putting the question now. I will be putting it after we have completed all the sections, to ensure that we conform to Standing Order 53(6). There are ways I can get around 53(6), you could ask that the particular order be suspended, but I am not going to go there; anyhow you have to do it with notice or with my leave.

Sen. Al-Rawi: Yes, Sir.

Mr. Chairman: So my proposal is, consider it, but we will not vote on it.

Sen. Al-Rawi: Sure, but 5A ties in to clause 13 of the Bill. Clause 13 proposes a new section 16A. 16B proposes a provisional nurses roll and creates this nursing assistant who acts together with someone, but it is logical that someone can act independent on a frolic of their own or otherwise, and therefore there may need to be some disciplinary item which ties back to 5A.

So the point is that there is so much cross-reference that has to be considered. The only sensible way to look at this really, most respectfully, wanting to get this thing right—I mean, the PNM is on record as having supported this Bill in the House of Representatives. We have just made observations that need some tightening up, hence the reason for two Houses, but a track changed version of the Act would make a huge difference.

Mr. Chairman: I hear you, Sen. Al-Rawi. As you know, I have said in this House many occasions about track changes, but what I am suggesting, having considered it, the Government now knows the views of the House, relative to 5A. We are going to defer the vote on 5A until the end of the Bill, and by that stage mature consideration will be taken in. If you are very lucky, you might see a track change before then.

Dr. Khan: Could I indicate that if it is at all possible, that we could suspend the committee stage?

Mr. Chairman: If that is the desire of the Government.

Dr. Khan: I would say approximately half an hour to start, to see exactly if we could deal with this.

Mr. Chairman: Well, it is 3.11, we would be close to the tea hour if we do it. Why not at this stage—I am throwing it out; obviously I am going to be directed by—let us recommence at 5.00 p.m. I would like to suggest that. We are going now, we come back at five. You would have taken your tea before. We are not going to get another tea break. What you do in your tea break is, of course, your concern.

Dr. Khan: I so ask.

Mr. Chairman: So we will have to go back into the Senate.

Dr. Khan: No. [*Discussion*]

Mr. Chairman: The committee stage will continue, but it is suspended until 5.00 p.m. So we are not going back to the Senate. Therefore, this Committee will stand suspended until 5.00 p.m. when we will recommence consideration of the clause by clause committee of the whole House, review of this Bill.

3.13 p.m.: *Committee suspended.*

5.30 p.m.: *Committee resumed.*

[*Mr. Chairman leaves Chamber at 5.40 p.m.*]

[*Mr. Chairman enters Chamber at 6.00 p.m.*]

Mr. Chairman: The Leader of Government Business.

Sen. G. Singh: Mr. Chairman, I beg to move that the Senate do now resume to do the Procedural Motion.

Mr. Chairman: Hon. Senators, the Senate will now resume.

Senate resumed.

PROCEDURAL MOTION

Mr. President: The Leader of Government Business.

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, Mr. President. In according with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

Mr. President: We will now go back into committee.

**NURSES AND MIDWIVES REGISTRATION
(AMDT) BILL, 2014**

Senate in committee.

Dr. Khan: Mr. Chairman, could we start over the list of amendments?

Mr. Chairman: Certainly, we will start from the beginning again. I trust that you have had a very productive few hours from our break.

Dr. Khan: We can start at the very beginning.

Mr. Chairman: Start at the very beginning, right, with clause 1.

Dr. Khan: The version is the second version that we are dealing with. The ones that the date is May 13, 2014, and the last page, also we would be using the actual Bill itself and also the consolidated Bill with the track sheet in front of you.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

Dr. Khan: There is just one small amendment to clause 3, if you all would indulge me, “advance” should be “advanced”, as we indicated.

Mr. Chairman: We would come to that, I just need to get on record that clause 2 stands part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3.

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

Mr. Chairman: You wish to propose an amendment?

Dr. Khan: Yes, Sir.

Sen. Prescott SC: There is an amendment circulated, in my name, to clause 3.

Mr. Chairman: So, the question is that clause 3, as amended in accordance with the circulation made by Sen. Prescott, be amended.

Question put.

Sen. Vieira: I was wondering whether we could have just shortened it since nursing personnel defines advanced practice nurse, a nurse, midwife and nursing assistant to just say “an Act to provide for the registration and regulation of nursing personnel and for matters connected therewith”, it would be less verbose.

Mr. Chairman: It would, but we would like to have it in the long title to accommodate everything that we can as opposed to the short title.

Sen. Vieira: Sometimes less is more. [*Laughter*]

Sen. Al-Rawi: The reason is, Sen. Vieira, that when you are searching on long titles it must reflect the content of what the Bill does so that is the practice behind it in parliamentary drafting, so it should really properly refer to as many of the elements as possible as opposed to the abbreviated version.

Sen. Vieira: I would not debate you, but the modern practice seems to go against that.

Hon. Senator: So, what are you insinuating? [*Laughter*]

Question agreed to.

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

Clauses 4 and 5 ordered to stand part of the Bill.

Clause 6.

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

Sen. Prescott SC: Chairman, before you move forward, just reconfirm for us that 5A will be dealt with subsequently?

Mr. Chairman: Yes. We have to deal with them according to the rules, the new sections, so we will have a number of those and we will deal with them at the very end.

Sen. Prescott SC: Thank you very much.

Sen. Al-Rawi: Unless we resolve otherwise for logical sake.

Mr. Chairman: Unless I resolve otherwise. [*Laughter*]

Sen. Al-Rawi: Yes, well on the last iteration you had said unless the Senate votes otherwise and you asked for any dissenting voices.

Mr. Chairman: I have to give leave first.

Sen. Al-Rawi: Yes, I see. Well, Chairman, just coming back to the issue of your resolution and for the reality check, in view of the number of proposed new clauses, I humbly submit that it would be apposite to our best work if we were to actually consider the new clauses, at least in terms of discussion, as they appear sequentially.

Mr. Chairman: So, I have no problem if sequentially we have a discussion on the issue. I thought the fruitfulness of your three-hour span had brought all that discussion to an end. But anyway, I propose that we will discuss it, maybe even come to an agreement on it, but we will not vote on it until the end of it.

Sen. Al-Rawi: Sure. And we had hoped to do that but unfortunately the drafting exercise took a lot longer than expected, so we only just got it before you came in.

Sen. G. Singh: Mr. Chairman, my only concern with that, is that it appears that when we embark on that exercise, while it will provide for coherence there exists an approach where we might go into discussion twice.

Sen. Robinson-Regis: Yes.

Sen. G. Singh: So, perhaps we should continue going as we do and then take the new clauses, because I do not want too much duplication in the process here.

Sen. Al-Rawi: Sure.

Mr. Chairman: I need to have consensus from the Senate to move forward, so, therefore we will deal with the new clauses at the end of the session.

Sen. Al-Rawi: Sure.

Sen. Vieira: Mr. Chairman, I had some observations on clause 6 and it deals with the word “functions”, which, I think is a very important word. Now, the way 3(a) reads, “the functions of the council are to...”. It seems to me by implication that narrows and limits the functions of council. There are other functions, like, for example at section 3(2) which talks about the exercising of disciplinary control, or at section 12 which talks about assisting and advising the Minister on matters pertaining to nursing care for the sick and midwifery services and on the establishment of a recruitment and training programme, “blah, blah blah”. So, my suggestion is, instead of saying “the functions of the council are”, but really includes or amongst the functions of council, rather than—*[Interruption]*

Dr. Khan: Senator, if you look at (j), “performs such other functions as may be conferred on it by this Act or any other written law”, that will take care of that. It would.

Sen. Vieira: If you want. I was actually going to suggest that we could have actually, in the definition say that functions include powers and duties, because the word “functions” pops up so many times.

Sen. George: Chair, in normal law when I had read Acts that are already on the books, this is a catch-all clause that is normally there in the Act, I do not know if you want to be different from what we have put in Acts before to say “include”.

Mr. Chairman: No, I have no problem with the inclusion, the other point that was, I think, being made by Sen. Vieira is that he would have liked to say “the functions, roles and powers”.

Sen. Vieira: Functions include powers and duties.

Sen. Lalla: I do not think you necessarily have to say that it includes powers and duties, I mean, that would be understood.

Dr. Khan: If you look at 3B, we have not reached there as yet, but 3B will tell you the powers of the council are to—

Sen. Vieira: Exactly, because I simply would have said, “in exercise of its functions council shall”, instead of having to say, “council shall have the power to”, because right there you are showing that you are not too sure whether functions also include powers and duties.

Mr. Chairman: As I understand it, these are the functions and then in order to achieve the functions you have certain powers, and that is why the set up in different sections seems to make good sense.

Sen. Al-Rawi: Mr. Chairman, just to pipe in here, if you look at 3A(f) which is on page three of the Bill, “monitor the adherence to and investigate breaches of standards”, that is not a function. That is a power. So, there is a confluence between power and function right here at (f). And then we have a complication insofar as nursing personnel includes the nurse practitioner, but 3A then seeks to treat each area differently. So, at one point we talk about nursing personnel, other places we talk about the registered nurse with respect to nursing assistant, advise Minister on requirements to securing continuing competence of the registered nurse and enrolled nursing assistant, but what about the others?

Why would you not want to have advice to the Minister concerning continuing competence of the nurse practitioner or otherwise? So, it is rather haphazard in the selection of drafting style to say nursing personnel here, then split it up to say registered nurse here and nursing assistant there, because

Parliament—if you look to the literal meaning and even purposive meaning the court is going to look at this and say, well, Parliament specifically chose not to include the broad definition of nursing personnel to subclause (h), for instance—yes, (h) is a classic example.

“Promote the interest of the nursing profession” in (g), well, why not the midwifery part as well. So, if you are going to have introduced this concept of nursing personnel which is really only used in two new sections of the Bill which we proposed by the Act, which is in the new 3A proposed by clause 6 of the Bill, and then in 3B where we have the functions, because that is the only time we use nursing personnel. Right? Everywhere else in the Bill we cleave out, we treat nurses different from midwives, we treat different from nursing assistants, we treat different from nursing interns. So, we have here, if you are going to use nursing professional then use nursing professional, because it is not necessarily comprehensive to carve out these functions in a haphazard fashion.

Sen. Vieira: Yes, my concern is that when you change words in amendments you have to be careful not to change the meaning that you may have had in the parent Act.

6.15 p.m.

Sen. Al-Rawi: Powers can be implied in functions, but when we have carved out architecturally now—this is the drafting style—we have cleaved functions from powers, the law is going to say that you are, by statute, given only certain powers. If you act otherwise than the powers given, you can invite yourself into accepting a claim that you have acted ultra vires. You have gone beyond a power which you should have but you thought you had, but you did not have because the statute did not give you that power. So having cleaved powers from functions, as we did between 3A and 3B, architecturally we have a problem in law. The problem in 3A is that we have just jumped around with terminology. So we may want to, perhaps, ask the drafting team to take a look at consolidating the use of the word “nursing personnel” as defined now and put it right through.

Sen. Lalla: It is also in (d). If you look at 3A(d) they use the term “nursing and midwifery personnel”, and in the definition “nursing personnel” already includes midwife personnel.

Sen. Al-Rawi: Exactly. So it is sloppily drafted. Sorry to put it that way, but—

Sen. Prescott SC: Chairman, through you, what is being suggested, Minister, is that we amend (d), (h) and (i) of clause 6, the new section 3A?

Sen. Al-Rawi: Well, (b)—anywhere you cleave the terms. (b) has “nursing and midwifery personnel”.

Sen. Prescott SC: Thank you very much. (b), (d), (h), (i).

Sen. Al-Rawi: Yes. (b), (d), “nursing and midwifery personnel”.

Mr. Chairman: So can we at (d) take out “and midwifery”?

Dr. Khan: Yeah. Can we revisit section—well, on the Bill, clause 5? “nursing personnel” means an advanced practice nurse, a nurse, a midwife and a nursing assistant.”

Sen. Al-Rawi: And my question there, which is why I wanted to deal with 5A logically, is about the assistant nurse, I mean, the other class that we have put in.

Dr. Khan: I would like to put in there, insert the “nursing intern”.

Sen. Al-Rawi: Yes, but Mr. Chairman, whose vote it is to decide whether we do that, and said that we should come back to it afterwards, but I thought it would be more logical because of having to deal with it in all of these sections, that we deal with it that way.

Mr. Chairman: Well, we will mark the spot. If we understand when we come to that definition we will broaden it to include that, then we could reflect in 3A now, our understanding that “nursing personnel” would be all encompassing and we will deal with these things. Fair enough?

Dr. Khan: Can we insert in clause 5, the part with nursing personnel—
[*Interruption*] No, this is not a new 5 you know; this is an old 5.

Mr. Chairman: You want to insert in the definition of “nursing personnel”, “nurse—

Dr. Khan: “Nurse intern.”

Mr. Chairman: All right. So for the moment we will write that down. We will mark the spot, in other words. What is that word?

Dr. Khan: Nurse intern.

Mr. Chairman: So if I could put that before “nursing assistant” just so we do not have to move the “and” as well.

Sen. Al-Rawi: And put the note that it comes up in clause 9 of the Bill, section 5.

Mr. Chairman: So that now we look at clause 6(d). I am suggesting we take out “and midwifery” at (d).

Dr. Khan: Could we, on (b), remove “and midwifery”.

Mr. Chairman: Yes, correct. It comes out there too.

Sen. Al-Rawi: Question: Do we license nursing assistants?

Dr. Khan: Enrol them.

Sen. Al-Rawi: Enrol them, right? So does a licence apply to them?

Dr. Khan: Enrolment.

Sen. Al-Rawi: I understand, but the language of the new thing says “register, enrol, certify and licence...”

Dr. Khan: No, you could either register them; you could either enrol them; you could either certify them and you could license them.

Sen. Al-Rawi: Right. And my question was—

Dr. Khan: You could do any of the four.

Mr. Chairman: If we could get the “nursing personnel” out of the way and then focus on—

Sen. Al-Rawi: Sure. He is just proposing on deleting “and midwifery” in the second line of clause 6. But what I wanted to know is whether the use of the word “and” causes a complication as opposed to “and/or”. Because you enrol and license? It should be “or”.

Sen. Prescott SC: So how would (c) read?

Sen. Al-Rawi: (b).

Mr. Chairman: “register, enrol, certify or licence?” “or” instead of the “and”?

Sen. Al-Rawi: Yes. “nursing personnel”, striking “and” and “midwifery...in accordance with this Act.”

Mr. Chairman: Then in (d) we take off “and midwifery” as well?

Dr. Khan: Yes.

Mr. Chairman: In (g) are we taking that to “nursing personnel” as opposed to “profession”?

Dr. Khan: “Personnel”.

Mr. Chairman: So we are changing “profession” to “personnel”.

Dr. Khan: Right. In (h)—

Dr. Mahabir: No, but how can you promote the interest of nursing personnel? It is conceptually wrong.

Sen. Al-Rawi: Correct. So the mischief is that “nursing profession” excludes “midwifery”. So the question is how do we capture “promote the interest of”?

Sen. Lalla: What we could say is “promote the interest of all nursing personnel”.

Sen. Al-Rawi: You could say “promote the professional interests of”? Minister, what do you want to say?

Dr. Balgobin: But it is the profession we are seeking to elevate, not the individual.

Dr. Khan: That is a function.

Sen. Al-Rawi: Right. So the difficulty we have is that ‘nursing personnel’ would catch the category of people that we want to catch, but what we really want to promote is their professions.

Dr. Khan: Nursing personnel. You are really and truly not promoting the interest of the profession.

Sen. Al-Rawi: Correct. That is exactly it.

Dr. Khan: The profession is completely different to personnel.

Sen. Al-Rawi: Right. So how do we catch the class of “midwifery” which has been left out?

Sen. Vieira: My suggestion is you deal with both. You say “promote the interest of the nursing profession and nursing personnel”.

Dr. Mahabir: Or alternatively, “promote the interest of the nursing and midwifery professions”.

Sen. Al-Rawi: Yes, that could do it. I think that would be a better one.

Dr. Mahabir: “Professions”—two separate professions.

Mr. Chairman: Minister, that sounds all right?

Dr. Khan: “promote the interest of the nursing—

Mr. Chairman:—“and midwifery professions”.

Dr. Khan: That sounds all right. Could we go back to (c)? We have “enrollment certification”, instead of “and” you put “or”.

Sen. Al-Rawi: Comma after “enrollment”, eh. There was a debate, Senior, as to the spelling of “enrollment”.

Hon. Senator: Go with the English.

Sen. Al-Rawi: Going with the English, two “ls”.

Mr. Chairman: Any changes in (h) that you are proposing, Minister?

Sen. Al-Rawi: Yes, there would have to be one in (h).

Sen. Prescott SC: I feel almost certain.

Dr. Khan: From “registered nurse” to “Act” you delete, and you put “nursing personnel”.

Sen. Prescott SC: Are we satisfied with one “l”?

Sen. Al-Rawi: Well, throughout the whole Act it is used. The old Act has two “ls”, so we should stick with the old Act’s use of two “ls”, meaning to put it on the roll.

Mr. Chairman: But, Minister, (h) you were suggesting—

Dr. Khan: I was suggesting at (h) you delete from “registered nurse and enrolled nursing assistant under this Act”, and you substitute it with “nursing personnel”.

Mr. Chairman: And you are leaving out “under this Act” as well.

Sen. Al-Rawi: No, it should be included. “under this Act” should be included.

Dr. Khan: Include it. Sorry.

Mr. Chairman: Down to “assistant”. And in (i), is it going to be “nursing personnel” again?

Dr. Khan: Yes, you change—

Mr. Chairman: Take off “and midwifery”?

Dr. Khan: Yes.

Mr. Chairman: All right. Any further amendments? I know that Sen. Prescott had some amendments. Have we managed to take care of them?

Sen. Prescott SC: Chair, I now recommend that we look at my 6B, D and E in my list of amendments. The other two appear to have been addressed. The amendment reads as follows:

In the proposed section 3A:

- A In paragraph (b) delete the words “and midwifery”
- B In paragraph (c) delete the word “enrollment” and substitute the word “enrolment”.
- C In paragraph (d) delete the words “and midwifery”

In the proposed Section 3B:

- D In paragraph (a) delete the word “enroll” and substitute the word “enrol”
- E In paragraph (c) insert the word “,” after the words “licence” and “applicable”.

Mr. Chairman: What I understand from Sen. Al-Rawi is that the substantive Act, the parent Act, has it spelled with two “ls” and in that context should we not in our amending Act, conform to whatever was done there, be it British, American or Trinidadian?

Sen. Prescott SC: Without withdrawing my “B” I will emphasize “D” and “E”.

Mr. Chairman: And “D” and “E” were to paragraph (a). Surely that should have been (b)

Sen. Prescott SC: I beg your pardon, Sir?

Mr. Chairman: “D” should have referred to “(b).”

Sen. Prescott SC: I am sorry. There are two parts to it. There are two parts. The first part deals with section 3A and the second part with section 3B.

Mr. Chairman: Oh, I see. But would you not say that if you are maintaining (b) in paragraph 3A, where we talk about “enrol”—oh, we have it right there. Okay.

Sen. Prescott SC: I do not think the verb has two “ls”.

Mr. Chairman: No, it does not.

Sen. Prescott SC: So D and E, please.

Mr. Chairman: I hear you. So if we take care of “D”, and the other one is “E” you want us to look at?

Sen. Prescott SC: Capital “E”, yes, which is a reference to paragraph 3B(c), where it says “cancel certificates or revoke licences where applicable”. I was really doing some punctuation. That is all.

Mr. Chairman: Oh, it is commas that you want to put in?

Sen. Prescott SC: Yes.

Dr. Khan: Is commas you put in? I was wondering why you put “dem” thing inside.

Sen. Prescott SC: I am ashamed to say, but it is the commas.

Mr. Chairman: But he did not spell out “comma”. He did it graphically and some of us missed the graphic.

Sen. Prescott SC: I was guided by those who know better.

Dr. Khan: Okay, we have no problem with it.

Mr. Chairman: So that I am going to propose, unless there are any further amendments to clause 6—

Sen. Al-Rawi: Mr. Chairman, just one moment. Because clause 6 also includes contemplations on the new clause 3B, have we resolved the potential intellectual issue over powers and functions?

Mr. Chairman: Well, you know, I understand that you would have some overlapping when you describe functions, but I think it is worth, in fact, setting out your functions and then have the powers that enable the functions to be performed. That is how I see it, and I have no problem with that.

Sen. Al-Rawi: Okay. Just then 3B—this is looking at the original Bill—turn to page 4(e): “set standards for education and practice of nursing”—this is on page 4 of the original Bill—

Mr. Chairman: It should be “personnel”?

Sen. Al-Rawi: —“of nursing and midwifery”. “set standards for education and practice of...” Would “nursing personnel” be more appropriate here?

Dr. Khan: Yes, we are changing it to “personnel”.

6.30 p.m.

Sen. Prescott SC: No, what is being suggested there, may I interrupt you?

Sen. Al-Rawi: Yes, so this is what I want to ask.

Sen. Prescott SC: It is the practice of nursing and the practice of midwifery.

Mr. Chairman: Yes.

Sen. Al-Rawi: So the practice of nursing and midwifery—*[Interruption]*

Sen. Prescott SC: And that seems to cover everybody.

Mr. Chairman: It is not people it is referring to. It is a profession.

Sen. Al-Rawi: Okay. Good!

“(f) examine applicants as a prerequisite to initial registration;

(g) verify the authenticity of certificates...”

Sen. Dr. Balgobin: May I ask a question, Mr. Chairman, entirely for the uninitiated? In looking at 3A and 3B from a pragmatic point of view, what happens if in order to perform its function the council requires a power which is not expressed in 3B?

Sen. G. Singh: Not expressed where?

Sen. Dr. Balgobin: In 3B.

Mr. Chairman: Frankly, I would think that the court would imply that you must have the power to carry out a function. On the other hand, we sought to set out here specifically some functions, but I do not think it is necessarily all inclusive.

Sen. Al-Rawi: But would it help, Mr. Chairman, to include a catch-all—*[Interruption]*

Mr. Chairman: It could.

Sen. Al-Rawi:—carry out such other functions as may be necessary to carry out the—*[Interruption]*

Dr. Khan: Check (j).

Mr. Chairman: Such other powers is necessary to carry out the functions.

Sen. Dr. Balgobin: I think, Chairman, I would be much happier with that.

Mr. Chairman: Yes, I hear you.

Dr. Khan: Under what?

Sen. Dr. Balgobin: To stand the test of time, Minister. You know what happens is we find ourselves—*[Interruption]*

Dr. Khan: Okay, you want to put that under 3B? We have it on (j) 3A.

Sen. Dr. Balgobin: Yes, you must put a (j) in there that says:

“such other powers that are necessary to carry out the functions in 3A.”

Mr. Chairman: Wider if you want to say as are desirable?

Sen. Al-Rawi: So there is that one point. There is also the question here under (i):

“collect monies for fees required to be paid under this Act.”

Dr. Khan: They tend to collect fees. They are allowed to.

Sen. Al-Rawi: They are allowed to? Okay.

Sen. Dr. Maharaj: Just to remove the language, should we not just collect fees required to be paid under this Act? Because fees will have to be levied in terms of money.

Dr. Khan: Say that again.

Sen. Dr. Maharaj: To collect fees required to be paid under this Act.

Mr. Chairman: Are there any other penalties and stuff like that by the way? In which case you do not want to limit the fees.

Sen. Al-Rawi: Well, the thing is this. There are fees, there are penalties for midwives under the legislation—*[Interruption]*

Sen. Prescott SC: Are they payable to the council?

Sen. Al-Rawi: That is my point.

Dr. Khan: Not to the council.

Sen. Al-Rawi: You see, this is my point. The Interpretation Act provides—*[Interruption]*

Dr. Khan: No, hear it, “collect monies for fees”. That is all they could collect for. Licensing fees—*[Interruption]*

Mr. Chairman: Why is it money for fees? Can we just say collect fees?

Sen. Dr. Maharaj: Just to collect fees, Mr. Chairman.

Mr. Chairman: I take it you—*[Interruption]*

Sen. Dr. Maharaj: Because all fees will have to be paid in moneys.

Mr. Chairman: I thought so. Not in kind.

Sen. Dr. Maharaj: Not in kind, no.

Sen. Al-Rawi: My question is the same thing as yours.

Sen. Robinson-Regis: May I ask: is it only fees that they collect?

Mr. Chairman: We asked that question already.

Dr. Khan: That is all they really collect, yes.

Sen. Robinson-Regis: That is all they collect?

Dr. Khan: Yes, in some form or fashion.

Sen. Robinson-Regis: Is there any contemplation apart from fees that they may have to collect moneys for?

Sen. Prescott SC: Actually, the answer may well be in the proposed clause 17.

Dr. Khan: The answer is yes. I am contemplating in the future, hoping to allow the nursing council the right to collect money or to collect for—
[*Interruption*]

Mr. Chairman: Perhaps you should just say “collect monies” and forget about fees.

Sen. Robinson-Regis: May I suggest rather than limiting it to fees because if—[*Interruption*]

Sen. Prescott SC: The answer to Sen. Robinson-Regis. If you look at clause 17 on page 16, Sen. Robinson-Regis, you will notice that there is a—at clause 17 which is on page 16 of the Bill, we actually contemplate the council collecting fines, and I could not imagine—if it were the fines that are here which are for criminal offences, it could not be that they will collect.

Sen. Al-Rawi: Correct.

Dr. Khan: They will not collect that.

Sen. Prescott SC: So when we come to 17 we may want to remove that.

Sen. Robinson-Regis: We may have to remove it.

Sen. Al-Rawi: Minister, let me spell out my concern. Fees for administrative issues, sure. Fines, problem—[*Interruption*]

Dr. Khan: They cannot collect for fines.

Sen. Al-Rawi:—money Bill issues, a problem as well. Right? So that is what was in my mind here as to whether we are traversing here. So how we cast this language is going to be important because you do not want somebody to make a mistake and collect something that they should not.

Dr. Khan: They are going to collect for fees right now. That is what they collect for—registration fee, licensing fee, whatever fees. That is what they collect for.

Sen. G. Singh: Let us deal with the situation now. Anything in the contemplation in the future, you will deal with subsequently.

Sen. Al-Rawi: You mean like clause 17, Sen. Singh?

Sen. G. Singh: Yeah. Let us deal with the fee issue now.

Sen. Al-Rawi: So you are putting in an asterisk here in relation to this one?

Sen. George: Chair, could one word to encapsulate all of these not be used, like monies? Would monies include fees, fines and so on? So you use one term—
[*Interruption*]

Sen. Al-Rawi: But they cannot collect fines.

Sen. Lalla: It is the type of fine. So like clause 17, there is mention of fine for non-payments which is not a criminal fine, it is an administrative fine.

Sen. Al-Rawi: That is why I said administrative I have no problems with. My problem is if you are entering into the realm of a criminal aspect, like a breach of the Act, et cetera.

Sen. Lalla: That is different. That goes to the court.

Sen. Vieira: May I draw your attention to section 52 because the nursing council has something that a lot of the other councils would love to have. Section 52 says:

“(1) Any moneys payable upon a summary conviction under this Act shall be paid”—into—“Court, which shall cause the sums to be paid to the Secretary on behalf of the Council.”

And,

“(2) All other moneys payable under this Act, whether by way of fees, fines or otherwise, shall be paid to the Council to be used for carrying the purposes of this Act into effect.”

Sen. Al-Rawi: And my question was going to be, do we really need to, because there is a practice of already collecting moneys? Do we need to specify this power? And it seems—thank you, Sen. Vieira—that in light of section 52 of the Act, the last section, that you do not because it is specifically provided for otherwise.

Sen. Lalla: Already.

Mr. Chairman: Can we put a catch-all clause and take out (i):

“such other powers necessary to carry out the functions”?

Sen. Al-Rawi: That brings sense back to Sen. Dr. Balgobin’s initial position here. So we are going into the realm of casting powers and functions which we did not do before. So if we are doing it, then we need to tie it back to existing provisions, and there ought to be a catch-all provision to make sense of things that you did not pick up on the first round.

Mr. Chairman: Would we consider that, “such other powers as are necessary or desirable”—how wide you want it—“to perform the functions”?

Dr. Khan: Yes.

Sen. Vieira: You know, all of this could have been so easily avoided just by defining functions as including powers and duties. While we are on the powers and functions under section 3B, I wanted to suggest that in its day-to-day operations, council should also have the power to require a person to furnish it with documents and information, and council should have the power to require persons to give evidence or produce documents relevant to the business of the council.

Sen. Al-Rawi: In default of which, what?

Sen. Vieira: No, no, no. Do not forget, they will from time to time be doing enquiries about registering people as fit and proper, they will be doing disciplinary enquiries. So they should have the power also to require evidence, documents, call people as witnesses.

Mr. Chairman: And it will be so easy to miss something and, therefore, an (i) which says “such other powers as are desirable for the purpose of carrying out the functions of the council” should capture everything. All sins will be forgiven.

Sen. Al-Rawi: I agree with that, but Sen. Vieira has raised a very, very important point which is borrowed from the Commission of Enquiry Act-type structure—[*Interruption*]

Sen. Vieira: Exactly.

Sen. Al-Rawi:—which is the compellability to give evidence, which is why I asked him in default of which, what. So, insofar as there are investigative provisions. For instance, under the midwives sections, there is the power to form a certain body to conduct investigative work, et cetera, and insofar as this council now has the ability to conduct disciplinary aspects tied back to the existing section 3 of the Act, the compellability argument being introduced just like that is something that troubles me. I would like to have the power, but I do not know what the consequence of including it is, because the compellability concerns me. There are many pieces of law that do not have the power to go as far as it ought to go. Do we want to introduce this power which, in principle, is a very excellent thought? I am cautious about its application.

Dr. Khan: That is what I am worried about. I am worried about the application.

Mr. Chairman: But would the right to do that not be encompassed by the catch-all clause?

Sen. Vieira: No, with respect I doubt. I do not think so. I do not think you could imply that kind of power.

Sen. Lalla: It is a quasi-judicial power, therefore you have to make it.

Sen. Al-Rawi: Larry, perhaps you could help me with this. The issue with that kind of compellability factor, can that be passed on a simple majority basis? Because that infringes your right to self-incrimination, et cetera. So that is a self-incrimination issue under the Constitution which means you need to have a three-fifths majority.

Sen. Lalla: That is a whole different argument and provision.

Dr. Khan: Look, I think we should just leave it as it is.

Mr. Chairman: I do not think we are going to answer that question here.

Dr. Khan: We should leave it as it is. I would prefer to leave it as it is.

Mr. Chairman: They did not intend that they would carry out compulsory requirement to give evidence and so on, so we will leave it as it is. But rely on a catch-all phrase.

Dr. Khan: I would prefer to leave it as it is, Mr. Chairman.

Sen. G. Singh: Let us proceed.

Dr. Khan: Let us proceed.

Mr. Chairman: I am going to go through the amendments as I—
[*Interruption*]

Sen. Al-Rawi: Should there not be an “(i)”? An (i) would not affect the compellability argument. You see, Mr. Chairman, the danger in doing this Bill on the trot as we are doing, is that we may find that we have not provided certain powers. Having introduced the idea of putting powers in the first place, compels you to think about all the powers you want.

Mr. Chairman: That is I why I was suggesting the catch-all clause.

Sen. Al-Rawi: Okay. Good! So long you were not excluding that.

Mr. Chairman: I have it here and I understood the Government is willing.

Sen. Robinson-Regis: Mr. Chairman, could I just say that it is not impossible for the Government to come back and make further amendments, and I think if the Government feels that they want to move—[*Interruption*]

Dr. Khan: If it is necessary.

Sen. Robinson-Regis: Yes, if it is necessary because there are other areas that I think the Government would like to introduce at a later stage.

Dr. Khan: At a later stage, yes.

Sen. Robinson-Regis: But in order to get this done, there are certain things that we must amend on this occasion. So could I suggest that we try and focus on those and move on?

Dr. Khan: Thank you.

Mr. Chairman: Well, if I could go through the amendments as I see it.

So at 6B—that is under 3A(b), I should say—where in line one we are deleting “and” and substituting “or”.

In line two we are taking out the words “and midwifery”.

In (c), we are putting a “,” after “enrollment”. We are deleting “and” and substituting the word “or”.

In (d), we are deleting the words “and midwifery”.

In (g), after “nursing” we are adding “and midwifery”, and then we are making it plural “professions”.

In (h), line three, after “competence of the” we are inserting “nursing personnel” and deleting “registered nurse and enrolled nursing assistant”.

In (i), we are deleting “and midwifery” and substituting “personnel”

And then in 3B(a) the additional “l” in enrolled is deleted.

We are putting commas in line two of (c) after “licences” and “applicable”.

And we are—I think, but subject to what the Government has to say—deleting the present “(i)” and substituting a new “(i)” which says:

“such other powers as are desirable for the purpose of carrying out the functions of the council.”

Is that a no?

Dr. Khan: I prefer to leave it as it is, Mr. Chairman.

Mr. Chairman: All right.

Sen. Al-Rawi: And you need to cross balance it.

Dr. Khan: Yes.

Mr. Chairman: So are we going to collect moneys for fees, or fees or moneys? Just fees. So we are going to collect fees required to be paid under this Act and take out “monies for”, and we are going to have a new (j). Is it?

“such other powers as are desirable for the carrying out of the functions” and—I said of the council which is a terminology I saw before—under this Act.”

Dr. Khan: We have (j) similar to (j)—3A(j).

Sen. Lalla: Mr. Chairman, I think we should say “necessary” instead of “desirable”.

Mr. Chairman: All right. Sure. Necessary, but is it of the council or is it functions of the—[*Interruption*]

Dr. Khan: Of the council.

Mr. Chairman: Yes, it starts off the functions of the council. So it is functions of the council. So we will have a new (j):

“such other powers as are necessary for the purpose of carrying out the functions of the council.”

Sen. Howai: We need to put a semicolon [*Inaudible*]

Sen. Al-Rawi: That is right.

Mr. Chairman: Yes, and we will introduce a “;” after the word—in (i), we will substitute the “.” and after the quotation mark, we will introduce a “;” and the word “and” and we will take it out from (h).

Dr. Khan: Right.

6.45 p.m.

Mr. Chairman: And we will bring in the new (j).

Dr. Khan: The new (j) will be “performs all other functions under this Act”.

Mr. Chairman: Performs such other powers as are necessary for the purpose of carrying out the functions of the council. Do we perform powers? Sounds—yeah, we already have it in the chapeau.

Sen. Vieira: As are reasonably necessary to enable the council to perform its functions and duties.

Dr. Khan: All other powers necessary for the functions.

Sen. Al-Rawi: Yeah, just “necessary”.

Mr. Chairman: You want all or such?

Dr. Khan: All other powers that are necessary for the functions of the council.

Sen. Al-Rawi: No, no, that is dangerous; “such other”. Yeah, because we cannot give them all.

Mr. Chairman: What I have here is: such other powers as are necessary for the purpose of carrying out the functions of the council.

Sen. Lalla: No, but the reading, Mr. Chairman, has to start from 3B so it says:

“...the Council shall have the power to—”

Mr. Chairman: So such other powers as are necessary for the purpose of—

Sen. Al-Rawi: Yeah, Sen. Lalla, you have raised a very good point. It cannot be at (j).

Mr. Chairman: All other powers as are necessary, is what you are saying?

Sen. Lalla: It has to flow from this.

Sen. Al-Rawi: So, “shall have the power to exercise” would help you out there or to—

Sen. Vieira: It would read: shall have the power to do such act or thing as are necessary—

Sen. Lalla:—for carrying out its functions under this Act. Yeah, that is good.

Dr. Khan: Say that again.

Sen. Vieira: It would read:

“...the Council shall have the power to—”—do any act or thing as are necessary.

Sen. Lalla: For carrying out its functions as set out above or—

Sen. Al-Rawi: That might help. Or you could say: shall have the power to exercise—

Sen. G. Singh: We are casting the net too wide.

Dr. Khan: The power is already here.

Sen. Al-Rawi: Sen. Singh is raising something that I just raised with Sen. Prescott, I am worried about the width of a catch-all, even though it is stymied by vires and ultra vires and the Constitution, I am still a little troubled because I am not sure about it.

Mr. Chairman: Yeah, well, how about instead of “any”, such. Make it plural—such acts or things as are necessary for carrying out—

Sen. Vieira: And in fact, such other act.

Sen. Dr. Mahabir: But it would not read well because, you see, it is:

“...the Council shall have the power to—”—do something.

Sen. Al-Rawi: That is why I used the word “exercise”.

Sen. Dr. Mahabir: Yeah, to exercise. You see, you have to have a connection, they have a power to do something.

Sen. Lalla: Let us get the version of Mr. Chairman’s decision.

Dr. Khan: Yes.

Mr. Chairman: I am suggesting here, under (j): exercise such—

Sen. Vieira:—to do such other acts and exercise its power.

Mr. Chairman: What about exercise such other powers?

Dr. Khan: No, the power is there already in the tagline.

Sen. Al-Rawi: Look at the chapeau; the problem is in the chapeau.

Dr. Khan: The council should have the power to.

Sen. Lalla: It should be a power to do something.

Mr. Chairman: “Such other acts or things”

Sen. Al-Rawi: As are necessary.

Sen. Lalla: To do such acts and things as are necessary for performing the functions as set out above.

Sen. Al-Rawi: Functions of the council.

Sen. Vieira: Performing its functions.

Mr. Chairman: For carrying out its functions under this Act, I thought is what—

Dr. Khan: Yeah, we come back to that.

Mr. Chairman: Because we are repeating the (h).

Dr. Khan: The (h), we come back to that. “...the power to—”, you see, the functions of the council are to:

“...perform such other functions as may be”—necessary, may be—
“conferred on it...”

And you are coming back to the other part of it:

“...the Council shall have the power to—”

Sen. Al-Rawi: To do. You would have to put to do—

Dr. Khan: What is necessary.

Sen. Al-Rawi:—such things.

Mr. Chairman: Well, “to” is in the chapeau already so it could just be do such other acts or things as are necessary for carrying out—

Dr. Khan: That is it; that is what we started off with. The power to perform—

Sen. G. Singh: You see, you cannot give the council such a wide power.

Dr. Khan: This is what I am worried about.

Sen. G. Singh: I think that in an attempt to provide the council with power, we are casting the net too wide and from a policy perspective, it is wrong.

Sen. Al-Rawi: Thank you, Sen. Singh, I was raising just now to you the trouble in my mind about doing it on the trot this way. We are trying to cater for a circumstance where we would have unwittingly left a power out, a function out, so the intention is good, but I am cautious about how far we are going.

Dr. Khan: If you look at (h), the power of the council would be to:

“establish such committees as are necessary for the discharge of the functions of the Council;...”

So you do not really need to go into something else.

Sen. Al-Rawi: This is like the old companies law. In the old companies law, you had articles and memorandum of association and if you did not have a power specified there, you had to go to court and go and get the power. We have changed that in our perspective. We are, for this Act, architecturally introducing the concept of a power for the first time by specifying it. We had two choices: put no power reference at all and then we good; but having put it in now, the mischief that the Government needs to be careful of, and we as legislators—

Dr. Khan: It is an open, wide area.

Sen. Al-Rawi:—is (a) in being too wide and therefore ultra vires, or (b), in not putting in an essential power that we may not have contemplated yet.

Mr. Chairman: But the Minister says he is going to come back because there are other things that he wants to expand, and if at that time, he sees new areas.

Dr. Khan: I would leave this as it is.

Sen. Al-Rawi: Okay, I will just say put a very large asterisk next to, having the CPC check whether you have omitted powers by mistake.

Sen. Robinson-Regis: Sorry, Mr. Chairman. The thing is that you could imagine myriad powers, we could sit here and imagine myriad powers that we could possibly leave out and we will still leave out a power.

Mr. Chairman: Yes, of course.

Dr. Khan: I would leave this.

Sen. Robinson-Regis: So, the better thing is leave it as it is, and if when we are working this Act, we realize that this is something that has to be put in, we really left out a power, we can come back.

Mr. Chairman: Sure. So for the time, we are going to retain in (h) the “and” that was there and we will have (i) reading: collect fees required to be paid under this Act, full stop followed by quotation marks.

Question put and agreed to.

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

Clause 7.

Question proposed: That clause 7 stand part of the Bill.

Mr. Chairman: I think we have some amendments.

“7. In proposed section 4 in paragraph (a)(v) delete the word “Minister” and replace with the word “Ministry”.

Sen. Al-Rawi: Clause 7 proposes, apart from the amendments, hon. Minister, if I could just ask policy wise. Clause 7 proposes an amendment by way of repeal of the existing section 4 of the Act and a substitution. It essentially seeks to reduce the number from 22 to 15, but it does so in a rather curious way. Policy wise, it excludes the ex officio formula that we have in the old Act. Now, this ex officio formula was a very nicely drafted one because it allowed a representative of the CNO or CMO to come on board.

Later on, you took avail of some of the comments I gave you off the floor in terms of the cross references to ex officio which existed elsewhere that made a nonsense of removing it here, so I recognize that that is there. We have left the quorum at the same number. So we have reduced the number from 22 down to 15.

Dr. Khan: Right.

Sen. Al-Rawi: We have left the quorum at seven, so it could not be that we have reduced the number because of a quorum issue because we have not tampered with the quorum. But, the removal of the CNO and the CMO removes a direct vertical linkage to two essential people that need to know what is going on. So the question is from a policy perspective, did you really want to, particularly because the midwife section refers certain disciplinary actions and information to the Chief Nursing Officer and Chief Medical Officer in the Act elsewhere which we have not amended?

Dr. Khan: Yes.

Sen. Al-Rawi: But they have no locus or standing on the committee, on the council, so why are we removing them?

Dr. Khan: The Chief Nursing Officer, if you look at section 4(a)(v):

“a representative of the...”—Ministry could either be the CNO or CMO.

Sen. Al-Rawi: But why not both ex officio?

Dr. Khan: It cannot be both ex officio because I do not think the CMO was an ex officio member.

Sen. Al-Rawi: So under the original Act, section 4(a), the Chief Medical Officer or his nominee to represent him and the Chief Nursing Officer who shall be ex officio members, so they were both in.

Dr. Khan: What was occurring in the past, they never attended.

Sen. Al-Rawi: But they do not need to. Under this Act, it says “or his nominee appointed to represent him”. So the formula inside of there had the office of the CNO and the office of the CMO, and when you turn into the Act itself and we go into the sections to deal with midwives, we see in that section there, references to the Chief Medical Officer or Chief Nursing Officer taking certain steps and actions but they are not members of the council.

It is true that you could use your Ministry’s representative to include one of them because you do not allow two members, because you have now restructured your representative formula in. But I would think it beneficial for a holistic management of the system to allow a representative of CNO and CMO to be there. It would help you to administer particularly when you come to dealing with midwives in the Act as it exists, sections which we are not amending in this Bill. It would help you to have the CMO or CNO present or their representative so you get that vertical tie-in to disciplinary or movement control, et cetera.

Sen. Vieira: I want to support what Sen. Al-Rawi is saying because it is the same point I was making. You need to have, I think, that institutional memory and that channel of communication with the Ministry, because the council will be just there for a term of four years.

Now, I heard you in your presentation when you said that they were going to change the numbers because people did not attend meetings, but there is an inconsistency in that logic because if with 22 people, you could not get a quorum of seven, narrowing it down to 15 does not improve your chances for getting that quorum of seven.

Dr. Khan: Right.

Sen. Vieira: So I am not sure that that logic follows.

Having said that, the CMO and the Chief Nursing Officer are very important, and if they cannot attend, as I could understand, the Act allows for nominees and nominees can attend. Now, regarding five, I would have thought we could have had a representative of the health services nominated by the Minister or the Ministry, but I still feel, like Sen. Al-Rawi, that to have them as ex officio members does not hurt, it only helps.

Sen. Al-Rawi: And it improves your quorum issue significantly because instead of having—[*Interruption*] If there was a mischief—and Minister, honestly, we want to assist here so we are just thinking the issue out. If there was a mischief by their inclusion, perhaps, you know, I could understand but, on the face of it, I do not understand, having kept the quorum the way it is, why they are being left out, particularly when they have responsibilities under the Act in different places. So, I would want to know that they know what is going on, because they have responsibilities under the Ministry's portfolio and otherwise. So, why were they excluded, is the question?

7.00 p.m.

Dr. Khan: The reason we excluded it, what was occurring when the—well, the CMO hardly ever attended the meetings, neither did his alternate. So that was something that we took off.

In the Medical Board Act which is for doctors, the CMO is a vital point; that person there. However, what has been occurring, when we put professionals in their professional area and professional councils, like a doctor in a medical council or a nurse or a dentist in a dental council, they tend to become the council member in the Ministry, rather than the Ministry member in the councils. So it causes a problem for the Ministry itself to work effectively. So by putting a representative of the Ministry, we could then choose a Ministry's representative to do the Ministry's work on a council, rather than council work in a Ministry.

Sen. Prescott SC: Mr. Chairman, may I ask the Minister? Minister is there any reason the Chief Nursing Officer or the Chief Medical Officer should not have the option of attending meetings, for the very worthy opportunity that he may have, to challenge something that the Minister may be inadvertently doing? You might want to give him that power. If he does not attend meetings, does not trouble anybody, but the day that the Chief Medical Officer sees the need to attend a meeting, you would not want anybody saying to him, you are not a member of this body. So I would leave it there. I would give them the two places, and increase your number to 17, please.

Sen. G. Singh: Chairman, I think Sen. Prescott raised this initially in the debate, the fact that the Chief Nursing Officer and the Chief Medical Officer were not members of the Nursing Council, and institutionally there is merit whether or not they attend. I think that in terms of the institutional approach, that we ought to really—Minister, you may want to contemplate that. Give some thought to it.

Dr. Khan: Okay. I will—

Sen. Al-Rawi: Think about it—

Dr. Khan: No, I have thought about it while we were speaking, [*Laughter*] that was why I was not speaking while you were speaking. [*Laughter*] I will give it—I will do it. I will put back the Chief Nursing Officer, but I do not think I will put the Chief Medical Officer.

Mr. Chairman: Do you have an amendment to suggest now?

Dr. Khan: You could put “a representative of the Ministry who is—

Sen. Al-Rawi: No, no, no, you want to have your Ministry person to carry out—

Dr. Khan: In addition.

Sen. Al-Rawi: Yeah, in addition. So this is taking your—

Dr. Khan: We could add a (vii)—

Sen. Prescott SC: A new 4(c)—

Dr. Khan: (vii).

Sen. Prescott SC: In the language of the current 4(1)(a). A new subsection (4)(c) in the language of what is in the Act, at 4(1)(a).

Dr. Khan: Okay, 4(c).

Sen. Vieira: Because 4(a) talks about appointments.

Dr. Khan: Okay, at the end.

Sen. Vieira: So the Chief Nursing Officer who shall be an ex officio member.

Dr. Khan: The Chief Nursing Officer who will be an ex officio member.

Sen. Vieira: “Who shall be”. No, he does not want the Chief Medical Officer. So the Chief Nursing Officer is a good compromise.

Mr. Chairman: So we are thinking of—considering adding on a (c) to 7, at the end. (c): the Chief Nursing Officer who shall be an ex officio member of what?

Sen. Al-Rawi: Do we want to put the Chief Nursing Officer or his nominee, appoint a nominee, right? So that you do not have the difficulty, right?

Dr. Khan: Yeah. Or his nominee.

Mr. Chairman: Who shall be an ex officio member of the council?

Sen. Al-Rawi: Who shall be an ex officio member.

Mr. Chairman: So you do not want to say “of the council”?

Sen. Al-Rawi: But it says “the council shall comprise”.

Sen. Vieira: Sen. Al-Rawi, the Chief Nursing Officer did not in the parent Act have a nominee.

Sen. Al-Rawi: I know.

Sen. Vieira: But I agree it should be a nominee.

Sen. Al-Rawi: It did not and I put it in.

Sen. Vieira: I am not disagreeing, I am just—

Dr. Khan: Mr. Chairman, I think you have to put an “and” before 4(c).

Mr. Chairman: Well, really at the end of (iv), (b)(iv); and you are taking out the inverted commas, and putting it at the end of “Member”.

Dr. Khan: Right, and the “and” comes out of 4(a).

Mr. Chairman: Correct.

Dr. Khan: Also the first part “Subject to section 4A, the Council shall comprise of 16 persons”.

Sen. Al-Rawi: Correct.

Mr. Chairman: 16?

Sen. Al-Rawi: Yes.

Mr. Chairman: Good man.

Sen. Prescott SC: Chair, may I, before we leave—

Mr. Chairman: Sen. Prescott.

Sen. Prescott SC: Before we leave clause 7, we repealed section 4, and I suspect that section 4(2) of the Act had some purpose.

Sen. Al-Rawi: Yes.

Dr. Khan: 4 what?

Sen. Al-Rawi: 4(2), the existing 4(2) of the Act.

Sen. Prescott SC: It seems to have been thrown out with the bath water.

Sen. Al-Rawi: It says:

“The Council shall from time to time give due notice to the persons or bodies concerned and take all such other steps as may lie in their power with regard to the making of appointments and the holding of elections.”

Sen. Prescott SC: And there are provisions in the newly proposed clause to have elections. Without thinking about it, it appears to me that (2) should have something to do with—are you following me Minister?

Mr. Chairman: That is 4(2)?

Sen. Al-Rawi: Yeah. So, hon. Minister, the existing 4, which we are repealing by this clause 7, struck off 4 clean. Put in a new 4, but I think that it perhaps may have gone a little too far in striking subclause 4(2). So 4(1) should be struck. And hon. Minister, may I tell you why that would help you?

Mr. Chairman: Then when we come to 4, we will have to put (1) there.

Sen. Al-Rawi: Yes. If I may—

Dr. Khan: So in other words, you are saying to keep 4(2)?

Sen. Al-Rawi: Yes, 4(2) of the Act is critical. But let me tell you why this helps further, and I just want to tag on to another section. *[Interruption]* No, no, no, it is a consequential amendment that comes later. When we flip over—and I still have other observations on this, but when we flip over, we have not—in section 5, which we are amending in clause 9 later on, right? If you just look at the Act for me hon. Minister, the Act itself, section 5, you see 5(1), which we will have a consequential amendment for when we come to it in clause 9.

Jump to 5(2), 5(2) referred to section 4(1), which you did not amend in the Bill. Right. So 4(1)—just pause a second, I am just giving you the architectural reference. So now having 4(1), makes sense, but you have a further problem in subclause (3). Subclause (3) referred to subsections (d), (e), (f) and section 4(1), which you did not amend either, which still makes a nonsense, because there is no (d), (e) or (f), or 4(1), unless we put in a 4(1), but (d), (e) and (f) make no sense by themselves anyway. So when we come to clause 9, I am going to be pointing out those things. So it makes sense to put in the 4(1), leave the 4(2), and then we have to come back in clause 9, to tie in the amendments to section 5 which should have been made in the Bill, but have not yet been made.

Sen. Vieira: I agree.

Sen. Al-Rawi: I have some further observations on this clause, eh. Now we will have a 4(2) which is the original 4(2) of the Act.

Dr. Khan: By repealing section 4(1)?

Hon. Senator: Yeah, by repealing section 4(1).

Mr. Chairman: Shall we get out of the way—

Sen. Al-Rawi: Question. If you want to make sense of section 5 of the Act later when we deal with the half amendment we made in clause 9, the numbering of 4(i)(ii), when we put a new 4(a), right? The numbering of (i), (ii), (iii), (iv), (v), (vi), you may want to revert to an (a), (b), (c), (d) or (e) to make sense of section 5, which comes later, okay? You follow what I am saying? Right?

Then in relation to an attorney-at-law, which is 4(a)(i), an attorney-at-law of one year's practice or 3 years' practice and 10 years' practice is very different, and the council is exercising quasi-judicial functions in suspension, disciplinary action, et cetera. I was very concerned that the qualification level for the attorney should be a minimum, five years' experience.

Sen. Prescott SC: 5 years?

Sen. Vieira: I agree with that, and I was also wondering—

Dr. Khan: Could we just go back to—Mr. Chairman, 7? If we put the Act is amended by repealing section 4 and then you insert a (1)—

Mr. Chairman: Correct, I have that.

Dr. Khan:—and substitute the following section 4(1).

Mr. Chairman: Correct. I have that.

Dr. Khan: All right, so you have that.

Mr. Chairman: And 16 persons.

Dr. Khan: 16? Yes, 16.

Mr. Chairman: At (v), instead of “Minister” it is “Ministry”.

Dr. Khan: “Ministry” and also in (vi), we have to insert “the advanced practice nurse”, no sorry, (b)(i)—I think that was deleted “advanced practice nurse” here?

Sen. Al-Rawi: So Minister, you are looking at (b) which does not give you an advanced practice nurse representative, which is another point I was coming to at (b)—

Dr. Khan: Yes.

Sen. Al-Rawi:—if that is what you are looking at. Or remove from “five nurses”, in (a), if you look at (b)(i).

Dr. Khan: Okay.

Sen. Prescott SC: In the circumstances, may I just simply recommend that we look at my amendments, please? [*Laughter*]

Sen. Al-Rawi: Yes, Sir.

Mr. Chairman: So after the question of introducing the five-year—

Hon. Senator: Yeah. We are okay with that.

Mr. Chairman: Are you all right with that?

Sen. Al-Rawi: Yes, definitely.

Sen. Vieira: I was wondering, I am not saying as an amendment, but in addition to the five years, whether or not we should also say: with knowledge of, or experience in medical or legal or administrative law? No?

Sen. Al-Rawi: I do not think we would find that person.

Mrs. Robinson-Regis: That would make it difficult to find that person.

Sen. Al-Rawi: They hardly exist in private practice today.

Sen. Prescott SC: Mr. Chairman, may I invite your attention to the amendments circulated under my name?

Mr. Chairman: Sure, I was looking at that. I see at (b) instead of “a representative of the Minister”, you are suggesting “a member of the Medical Board”.

Sen. Prescott SC: That is one of them.

Dr. Khan: No, I do not think I would go with that.

Mr. Chairman: And then in b(1)—

Sen. Al-Rawi: Oh, that helps.

Dr. Khan: “and/or advanced practice nurses”, yeah. In fact, I was looking for that.

Sen. Prescott SC: That is pertinent.

Sen. Vieira: That is very helpful.

Mr. Chairman: So after “nurses”, we are adding on “and/or advanced practice nurses”.

Sen. Vieira: Is “and/or” accepted drafting?

Dr. Khan: No, you cannot have that there.

Sen. Al-Rawi: No, the concept helps:

“five nurses elected from among their own number by the persons who are registered as nurses under this...”

Dr. Khan: So advanced practice nurses are registered as nurses. So they could elect them.

Sen. Al-Rawi: They can, the question is that, well, the obligation is for us to state on *Hansard* that we intend that, because—

Dr. Khan: Well, nurses are—advanced practice nurses are nurses—

Sen. Prescott SC: But you—

Dr. Khan:—on the nurses register.

Sen. Al-Rawi: But having categorised them—

Sen. Prescott SC: How about if we simply remove the “and/”? So if you register and either—

Sen. Al-Rawi: Or, you could use the word “or”. If you use the word “or”, not “and/or”. You just use the word “or”.

Sen. Prescott SC: Okay.

Dr. Khan: But the thing about it, they are on the nurses’ register, as nurses, and they are also on the advanced nursing register.

Sen. Al-Rawi: That is my initial argument that this amendment is otiose, you know.

Dr. Khan: In fact, I am on a register as a medical doctor and also on the specialists register.

Sen. Al-Rawi: That is why on clause 1 of the Bill, I asked you if you really wanted to amend to include advanced practice nurses, because they are all nurses, and you have subclasses. So having said to me, that you have to do it, to put them in—

Dr. Khan: Okay, advanced practice nurses are nurses, but not all nurses are advanced practiced nurses.

Sen. Al-Rawi: Correct, which is—

Dr. Khan: You have to define them.

Sen. Al-Rawi: I can accept that. You can define them in a number of ways either through regulations, the council's definitions or otherwise.

Dr. Khan: No, what I am saying, you have to put it like that.

Sen. Al-Rawi: So the question is having created these classes, do you want to include, out of an abundance of caution, that they can be—

Dr. Khan: Not necessarily, not for this part of the Act.

Sen. Al-Rawi: You see, if you put it in though Minister, it means that they would have to at least consider at least one advanced practice nurse.

Dr. Khan: Then you would be changing—

Sen. Vieira: A suggestion, I get the impression from the Minister, that since we have created this new category of nurses, advanced nurses, there should be at least an advanced nurses' representative on the council.

Dr. Khan: He is saying the opposite.

Sen. Vieira: So what I was going to suggest is, instead—you can either add another member to council, or you could say four nurses elected from among their number and an advanced nurse.

7.15 p.m.

Sen. Al-Rawi: Five nurses, at least one of whom shall be an advanced practice nurse.

Sen. Robinson-Regis: May I ask, Minister, what is your policy in this?

Dr. Khan: Anyone—

Sen. Robinson-Regis: Is it not five nurses with an advanced practice nurse?

Dr. Khan: I do not want to specify to the nurses whom to elect.

Sen. Robinson-Regis: So, it could be advanced practice—could be a regular nurse.

Dr. Khan: Anybody could be elected. I do not want to specify to say, Sen. Robinson-Regis, that. I do not want to specify to them. It could be anybody. They will chose.

Sen. Robinson-Regis: And “nurses” includes an advanced practice nurse?

Dr. Khan: Great, having said that on *Hansard*, we will have that.

Sen. Robinson-Regis: So that is the policy?

Dr. Khan: Yes.

Mr. Chairman: So, I will go through the amendments. There are none in (b) it remains as it is except that under (iii), we are taking out the “and” after (iii). In (iv), we are taking out the quotation marks and we are putting a semicolon instead of a period and we are adding the word “and”. Following that, we introduce a new (c), reading:

“the Chief Nursing Officer or his nominee who shall be an ex officio member”.

Sen. Prescott SC: Chair, would you mind reading how we have amended the provision for an attorney-at-law in 4(a)(i)?

Mr. Chairman: I should have said that. I put, “Ask Prescott”. I do not imagine you want that in there. [*Laughter*]

Sen. Prescott SC: Not many people qualify, Sir.

Sen. Al-Rawi: Do we have to say, if it is as per Sen. Prescott’s submission, “Bar of Trinidad and Tobago”?

Hon. Senator: No.

Sen. Al-Rawi: Because I would not put that in, I would just say, “five years upwards”; “of not less than five years standing”.

Sen. Prescott SC: I deliberately said “admitted to practise”.

Sen. Al-Rawi: Right, right. Because you can be—“yeah”.

Mr. Chairman: Well, some lawyers do not necessarily qualify.

Sen. Prescott SC: That is why I was insisting that the person should be at the bar.

Sen. Vieira: I agree with you.

Sen. Al-Rawi: At the Bar is much more helpful, if that is what we want to say.

Mr. Chairman: You want to make it an advocate attorney, you mean?

Sen. Al-Rawi: No, at the Bar in Trinidad and Tobago is under the Legal Profession Act, 1986; makes us all at the Bar, so that everybody is an attorney-at-law.

Dr. Khan: You would not get anybody, you know. It is very hard getting somebody now. If you specify that, it would be harder.

Sen. Vieira: You just say “a practising attorney-at-law of at least five years’ standing”, or “of not less than five years’ standing”.

Dr. Khan: Just leave it. In fact, it is very hard to get an attorney of two years’ standing right now. It is nice to speak about it here, but the thing about it, when you are outside there trying to do it—

Mr. Chairman: You do not want to diminish the pool—an attorney-of-law of not less than five years’ standing.

Sen. Al-Rawi: They have to have the calibre for the quasi-judicial function.

Dr. Khan: I will just say “of not less than five years’ standing” and that is it.

Sen. Al-Rawi: I think so.

Sen. Prescott SC: Thank you very much.

Mr. Chairman: Under 4(i)—sorry, I should go back. Did I say that we are inserting—the Act is amended at 7, by repealing section 4(1), and then when we come to 4, you have (1) before we start the sentence and it shall comprise 16 persons, at (i) it is to be “an Attorney-at-law of not less than five years’ standing”. At (v), it will be “the Ministry”, instead of “Minister”; at b(iii), we will take out the “and”; at (iv), we will take out the “.”; insert “.” with the word “and” and introduce a new—

“(c) the Chief Nursing Officer or his nominee who shall be an ex officio member.”

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Vieira: I was just wondering, because you put 4(i), whether we should say, “substituting the following subsection” instead of section.

Sen. Al-Rawi: Clause 8 is inserting after section 4, the following new section 4A, so it is properly a new section; it is not a subsection. It is 4A, so we did not have to renumber the entire Act.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clause 9.

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

Mr. Chairman: We have an amendment from the Minister.

Sen. Al-Rawi: Mr. Chairman, before we consider the Minister's amendment, on the latest version, if we just look at the language of section 5, which is what clause 9 proposes to amend, "members of the Council other than the ex officio members" should be "member", "shall hold office for three years but shall be eligible for reappointment or re-election." (2), which was not amended before, would now, hopefully, make sense in that 4 still exists; (3), which has not been amended by this Bill, of the Act, proposes: "Where the vacant place is that of a person elected under paragraph (d), (e) or (f) of section 4(1)...", those do not exist again because we have repealed that section and we end at (c) by the consequential amendments, "the Council shall...", et cetera, "said paragraph (d), (e) and (f)", again (d), (e) and (f) fourth to last line. So this needs to be looked at again by the draftsman.

Sen. Prescott SC: Al-Rawi, Chair, the removal of (d), (e) and (f) could lead to a substitution now of what is proposed at 4(b)(ii,) and (iii), what was formerly section 4(e) in the Act.

Sen. Al-Rawi: 4(b) or 4(a), Senior?

Sen. Prescott SC: I have (e). The language of section 4(e) is the same as in the Bill at 4(b)(ii) and 4(b)(iii), save that it is one person, it is very much the same as section 4(1)(f).

Sen. Al-Rawi: So (e), as in echo, is now 4(1)(f).

Sen. Prescott SC: Clause 4(b)(ii) is in the language of section 4(1)(e) and this clause 4(b)(iii) encapsulates what is in section 4(1)(f), save that the number of persons is now two. So that when you deal with section 5 of the Act and you are replacing the words "paragraphs (d), (e) or (f)"—you seem to be getting some trouble.

Sen. Al-Rawi: I am trying to make sense. Section 4(d) refers to “eleven persons of whom not more than two may be medical practitioners, elected by the persons who are registered as nurses under this Act at the date of the election”. So the replacement for (d), if you are looking at the Bill, Senior, you said that is 4(b)(ii), which is “one person elected from among their own number by persons who are registered as midwives”. I have the midwife reference as (e), not (d).

Sen. Prescott SC: That is (e).

Sen. Al-Rawi: Okay, so (e) can be replaced by 4(b)(ii). Mental nurses.

Sen. Prescott SC: Those are in section 4(1)(f).

Sen. Al-Rawi: Correct.

Sen. Prescott SC: Except that the number instead of being one is now increased to two in the clause.

Sen. Al-Rawi: I am looking for it in the new clause (4)(1)(b)(iii), two persons elected from their number, mental nurses, so that is 4(b)(iii); (f) is equal to 4(b)(iii) then (d), which is 11 persons registered as nurses and nurses would be—

Sen. Prescott SC: That is 4(1)(d), save that it was 11.

Sen. Al-Rawi: So nurses are taken care of in the new 4(1).

Sen. Prescott SC: Well, actually that is a whole new section. Forget (d).

Sen. Al-Rawi: It is 4(b)(i).

Sen. Prescott SC: Yes, it stands on its own.

Sen. Al-Rawi: 4(b)(i), potentially. Minister, just to help you and the crew, to see if we are correct, if it is instead that 4(d), (e) and (f) are intended to be as renumbered in 4(1)(b)(i), 4(1)(b)(ii) and 4(1)(b)(iii).

Sen. Prescott SC: This is what we are putting into 5(3)?

Sen. Al-Rawi: Into 5(3).

Dr. Khan: Mr. Chairman, clause 9, what we can do is delete (a) from section 5 in the amendment and substitute it with “in a new (a) in subsection (3) by deleting the words (d), (e) and (f) wherever they occur and substituting a paragraph.

Mr. Chairman: Shall I get this right? The Act is amended in section 5. It reads (a) and you are taking out that (a)—

Sen. Al-Rawi: You still need it. It is now one ex officio member, not members. You need to change “members” to “member”, so 5(1), as it is, refers to ex officio members. It is only one. You are correct to leave it there, just delete the “s” from “members” in the proposed 4(a) and then you ought to include a new 4(b), which seeks to amend 5(3) of the Act by deleting (d), (e) and (f) where it appears in the second line of 5(3) and replacing that with 4(1)(b)(i), 4(1)(b)(ii) and 4(1)(b)(iii) and then doing the same thing by deleting (d), (e) and (f) where it appears in line 5 and line 9 of subsection (3).

Dr. Khan: Listen to what I have been advised. The Act is amended in section 5; and (b) will be “in subsection (3), by deleting the words, (d), (e) and (f) wherever they occur and substituting the words with the following paragraph (b)”.

Sen. Al-Rawi: It is the whole of (b)?

Sen. Prescott SC: It is all of (b), all elected.

Sen. Al-Rawi: Okay, I was just trying to make sense from the specific references that were originally contained there. So could I hear that again Minister? Under paragraph what?

Dr. Khan: The Act is amended in section 5—in (a) just take off “members”.

Sen. Al-Rawi: The second one.

Dr. Khan: The second one is (b), “in subsection (3) by deleting the words (d), (e) and (f) wherever they occur and substituting the words paragraph (b)”.

Sen. Al-Rawi: It has to be 4(1)(b). That is what I wanted to get clear.

Hon. Senator: Wherever they occur. I got up to there.

Sen. Al-Rawi: And substitute—it cannot be (b).

Sen. Prescott SC: Faris, excuse me, if you read the Act at 5(3), it says paragraph (d), (e) or (f) of section 4(1).

Sen. Al-Rawi: I see (b) of 4(1). Thank you, Senior. Paragraph (b). Yes, that makes sense. That is what I wanted to get clear.

Dr. Khan: And, after that, then (b) becomes (c).

Sen. Al-Rawi: I think it would be much neater when you look at the second (d), (e) and (f) and the third (d), (e) and (f) to say 4(1)(b) because it says the said paragraph (b)—I do not know if you think it is elegant that way.

Dr. Khan: (b) is, “in subsection (3) by deleting the words (d), (e) and (f) wherever they occur and substituting the words, “paragraph 4(1)(b)”.

Sen. Al-Rawi: You can just leave it as a nonsense you know.

7.30 p.m.

Mr. Chairman: What I would like to suggest, I mean (d), (e) and (f) are not words. So, by deleting “(d), (e) and (f)” wherever they occur substitute the words “paragraph 4(1)(b)”. Is that correct? That would be a new “(c)”, is that what you are suggesting?

Sen. Prescott SC: Chair, what you are removing are these words “(d), (e) or (f)”, so it is really words.

Mr. Chairman: It is really words.

Sen. Prescott SC: Because “or” is there. *[Laughter]*

Mr. Chairman: What I am just saying is that if you are deleting “(d), (e) or (f)” whether they are words or letters—*[Interruption]*

Sen. Prescott SC: The word “or” has to go as well, because it is one paragraph there now.

Mr. Chairman: I know.

Sen. Prescott SC: What about if we say the expression (d), (e) or (f)?

Sen. Al-Rawi: In drafting style they even say the word “;”. So, it is always referred to as a word.

Mr. Chairman: I will be guided.

Sen. Al-Rawi: I always find that quite humorous, Mr. Chairman.

Mr. Chairman: I just think it would accomplish the same objective without the extra words.

Dr. Khan: Mr. Chairman, in the second line, in (3) in section (5), we are deleting the words—well the expression “(d), (e) or (f)” you have of section 4(1).

Sen. Al-Rawi: That is what I just pointed out to you, and the others do not have a 4(1), which is why I asked you if it was elegant.

Dr. Khan: We could take it off there—*[Interruption]*

Sen. Al-Rawi:—of section 4(1) insert “(b)” after.

Dr. Khan: Yes. And then in the lower line which is the other line—*[Interruption]*

Sen. Al-Rawi: Put in “4(1)(b)”.

Dr. Khan: In the others really, in the (d), (e) or (f) wherever they occur you could put “(d), (e) or (f) of paragraph 4(1)(b).”

Sen. Al-Rawi: That is what I would prefer.

Mr. Chairman: I did not follow that.

Dr. Khan: Well, section 5(3)—[*Interruption*]

Mr. Chairman: In subsection 5(3)—[*Interruption*]

Dr. Khan:—after paragraph—you put “(b)” of section 4(1). You delete “(d), (e) or (f)”

Sen. Prescott SC: And replace it with “(b)”.

Sen. Al-Rawi: No, no, delete “(d), (e) or (f)”—

Dr. Khan: Let me deal with this. Delete “(d), (e) or (f)” and insert “(b)”, after the word “4(1)”.

Hon. Senator: No.

Sen. Al-Rawi: That is how it is done. [*Crosstalk*]

Dr. Khan: And after “said paragraph” you take off “(d), (e) or (f)”—

Sen. Prescott SC: Are you not making it a little more difficult? [*Crosstalk*]
Mr. Chairman—[*Interruption*].

Mr. Chairman: Yes.

Sen. Prescott SC:—it seems to me if all you did was removed “(d), (e) or (f)” and put “(b)” it is not a problem because it would read this way.

Dr. Khan: That is what we are doing.

Sen. Prescott SC: Hear it again, Minister:

Where the vacant place is that of a person elected under paragraph (b) of section 4(1) the Council shall—do certain things. Then you go down—at the election held for the purpose of the said paragraph (b) as the case may be;

We probably do not need “as the case may be” and then lower on:

...from among the persons eligible for election under the said paragraph (b).

So, “as the case may be” should disappear and we are saying “(b)”.

Dr. Khan: So, therefore, what we said initially should stand which is:

Amend subsection (3) by deleting—*[Interruption]*

Sen. Prescott SC: “(d), (e) or (f)” wherever they occur—

Sen. Al-Rawi:—and substituting the words paragraph “(b)”.

Sen. Prescott SC: Good, and then delete “as the case may be” wherever that too appears.

Sen. Al-Rawi: And we are adding on the strike-off of the words “as the case may be” for the two occasions that they appear.

Sen. Prescott SC: And then we can now move on.

Mr. Chairman: Is it still in subsection 5(3)?

Hon. Senator: Yes.

Mr. Chairman: After “(b)” of section 4(1) delete “(d), (e) or (f)” and insert “(b)”.

Dr. Khan: Wherever they occur.

Mr. Chairman: And wherever they occur.

Dr. Khan: And substituting the word “(b)” followed by “and” and then you change—*[Interruption]* .

Mr. Chairman: So “(b)” and then, is it a “; and”? You are not sure. Or if you just follow with the word “and”.

Sen. Prescott SC: Mr. Chairman, may I just trouble you to read what you have.

Sen. Al-Rawi: He is working his way up to the wording for deleting “as the case may be”.

Dr. Khan: You take off “as the case may be”. So “(d), (e) or (f) as the case may be” wherever it occurs. You see, now, you all are trying to do one thing to solve—*[Interruption]*

Sen. Al-Rawi: You could split it into two paragraphs.

Dr. Khan: You are trying to solve one thing. Okay, Mr. Chairman, I think what we are trying to do, section 5(3) you delete “(d), (e) or (f)” after the word “paragraph” and substitute “(b)”—*[Crosstalk]*

Mr. Chairman: Can you read that for me again?

Dr. Khan: We go again. Okay, the Act is amended in section 5 and we took off “members” in “(a)”; “(b)” then becomes “in subsection (3) by deleting the words “(d), (e) or (f)” wherever they occur and substituting the words “(b)”; and “(c)” will be “delete the words as the case may be” wherever they occur.

Mr. Chairman: You have a separate thing or you are putting it altogether in one?

Sen. Al-Rawi: That is “(c)”.

Mr. Chairman: Could you give me “(c)” again?

Dr. Khan: By deleting the words “as the case may be” wherever they occur; and”—[*Interruption*]

Sen. Al-Rawi: In subparagraph 5(3) because that is in the chapeau.

Dr. Khan: That is it.

Mr. Chairman: And, “; and”.

Sen. Al-Rawi: And just to be precise and to help you, they occur in lines 6, 9 and 10 of the subparagraph 5(3). Just so that you could follow.

Sen. Prescott SC: May I now enquire: what is the thinking behind the newly recommended section 5(8) in clause 9?

Dr. Khan: That you could appoint people from outside to become members of the committee—non-members of the council committees.

Sen. Prescott SC: And this is an appointment as opposed to a co-optation?

Dr. Khan: Well, I have been advised “ad hoc” as the work is necessary.

Sen. Al-Rawi: The problem is that in legislation, model legislation, around the world in other places, the terms and conditions of appointment and the responsibilities and liabilities of non-members who are now members of committees—committees being delegates under subclause (7)—that issue arises. So, I understand the need to have ad hoc assistance, but the regulation of the ad hoc participation, and putting some degree of liability or onus upon them is also required as well. It must be balanced, because they are specifically under 5(7) “delegates”—and the principle of non-delegation or derogation and other issues arise in the law.

Sen. Prescott SC: Is there legislative language for the word “co-opt”?
[*Crosstalk*]

Sen. Al-Rawi: You could say “co-opt” rather than “appoint”? [*Crosstalk*]

Mr. Chairman: Do you want to introduce “co-opt” instead of “appoint”? [*Crosstalk*]

Sen. Al-Rawi: Lorraine, “co-opt”.

Ms. John: Yes.

Sen. Al-Rawi: You have used it before?

Ms. John: Yes. It exists in other legislation, yes.

Sen. Al-Rawi: And where it exists in other legislation, is it balanced? Because remember these delegates in committees, (7) gives the council the power to constitute and delegate any of its duties or powers to the committees. So, I do not want to be so loose with my power and my delegation to somebody who is in a limbo of responsibility. That is my fear. The mischief that I am looking at in this drafting is the responsibility, the remuneration, the liability.

Dr. Khan: Nobody gets remuneration on this council, you know.

Sen. Al-Rawi: Why?

Dr. Khan: They do not.

Sen. Al-Rawi: Why?

Dr. Khan: No council gets remuneration.

Sen. Al-Rawi: You see, the council ought to have the power to fix such remuneration. We do have power, and I am going to come to that in a different section.

Dr. Khan: They do not. No councils—not the medical council or medical profession councils have remuneration.

Sen. Al-Rawi: Section 8 of the Act:

“The Council may employ, at such salaries or remuneration...a Secretary and such other staff...”

Dr. Khan: From the fees they collect, because you have laypeople doing that.

Sen. Al-Rawi: You see, Mr. Minister, here is the mischief. This is not personified to the Government at all, I am just thinking it aloud. I have bothered to go through qualifications at law as set up in this Bill by the new 4: “An attorney of not less than five years standing...” et cetera, and then the work of the committee is going to be performed in its delegated manner because functions are

going to be done that way. Then I open the huge back door and I say: “You have the power to bring anybody inside of here to exercise any of these functions and powers”. That is dangerous. I understand the practical need to get the work done, which is why I could have the power to deal with employees.

Dr. Khan: The council has asked for it, but if you want to take it out, I have no objection.

Sen. Al-Rawi: The problem is how do I regulate it.

Dr. Khan: You cannot regulate it.

Sen. Al-Rawi: Exactly. And if I cannot be precise in the parent law then I have a problem in law.

Sen. Prescott SC: May I interject? I hope I am getting Sen. Al-Rawi’s point. I have just been passed a text, *Legislative Precedents* by Crabbe—C-R-A-B-B-E and they used this term:

A committee may co-opt in respect of a matter to be dealt with by the committee, a suitable person to assist the committee.

So that if we use the language of co-optation and assisting, that person does not become a committee member—[*Interruption*]

Sen. Al-Rawi: Say that again?

Sen. Prescott SC:—on whom liability rests.

Sen. Al-Rawi: And, yes, that assists me Sen. Prescott. The problem that I have is in the existing—this new 8 is coming in the context of the Act where there is a 7—[*Interruption*]

Sen. Prescott SC: Yes.

Sen. Al-Rawi:—and 7 has the following words:

“The council may constitute committees and delegate any of its duties or powers to the committee.”

Sen. Prescott SC: Hence my intervention. I was saying if this person were only co-opted to assist, he does not become a substantive committee member and, therefore, it is not caught by 7.

7.45 p.m.

Sen. G. Singh: So the thinking there then is that the committee is comprised primarily of members of the council?

Sen. Prescott SC: Committee members—

Sen. Al-Rawi: So the delegates who receive the powers then are still the committee members, but they can be assisted.

Sen. Prescott SC: They are committee members—yes.

Mr. Chairman: So instead of “to be members of”, you want to put “to assist its committee”.

Sen. Prescott SC: “may co-opt non-members of the council to assist”.

Dr. Khan: Sen. Prescott SC, could you read that part you had just now?

Sen. Vieira: “The committee may co-opt”.

Sen. Prescott SC: The language in the text is:

A committee may co-opt in respect of a matter to be dealt with by the committee a suitable person to assist the committee.

The language I am recommending now for 8 should be:

The council may co-opt—

Sen. Al-Rawi: Or “a committee”.

Sen. Prescott SC: The committee—the council may co-opt, instead of—

Sen. Al-Rawi: I understand, Senior, but I am saying do we want to borrow the exact version, because (7) having created a committee, should I not give the power to the committee itself so that I do not have the risk of a flow through of powers potentially? So instead of “council” use the word “committee”.

Sen. Prescott SC: Yes, so we will take the language out of the text?

Sen. Al-Rawi: Yes.

Sen. Vieira: A committee.

Sen. Prescott SC: “a committee”, yes. So the language recommended, Minister, Chair:

A committee may co-opt,—

Dr. Khan: The council may co-opt?

Sen. Al-Rawi: No, not council, a committee.

Sen. Prescott SC: A committee has that power:

A committee may co-opt, in respect of a matter to be dealt with by the committee, a suitable person to assist the committee.

Sen. Al-Rawi: Excellent.

Sen. Lalla: But what if that person does not meet with the approval of the council?

Sen. Prescott SC: You think the council should have its fingers even in that pie?

Sen. Lalla: Well, the committee would be performing the work of the council.

Sen. Al-Rawi: Or subject to the approval of the council.

Dr. Khan: But the committee will be council members.

Sen. Al-Rawi: Yes.

Dr. Khan: And you will get somebody to assist the committee?

Sen. George: It may become a matter that must have its approval. The fact that the council will have the power to reject—

Sen. Al-Rawi: It always would.

Sen. Prescott SC: So you want to include something about the approval of the council?

Sen. George: No, no. I was just saying that the fact that the committee will have to make a recommendation to the council, in that way the council will have to exercise control. So if it wants to reject the recommendation coming from the committee as assisted by the co-opted person, it can do so. [*Crosstalk*]

Sen. Al-Rawi: For its power to refuse; yes, I agree. [*Crosstalk*]

Dr. Khan: The committee may—[*Crosstalk*]

Sen. Al-Rawi: No, not council, the committee, because this committee is constituted after subclause (7).

Mr. Chairman: Is it “the committee” or “a committee”?

Hon. Senator: “a committee”.

Dr. Khan: A committee with the approval of the council—

Sen. Al-Rawi: I do not think you need to do that.

Dr. Khan: I am trying to figure out why you want the approval of the council. I do not want the approval of the council.

Sen. Al-Rawi: The committee is comprised of council members; they have an intrinsic and inherent power to reject as well.

Dr. Khan: The committee may co-opt a suitable person—

Sen. Al-Rawi: “A committee may co-opt in respect of a matter to be dealt with by the committee, a suitable person to assist the committee.” I think that language says it. [*Crosstalk*] Suitable persons? Sure. Singular does impute the plural.

Dr. Khan: I will prefer to put “a suitable person”. I will tell you why, because if you say “suitable persons” next thing you have a bigger council and your council is there.

Sen. Al-Rawi: Yes, and you can do it several times.

Dr. Khan: Let us go again.

Sen. Al-Rawi: A committee may co-opt, in respect of a matter to be dealt with by the committee, a suitable person to assist the committee.

Sen. Prescott SC: Minister, the only question is: Do you want the approval of the council for it or not?

Dr. Khan: No, they are council members.

Sen. Prescott SC: Thank you.

Dr. Khan: That will just put another layer.

Sen. George: No, you do not want to put that there.

Sen. Al-Rawi: While we are on new clauses—not a new clause, it is something you may want to include in this, so if you just follow me.

If you turn to section 6 of the Act, which has not been proposed for amendment, section 6 of the Act says:

“Pending the re-constitution of the Council in accordance with section 4...”

Now this original section 6 was done when we were repealing the ordinance and bringing the Act in:

“...the Council shall consist of those persons who immediately prior to the commencement of this Act were members of the Council under the Nurses Registration Ordinance (repealed by this Act) of whom six shall constitute a quorum.”

Leaving this in without repealing it makes a problem. You need to repeal this section because, “Pending the re-constitution in accordance with” 4(1), which is with our new 4. Our new 4 is 22 down to 16, et cetera, that is how you are going

to read it. I have to jump back to “the constitution of members under the Nurses Registration Ordinance”, so I need to repeal this section clean, and it creates a confusion. The quorum becomes an issue as well, of course.

Sen. Vieira: If you repeal this section, you will have to renumber.

Sen. Al-Rawi: No, you could just repeal it and leave it the way it is. It usually says in the amended law, “Repealed by Act” number so and so.

Sen. Vieira: But I am saying, if you repeal—

Sen. Al-Rawi: You do not need to renumber, because the technique in legislative drafting is to just say repealed by X and then you leave the number at 6.

Mr. Chairman: In fact, that is what the consolidated version would show, “Repealed”.

Dr. Khan: Chairman, you got 8?

Mr. Chairman: So we are at 9. As I have it:

The Act is amended in section 5A in subsection (1) by deleting the word “members” and substituting the word “member”, singularly. [*Interruption*]

Sen. Prescott SC: May I? I am sorry to disturb you. The word “members” is used twice in 5(1). I suspect it is the second of those in line two. Is that what you meant?

Mr. Chairman: You know what, perhaps you should take out “ex-officio members” and substitute with “ex-officio member”. It is an easier way to do it.

Hon. Senators: Yes.

Mr. Chairman: “by deleting the words ex-officio members”—

Sen. Al-Rawi: “Member”, single. First one, the deletion.

Mr. Chairman:—“and substituting it with the words ‘ex-officio member’”—

Sen. Vieira: Can you not just delete the “s”?

Sen. Al-Rawi: It is to avoid having to say “deleting members wherever they occur”.

Mr. Chairman: That is what I was trying to get around, so we took out two words instead of one.

(b) by inserting after subsection (7) the following new subsection—

‘(8) A committee may co-opt, in respect of a matter to be dealt with by the committee, a suitable person to assist the committee’.

Dr. Khan: We missed out (b) and (c).

Mr. Chairman: Well, I was coming now—I do not know what sequence you wanted. In subsection (3)—so you wanted that first?

Dr. Khan: Yeah.

Mr. Chairman: (b) in subsection (3) by deleting the words “(d), (e) or (f)” and inserting the word—

Hon. Senators: No, “wherever they appear or occur”.

Mr. Chairman: “wherever they occur...”

Dr. Khan: “and substituting the words (b).”

Mr. Chairman: And then (c):

Delete the words “as the case may be”; and—

Sen. Prescott SC: Once again “wherever they occur”.

Mr. Chairman: “wherever they occur.” And then:

(d) by inserting after subsection (7) the following new subsection which are the words, “The committee may co-opt...”

So that was just a sequence. Is that the end of it?

Dr. Khan: That is the end of that, yes.

Mr. Chairman: So we are going to take that into account.

Sen. Al-Rawi: And to mark—

Dr. Khan: So (6) is to be repealed.

Sen. Al-Rawi: So to mark when we come to new clauses, perhaps the insertion of a new clause 9A which would repeal section 6 of the Act. You may want to consider as well a new clause 9B which would amend—but I want you to hear the thought first, hon. Minister. In introducing the position of registrar we have required that it be gazetted, but we have a president, a vice-president, a treasurer and a secretary who are not gazetted. So we are only gazetting the registrar. The secretary carries out some functions in the Act, which we have not amended, which is akin to what the registrar does, so we ought to really be gazetting everybody or nobody.

I am in new clause 9A and new clause 9B, which would tie on now in section 7 of the Act the issue of whether you want to gazette these posts. Why are you gazetting the registrar when the secretary does some of the registrar’s work in different places? [*Interruption*]

You want it gazetted; you do not want to make it easy by not gazetting it. You want to just be consistent, because the point is to let the world know who the official registrar is in respect of that post, because they are carrying out quasi-judicial functions and otherwise.

So I am just pointing out that in section 7 of the Act, having introduced the gazetting for the registrar which is a new post created, but not having cleaned up the work, everything that the secretary does making the registrar do, then we ought to be properly gazetting who the president, vice-president, treasurer and secretary are as well. [*Crosstalk*] We have finished with clause 9.

Mr. Chairman: Potential 9(b). [*Interruption*] Can I suggest that we defer that, because we have to defer it anyhow.

Sen. Al-Rawi: Sure, I am pointing it out to mark the spot.

Sen. Prescott SC: Chair, may I just deal with something substantive, though pedestrian. In the Act, at 5 subsection (5), there is a reference to section 6 which will now be repealed. So it seems to me that we should now say that:

A quorum for meetings of the Council shall be seven members.

Sen. Al-Rawi: Thank you, Senior.

Sen. Prescott SC: Instead of the way it is worded.

Dr. Khan: Say that again.

Sen. Prescott SC: Your Act, section 5(5), subject to section 6 which we are about to repeal, and there will be no 6, should instead read:

A quorum for meetings of the Council shall be seven members.

Sen. Al-Rawi: Before you make that change, the new section 4, which is clause 8 of the Bill, does what section 6 did. It creates the category of having that election for six, et cetera. So the reference probably should be: Subject to section 4A instead of section 6. Section 6 was the thing by which you preserved the old body until the six months had passed.

Dr. Khan: So you delete section 6?

Sen. Al-Rawi: So the amendment would read:

In section 5(5) delete the words 'section 6' and replace them with the words 'section 4A'.

Dr. Khan: Is that okay?

Sen. Prescott SC: I do not understand your reasoning there. [*Interruption*]

Dr. Khan: Mr. Chairman, why do we not just put, “The quorum shall consist of seven members”?

Sen. Al-Rawi: It is for the purpose of the quorum pending the reconstitution of the board. It would make sense so long as the board as constituted—remember we are keeping the quorum the same, right?

Dr. Khan: Same thing.

Sen. Al-Rawi: Okay, well then, I guess that could work.

Dr. Khan: That is all.

Sen. Prescott SC: The new 5 should read:

The quorum for meetings of the Council shall be seven members.

Dr. Khan: That is it.

Sen. Al-Rawi: Yes.

Mr. Chairman: So the question is, if I may put it, that clause 9, as amended, now stand part of the Bill.

Sen. Al-Rawi: No, Sir. There has to be a further addition to the proposed 9, by seeking to amend 5(5) which is what clause 9 does. Clause 9 amends section 5 by deleting the words “subject to section 6”.

Sen. Prescott SC: No; repeal 5 and say instead—

Sen. Al-Rawi: Yes, that is neater. Repeal subsection 5(5) and replace with—

Sen. Prescott SC: The quorum for meetings of the council shall be seven members.

8.00 p.m.

Mr. Chairman: Repeal section 5(5)—[*Interruption*]

Sen. Prescott SC: And replace it, “The quorum for meetings of the”—[*Interruption*]

Mr. Chairman: That is a new 5(5)?

Sen. Prescott SC: It is.

Sen. Al-Rawi: Yes, neater than amending and striking and everything.

Mr. Chairman: Yes, but surely we have to say—you are repealing section 5.

Sen. Al-Rawi: It is not a new section, it is an amendment by way of repeal.

Sen. Prescott SC: Sorry, Chair, what is the problem?

Sen. Al-Rawi: He was referring to the issue, Senior, of whether it is a new clause to be taken at the end as opposed to an amendment.

Sen. Prescott SC: Oh. *[Interruption]* Johnny's mother. *[Laughter]*

Sen. Al-Rawi: Part of the midwife—*[Interruption]*

Sen. Prescott SC: Johnny's mother, ooh, advanced practice nursing.

Sen. Maharaj: That is part of the quorum. *[Crosstalk]*

Mr. Chairman: And replace it with?

Dr. Khan: “The quorum for meeting of the Council shall be seven members.”

Mr. Chairman: A quorum for meeting of the Council—*[Interruption]*

Dr. Khan: No, “for meetings”—the—of the Council shall be seven members. *[Interruption]*

Mr. Chairman: So, repeal section 5 subsection (5) and replace it with “The quorum for meetings by the Council shall be seven members.”

Dr. Khan: Of. Of.

Mr. Chairman: “The quorum for meetings of the Council shall be seven members.”

Sen. Al-Rawi: Yes, Sir.

Mr. Chairman: I still must confess I find that awkward phraseology to talk—*[Interruption]*

Sen. Al-Rawi: Without it being a new clause? What is the mischief, Mr. Chairman, that you are thinking of?

Mr. Chairman: It is English I am thinking of.

Sen. Al-Rawi: Well, you could say in section 5(5) delete the words, “Subject to section 6, seven members shall constitute a”, and then put in the word “the”. *[Crosstalk]*

Sen. Prescott SC: Chair, may I, once more? *[Crosstalk]*

Dr. Khan: Could we just say “Subject to section 6 deleted”, and leave everything.

Sen. Vieira: And capitalize seven.

Dr. Khan: That is all you do.

Mr. Chairman: Subject to—[*Interruption*]

Dr. Khan:—section 6 deleted, and put seven as a capital “S”

Mr. Chairman: You have to delete seven, so you are deleting the words from “subject to seven” and replacing with the word “Seven”, with a capital “S”.

Dr. Khan: No, you have to delete seven too.

Sen. Al-Rawi: Yes, we have to delete the whole word to reintroduce it. [*Crosstalk*]

Mr. Chairman: In subsection (5), delete the words “subject to section 6 seven” and substitute the word “Seven”.

Dr. Khan: With a capital “S”.

Mr. Chairman: With a capital “S”. So, the question is that clause 9, as amended, now stand part of the Bill.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

“10 In the proposed new Section 8A(3)(a), (d) and (f) and 8A(5)(d) insert after the word “Register” the words “and Rolls.”

Sen. Al-Rawi: So, Mr. Chairman, we have marked the spot on coming back to a new clause 9(a) and 9(b). Right?

Sen. Prescott SC: I have a circulated amendment.

Mr. Chairman: And what say you, Minister? We have a circulated amendment by Sen. Prescott.

Dr. Khan: Yes, that is okay.

Sen. Prescott SC: Great, let us run on to the next one.

Mr. Chairman: So, in (a) after “Registers” you want to put “and Rolls”, right?

Sen. Prescott SC: Yes.

Mr. Chairman: And in (d), after the word “Register” you want to put “and Rolls”, and in (f) after “keep open Register and Rolls”.

Dr. Khan: In (d), do you put the semicolon after “Rolls”?

Sen. Prescott SC: Yes.

Mr. Chairman: Well, it is there.

Dr. Khan: No, it is under—[*Interruption*]

Sen. Prescott SC: The insertion goes between “Register” and the colon.

Mr. Chairman: Yes, so it is there already? So, the amendments to clause 10 would read, “in 8A(1) subsection (3), subparagraph (a), after the word ‘Registers’ we add the word ‘and Rolls; in (d) after the word ‘Register’ we add ‘and Rolls’; and in (f) after ‘Registers’ we add ‘and Rolls’”.

Sen. Al-Rawi: And question, section 8 of the Act allows us to “...employ at such salaries or remuneration as the Council may from time to time,...” deal with the secretary. How are we remunerating the Registrar?

Hon. Senator: Secretarial and other staff, eh.

Sen. Al-Rawi: Yes, registrar is not other staff. So, we are appointing him but we have not provided the power to pay him. Mr. Minister, you caught that, right?

Dr. Khan: No, I did not.

Sen. Al-Rawi: I was saying, section 8 of the Act allows us the ability to employ at such salaries or remuneration the secretary or other staff. The new 8A creates the position of a registrar, but we have not provided to pay the registrar, I am just asking how is it to be done. Section 8A as proposed by clause 10 shall employ a suitably qualified person to be the registrar, is it there that we have the power? I am just asking.

Sen. Lalla: In 8 we could probably say, “a Registrar,” because the registrar is superior to the secretary. “A Registrar, a Secretary and such other staff”.

Sen. Al-Rawi: Or is it 8A(1) that needs to be amended? Sorry, Senior, is it that you were about to say?

Sen. Prescott SC: I was about to say that.

Sen. Al-Rawi: Yes, so in clause 10, 8A(1) says, "...Council shall employ a suitably qualified". If we look at the language of 8, should we insert the words "at such a salary or remuneration as the Council may from time to time determine".

Sen. Lalla: Yes, but in 8 we are speaking about salaries, so why not—
[*Interruption*]

Sen. Al-Rawi: So, it could be neater to do it there. I have no objection, but, you see, the post itself was created separately, so 8 created the secretary and other staff and 8A is the registrar. [*Interruption*] I think it may be neater because of the creation of the clause. All of the amendments are a little untidy basically because we are retrofitting the Act.

Sen. Lalla: Point taken.

Dr. Khan: Say that again?

Mr. Chairman: I would have said salary or remuneration.

Dr. Khan: Where are you putting it?

Sen. Al-Rawi: So, "The Council shall employ"—after the word "employ".

Sen. Vieira: Faris, I was going to suggest it might be easier to just simply say, "the Council may determine what remuneration shall be paid to the Secretary and Registrar". Why you need to say salary and remuneration?

Sen. Al-Rawi: But determine and pay are two different factors in law.

Dr. Khan: And it has to employ the secretary.

Sen. Al-Rawi: And it has to employ so they have to have the power to do the contract, to enter into it and to pay him, the same way SRC recommends salaries for us but it is Cabinet to effect it. There is a difference.

Sen. Prescott SC: Okay, so we are going with 8A(1)?

Mr. Chairman: "At such salary as the Council may from time to time determine".

Sen. Al-Rawi: The same language as in section 8.

Dr. Khan: So, where are you putting that?

Sen. Al-Rawi: In 8A(1), insert after the word "employ" the following words: "at such salary or remuneration as the Council may"—[*Interruption*]

Mr. Chairman: Why not put it after “Council”?

Sen. Al-Rawi: Sure, “as the Council may from time to time determine”.

Sen. Lalla: Yes, you could put it there.

Sen. Al-Rawi: You could do it either after “Council” or “employ”.

Mr. Chairman: After “Council”, “at such salary or remuneration as the Council may from time to time”—[*Interruption*]

Sen. Al-Rawi: I just put it after employ because in 8 it was after employ.

Sen. Lalla: Perhaps it is neater after employ, Mr. Chairman.

Sen. Al-Rawi: I did not want to have the issue of CPO having to fix it and everything else.

Dr. Khan: Read it again?

Sen. Al-Rawi: “The Council shall employ, at such salary or remuneration as the Council may from time to time determine,” and then it reads as it was, “a suitably qualified person to be the Registrar of the Council.”

Dr. Khan: Okay, same wording?

Sen. Al-Rawi: Yes.

Dr. Khan: Okay, all right. Okay, Mr. Chair.

Sen. Al-Rawi: And section 5, we are looking at clause 10, right? Turn to page seven. Senior, this question is for you.

Sen. Prescott SC: Excuse me, you are on page seven of 10?

Sen. Al-Rawi: Of the Bill, subsection (5), “Where the Council is empowered under this Act to create—(a) Register—[*Interruption*]

Sen. Prescott SC:—“and Rolls.”

Sen. Al-Rawi:—“and Rolls”, is that amended there?

Sen. Prescott SC: Yes.

Sen. Al-Rawi: Okay, great. Just wanted to be sure.

Dr. Khan: Yes, that is there.

Sen. Al-Rawi: “...from the Register and Rolls” in (d). Thank you, Sir.

Sen. Prescott SC: You are welcome.

Mr. Chairman: Are we on a roll? [*Laughter*]

Sen. Vieira: I was wondering about the point you were making about the *Gazette*?

Sen. Al-Rawi: Well, that is going to come back in the new clause (a) and (b).

Sen. Vieira: So, we will come back to that?

Sen. Al-Rawi: Yes, so the question is, do you want to gazette it or do you not want to gazette it? What is the reason for gazetting it?

Dr. Khan: Let us deal with that after.

Sen. Al-Rawi: No, because it may avoid doing the consequential amendments in the new clauses 9A and 9B. So, what was the policy behind gazetting the post of registrar? [*Crosstalk*]

Sen. Vieira: I was going to make a very simple suggestion, that instead of 8A(2) you simply say, “the names of the persons elected or employed under sections 7 and 8 above shall be published in the *Gazette*.”

Hon. Senator: That could work.

Sen. G. Singh: You see, you may employ persons other than the secretary and the registrar and why would you want to gazette the administrative functionaries?

Sen. Vieira: Well, that is what you have already. You already have that, that where the Council employs a person the Council shall publish such appointment in the *Gazette*”.

Sen. G. Singh: No, that is only for the registrar.

Sen. Vieira: That is subsection (1)? [*Interruption*] So, then you can simply say, “the names of the persons elected or employed as Secretary and Registrar shall be published in the *Gazette*.”

Sen. Al-Rawi: I think we would have to do that in the section that deals with them which is section 7 of the Act under a new 9(b), perhaps.

8.15 p.m.

Dr. Khan: So why do we have to deal with it here and we cannot deal with it here?

Sen. Al-Rawi: Because you have two creating sections. So section 7 of the Act creates the post of President—talks about “President, Vice-President, Treasurer”, and then we have the “Secretary” in section 8. So my point earlier was that your Registrar carries out some functions similar to what your Secretary is

doing in different parts of the Act, and if we were going to take the very good policy decision of gazetting so that the world knows, then you should gazette those posts, that is, Secretary, Registrar, President, Vice-President and Treasurer.

Sen. Vieira: You would not just gazette the Secretary and the Registrar, you would gazette who comprise council. So it is council and Registrar.

Sen. Al-Rawi: Otherwise we have nothing to say that an instrument was lawfully signed in respect of anything at all. So the way that I know that somebody has executed a deed properly under a power of attorney is to check the power of attorney which is registered. So the notice to the world is important in terms of eliminating fraud and other aspects. So the key functionaries, empowered with the authority to affix the seal, execute documents, et cetera, and particularly cancel registration, et cetera, ought to be gazetted.

Sen. Vieira: In my experience, when you appoint council members, you just do not gazette the President, the Vice-President and the Secretary, you gazette the whole council, whether it is the dental council, the law association, executive committee—

Sen. Al-Rawi: And any board too.

Sen. Vieira: And boards. So what I am suggesting is that 7 and 8—because 8 deals with the Registrar—those appointments should be gazetted.

Dr. Khan: Seven in the parent Act?

Sen. Vieira: Yes.

Sen. Al-Rawi: You see, hon. Minister, the question is applying parity across the board, so there is a lot of merit in what Sen. Vieira just described. So the issue of gazetting the persons who comprise council, the functionaries of council: President, Vice-President, Treasurer, Secretary, Registrar, you may want to look at those things. But having introduced the concept of gazetting even once, which is a very laudable thing to do, the question is applying it with parity across the plate.

Dr. Khan: Okay. So President, Vice-President, Treasurer—

Sen. G. Singh: No, he is saying all members of council.

Mr. Chairman: One wonders, therefore, if you—originally there was a 9B proposed. It seems odd to bring it in 8(2)—the Vice-President, the Treasurer—and so maybe it should stand alone when we come back to 9B, the gazetted functions, and delete (2).

Sen. Al-Rawi: And for the CPC to look at the issue of gazetting the council members, which is in the earlier section. [*Crosstalk*] Precisely. You could put it in in a subsection (5).

Mr. Chairman, can we get a break? If I stand up—

Mr. Chairman: Your back is going?

Sen. Al-Rawi: Yes. Just having a little bit of—

Hon. Senator: Spasm.

Sen. Al-Rawi: Yes.

Mr. Chairman: You can stand up and walk around.

Sen. Al-Rawi: You do not mind?

Mr. Chairman: No.

Sen. Al-Rawi: It is literally only the discomfort. My mind is tuned in.

Mr. Chairman: It is absolutely no problem.

Sen. Al-Rawi: Thank you, Mr. Chair.

Dr. Khan: So we could delete (2) then.

Mr. Chairman: Yes, that is what I was saying.

Dr. Khan: Delete (2)—

Mr. Chairman: And you want to bring in a new 5 with the gazetted.

Dr. Khan: A new 5. We will put in a new 5.

Sen. Dr. K. Singh: Mr. Chairman, could I ask a question, please? In the section 7(2) it says: “The seal of the Council shall be authenticated by the signature of the President or the Vice-President and of the Secretary”, which implies that the Secretary is a position that has to be had. And then later on it says that “The Council may employ...a Secretary”. And then later down it says, “The Council shall employ a Registrar”. Should it not, for continuity, say “shall” instead of “may employ” there? Because you have to have a Secretary in order to get a seal.

Mr. Chairman: Yes, I hear you.

Sen. Vieira: I am just wondering whether the Secretary in 8 is the honorary secretary or an administrative secretary. Because you are talking about a Secretary and staff.

Dr. Khan: It is an administration secretary.

Sen. Vieira: But you see the confusion. So perhaps you might want to clarify.

Sen. G. Singh: If it is an administrative secretary in number 8, it should be a common letter referring to a noun and not a proper noun position.

Mr. Chairman: Could you just say, “such staff” and not necessarily identify a secretary?

Sen. Vieira: Yes. Because the word could be confusing. [*Crosstalk*]

Dr. Khan: Mr. Chairman, section 7, we should delete “Secretary” and put “Registrar”.

Sen. Al-Rawi: Mr. Chairman, just to tell you, the dichotomy and inconsistency of “Secretary” and “Registrar”, I have a number of those to raise coming down, you know. Hon. Minister, let us just talk for a moment. You want to meet me behind the Chair? Sorry, Mr. Chairman.

(Dr. Khan and Sen. Al-Rawi converse behind the Chair)

[*Short pause*]

Sen. G. Singh: Mr. President, in accordance with Standing Order 53(12), I wish to report that progress has been made at the committee stage and I wish to adjourn the continuance of this committee proceedings to a date to be fixed.

Question put and agreed to.

Senate resumed.

The Minister of Health (Hon. Dr. Fuad Khan): Thank you, Mr. President. I would like to report that progress has been made in the committee stage and it has been adjourned to a date to be fixed.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, May 20, 2014 at 1.30 p.m. when we will deal with the procurement legislation.

Question put an agreed to.

Senate adjourned accordingly.

Adjourned at 8.29 p.m.