

PARLIAMENT

REPUBLIC OF TRINIDAD AND TOBAGO

H.O.R PAPER NO. 7 / 2008

MP PARL: NO. 1/2/1905

HOUSE OF REPRESENTATIVES

[2007-2008 SESSION]

REPORT

SPECIAL SELECT COMMITTEE

**APPOINTED TO CONSIDER AND REPORT
ON A BILL ENTITLED “*AN ACT RELATING
TO THE PROTECTION OF CHILDREN AND
FOR MATTERS RELATED THERETO*”**

ESTABLISHMENT OF COMMITTEE AND TERMS OF REFERENCE

On Friday September 05, 2008, the House resolved that:

“The Children Bill, 2008 be referred to a Special Select Committee comprising six Members of this House and that this committee be empowered to discuss the general merits of the Bill along with its details and be mandated to report within 12 days.”

APPOINTMENT OF MEMBERS AND QUORUM

2. On Monday December 01, 2008, pursuant to Standing Order 77(1), the Hon. Speaker of the House appointed the following Members to serve on the Special Select Committee to consider and report on the Children Bill, 2008:

Mr. Colm Imbert

Dr. Amery Browne

Mr. Peter Taylor

Ms. Marlene McDonald

Dr. Tim Gopeesingh

Miss Mickela Panday

3. Pursuant to Standing Order 77(2), the Hon. Speaker specified that the quorum of the Committee shall be four (4) Members.

MEETINGS

4. To date, your Committee has held a total of two (2) meetings as follows:

- **Monday December 08, 2008**
- **Tuesday December 09, 2008**

SECRETARY

5. Ms. Jacqui Sampson, Clerk of the House served your Committee as its Secretary, with Ms. Aleah Ranjitsingh, Assistant Parliamentary Clerk, as Assistant Secretary.

EXPERT ASSISTANCE AND ADVICE

6. Ms. Ann Marie Brassington, Acting Deputy Chief Parliamentary Counsel; Ms. Angela Moore, Parliamentary Counsel I and Ms. Abayomi Ajene, State Counsel, Ministry of Social Development provided expert assistance to your Committee during its deliberations.

DELIBERATIONS

7. As required by Standing Order 53, your Committee embarked upon a clause by clause examination of the Bill during which it:

- a) identified and approved those clauses upon which there was agreement; and
- b) identified and deferred consideration of the clauses which were controversial or problematic.

8. During the examination of the Bill, questions were raised pertaining to several provisions of the Bill, for which opinion of the Chief Parliamentary Counsel and other experts is awaited.

9. Upon the completion of the clause by clause examination of the Bill, your Committee agreed to the majority of the provisions contained in the Bill, but was of the opinion that several clauses required further consideration. The details of your Committee's decisions are contained in Appendix I.

REPORT AND RECOMMENDATIONS

10. In accordance with Standing Order 82(1), your Committee reports that it has been unable to conclude its consideration of this Bill before the end of the current session.

11. Your Committee therefore recommends that this Bill be re-introduced into the House of Representatives in the new session and be referred to a new Committee which should be mandated to continue consideration of this Bill. Your Committee further recommends that the House authorize the new Committee to adopt as part of its records the work undertaken by your Committee to date.

Respectfully submitted

Colm Imbert
Chairman

December 10, 2008

**MINUTES OF THE 1st MEETING OF THE SPECIAL SELECT COMMITTEE
(2007-2008) (HOR)
APPOINTED TO CONSIDER AND REPORT ON THE
CHILDREN'S BILL, 2008
HELD ON MONDAY DECEMBER 08, 2008
COMMITTEE ROOM NO. 2, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN**

PRESENT

Mr. Colm Imbert	-	Member
Dr. Amery Browne	-	Member
Mr. Peter Taylor	-	Member
Miss Marlene McDonald	-	Member
Dr. Tim Gopeesingh	-	Member
Miss Mickela Panday	-	Member
Ms. Jacqui Sampson	-	Secretary
Miss Aleah Ranjitsingh	-	Asst. Secretary

ALSO PRESENT

Ms. Ann Marie Brassington	-	Acting Deputy CPC
Ms. Angela Moore	-	Parliamentary Counsel I
Ms. Abayomi Ajene	-	State Counsel, Ministry of Social Development

COMMENCEMENT

1.1 The meeting was called to order at 2:00 p.m.

ELECTION OF CHAIRMAN

2.1 The Secretary drew reference to Standing Order 80(7) and invited nominations for the Chair of the Committee.

2.2 Mr. Taylor nominated Mr. Imbert as Chairman.

2.3 Dr. Browne seconded.

2.4 There being no other nominations, the Secretary announced that Mr. Imbert was the duly elected Chairman of the Committee and invited him to him to take the Chair.

PRELIMINARY ISSUES

3.1 The Chairman invited suggestions on a work plan for the Committee, reminding Members of the requirement to report to the House by Friday 12th December, 2008.

3.2 After a brief discussion, there was consensus that in the clause by clause examination of the Bill, as required by Standing Order 53, the Committee should:

- a) identify and approve those clauses upon which there was agreement; and
- b) identify and defer consideration of the clauses which were controversial or problematic.

3.2 The Committee also agreed that given the timeframe, it would seek to report to the House on those clauses which received the approval of the Committee and recommend that the remaining clauses be the subject of further consideration.

EXAMINATION OF BILL

4.1 The Committee began a clause by clause examination of the bill.

CLAUSE	AGREED	DEFERRED	REMARKS
PART I			
2	√		However, the definition of “ <i>sexual activity</i> ” is to be reviewed by Parliamentary Counsel.
3	√		
PART II			
4	√		
5		√	Identified as contentious, the consideration of this clause was deferred.
PART III			
6(1),(2)	√		
6(3)		√	Identified as contentious, the consideration of this sub-clause was deferred

7	√		
8	√		
9	√		
PART IV			
10	√		
11	√		
12		√	Identified as contentious, the consideration of this clause was deferred
13		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification.
14		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification.
15		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification.
16	√		
17(1),(2),(3)		√	Issues were raised on the law related to the detention of young offenders, particularly what is the position when they reach the age of eighteen. Consideration of these sub-clauses was therefore deferred.
17(4)	√		
18 (1),(2),(3)		√	Identified as contentious, the consideration of

			these sub- clause was deferred
18 (4),(5)	√		
19		√	This clause was identified as contentious due to the indistinct definition of “ <i>sexual touching</i> ” and “ <i>sexual.</i> ” It was referred to Parliamentary Counsel for further clarification.
20		√	This clause was identified as contentious due to the indistinct definition of “ <i>sexual touching</i> ” and “ <i>sexual.</i> ” It was referred to Parliamentary Counsel for further clarification.
21		√	This clause was identified as contentious due to the indistinct definition of “ <i>sexual touching</i> ” and “ <i>sexual.</i> ” It was referred to Parliamentary Counsel for further clarification.
22		√	The Committee requested Dr. Browne to provide the Committee learning in relation to the international practice with respect to the age of a child in matters relative to these clauses.
PART V 23- 43		√	Part V was deferred in its entirety pending further clarification.
PART VI 44	√		
45	√		
46	√		
47	√		
48	√		
49	√		
50	√		

51	√		
52	√		
53	√		
54			To be Deleted
55(1)	√		
55(2)			To be Deleted
PART VII			
56	√		
57	√		
58		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification
59		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification
60		√	This clause was identified as contentious due to territorial and jurisdictional questions raised by Members. It was referred to Parliamentary Counsel for further clarification
61	√		
62	√		
63	√		
64	√		

65	√		
PART VIII			
66		√	This clause was identified as contentious and referred to Parliamentary Counsel to clarify questions raised over the inclusion of the provision which repeats the powers of the Police to arrest a person without a warrant which is set out in existing law.
67	√		
68	√		
69	√		
70	√		
71	√		
72	√		

ADJOURNMENT

5.1 The Committee agreed that its next meeting will be held on Tuesday December 09, 2008 at 2:00pm during which it will resume the clause by clause examination of the Bill.

There being no other business, the Chairman adjourned the meeting at 3:55 p.m.

Chairman

Secretary

December 09, 2008

**MINUTES OF THE 2nd MEETING OF THE SPECIAL SELECT COMMITTEE
(2007-2008) (HOR)
APPOINTED TO CONSIDER AND REPORT ON THE
CHILDREN'S BILL, 2008
HELD ON TUESDAY DECEMBER 09, 2008
COMMITTEE ROOM NO. 2, PARLIAMENT, THE RED HOUSE, PORT OF SPAIN**

PRESENT

Mr. Colm Imbert	-	Member
Dr. Amery Browne	-	Member
Mr. Peter Taylor	-	Member
Dr. Tim Gopeesingh	-	Member
Miss Mickela Panday	-	Member
Ms. Jacqui Sampson	-	Secretary
Miss Aleah Ranjitsingh	-	Asst. Secretary

ALSO PRESENT

Ms. Ann Marie Brassington	-	Acting Deputy CPC
Ms. Angela Moore	-	Parliamentary Counsel I
Ms. Abayomi Ajene	-	State Counsel, Ministry of Social Development

ABSENT

Miss Marlene McDonald	-	Member
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COMMENCEMENT

1.1 The meeting was called to order at 2:15 p.m.

CONFIRMATION OF MINUTES- 1ST MEETING (Monday December 08, 2008)

2.1 The motion for the confirmation of the Minutes was moved by Dr. Browne and seconded by Mr. Taylor.

2.2 The Minutes were confirmed.

EXAMINATION OF Bill

3.1 The Committee continued its clause by clause examination of the Bill as required by Standing Order 53 (See verbatim notes attached).

CLAUSE	AGREED	DEFERRED	REMARKS
PART XI			
73		√	This clause was referred to Parliamentary Counsel for clarification having regard to the fact that it is a repeat of existing law.
74(1),(2),(3), (9)		√	These sub-clauses were referred to Parliamentary Counsel for further clarification on the rights of the accused to be given a copy of the deposition of a child witness.
74(4)	√		The Committee agreed to delete the word “may” appearing in line three and substitute the word ‘shall’.
74(5),(6),(7), (8)	√		
75		√	Identified as problematic. Referred to Parliamentary Counsel for further clarification.
76		√	Identified as problematic. Referred to Parliamentary Counsel for further clarification.
77		√	This clause was referred to Parliamentary Counsel for further clarification in light of clause 78 .
78		√	This clause was referred to Parliamentary Counsel for further clarification in light of clause 77 .
79		√	This clause was referred to Parliamentary Counsel for further clarification
80	√		
81	√		

82	√		
83	√		
84(1),(2),(3) (5),(6)	√		
84(4)		√	This sub-clause was referred to Parliamentary Counsel for further clarification on the period specified therein.
85		√	Identified as problematic. Referred to Parliamentary Counsel for further clarification on what would be the situation of the child in the case of an indictable offence.
86			The Committee agreed that the approval of this Clause hinges on the approval of Clause 85.
87	√		
88	√		
89	√		
90	√		
91	√		
92	√		
93	√		
94	√		
95	√		
96	√		
97	√		
98	√		
99	√		
100	√		There was agreement that rules made by the Minister under this clause should be

			subject to the negative resolution of Parliament.
101	√		
PART XI			
102	√		
PART XII			
103	√		
104	√		
105	√		
106	√		
107(1),(2)	√		.
107(3)		√	The Committee was unsatisfied with the fine proposed. Deferred for the advice of parliamentary counsel on fines for similar offences.
108	√		
109	√		
110			The Committee agreed that the words “subject to section 106” should be inserted before the word “a” at the beginning of this clause.
111			The Committee agreed that the words “subject to section 106” should be inserted before the word “a” at the beginning of this clause.
112			The Committee agreed that the words “subject to section 106” should be inserted before the word “a” at the beginning of this clause.

113		√	Identified as problematic. Referred to Parliamentary Counsel for further clarification.
114	√		
PART XIII			
115	√		
116	√		
117(1),(2),(3), (5),(6)	√		
117(4)		√	Issues were raised on the relevance of this sub-clause. This clause was referred to Parliamentary Counsel for further consideration.
118	√		
119	√		
120	√		
121(A)	√		
121(B)		√	Issues were raised in relation to the situation of a child prodigy under the age of 16. Referred to Parliamentary Counsel for further clarification.

ADJOURNMENT

4.1 Upon the completion of the clause by clause examination of the Bill, the Committee agreed that it will report to the House indicating that while it has agreed with the majority of the clauses, several clauses required further consideration.

4.2 The Committee agreed to also indicate in its report its inability to conclude its consideration of this Bill and to request that should a new Committee be appointed in the next session to consider the Bill that that Committee be authorized to consider as part of its records all the work that has been done in this session by the present Committee.

4.3 There being no other business, the Chairman adjourned the meeting at 3:44 p.m.

Chairman

Secretary

December 09, 2008