

*Leave Of Absence*

*Friday, March 20, 2009*

**HOUSE OF REPRESENTATIVES**

*Friday, March 20, 2009*

The House met at 1.30 p.m.

**PRAYERS**

[MR. SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I have received communication from the following Members of Parliament requesting leave of absence: the hon. Roger Joseph, Member of Parliament for La Horquetta/Talparo, from today's sitting of the House; the hon. Neil Parsanlal, Member of Parliament for Lopinot/Bon Air West, from today's sitting of the House; the hon. Jack Austin Warner, Member of Parliament for Chaguanas West, for the period March 20—26, 2009; the hon. Paula Gopee-Scoon, Member of Parliament for Point Fortin, from today's sitting of the House; the hon. Karen Nunez-Tesheira, Member of Parliament for D'Abadie/O'Meara, from today's sitting of the House; and the hon. Ramesh Lawrence Maharaj SC, Member of Parliament for Tabaquite, from today's sitting of the House. The leave which these Members seek is granted.

**MATTER OF PRIVILEGE  
(PUBLICATION BY UDECOTT)**

**Mr. Speaker:** Hon. Members, on Friday, March 13, 2008, the hon. Member for Caroni East raised a matter of privilege concerning the publication by UDeCott in the *Trinidad Guardian* and in the *Express* newspaper on Saturday, March 07, 2009, of a full-page advertisement responding to statements made by him in this House, during his contribution on a Private Motion dealing with the subject of health care.

He submitted that the publications amounted to contempt of the House, in that the publication attempted to intimidate him in the execution of his duties as a Member of this honourable House.

Hon. Members, Erskine May says that molestation of Members on account of his conduct in the House may amount to contempt and akin to molestation on account of his behaviour in Parliament are speeches and writings reflecting upon the conduct of a Member.

I have carefully considered this matter and having regard to the facts presented to me and established parliamentary practice and procedure, I am satisfied that,

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*prima facie*, a case of breach of privilege has indeed been made. Accordingly, I refer this matter to the Committee of Privileges for its consideration and I so rule.  
[*Desk thumping*]

**PAPERS LAID**

1. The Elections and Boundaries Commission (Local Government) Draft Order, 2009. [*The Minister of Works and Transport (Hon. Colm Imbert)*]
2. Annual audited financial statements of Metal Industries Company Limited for the year ended September 30, 2005. [*Hon. C. Imbert*]
3. Annual audited financial statements of Metal Industries Company Limited for the year ended September 30, 2006. [*Hon. C. Imbert*]

*Papers Nos. 2 and 3 to be referred to the Public Accounts (Enterprises) Committee.*

4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Mayaro Civic Centre for the year ended September 30, 2005. [*Hon. C. Imbert*]

*To be referred to the Public Accounts Committee.*

5. The Trinidad and Tobago Heritage and Stabilization Fund Annual Report for the period ended September 30, 2008. [*Hon. C. Imbert*]

**CONDOLENCES**

(MR. WALDO NUNEZ SNR.)

**Mr. Speaker:** Hon. Members, before I proceed further, it was remiss of me earlier on, to indicate to you, as you are all aware, of the passing of Mr. Waldo Nunez, Snr., the father of the Minister of Finance. On your behalf, I wish to extend to the family of Mr. Nunez, Snr., our collective condolences. I think, with respect to funeral arrangements, it is published in the newspapers.

**SPECIAL SELECT COMMITTEE REPORT**

(PRESENTATION)

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, I wish to present the interim report of the Special Select Committee (2009 Session) appointed to consider and report on a Bill entitled an Act relating to the Protection of Children and for matters related thereto.

**ORAL ANSWERS TO QUESTIONS**

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, the Government is in a position to answer the following questions today: Nos. 5, 9, 40 and 44. We respectfully ask for a deferral of two weeks for the other questions on the Order Paper.

*The following questions stood on the Order Paper:*

**Brian Lara Sporting Complex  
(Tarouba)**

3. With respect to the Brian Lara Sporting Complex in Tarouba, could the hon. Minister of Sport and Youth Affairs state:
- a) the projected cost of the entire project;
  - b) the amount of money that has already been spent on the project;
  - c) the expected date of completion of the entire project; and
  - d) the projected annual cost of maintenance of the Complex after completion of construction? [*Dr. H. Rafeeq*]

**Oncology Centre – Mount Hope  
(Details of Expenditure)**

6. With respect to the Oncology Centre at Mount Hope, could the hon. Minister of Health state:
- (a) the total amount of money already spent as at December 31, 2008, inclusive of any studies, consultant fees, accommodations, secretarial services, advertisements, staff salaries and construction; itemizing each expense;
  - (b) the projected cost of the entire project; and
  - (c) the expected date of completion of construction of the Oncology Centre? [*Dr. H. Rafeeq*]

**Johns Hopkins University/Hospital  
(Terms and Conditions of Arrangement)**

8. Could the hon. Minister of Health state:
- (a) whether there is any formal arrangement between the Government of Trinidad and Tobago/Ministry of Health and the Johns Hopkins

University/Hospital for the provision of services to the people of Trinidad and Tobago; and

- (b) if the answer to (a) is in the affirmative, could the Minister state the terms and conditions of the arrangement? [*Dr. H. Rafeeq*]

### **Tucker Valley Farm**

#### **(Details of)**

11. Could the hon. Minister of Agriculture, Land and Marine Resources state:
- a) the total amount of money spent so far on the Tucker Valley Farm and provide an itemized listing;
  - b) the total projected annual costs of preparing, cultivating and reaping the crops at the Tucker Valley Farm; providing an itemized listing; and
  - c) the projected annual income from the sale of produce from the Tucker Valley Farm? [*Dr. H. Rafeeq*]

### **Private Hospital Board**

#### **(Details of)**

24. Could the hon. Minister of Health state:
- (a) whether there exists a private hospital board;
  - (b) if in the affirmative, when was the board appointed, who are the members of the board, what are their qualifications, experience and tenure on the board; and
  - (c) if the answer to (a) is negative, what are the reasons for non-appointments and provide the empirical data to substantiate supervision of the private hospitals? [*Dr. T. Gopeesingh*]

### **Registered Private Hospitals**

#### **(Details of)**

25. Could the hon. Minister of Health state:
- (a) how many private hospitals are registered under each of the (6) classes of private hospitals according to the Laws of Trinidad and Tobago, Chap. 29:03, section 8;
  - (b) the date the licence was issued for each; and

- (c) what was the last date an inspector or team inspected the hospital as required according to sections 18 and 19 of Chap. 29:03 of the Laws of Trinidad and Tobago? [*Dr. T. Gopeesingh*]

### **Health Care to Arima Residents**

- 28.** Could the hon. Minister of Health state the reasons for:
- the continuing transfer of patients from Arima District Health Facility to other major hospitals; and
  - the inability to provide the required and acceptable level of health care to the residents of Arima and the environs? [*Dr. T. Gopeesingh*]

### **Compensation for Farmers**

- 33.** Could the hon. Minister of Agriculture, Land and Marine Resources state:
- whether the Ministry revised the schedule of compensation for farmers' crops lost during flooding and other emergencies; and
  - if the answer to (a) is in the negative, when will the schedule of payments be revised? [*Mr. H. Partap*]

### **Regional Health Authorities (Existing Vacancies)**

- 45.** Could the hon. Minister of Health state:
- The number of vacancies existing in each Regional Health Authority for doctors, nurses and pharmacists?
  - The disciplines in which the vacancies for doctors exist? [*Dr. H. Rafeeq*]

### **Chaguanas District Health Facility (Construction of)**

- 46.** With respect to the Chaguanas District Health Facility, could the hon. Minister of Health inform this House:
- Whether a contract for the construction of this health facility has been awarded?
  - If the answer is in the affirmative, to whom has the contract been awarded and what is the cost of the construction?
  - If the answer is in the negative, when will the contract be awarded?

- (d) When will construction of this health facility commence and what is the expected date of completion? [*Dr. H. Rafeeq*]

*Questions, by leave, deferred.*

**Magistrates' Courts  
(Pending Cases)**

5. **Dr. Hamza Rafeeq** (*Caroni Central*) asked the hon. Attorney General to, state:
- a) the number of cases that are pending before the Magistrates Courts by district; and
  - b) what is being done to reduce the backlog of cases?

**The Attorney General (Sen. The Hon. Bridgid Annisette-George):** Mr. Speaker, the data currently collected in the Magistrates' Courts allows for an analysis of the disposition rates at each court location, when compared to the number of matters filed at that court. A disposal to filing ratio or clearance rate of more than one is indicative of the court's ability to dispose of more cases than those that are filed during a given period, thus reducing the backlog of cases.

Conversely, a disposal to filing ratio of less than one indicates that the backlog has increased during the period under review. The current disposition rate is 1.15, which, therefore, demonstrates that the court disposes of more cases in a year than those which are filed within that year.

However, the Judiciary has recently completed a backlog exercise, but is unable at this point in time to accurately report the number of cases pending in the Magistrates' Courts by district or at all, due to the need to validate and interrogate data collected over the last year, in an attempt to answer this very question. This project required that the statistical clerk in each of the magisterial districts extract data as they relate to the number of matters filed in 2007, 2006 and 2005.

Further, the clerks were required to ascertain the number of cases that were determined in each of these years and crucially the breakdown of which year the determined cases were filed. The data revealed that all cases filed in 2005, 80 per cent were determined after two years and 89.5 per cent were determined after three years. This means that, as at January 01, 2008, only 10.5 per cent of all 2005 cases were not yet determined. In terms of cases filed in 2006, 79.7 per cent of all cases filed in that year were determined after two years. This means that as at January 01, 2007, 20.3 per cent of all 2006 cases were not yet determined. With

the introduction of case management systems and an increase in the number of magistrates, it is expected that the determine to filing ratios would improve even further.

With respect to measures taken to reduce the backlog of cases in the Magistracy there were seven initiatives undertaken to reduce the backlog as identified: Magisterial Capacity: 13 magistrates were recruited over the past two years to tackle the increasing workload of the courts; Accommodation: three additional court rooms have been commissioned in the San Fernando Magistracy District—two criminal and one petty civil; two additional courtrooms have been commissioned at the St. George West Magistrate District to hear petty civil matters. Designs have been completed for the provision of one additional courtroom and physical accommodation for court support services, each at the Couva Magistrates' Court and the Rio Claro Magistrates' Court.

Approval has been obtained for the construction of new facilities in the Siparia Magisterial District, which will provide three additional courtrooms. Approval has been obtained for an additional court in the Chaguanas district to hear petty civil court matters. Approval has been obtained for the outfitting of a centralized coroner's court to hear inquests, resulting in these types of matters being taken off the list of the Magistrates' Courts.

Property is being acquired to establish an Arima Judicial Complex that would accommodate the operations of the Arima Magisterial District. It is expected that when this project is completed, approximately seven additional courtrooms and physical accommodation for court support services will become available in that district.

Systems improvement and technology—the Judiciary, in May 2008, introduced a range of technology and process improvement initiatives at two court locations in Trinidad and Tobago. In San Fernando, the technology was introduced at a newly customized building, which was acquired to house the operations of the non-criminal courts in that magisterial district; while in Tobago the technology was provided to support all of the courts' operations in Scarborough Magisterial District. The introduction of the technology complemented the new work processing methods designed to remove non-value added steps in the processing of a case from filing to disposition and enhance the ability of the court to record and retrieve case information immediately upon request.

The design of the new court records management system, which has also been introduced at these locations, allows for the speedy retrieval of case information,

in the event that there is a failure of the technology. The initiatives have been introduced in these two court districts on a pilot basis in a live test environment, to allow the Department of Court Administration to evaluate the impact associated with the introduction of these technology tools and work processes into the magisterial system.

It is expected that the issues identified during the operation of the pilot would allow the Judiciary to make more informed decisions with regard to developing a time frame for the standardization of court processes and procedures; development of time and performance standards, case scheduling, docket management and adjournment policies and inter-agency operating protocols that encourage maximum collaboration and guide the court's interaction with its stakeholders. It would also provide for:

- the introduction of appropriate court office support systems;
- processes and workflows to facilitate case flow management;
- identification of legislative changes that may be required to accommodate the new processes and procedures and also selection of the appropriate mix of technology tools that would be required for achieving optimum performance;

**1.45 p.m.**

- identification of the appropriate staffing levels and competencies required to support the new systems;
- identification of the required training, skills development, change management and reorientation programmes required to achieve culture change; and
- the introduction of procedural rules for the Magistracy.

The technology being tested includes:

- case management information systems software;
- audio digital recording—court recording systems;
- video conference capabilities to facilitate remote witness appearances both locally and internationally, as well as remand and bail hearings by video link from the prisons;
- note link technology to assist judicial officers to electronically record personal notes taken down in handwriting and tagging them to the electronic and audio record of the case;
- the technology being tested relates to integrated public address and paging systems to ensure that persons at any location in the court building can



hear when his or her case is called and to which courtroom they must proceed; and

- upgraded record management systems featuring individual case files, thereby ensuring the timely retrieval of case information by case number if the CMI system fails.

The introduction of the process improvement initiatives; technology tools; good case law management practices and human and physical resources into the magisterial system will increase the capacity of the Magistrates' Courts to dispose of cases well within a one-year period of the filing date.

A combination of these elements has been introduced on a limited scale, and is currently undergoing evaluation in a test environment before expansion to the wider court system.

Mr. Speaker, I thank you. [*Desk thumping*]

**Mrs. Persad-Bissessar:** I understand the Minister is saying that she does not have the data that was requested. Is the Minister aware that in the last report of the Judicial and Legal Service Commission that over 472,000 cases are pending in the Magistrates' Courts?

**Sen. The Hon. B. Annisette-George:** Mr. Speaker, the question asked for the number of cases pending in the courts district by district.

**Mr. Sharma:** With reference to part (b) of the question, can the Minister advise this House how ADR is being used to reduce the backlog of cases?

**Sen. The Hon. B. Annisette-George:** Mr. Speaker, unfortunately, I am not in a position to answer that question. I do not know if the Member is asking about the Audio Digital Court Recording which is ADCR. If it is that, it helps in the recording of the evidence of witnesses.

**Mr. Sharma:** I thought the hon. Attorney General would know that ADR is alternative dispute resolution and that is what I meant.

**Mrs. Persad-Bissessar:** Is the hon. Attorney General aware that in the last report of the Judicial and Legal Service Commission that a breakdown was given per district for the courts in every district in the country?

**Sen. The Hon. B. Annisette-George:** What was given is what was delivered by the Judiciary.

**Dr. Rafeeq:** Mr. Speaker, I want to ask the Attorney General whether the Night Courts are still in operation, if not, whether there are plans to bring them back into operation?

**Mr. Speaker:** This is not particularly relevant to the answer you have given, however if you have that information and you are prepared to give it, I would allow it.

**Sen. The Hon. B. Annisette-George:** Mr. Speaker, the question asked for the number of cases district by district and, therefore, if the hon. Member asks the question in the particular way, I am going to answer it. [*Interruption*]

**Mr. B. Panday:** That is a simple question. If you do not know, you do not know.

### **Burns Centre (Construction of)**

**9. Dr. Hamza Rafeeq** asked the hon. Minister of Health:

Could the Minister state:

- a) how will the patients suffering from burns who cannot be treated at the government institutions in Trinidad and Tobago be managed; and
- b) when will the Burns Centre be constructed?

**The Minister of Health (Sen. The Hon. Jerry Narace):** Mr. Speaker, thank you. Persons suffering from burns which are classified as acute burns are currently being treated in the general surgery wards at the following major hospitals: the San Fernando General Hospital, the Port of Spain General Hospital, the Sangre Grande Hospital and the Eric Williams Medical Sciences Complex. These cases number approximately 230 per year.

Despite the fact that the ministry, through the Regional Health Authorities, is able to handle all of the burn cases, there are approximately 10 cases of advanced degree burns per year. To address these cases, the ministry developed a six bed burns ward at the San Fernando General Hospital with a dedicated team in 2004 to treat and stabilize persons with advanced degree burns.

However, the ministry recognizes that this type of medical treatment is normally offered in a tertiary health care environment staffed with the appropriate clinical, medical and technological resources, which are not always immediately available locally. As a consequence, the ministry would continue to facilitate

overseas treatment for these cases in the same manner as with all other cases requiring overseas treatment.

One of the critical elements of the Health Sector Reform Programme was the establishment of a Burns Unit at the San Fernando General Hospital. Subsequently, the designs were completed under the guidance of architects Norman and Dawbarn in 2002 to include an intensive care unit, a same-day surgery unit and a burns unit.

In 2003, tender documents were invited for the construction of the facility, but the process was halted to undertake a design review, since there were concerns about the adequacy of the design.

In 2004, the Ministry of Health engaged the services of a United Kingdom based international consultancy firm, Oxford Policy Management, to review the said designs by Norman and Dawbarn and to make recommendations. OPM recommended both to the South West Regional Health Authority and the Ministry of Health that the proposed design was flawed and should not proceed for the following reasons:

- (i) the area designated to house the three services was too small and the allocated space per bed did not meet international British standards;
- (ii) there was a real possibility of cross-contamination between the Burns Unit and the ICU and;
- (iii) ideally, the Burns Unit should be a stand-alone unit.

As a consequence, the Ministry of Health decided that the Burns Unit would be incorporated into the proposed new hospital to be constructed in Central Trinidad since it is in close proximity to energy and related industries in the Point Lisas area.

I thank you. [*Desk thumping*]

**Dr. Rafeeq:** I asked when it will be constructed. Could the Minister give us an idea as to when it would be constructed?

**Sen. The Hon. J. Narace:** I can tell you that as we speak, I know that instructions have been given for a design brief to HDR and Associates. That is all the information I have at this time.

**Dr. Gopeesingh:** Would the Minister be kind enough to indicate whether he is pursuing the construction of the Burns Unit in the Central Hospital which was promised or was that shelved? That was promised by the Government.

**Sen. The Hon. J. Narace:** I just said that it would be built in the new Central Hospital, so the answer is yes we are pursuing it.

**Dr. Gopeesingh:** Are you saying that the Central Hospital would be constructed?

**Sen. The Hon. J. Narace:** Yes.

**Dr. Rafeeq:** Mr. Speaker, with respect to the first part of the question, the Minister did mention that it was necessary. I just want to find out if those patients who have to go abroad for treatment, is there a budget in the Ministry of Health to deal with this?

**Sen. The Hon. J. Narace:** Mr. Speaker, that is a separate question, but just for the information, there is a Medical Aid Committee that will assess all such applications and we will treat with them appropriately.

### Squatter Regularization

**40. Mr. Nizam Baksh** (*Naparima*) asked the hon. Minister of Planning, Housing and the Environment:

With respect to the squatter regularization, could the Minister state:

- a) the names of squatter settlements where squatter regularization was undertaken in 2007 and 2008 respectively;
- b) the number of squatters to whom Certificates of Comfort were issued; and
- c) the number of persons to whom leases were issued in 2007 and 2008.

**The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde):** Mr. Speaker, thank you. There were 12 squatter settlements regularized in 2007. The names of these settlements where regularization was undertaken are as follows:

- Race Course, Arima;
- Ackbarali Trace, Arima.
- Samaroo Village, Arima;
- Bon Air, Arouca;
- John Boodoo, Brazil Village, San Raphael;
- Scorpion Village, Carenage;

- Milton Village, Couva;
- Mahogany Trace, River Estate, Diego Martin;
- Sogren Trace, Laventille;
- Squatterville, Macaulay.
- Dundonald Hill, Port of Spain; and
- Pine Settlement, Sangre Grande (Graham Trace).

In 2008 regularization continued in the aforementioned sites. Engineering designs commenced for the following two sites as a first step towards regularization:

- Cashew Gardens, Carlsen Field; and
- Springle Street, Point Fortin.

A total of 125 Certificates of Comfort were issued—44 in 2007 and 81 in 2008. No leases were issued during the period 2007 and 2008.

Thank you.

**Mr. Baksh:** In light of the demand for housing, especially for low income persons, and the Government's inability to meet this demand, would the Minister consider putting on hold the demolition of houses in squatting areas?

**Mr. Speaker:** You need not continue. The Minister has answered the question perfectly. The only supplemental that is allowed is from the answer she has given.

**Mrs. Persad-Bissessar:** Can the Minister say whether any leases have been granted by the LSA?

**Sen. The Hon. Dr. E. Dick-Forde:** Mr. Speaker, in order that I would not be accused of misleading the House, I cannot give the details of that nor can I say if any at all.

#### **Arena Road, Freeport (Repaving of)**

**44. Dr. Hamza Rafeeq** asked the hon. Minister of Works and Transport:

- (A) Could the Minister confirm whether despite several requests to have the Arena Road in Freeport repaired/repaved, no work has been done on the said road so far?
- (B) If this is the case, could the Minister inform this House when will the Arena Road be repaired/repaved?

**The Minister of Works and Transport (Hon. Colm Imbert):** Mr. Speaker, the requests to have the Arena Road in Freeport repaired or repaved were received by the Ministry of Works and Transport, despite the fact that the Arena Road in Freeport is under the jurisdiction of the UNC-controlled Couva/Tabaquite/Talparo Regional Corporation and not the Ministry of Works and Transport. Notwithstanding this fact, the road has and continues to receive the attention of the ministry. It should also be noted that the Arena Road was originally paved in 1999 under the National Road Enhancement Programme.

Given that this road is not the responsibility of the Ministry of Works and Transport and is the responsibility of the UNC-controlled Couva/Tabaquite/Talparo Regional Corporation, it is difficult to say with any certainty at this point when this road would be repaved. [*Interruption*] I suggest you ask them. Despite this, the Ministry will continue to assist the Couva/Tabaquite/Talparo Regional Corporation in the maintenance of the road.

**2.00 p.m.**

**DEFINITE URGENT MATTER**

**(LEAVE)**

**Residents of Railway Road, St. Joseph  
(Illegal Ejection)**

**Mr. Vasant Bharath** (*St. Augustine*): Thank you, Mr. Speaker. In accordance with Standing Order 12 of the House of Representatives, I hereby seek you leave to move the adjournment of this honourable House for the purpose of discussing a definite matter of urgent public importance, namely the plight of the residents of Railway Road, St. Joseph who are being illegally ejected from their homes by an agent of the Government of Trinidad and Tobago.

The matter is definite as it pertains specifically to the threat of eviction and the destruction of homes faced by men, women and children living at Railway Road, St. Joseph. The matter is urgent because the destruction of homes has already commenced and is expected to continue within the next few days. The matter is of public importance because these are poor families who cannot afford to purchase a private home and for whom Government's housing programme does not cater and eviction of these families directly impacts on the comfort, safety, health and rights of these citizens.

I thank you.

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**Mr. Speaker:** Hon. Members, this Motion does not qualify under Standing Order 12 but obviously would do so under Standing Order 11.

**INTEGRITY IN PUBLIC LIFE (AMDT.) BILL**

Bill to amend the Integrity in Public Life, Act, Chap. 22:01 [*The Minister of Works and Transport*]; read the first time.

**STATUS OF CHILDREN (AMDT.) BILL**

[Second Day]

*Order read for resuming adjourned debate on question* [March 13, 2009]

That the Bill be now read a second time.

*Question again proposed.*

**Ms. Penelope Beckles** (*Arima*): Thank you very much, Mr. Speaker. I rise to contribute to this debate on a Bill to amend the Status of Children Act, Chap. 46:07 and to provide for DNA analysis in civil proceedings.

The explanatory note indicates that the purpose of this Bill is to amend the Status of Children Act, Chap 46:07 and to provide for the use of DNA analysis in civil proceedings to ascertain whether a party to proceedings relating to the determination of a parental relationship is the parent of another person.

Now, I just would like to give a bit of history and to say that I fully support this Bill. I am aware that there are several Members who would have some personal experience as it relates to matters pertinent to this issue. I know for a fact on the Opposition that the Members for Siparia and Princes Town North, and I know probably in his early days as an attorney, the Member for Couva North and now the Member for Oropouche West, at some point in time would have represented persons who would have made applications before the court for maintenance and paternity and certainly on our side the Attorney General and the hon. Member for Princes Town South. No doubt we would recall the challenges that would have been faced by persons who would have applied for maintenance and paternity and it was no secret that if a man, a father or an alleged father denied paternity, the chances are that that blood test could have taken as much as three to four years for those results to return to the Magistrates' Court.

Those of us who are familiar with the history would recall that the legislation allows the State to appoint a hematologist and that is the only person that would have been designated responsibility to take that blood test and to submit results to the court. When Dr. Waveney Charles retired there was quite sometime before a

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hematologist was appointed, but the fact is those applications continued before the court and there were a number of problems for persons to have their blood test taken, even when one considers the issue of getting your results.

The fact is, we all understand the difference between having a blood test taken and having a DNA test taken. I am sure that the hon. Member for Caroni East would probably give us some more information on that.

**Mr. Speaker:** He can give information as an expert.

**Ms. P. Beckles:** I am talking about in his capacity as an expert.

**Mr. Imbert:** An expert in what? [*Laughter*]

**Ms. P. Beckles:** We know that whilst the DNA test would give us a 99.9 per cent accuracy, the blood test would only be able to tell us if you are not the father, but the blood test cannot tell you if you are the father. So that the scenario as explained by the Member for Princes Town North last week, as hilarious as it may have sounded, is in fact the truth in that the applicant would have to have a witness to corroborate certain things to satisfy the court and for the court to draw certain conclusions that the person before the court is the father.

So, I give a bit of that history to put it in perspective as to why we are doing this debate today. So you had a situation where if a mother goes before the court to apply for paternity and maintenance and the person before the court, the man denies paternity, the court cannot make an order for maintenance until that issue of paternity is decided which often means that the child may not have access to maintenance, and even the challenges that you would face in terms of the social welfare system may also be against you because your application is before the court.

So, Mr. Speaker, I realize, because I have myself practised both in the Magistrates' Court and the High Court. I have not practised in the Family Court because the Family Court would have been established at the time when I was a Minister. But, you would recall that the court was set up in 2004, so it is now almost five years that there has been the pilot project and I am aware that the Bill has been drafted, so I am sure the Attorney General will give us some particulars as it relates to that and the status of that Bill.

Suffice it to say, as I understand it, the court has been working fairly well; of course, like everything else, there are some challenges but I am aware that they have been doing their evaluations and I would imagine that those evaluations would form the basis of the new Bill and the improvements that the Government



would be making towards the implementation of the Bill and the establishment of the Family Court.

Mr. Speaker, the probation department of the Ministry of Social Development had actually started utilizing the DNA test for sometime. Where it is that the applicants were in a position to pay for that test then they so paid and where they were not able to do so, the probation department actually assisted in the payment. Now, the Family Court has also had a system of assisting parties that come before it for the application for maintenance, but I think what is important for us to understand is that both the Magistrates' Court and the Family Court can only have a DNA test ordered where the parties before them consent. If there is no consent then that order for the DNA test simply cannot take place.

Now, I have some idea of the number of referrals, at least, for the Family Court since 2004 to 2009: 2004—32; 2005—65; 2006—98; 2007—89; 2008—74 and in the month of March there have been 12 referrals. I am aware as well that to date there has been no challenge to any of those referrals that have been made to the court. So it would appear that the system has been working fairly well and what is very noticeable is that the practice that has been established in the Family Court is such that the orders that are made are orders that are written up similar to the orders in the High Court, so that both the parties—that is to say the applicants and the respondents—can have a copy of that order. The court also provides several services which are not simply exclusive to the issue of DNA testing, but you do have a psychologist, the probation department and several other departments related to social services that are present in the Family Court that allows for overall delivery of service to the applicant who is applying to the court for this application for maintenance and paternity, but bearing in mind that at all times the court can only grant this order if the parties agree.

Mr. Speaker, maybe it is important to indicate exactly what the sources of DNA evidence are. I know that some people listening—we assume that some of the members of the public easily understand what it is we are debating, but it is a matter that affects so many persons that apply to the courts. I would just like to say that DNA is a component of virtually every cell in the human body and is constantly shed from a variety of sources including skin cells, saliva and hair. Forensically valuable DNA can be found on evidence that is decades old. Several factors can affect DNA stability such as sunlight, moisture, bacteria and mould.

Consequently, not all DNA evidence would result in a usable DNA profile. Common sources of forensic DNA evidence include band aid, feminine products, blankets, pillows, bed sheets, bone, bottles, cans, glass, dental floss, dentures,

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dirty laundry, eyeglasses, facial tissues, fingernail clippings, gum, hats, teeth, toothbrush, toothpick and other sources of evidence. That is just to give an idea to some of the listening public and even maybe some of my colleagues who may not be aware exactly what source of evidence is utilized.

Now, I am aware from listening to some of my colleagues on the other side that some of the issues raised were very relevant in relation to some concerns about the definition of court, the definition of tester, about the process and some recommendations have been made to the Government to treat with some of those concerns.

**2.15 p.m.**

Now, I am not going to get into any details about that because the hon. Minister in his winding up will indicate. But I can indicate upfront, that the Government has taken into consideration those recommendations, and you will hear from the Minister, that some of them have been accepted and there have been some changes in keeping with the recommendations of some of the speakers, I think particularly, Members for Princes Town North and Oropouche West. That will form some of the amendments that will be proposed, so I do not propose to get in at length as it relates to that. The Minister and the Attorney General will give some further clarity on those matters.

Mr. Speaker, I would like to spend some time saying a little bit about the process, and in so doing, I know the question may arise, since the Member for Princes Town South/Tableland spent some time talking about the whole issue of testing and the procedure, and the issue of the person to appoint the tester being the Chief Justice. I know that is another matter that the hon. Minister will address.

Mr. Speaker, if I might just say a bit about the process as I understand it; when the parties appear before the court, the court will then explain the process. If the parties consent to the process, then they are taken to the Social Services Unit which is actually located on the compound of the Family Court. There are a number of forms and so those would be filled out, and the parties are again advised as it relates to what the process is, and they are given the assurance about how the process takes place. The parties pay directly to the lab that has responsibility for taking the sample. An appointment is made within a very short period of time. Again, there is a list of things that one would have to go through: the traditional birth certificate, your passport pictures; if necessary, affidavits and what have you.

A technician from the laboratory is the person who takes that sample in the presence of an officer from the court. I do not want to go through the entire procedure, but suffice it to say that the process of taking a sample is not a complex one, but the critical issue is to ensure that the process insofar as is possible, minimizes any sort of tampering with the evidence. Once the sample is taken and the relevant documentation is filled out, those envelopes are sealed in the presence of the applicant and the respondent and then shipped to Phoenix by the next working day.

Mr. Speaker, there is an organization in the United States where these samples are sent, and that organization is an accredited organization. It is called the Chromosome Laboratories Incorporated, located at 1825 West Crest Lane, Phoenix, Arizona. So the sample is placed in a FedEx envelope, sealed before the parties, and assuming the next day is a working day, it leaves and the results are returned to Trinidad and Tobago within a maximum of three weeks. So we need to think of the three-week period as distinct from the several years that I referred to, as it relates to the blood test and to recognize that we would have come a long way from what I described earlier in terms of the original history that took place many years ago, in terms of parties having to do the blood test.

I do not intend to be too lengthy about this accredited body, but the court has made sure that in sending that evidence abroad, that the institution is one that is acceptable in the United States. They are part of that particular organization. The Chromosomal Laboratories, Inc. is a leading analytical laboratory, specializing in DNA analysis for forensic case work, convicted offender databasing, paternity family reconstruction ancestry, and research and development. It is accredited by Forensic Quality Services International to perform biological screening, DNA analysis forensic case work and DNA analysis for CODIS databasing.

Mr. Speaker, I have sought to indicate that the company or the laboratory where the sample is sent to is an accredited institution. At present, there are a number of laboratories in Trinidad that do DNA testing. Dr. Gopeesingh would be in a better position to provide that information, but I do know that the court has been very careful as it relates to the issue of accreditation. There is a company called the Occupational Health Solutions. I know they are the main local laboratory that is providing the DNA testing for the courts and the Probation Department.

I am advised that even before the Family Court started, which would have been in 2004, that pilot project, the Probation Department was actually utilizing DNA testing for the purposes of providing assistance to the court because of the same challenges that I spoke about, as it relates to blood testing. So, we do have

the some historical data, historical research and sufficient information to give us an idea as to exactly how this testing has been working, the level of efficiency, and the extent to which clients of the courts would have been comfortable with the process that has been taking place.

Now, as we debate this Bill today, of course, the critical issue for our consideration, what may be operating in the minds of the public is the issue that if you do not have consent, then the DNA cannot be considered, as well as the fact that the Family Court and the Magistrates' Court as it stands, do not have the power to make a mandatory order for DNA testing where the parties do not agree. But as I understand it, that has not been a challenge of the court if only because the parties are a lot more comfortable that the DNA testing will give you that 99 per cent accuracy that the blood test will not give you.

Mr. Speaker, the issue that we may also want to be interested in, is the issue of what does it cost the parties, that is to say, the applicant and the respondent, for the purposes of this paternity test. I am aware that the court has been able to negotiate for the applicants and the respondents, or the parties, a much cheaper cost than what they would have had to pay if they did not go through the court or to the Probation Department. Prior to the coming into being of the Family Court, the Probation Department was given an allocation for the purposes of assisting persons who were not in a position to pay either the entire or part of that cost. So they would have led the way initially by having some system for allowing the intervention of DNA testing.

The Family Court has now been given its own allocation for the purposes of assisting applicants before the court.

**Mrs. Persad-Bissessar:** Is it still a pilot project?

**Ms. P. Beckles:** As far as I understand.

**Mrs. Persad-Bissessar:** You said that.

**Ms. P. Beckles:** Yes, I did say that. I did say initially—[*Interruption*]

**Mrs. Persad-Bissessar:** It is still a pilot project.

**Ms. P. Beckles:** Well, I guess that is why it is so important to have this crystallized. Because the fact is, the court will be operating in a particular way and whilst one may want to criticize or say that it is a pilot project—I imagine the Attorney General will give us more particulars as it relates to the implementation and exactly when that would come to fruition—I want to suggest that clearly, the project has been very successful and it is my hope that it is something that would be crystallized as soon as possible.

But, Mr. Speaker, as I indicated, the paternity test which is— and there is a DNA Fee, Schedule 2008: a mother, child and an alleged father, \$2,700; motherless or fatherless paternity test, child, alleged father only, \$2,700, and a grand paternity study which is mother, child, both paternal grandparents, \$5,300. There are many other categories which I do not propose to go through. The fact is that the Family Court has an allocation, the Probation Department has an allocation, and what you would have is that assuming that the parties consent, it can be a situation where the parties agree to share the cost; it may be a situation where the alleged father alone bears the cost; the court would have a discretion, if it is that the parties cannot at all bear the cost, in terms of determining what is the contribution that the court will put towards this DNA test.

Mr. Speaker, I would like to think that a lot of what I have said has probably shed some light on this matter. The order that the court makes cannot be a declaration of paternity because the court does have the power to declare paternity. The court can only say that based on the test that returns to the court, that the father accept the paternity or the father accept the results as submitted by the laboratory and from that, the court can then deal with the issue of maintenance. So I hope that also clears up the situation.

So, Mr. Speaker, I would like to crystallize my contribution, by saying that I support this measure. It is important. It is long in coming. It will certainly make things a lot easier for women applying to the court and bring some measure of comfort to men who may have had those concerns as it relates to the credibility of a blood test, as the test that is used for the purposes of determining paternity.

### **2.30 p.m.**

It is also a much faster method, and I would be the first to say that it is not a perfect system as yet. As my colleague from Siparia said, the Family Court is still in its pilot stage; I am not going to defend that. I would only say that it is a matter that we need to address as a matter of urgency to give an overall credibility to, not just the Act, but other pieces of legislation, and a certain measure of comfort to those who are customers and beneficiaries of the system.

I am quite confident that the Attorney General in her discourse will bring us that comfort by giving us some information and clarity as to the Government's position as it relates to the Family Court.

In my own constituency, I know a family court has been on the cards and, therefore, I am equally as anxious as the Members for Pointe-a-Pierre and Princes Town South as it relates to the establishment of family courts in our respective

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constituencies. Suffice it to say that we need to acknowledge the work of those who have had responsibility for setting up the court; those who have been working in the courts and those who have ensured that the system is as successful as it is.

We know that once this becomes law, there are a number of other support services that the Government will also have to put in place. We will have to ensure that there are more probation officers, because we are aware that is a matter which has always been part of the debate that we have had, probably just 30 plus officers servicing not just the civil, but also the criminal proceedings and other departments of the Ministry of Social Development, that all the other services which are necessary for us to have a complete delivery of service to the applicant and the respondent, and that those other services are also equally important.

Mr. Speaker, with those few words, I support this Bill. I want to congratulate the Minister of Legal Affairs, because I know that this is a matter that he has made every effort to have brought before the Parliament, and also the fact that he has taken on board the recommendations of some of our colleagues on the other side to ensure that the final Bill will be one with which we will all be a lot more comfortable.

**Dr. Tim Gopeesingh** (*Caroni East*): Mr. Speaker, my intervention on this Bill is to add a few more perspectives on the whole issue of DNA sampling and to give relevance to the concept of DNA testing in civil matters. I also want to ask some questions which need to be answered and cleared up at the conclusion of this Bill. If they are not cleared up, I would like to probably indicate that we need to have this referred very quickly to a select committee of Parliament to clear up some of these issues.

The first thing I want to ask today and to speak about, is something which the hon. Member for Arima and the Member who piloted the Bill, the Member for Princes Town South/Tableland, the Minister of Legal Affairs, spoke about, that goes straight into the question of laboratory testing for DNA analysis.

The Minister of Legal Affairs indicated that there were two laboratories which had been considered in Trinidad for DNA testing of samples. We all know that DNA testing cannot be done in Trinidad and that laboratories have to send their samples internationally to have these tests done. It is a very complex type of testing called the Polymerase Chain Reaction testing, which is a very onerous and expensive procedure.

At the moment, when he said that we had two labs, there are no laboratories in Trinidad. There is only one laboratory in Trinidad which has international accreditation, or ISO accreditation, for laboratory testing. All the others do not have any accreditation, even nationally, far less internationally. So the question that would arise is: When a sample is taken and sent to a particular laboratory and that laboratory sends that sample to another laboratory internationally, the whole question of ensuring that this is, in fact, legal and correct by the courts, could leave a lot to be desired.

In the first place, the laboratories in Trinidad are not being monitored, evaluated, certified or recognized, and there is no quality control in any one of the laboratories in Trinidad. I am speaking specifically about medical laboratories, which would be in the process of DNA sampling.

Anybody off the street now is getting up and forming a laboratory, because they could buy the equipment. They get young students who have passed three or four A levels to become technicians in the lab, the laboratories are formed and they produce results for the general public. That leaves a lot to be desired.

When we discussed and debated the DNA Bill 2006, the hon. Member for Diego Martin North/East was part of that discussion. He chaired that session, particularly in reference to the forensic laboratory. The forensic laboratory has no international accreditation at the moment. To get international accreditation it takes about three years, so from the criminal aspect, all samples that are sent to the forensic lab, that have to be analyzed from the forensic lab, there is a whole question mark on the certification of the results from the forensic lab.

None of these labs in Trinidad, with the exception of one lab in Trinidad, has international accreditation, ISO accreditation. Samples are taken to other laboratories, and the hon. Minister spoke about that. He said that there were going to be many more laboratories participating in this process. There will be no authentication or legal certification of the analysis, and that could be challenged any time in the court.

Who accredits these laboratories in Trinidad? The Bureau of Standards is the one that looks after accreditation of laboratories. The Bureau of Standards looks after accreditation of laboratories for goods and services, but do they look after accreditation for medical laboratories? That is the first question we have to ask.

If the Bureau of Standards is not looking after accreditation for medical laboratories, who will, in fact, accredit the medical laboratories where these samples are going to? This is for the hon. Attorney General. If this goes to court,

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a sample is taken from a person, X, a buccal swab, it is labelled and goes to this lab, Y, in Trinidad; that lab Y sends it to another lab abroad. When the results come back, they could be questioned, because for neither of these laboratories we have international recognition or certification.

Minister, Member for Diego Martin North/East, you would remember that was a major issue when we were discussing the accreditation for the forensic lab. I brought the report; I think you would agree with me.

Mr. Speaker, I always say that the Minister for Diego Martin North/East, the Minister of Works and Transport, does a very good chair session when we sit in committees. [*Desk thumping*] I do not know what happens when he comes here into Parliament, but, anyway, that is another issue.

I want to remind him of the Report of the Joint Select Committee appointed to consider and report on a Bill entitled the DNA Bill, 2006. One of the major concerns from the Director of the Forensic Science Centre, Ms. Lewis, at that time was:

“Ms. Lewis stated that her concern was with the definition of the term ‘forensic DNA laboratory’, as it means a place, approved by the Trinidad and Tobago Bureau of Standards under the Standards Act, in which the DNA analysis was conducted. The problem was two fold. Firstly, the Trinidad and Tobago Laboratory Accreditation Service established under Regulation 39 of the Standards Regulation 2004, which falls under the Bureau, has not accredited any laboratories to date and secondly, it is not in a position to accredit a forensic laboratory.”

During the course of the deliberations, after a short discussion, it was decided that the legislation be amended to reflect that a forensic DNA laboratory be accredited by a reputable international accreditation body.

So this is our forensic lab in Trinidad during the discussion on the DNA Bill 2006. It was decided that the forensic laboratory needed to have international accreditation. But also due to the concern:

“...that accreditation is a lengthy process a period of three (3) years was agreed upon to be given from the time of enactment of the legislation for accreditation.”

Mr. Speaker, the forensic laboratory that deals with sampling for DNA analysis in criminal matters is not accredited. Three years have not passed as yet, and the forensic laboratory is not accredited, and that is a major concern as far as criminal



matters are concerned. What will happen when our local laboratories have no national accreditation or recognition, no certification? Even when we take these tests and send them to international labs, how do we know which international labs have accreditation, and international accreditation as such.

When the hon. Minister spoke about having two labs in Trinidad, I think we need to look at that. This is one of the reasons that these would not be able to be answered today and we should go to a select committee of Parliament to give answers to some of the questions that emanated as far as the forensic laboratory issue was concerned and now for the accreditation for the DNA sampling and testing.

To summarize that point, the laboratories in Trinidad are not accredited. The Bureau of Standards cannot accredit.

**2.45 p.m.**

There is an area here where he speaks about standards. Which Minister is responsible for standards? That needs to be cleared up. Will the Minister who is going to look after standards be responsible for the Bureau of Standards? Or is it the Minister of Science, Technology and Tertiary Education who is looking after accreditation? Or will it be the Minister of Health looking at accreditation of national laboratories? These are complex issues so when we indicate that these tests will have to go into a laboratory with standards, there is a plethora of confusion as to which Minister is responsible and who will accredit these laboratories, who will be responsible for them and who will give the certification nationally. So the hon. Attorney General will have to address this question at sometime because it is chaotic and confusing at the moment.

Mr. Speaker, the second issue is the question of obtaining samples. We all know that the most common type of samples for DNA testing is the buccal smear or buccal swab, a swab taken from the mouth. We speak about the hair, toenails and so forth, but the easiest one is the buccal smear.

The buccal smear has to be put in a particular medium so that it would not lose the cellular pattern and the chromosomal analysis, the genetic analysis and the DNA analysis could be conducted, so we need some technical expertise in the collection, the labelling and the transportation of the sample. These need laboratories with properly trained personnel and which have standards for doing these types of investigations. As I said, there is only one laboratory in Trinidad and Tobago which has ISO recognition.

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The Bill speaks about persons who will do the testing; it speaks about the Chief Justice naming people; it speaks about the Minister of Health training people in testing; it speaks about the Minister responsible for standards ensuring that persons are selected to do this type of testing.

One of the problems the hon. Member for Arima spoke about was the time factor when she spoke about Dr. Waveney Charles being the only haematologist in Trinidad and Tobago at the time, and samples took about four years to be analyzed. There is much merit in her statement. Therefore, that is what impeded the progress and the speed with which the court had to deliberate the paternity issues.

We agree that the process should be speeded up and there should be people who can do these testings, but there is still confusion as to whether the Chief Justice will name these persons. What experience will he have in naming persons who can do testing for DNA sampling—not much—where the Minister of Health will train persons and the Minister of Legal Affairs will draw up regulations and indicate who the people to do the testing are? So there is confusion there again and I am raising these concerns because these issues need to be cleared up.

Then there is the question of confidentiality to ensure accuracy as far as the samples are concerned. You have not provided the regulations as yet to indicate how these samples are to be taken, whether they are going to be initialled by the persons involved in the process, by the person who is before the court, or whoever the sample is taken from. There is no regulation at the moment which indicates how this process is going to be done.

When we debated this DNA Bill in 2006, there were regulations which were in appendices so we could have seen which forms needed to be signed. But there are no regulations in this one, so we do not know what is going to be signed, who is going to sign it, who is going to label it, how it is going to be transported and so forth. That is the third issue. The first is the accreditation at the laboratories; this issue of transportation, labelling and confidentiality and the question of the laboratories which are looking into it.

Mr. Speaker, the courts have to accept a report from a foreign laboratory, and my colleague from Princes Town North showed last time a report, which he would have gotten from a particular laboratory abroad, which details the DNA sequencing of the alleged father and the child and the match between the child and the alleged father which give a 99.9 per cent accuracy.

I want to pose a question here which needs to be answered. When a laboratory in Trinidad sends it to a laboratory abroad which does the analysis and the laboratory sends it back to Trinidad—I have one here now done by GENE A Sorenson Genomics Company, and signed by a DNA Laboratory Director, a Notary Public and has the expiration date and tells with certainty what the paternity index is, and comes to a conclusion that:

“The alleged biological father...cannot be excluded as being the biological father of the child,...Based on these data, the probability of paternity is 99.9999% as compared to an untested randomly chosen man of the BLACK population.”

This was a case that was done by a laboratory in Trinidad, sent abroad and the report brought back. I am not an attorney but my distinguished learned colleagues will probably indicate this evening if this report is sent back to Trinidad from the laboratory abroad and proffered in court as evidence, does the court have the right to accept this? How can the court say that this is an authentic report sent by that laboratory? How would the court be satisfied that this laboratory abroad is competent enough with quality control, recognition and accreditation to be able to provide a report like this?

A defence attorney can then ask: Who has certified the report that is presented in court?

**Mr. Dumas:** Defence attorney?

**Dr. T. Gopeesingh:** Well not defence, a party to the proceedings can ask: Who has sent it? Is this laboratory internationally reputable? Is it accredited? Who has signed it? Or, has a Notary Public signed it?

Mr. Speaker, in criminal matters, I understand that even though reports come from abroad by forensic analysts and are presented in court, they are trying to ensure that the people who sent these reports testify personally saying that the report is authentic. Will this be done in this case when this report is sent from abroad? Is this acceptable to the court? This is what emphasizes my point.

My colleague, the Member for Siparia is asking why we cannot have it done here. Well, it is expensive, it is technical and our laboratories cannot cope with it. Should we be sending these samples through the forensic laboratories which still do not have international accreditation and our forensic laboratory has to send them to laboratories abroad which are accredited?

So, Mr. Speaker, to the Member for Princes Town South/Tableland, the Minister of Legal Affairs and the Attorney General, I think these need to be

answered and I think the Member for Diego Martin North/East wants to make a statement, so I will give way.

**Mr. Imbert:** I thank the Member for giving way. I want to ask when you look at the Act, it speaks to the Minister to whom responsibility for standards is assigned in terms of designating the testers. When you look at the Standards Act, a Minister in that Act is the Minister of Trade and Industry. Are you saying that you are uncomfortable with the Minister within the Standards Act designating these laboratories, and you would prefer that these laboratories be accredited by some international agency? Is that what you are asking?

**Dr. T. Gopeesingh:** Mr. Speaker, as I said, when the Member for Diego Martin North/East did this DNA Bill, we were very happy with the manner in which it was done. He is asking some very salient questions, if I am comfortable with the fact that the Minister of Trade and Industry is looking after the Bureau of Standards Act. I raise the question: Is he looking after standards for goods and services and laboratory comes into it? I looked at it and laboratories come into it, but what type of laboratories, medical or laboratories related to goods and services as a whole? If it is all, as the Member for Tobago East is saying, why has it not been done?

Mr. Speaker, my colleague, the former Minister of Health, will tell you that none of these laboratories in Trinidad have been certified by the Bureau of Standards, and the Bureau has never gone into any of these laboratories in Trinidad. So when the Minister of Legal Affairs is telling us that he has two laboratories already and more will come on stream, the question of standards comes into play and we therefore cannot accept that.

The hon. Member for Arima who is au courant with these matters in court and so many of my colleagues who go through the Family Court, the High Court and the Magistrates' Court, will know that this can be questioned at any time, Mr. Speaker, because you are a distinguished, learned attorney yourself and I am sure you understand the complexity of the situation. This is why I said earlier on in my contribution that these things need to be answered and this is why I think it needs to be brought before a select committee of Parliament.

What the Member for Tobago East was saying, and the Member for Arima also said, is that there will be speedier proceedings of applications and the Minister in his presentation said: "The Minister may by order on the advice of the Minister to whom responsibility for standards is assigned designate testers". The testers are the laboratories. What are we going to do about that?

**Mr. Imbert:** I thank the Member for giving way. If you look at the Standards Regulations, Part VII, it speaks to accreditation of laboratories.

“A laboratory is defined as any facility that offers testing or calibration services and includes facilities for the biological, biophysical, cytological, pathological or other examination of materials derived from the human body in the assessment of health or for the diagnosis prevention or treatment of disease...” And so forth.

**3.00 p.m.**

**Dr. T. Gopeesingh:** So you have clarified one aspect of it; it is the Bureau of Standards which falls under the Minister of Trade and Industry that would be looking after the standards aspect of it. Therefore, I am asking—as my colleague, the former Minister of Health who has had six years experience in the Ministry will tell you, and it came to light, hon. Minister, when we were discussing the DNA Bill, that the Bureau of Standards has not really gone into any medical laboratory and other laboratories nationally, so they have not been doing their work. So if we put this into the hands of the Bureau of Standards—and I am glad that the hon. Minister is agreeing; I think he is agreeing to the fact that this needs to be looked at carefully again and we need to iron out some of these difficulties, because:

“‘tester’ means a laboratory designated by the Minister...”

who would be the Minister of Trade and Industry or the Minister of Legal Affairs. Who would be the Minister?

“...in accordance with section 14B, that conducts DNA analysis for determining familial relationships for courts of law in accordance with internationally accepted standards;”

We do not even have nationally accepted standards, far less internationally accepted standards. He said:

“...at present, there are about two laboratories (with) the capability to analyze DNA tissue samples...”

With the expansion in the number of laboratories that will be able to conduct DNA analysis...”

So he says there are two already and we know they are not accredited or certified and he wants to expand it and we therefore really cannot accept that, because we do not see evidence of national recognition and accreditation.

This brings me to another point and not because it is within my field. There are a lot of questions that will arise because of what is happening within the Caribbean at the moment in terms of fertility programmes. This has direct bearing on this Bill. Within the Caribbean and worldwide there are millions of couples who are unable to achieve a pregnancy by virtue of one form or the other. Forty per cent of the times when a couple is unable to achieve a pregnancy, it is due to the male factor, either from low sperm count or the absence of sperms and the other 60 per cent is due to the female factor where they may have blocked tubes, where the ovaries might not be functioning; not producing eggs, or other areas which in this Parliament we are not going to go into.

But there are a number of couples in Trinidad and Tobago—10 per cent of the population is unable to have a baby on their own, fifty per cent will achieve a pregnancy in a relationship within one year; another 10 per cent will achieve another pregnancy within the second year and 40 per cent will be left without being able to achieve a pregnancy. Therefore, a lot of people are now seeking the in vitro fertilization method where the question of egg and sperm come into play and that is the question of maternity and paternity.

Now, there are in vitro fertilization centres in Trinidad and Tobago, Barbados and Jamaica which are doing tremendous service for infertile couples and a number of people are becoming pregnant. In fact, worldwide, about four million children have come into this world since 1974 by Patrick Edwards and Peter Steptoe who were the first pioneers in in vitro fertilization in 1974. So it is 35 years now that children are being born, as my colleague from Diego Martin Central who is a very brilliant young doctor as well—

**Mr. Ramnath:** Did you lecture to him?

**Dr. T. Gopeesingh:** We will not go into that; he is very brilliant on his own. In Trinidad now, these in vitro fertilization centres have been in operation, I think, for about eight to 10 years now. There is another centre in Barbados which is bringing forth children. People are leaving Trinidad and Tobago and going to Barbados and people are having children from this in vitro fertilization method.

Now, children are born from this IVF method. What happens is that the ovaries are stimulated by certain drugs; a number of eggs are retrieved; the eggs are mixed with sperm in the laboratory; the eggs are fertilized and the fertilized embryos are transplanted back into the uterus of the woman. But one of the main factors, as I indicated, is the male factor. He is not able to produce the type of sperms that can fertilize the eggs, so there are different methods. One is called

Intra Cytoplasmic Sperm Insemination (ICSI), where you take one sperm and you put it into the egg of the woman; you fracture the tail of it; the enzymes are released and fertilization takes place.

Now there is artificial insemination donor and artificial insemination husband. AIH is for Artificial Insemination Husband; AID is for Artificial Insemination Donor. So when the male partner in the relationship is unable to produce proper sperms for fertilization, the laboratories now look for donor sperms. In Trinidad and Tobago we have no law guiding the whole principle of a sperm bank, but we know that sperm banks are operating in Trinidad and Tobago at the moment. It is easy to get via the Internet, sperm sent to you within three or four days by matching pictures, ethnicity, height, colour and education standards. Therefore, in Trinidad and Tobago we know we have sperm banks and then sperms can be obtained from abroad.

When a child is born out of that method, what happens? This child grows up and we have children in Trinidad and Tobago who would be eight or nine now and would be asking, "Who is my father?" Therefore, questions will inevitably be unanswered. Mothers will hide from their children that, "you have been born by in vitro fertilization".

It is a kept secret, but somehow or the other the child gets to know that it was not a normal conception and, therefore, the child wants to know who is the biologic father. But with the in vitro fertilization method you cannot tell who is the biologic father except it was insemination from the husband.

Now, as far as estate is concerned, because you want to know proof of paternity for estate, suppose the non-biologic father dies and the child wants to contest for estate, which I understand children have two-thirds rights to the estate and the wife has one-third right to the estate—

**Hon. Annisette-George:** It is half-half. The law has changed.

**Dr. T. Gopeesingh:** This raises another question: Who is the biologic father of this child? Is it the father who the child assumed was the father all the time, but it is not, in fact, so? Then you cannot determine who the biologic father is, because his donor sperm remains anonymous.

So I am raising this issue in the context of questions which need to be answered and which need to be discussed. I am putting this to the hon. Attorney General because these are questions that will arise in the courts pretty shortly. Suppose the non-biologic father dies and questions remain and the child is not getting part of the estate—

**Mr. Dumas:** That is another Bill.

**Dr. T. Gopeesingh:** No. This needs to be looked at in this Bill.

Then there is the other question, not only of sperms, but of eggs. Women are stimulated by a drug; they produce a number of eggs; the eggs are frozen and kept there. Now, you have donor eggs being used in Trinidad and Tobago. Women who produce eggs and are kept in the laboratory, some doctors may ask them to give to someone who has lost her ovaries or who cannot produce eggs. So you have donor eggs. So when a donor egg is being used in in vitro fertilization by the husband's sperm, you have a conceptus that is coming on and a pregnancy that is coming in a woman whose egg belongs to another woman. So when you are checking for a maternity order, when you do a DNA analysis of that child, the DNA analysis of the mother is not the same as that child, because it is a donor egg.

So that raises another question in terms of paternity, which I spoke about; maternity order which I am speaking about. These are some of the issues which need to be clarified. In Trinidad and Tobago we do not have any sort of ethical committee or any law regarding that. In 1999, it was under the leadership of Mr. Basdeo Panday as Prime Minister then that we brought the Human Reproduction and Technology Bill. It went to a joint select committee and it lapsed because the government was taken away from us in 2001. If that Act were in place, it would have taken care of this, the human reproduction and technology aspect of these things. Now that this Act is not in place, where is it going to be placed in the scenario which I have just brought forward?

In the United States their laws are a little more liberal as far as all these things are concerned, but in Britain, I had the distinct pleasure of knowing Lord Naren Patel who was the external examiner to the University of the West Indies in Obstetrics and Gynaecology. He was president of the Royal College of Obstetricians and Gynaecologists. He became Sir Naren Patel, then became Lord Naren Patel. Lord Naren Patel is head of the National Embryonic Fertility Authority and the Ethics Committee dealing with this whole question of embryo and in vitro fertilization; embryo storage. In Trinidad and Tobago we also have embryos that are being stored; eggs that are being fertilized, then when a woman wants another child she can use an egg that had been stored before; just unfrozen and used again.

There are new techniques for freezing these embryos called vitrification. It is a quick freeze; no crystals around the egg that are formed and, therefore, in thawing out you get a very high success rate. So the question of egg storage or embryo storage, embryo research, embryo transplant, all these come into play as



far as this Bill is concerned—just a simple DNA Bill—because it really takes into consideration the whole sex chromosomes, the genetic composition, the autosomal composition and so on, which really is the DNA aspect of things.

The other thing that I had asked the hon. Minister of Health to look into was the question of surrogacy where women are being used in Trinidad and Tobago to have babies for other women. So a husband whose sperm is good and a wife whose egg is good, but she may have lost her uterus so that she cannot have a baby, they give it to surrogate mothers in Trinidad and Tobago who bring these babies into being and at the end of it give it back to the husband and wife. Sometimes they decide to keep it.

There was an article in the *Newsday* by Melissa Dassrath, on Sunday, March 02, 2008 headlined:

“Babies are being sold in Trinidad and Tobago for \$60,000—upon delivery.”

### **3.15 p.m.**

“The sale of babies is being run by a woman, who calls herself ‘Suzy’, and who has been advertising her surrogacy services in press ads. She told Sunday *Newsday* that she has offered the service to at least ten women so far, but she is reticent about providing details.

Responding to queries about the service, she told one woman: ‘If you cannot have your own child I will find a nice woman to have it for you. It’s OK. You don’t have to worry. I get a lot of calls from women like you.’

She was based in South Trinidad. There is the whole question of legitimacy. There is no law governing this. There was a comment from attorney Lynnette Seebaran-Suite on this matter. She was asked and she said:

‘I am not aware of any law with specific regards to the issue of surrogacy. As far as I am aware, Parliament has not made any written law on the matter. I admit that it is not an issue that I have looked into, so I’m not sure what is written in the Common Law or what is the position of other legal systems on surrogacy.’”

The Trinidad and Tobago Medical Board as well had made a comment:

“that surrogacy and surrogate mothers is essentially an ethical issue. However it is an issue that has never cropped up because as far as they know it is not something that is practised and conducted here.”

It was going on in Trinidad.

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That raises another question of paternity and maternity. That lady may come back and claim her child. She gave it to the family but she would not be the biological mother because there would be no gene or DNA from her. She carried the baby so she could claim. I am raising this in the context of what is a very good piece of legislation. It is important that we move away quickly from blood sampling.

This should have been done since 1985. It is here now and we will give support to it. It is a very futuristic Bill and needs to be enacted as quickly as possible. We wanted to introduce it in 1999 when we brought this Bill. We passed the DNA Bill in 2000 and it took you six years to come back with it in 2006. At the moment, we are not sure about the status of that. Issues need to be raised.

Mr. Speaker, I think that I have raised most of the points. Just give me five—

**Mr. Speaker:** Hon. Members, the speaking time of the distinguished doctor, the Member for Caroni East, has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [*Dr. H. Rafeeq*]

*Question put and agreed to.*

**Dr. T. Gopeesingh:** Mr. Speaker, I will only use about five minutes of it.

For the benefit of the population and Members of Parliament, I will give a little idea of when we talk about DNA and DNA analysis what it is about. It needs some degree of research. I will give some information on it. DNA sequencing, which is the testing of DNA samples for determining paternity or maternity is now an automated procedure called the polymerase chain reaction (PCR). That is the procedure that is now being used. It generates multiple copies of DNA segments, so you can tell with certainty.

Efforts are now on the way to develop faster and more effective DNA sequencing technologies. It is not the PCR alone. These include the use of mass spectrophotometry, direct reading of the DNA sequence by scanning—the world is moving away fast from the PCR method of DNA sampling analysis. When we take international labs we have to understand that if we are talking about speedier analysis and results, we have to go to labs that are up to date and moving forward. Another method is tunneling or atomic force microscopy and sequence analysis using DNA chips.

Since the mid '70s eight Nobel Prizes have been awarded for research that lead directly or indirectly to major methodological advances as well as profound insight into genetics among the DNA sequencing and PCR.

My colleague, the hon. Minister for Legal Affairs, mentioned the human genome. This is divided into 23 different chromosomes including 22 autosomes numbered 1 to 22 and the “X” and “Y” sex chromosomes. The human genome has 22 somatic and 1 sex chromosome, 23.

Adult cells are diploid meaning that they contain two homologous sets of 22 autosomes and a pair of sex chromosomes. A human cell has 46 chromosomes; two pairs of 22 homologous autosomes and two sex chromosomes. In the female it is the “XX” the sex chromosomes and in the male it is “XY”. In the male there are 44 “XY” and in the female, 44 “XX”.

As a consequence of meiosis, germ cells which are sperms or eggs are haploid and contain one set of 22 autosomes and one of the sex chromosomes. At the time of fertilization, the diploid chromosome is reconstituted by pairing of the homologous chromosomes from the mother and father.

There is more that I can talk about. The point is that the DNA analysis is a very detailed type of investigation and is very complex. I can give you an idea of the complexity. The human DNA is estimated to consist of about 3 billion base pairs of DNA per haploid genome. A genome is estimated to contain about 100,000 genes that are divided among the 23 chromosomes. You see how complex it is. Historically, genes were identified because they convert specific traits that are transmitted from one generation to the next. On a lighthearted aspect, we wonder whether that genetic transformation has taken place with the People’s National Movement. They seem to have inherited that gene all along. “I’m PNM till ah ded.” The gene of mismanagement and incompetency seems to be flourishing from generation to generation. We wonder whether that genetic transcription has taken place in the PNM.

In conclusion, on the whole question of the DNA Bill, I have raised a number of questions for consideration. I think that they are worthy questions to be answered. They merit some degree of discussion. The only way that we can come to a unanimous type of agreement is by bringing it before a special select committee of Parliament to trash out some of these discrepancies and questions which need to be looked at, analyzed and brought to fruition and completion.

Thank you.

**Mr. Anthony Roberts** (*St. Ann’s East*): Mr. Speaker, I am extremely grateful for the opportunity to contribute to this Bill to amend the Status of Children Act, Chap. 46:07 and to provide for DNA analysis in civil proceedings. I believe that this Bill will assist the citizens of Trinidad and Tobago as we advance and

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compete in this age of technology. As a developing nation and one with aspirations of obtaining developed nation status in the shortest possible time, as we have indicated to this country on or before 2020, we are expected to advance gracefully into the technological sphere.

At this point, I congratulate the Member for Caroni East for his contribution in the House this evening. I think that the legislation has fallen within his area of competence. [*Interruption*]

**Mr. S. Panday:** “He on dis side, yuh know.”

**Mr. A. Roberts:** Mr. Speaker, it is a question of calling a spade a spade. He did make a good contribution even though he raised one particular issue in similar fashion as his colleague, the Member for Princes Town North. I recall that in his aggressive manner he indicated that the UNC passed the law, referring to Act 27 of 2000 which amended Act 17 of 1981 and introduced DNA testing for paternity. I do not think that it was necessary for him to go there because the records are there. I want to let him know that no one is attempting to take away the credit from him.

It worries me sometimes and I marvel at the level of maturity in the politics of Trinidad and Tobago. I assure my colleagues because the Member for Caroni East was along the same line that no one intends to take their sweetie. They introduced the Bill in 2000. Maybe, I should congratulate them as well. Why score half point when you can score and get the full point. They came telling this House that the Bill or this legislation is very important. I agree with them. This piece of legislation is very important.

They passed the legislation in 2000 and remained in office for a full year after 2000 and made no attempt at ensuring or pursuing the proclamation of that piece of legislation. It was so important, but they could not see the need to pursue the proclamation or even attempt to put the infrastructure in place to ensure the operationalization of the piece of legislation. They had a year before they left office. [*Interruption*] If you want to help me I will take your term—before he was kicked out of office.

**3.30 p.m.**

You see, Mr. Speaker, the intention is really to give a false impression to the national community that they care and that they are serious about the children of this nation, but they must remember that they had a year to do something and did absolutely nothing during that year. I do not know what the problem was; whether

there were too many fights at that time. I do not know if during that period the government was under pressure because of the claims of corruption. I do not know what the issue was, but they did nothing.

I want to tell you, Mr. Speaker, what this Government has done. I am in a position to say that we have critically analyzed all the pieces of legislation in the children package and that there are still other pieces of legislation to come. We were seeking to improve the quality of the legislation by strengthening the weak areas and making it workable for the people of Trinidad and Tobago. We expected Members of the Opposition to raise other issues and to make suggestions which the Government is prepared to consider, as you will see in the proposed amendments which will be dealt with in time by the Minister with that responsibility.

The legal luminaries in this House, and I include your good self, will agree with me when I say that the law is dynamic and requires constant review so that we would adequately take care of the current realities of the day. In so doing, this Government consulted extensively nationally and internationally, taking into account the experiences and challenges of other governments and countries as they operationalize similar legislation.

My friend, the Member for Princes Town, in his deliberation, attempted to put down and possibly humiliate my colleague, the Member for Diego Martin Central, when he said that he had no institutional memory. I know, while I am reminding him of what he said, he is beginning to think of what he has said.

Let me tell him that my colleague, the Member for Diego Martin Central, is a proud Member of the PNM.

**Mr. S. Panday:** Are you?

**Mr. A. Roberts:** I am. It is an organization with a proud and rich tradition, so who in this country or this House, which organization, could talk to the People's National Movement about institutional memory?

We can go back to the PNM and give to you the genesis of the 1981 parent legislation. I do not know if any one of my colleagues from the UNC will be able to tell me where the UNC was then. So we want to put to rest once and for all the issue of institutional memory.

Mr. Speaker, permit me to quote my colleague, the hon. Member for Oropouche West, when she said, in one of her sober utterances, making reference to DNA, that the testing behind it, in the case of parentage, was that without a doubt it would be the most reliable and effective form of testing. So DNA testing

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is very important, as far as we are concerned, in crimes such as paternity fraud where a man can be named falsely to be the biological father of a child, particularly for the purpose of collecting maintenance, by a mother, when she knows that the man is not the biological father.

On the other hand, delinquent and irresponsible males in the society, who impregnate women and immediately turn and run away from their responsibility, must be aware that this legislation will afford the court the benefit of a most reliable, efficient and effective form of testing for paternity.

This country is a signatory to the Convention on the Rights of the Child, so we are committed to upholding the principles of this convention. Article VII, VIII and IX of the convention specifically provide for the child's right to be raised by both biological parents, to be identified properly at birth and requires that the government's birth registry contain an accurate record of the identity of and information on both biological and social parents. The introduction and use of DNA testing can definitely assist in ensuring the child's identity and provide certainty of records.

Mr. Speaker, establishing paternity or maternity is very important to ensure the child's well-being and fully to protect the child's rights. While paternity testing is more common than maternity testing, definitely knowing one's biological parentage is very important for several reasons:

- It can strengthen the bond between parent and child;
- It can allow access to legal and social benefits;
- It can allow for the collection of financial support and, more importantly, emotional support;
- It can also provide an accurate medical history for the child, which will give the health care provider additional insight during diagnosis and in managing the child's health.

As far as I am concerned, it is a victory for the country and, as a result, I am very pleased to be able to lend my support to this legislation. I believe that once legislation will benefit the people and, in particular, the future of this country, we should waste absolutely no time in enacting it. So, Mr. Speaker, I again wish to extend my support and ask that other Members do so.

I thank you.

**Mr. Chandresh Sharma** (*Fyzabad*): Mr. Speaker, it is very clear that the last contribution from the Member for St. Ann's East was only done because his

constituents protested in the recent past. They were saying that he was neither representing them nor doing anything in the Parliament. Today, he seems to be saying that although he did absolutely nothing, he would talk for a few minutes.

In this contribution, he said absolutely nothing. In fact, he referred to 1981. Here is a Government claiming to bring legislation to this Parliament since 1981—for some of us that is before we were born—yet they did absolutely no work. The Member for St. Ann's claimed that they consulted nationally and internationally. I do not know what he means by that; he is fooling no one. Had they consulted right in Jamaica, at the University of the West Indies, Dr. Wayne MacLaughton established a DNA testing lab there, so they do not have to go the United States or the United Kingdom to obtain this testing. It is called Caribbean Genetics (Carigen). It is the first and only private facility in the English-speaking Caribbean to assist in establishing biological relations through DNA testing. The unit makes its services available to governments.

We have the Prime Minister riding all over the Caribbean wasting taxpayers' money and right here in Jamaica we have the facility available. We are hosting the summit in a few weeks time, bringing people from all over the world and we are not aware that we can go to Jamaica and have that service.

The Member went on to talk about the rights of the child, according to the United Nations. Is he aware of what he is saying? Let me take him to Principle 1 according to the declaration:

“The child shall enjoy all the rights set forth in this Declaration. Every child, without any exception whatsoever, shall be entitled to these rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.”

What obtains in Trinidad and Tobago under this PNM administration? Children are unable to go to school because there is no school bus. When they reach the school, there are no facilities available. When you look around, right in Port of Spain, there are street children. Today we are putting kids all over the place.

Principle 2:

“The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity.”

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What obtains in this country under the PNM? In 1998, the UNC administration established the paediatric heart care centre where kids could obtain operations. The PNM has done absolutely nothing to develop that. They are still bringing a diagnostic consultant once a year. Children have limited opportunities here.

Look at what they have done to the regional corporations. They have cut the budget allocations and simple recreation facilities—

**Mr. Speaker:** I do not want you to pollute the contribution of the Member for Caroni East. That was a perfect contribution. You need to get to the DNA aspect of the Status of Children (Amdt.) Bill, please.

**3.45 p.m.**

**Mr. C. Sharma:** I was responding to the matters he raised before I go into the thing. In addition to that, I also want to quickly refer to the contributions of the Members for Diego Martin Central and Arima. They indicated to this House—today the Member for Arima spoke and on the last occasion, the Member for Diego Martin Central spoke. What did they have to say? When Members of the Government make statements in this House and they go unanswered, that is what obtains. We in the Opposition are challenged by our constituents and the national community. They would say: How can you have the Government saying A, B and C and not respond and not present the truth? Let me present some truths with regard to what the Members for Diego Martin Central and Arima said.

They are claiming that the Ministry of Social Development provides a list of services. The impression given to citizens and constituents is that they can go to the Ministry of Social Development and obtain all the services that both Ministers have indicated, but this is not so. For instance, under the same rights—I am referring to the three Members for Arima, Diego Martin Central, and St. Ann's East—they spoke about children having a difficulty obtaining essential services.

A simple thing such as the right of the child to learn—children are born curious and eager to learn and our school system is failing them. When we look at the transportation available for kids to go to school, it is non-existent in the rural communities. Every child needs food. Look at the cost of food available—  
[*Interruption*]

**Mr. Imbert:** Mr. Speaker, Standing Order 36(1).

**Mr. Speaker:** There is a Standing Order being raised and it deals with relevance. I listened to the contributions of the hon. Members for Arima and St. Ann's East, I was not here to listen to the contribution of the hon. Member for



Diego Martin Central but certainly the contributions of the Members for Arima and St. Ann's East—[*Interruption*] The Member for Caroni East made a very exemplary contribution, try and match the Member for Caroni East, please.

**Mr. C. Sharma:** Thank you. I guess you would have to give me the benefit of the doubt for the Member for Diego Martin Central, since you were not here.

The Minister indicated that the cost of food was available. I want to advance and argue that every child needs food. Children need food in order to be healthy. Without enough of the right kinds of food—on the last day it was argued that the Ministry of Social Development has made all the assistance available. I am arguing that it is not available.

Mr. Speaker, I want to refer to a matter that obtained in the courts of Trinidad and Tobago. It is matter on the Status of Children Act, 1991. The Member for St. Ann's East made some reference to it. This is a case that appeared before hon. Madam Justice Jones. Appearing for the applicant was Allyson Ramkerrysingh and for the respondent Miss Anuusha Panday.

[MADAM DEPUTY SPEAKER *in the Chair*]

It states at 21:

“A finding of paternity is a factual question for the judge and the result of any scientific testing is but one of the facts to be considered by the Court in arriving at its finding, albeit given the state of the art, a highly persuasive and objective piece of evidence since according to the scientific learning such testing is 99.9 % accurate.”

On the last day, we were told that there have been cases of fraud, where mothers claimed that certain persons were the father of the child involved and the court was able to prove differently. In such instances, people have had to pay maintenance through the courts. The question that arises is: Would refunds be available to such persons? More than that, persons have been sentenced to prison terms because a mother claimed that Mr. X was the father of the child and later when the paternity test showed differently, that person had already served time in prison. The question that begs is: Are we going to make the paternity test absolute or a requirement of the court before arriving at such decisions before the person is sent to prison?

I refer to High Court Action 1228 of 2003:

“22. This Court is not bound to accept the results of the test however. To this end the manner of the taking of the samples and the chain of

conduct of the samples from their taking to testing is a factual issue relevant to accepting or rejecting the results.”

We have been told by the Government that this test would be sent to the United States and the United Kingdom. Since the incident of September 11, they have become very, very particular about packages leaving and the risk contamination is extremely high. One has to visit that. That is why it is very important that every effort be made to establish proper accredited testing centres here in Trinidad and Tobago. In the short-term, however, one can explore, as I have indicated, what obtains in Jamaica. We can have a coordinated effort between the university campus here and the campus in Jamaica.

One question that was posed in the case that appeared before Madam Justice Jones is:

“Does the Court have the power to direct the removal of the Applicant's name from the birth certificate or direct the re-registration of the birth?”

This is a very important matter as well. If a person is told by the mother of the child that John X is the father and the child now carries John X and later on the paternity test shows differently, what is the right of that child? Does the child have the opportunity to carry that name? In the meantime, the child may have established some kind of relationship with the alleged father. Again, the Government needs to say how it will treat with such matters. It continues at 27:

“The third issue to be determined is whether the Court has the power to direct the Registrar General to remove the name of a person registered as a father on a birth certificate or to direct that the birth be reregistered.”

It states at 28:

“With respect to re-registration, the Births and Deaths Registration Act Chap. 44:01 (hereinafter called ‘the Registration Act’) provides by section 21(2) that re-registration of a birth can only be done in the following circumstances:

- (i) If on the registration of the birth of the child the name of no person has been entered in the register as the father and certain conditions are met...”

I think the Member for Princes Town North argued about the level of discrimination that obtained in the early days when persons were married under bamboo, as in Hindu rites or under Islamic rites. Who were permitted to do this? You can see the levels of discrimination. It was also extended to the Orisha. Luckily, through the UNC administration, we were able to correct that.

Another circumstance is:

- “(ii) If at any time after the registration of the birth of a child whose father's name is not registered the Registrar General is satisfied that a paternity order in respect of the child has been made by the Court or that the child's parents were married after the registration.”

Is it to say that a child born out of wedlock is denied the right to carry the father's name? The Government should advise the national community and also tell us how to treat with that.

- “29. Paternity order is not defined by the Act but by section 8(2) of the Act we are referred to the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, Chap. 46:08 for such a definition...
30. In the instant case therefore since on the registration of the birth of the child the Applicant was entered in the register as the father neither of the circumstances for re-registration outlined in the Registration Act apply. In the circumstances there cannot be a re-registration of the birth of the child.”

This is a very interesting development. Here the child is carrying the name of a father who is not the biological father and is not permitted to.

- “31. The only other provision that allows for any change to be made to the register is section 36 of the Registration Act which provides that with respect to the correction of errors in the registers of births and deaths no alteration shall be made except as authorized by the Registration Act and only in circumstances where a clerical error has been made or an error of fact or substance has occurred...
32. It would seem therefore that even if the entry of the Applicant's name on the register can be said to be an error in fact or substance, there is no power to remove the Applicant's name from the register and such correction, if possible, will only be made by an insertion of the corrected fact in the margin of the relevant registrar upon the satisfying of the conditions contained in the Registration Act.”

Again, the Government has a responsibility.

They want to bring the DNA Bill and argue. In fact, when the mover of the Motion, the Member for Princes Town South/Tableland, presented the Bill he said that there was one case that came to his mind in 2001. From then to now, the Government has not done its home lesson to say the number of errors that have occurred.

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There is a global movement that has discovered a number of cases of fraud in paternity. In Canada, there are five million cases. I would have thought that the Government would have looked at the global learning that obtains and bring those measures so that we would not repeat them. As usual, they come with piecemeal legislation. This Government, for some reason, seems to lack intelligence in presenting Bills and looking at the holistic picture as to how this would benefit Trinidad and Tobago. Every time they talk, it is part of a package and never the whole package.

In identifying the needs of children: the right of the child to have a home, warmth and protection of their parents in the home, lately we have seen the Government going all over the country and demolishing the homes of citizens of Trinidad and Tobago. These children have to sleep on the streets, under trees or go to friends and families. The Government has to demonstrate clearly. When the simple-minded citizens of Trinidad and Tobago hear, through whatever medium, that we are debating the Children Bill, what comes to the minds of the average citizen? He is thinking that the Government is going to do something or is moving some piece of legislation that is going to add value; our children would be better; there would be less street children; no kids going to the hospital and unable to get medical attention, our kids would be going to school and would be safe; there would be public transport; and they would not have to go into PH taxis and lose lives, be raped and murdered. This is what the citizens expect to hear. While you may want to focus on a particular area, as you have indicated that you want to focus on DNA, you are talking about children's rights. Some Members of the Government are saying that there is a lot of good services available and that the children are okay in this country, when that does not obtain the least bit.

The other matter I want to raise also comes out of this case; the court's view as to the action of the adults in this matter. This court cannot allow the child to be confused anymore than is absolutely necessary, given the circumstances of this case. It is important that you do not confuse the kids in the country by indicating that you are bringing legislation that would really add value to their lives and in the meantime they are not benefitting from the resources of the State.

I hope the Minister, in winding up, agrees to send this to a select committee. There are many flaws in this Bill. It is not a holistic Bill and it does not really treat with—

**4.00 p.m.**

The last matter I want to raise as it relates to children is that in recent times and, more so, in the last few months, we are seeing a new development where

parents are complaining—they are registering their complaints across the board that they are finding it more and more difficult—based on the high cost of living, based on the lack of services from Government agencies at many institutions such as schools, medical health facilities and recreation—to access basic care for their kids.

I want the Government to make a statement and say to the national community how it is addressing this matter. It is useless bringing legislation and talking about DNA and so forth when people are unable to feed themselves. They cannot get pipe-borne water and their electricity bills are beyond the cost.

Madam Deputy Speaker, with these few words, I hope that the Minister will treat with the issues that were raised and not focus all his thoughts on DNA which is useless at this point in time.

Thank you. [*Desk thumping*]

**The Minister of Legal Affairs (Hon. Peter Taylor):** Madam Deputy Speaker, I want to thank all the Members who have contributed to what we would all agree is, indeed, a very important piece of legislation. I am particularly heartened by the contributions on the other side, because for perhaps the first time in a very long time we were able to hear matters that in large measure spoke directly to the issues which, to my mind, signified a significant departure from what has become the norm from Members on the other side. [*Interruption*] That is important because the legislation itself speaks to many technical issues and, as such, hearing from all Members, it has now allowed the Government to be able to dispassionately and, perhaps, more clinically, address the key issues for what is, indeed, such an important piece of legislation.

The institutional knowledge to which the Member for St. Ann's East referred is also to be complimented. In spite of what others may think, the People's National Movement remains the party of all parties—[*Interruption*—the PNM remains the institution that has charted the destiny of this nation since 1956. [*Desk thumping*]

Madam Deputy Speaker, to address directly some of the more cogent issues that were raised and to which I would now allude, one of the issues which struck me was the issue of confidentiality, and that issue was raised by the Member for Caroni East, the Member for Princes Town North, the Member for Oropouche West and, I believe, the Member for Naparima. Having heard those concerns, I took the opportunity to meet with members of the Family Court to determine exactly what procedure obtains when persons request a DNA test. I was quite

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satisfied and heartened to know that the utmost care and diligence are observed when DNA samples are taken for testing up to the time it reaches the lab in the United States of America.

Permit me to go through the sequence of events to satisfy the questions and concerns raised by Members on the other side. When someone attends the court, the first step that takes place is that the usher would escort the parties to the Social Services Unit of the court and a form is completed with relevant information of the parties. The relevant information would include: a photo ID of the mother and the alleged father; a photo ID of the child, if the child is not a minor; two passport size photos of the mother and the alleged father and the child, the original birth certificate or a registration certificate of the child and a supporting affidavit where necessary.

Further, the lab technician would conduct the swab. The samples are collected and the swabs are placed in separate envelopes and are signed by each party, and the envelopes are then placed in FedEx envelopes and sealed in the presence of the interested parties. The conduct of the test, as I indicated, is very sequential and diligent, and there is no break really in the sequence of events.

The Member for Caroni East raised a significant point with respect to accreditation. His point was well made that the Bureau of Standards perhaps does not have the capacity to engage in accrediting medical laboratories and it is for us on this side to examine a method that would speak to that and allow for accreditation to take place in a very acceptable manner. So, I want to thank the Member for raising that point.

Having regard to many of the issues that arose during the course of the debate, we on this side agree that in the best interest of the integrity of the legislation that it would be wise to send it to a select committee for further deliberations. [*Desk thumping*]

**Mrs. Persad-Bissessar:** I had not intended to intervene, but we had an agreement, because you were sending it to a select committee, but I would like to make this point. When we originally passed the law to amend the Status of Children Act, which was the DNA Act of 2000, it was passed by a special majority and, therefore, I am asking the Attorney General, through you, Mr. Speaker, that you consider whether this Bill now needs a special majority, and that is something that I would like you to take into account, please. Thank you.

**Hon. P. Taylor:** I thank the Member for that intervention. Having said that, of course, all those issues would be addressed at the special select committee stage

and it is not for me to delay the House anymore. Once we agree to send the Bill to a special select committee there will be an ample opportunity for all Members to deliberate.

I beg to move.

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Deputy Speaker, in accordance with Standing Order 51(1), I beg to move that this Bill be committed to a special select committee of this House comprising the following five Members: Ms. Christine Kangaloo, Dr. Amery Browne, Mr. Peter Taylor, Mr. Ramesh Lawrence Maharaj SC and Mr. Jack Warner.

In accordance with Standing Order 80(7), I beg to move that Ms. Christine Kangaloo be appointed chairman of this select committee, and that this committee be empowered to consider the general merits and principles of the Bill along with its details, and to report to this House within one month.

**Madam Deputy Speaker:** I must have missed something. I thought this was such an important matter. I do not know what I missed. [*Crosstalk*] From all appearances, the committee may require less than one month as the Opposition has advised that they have selected their two best Members. We take note of that. [*Crosstalk*]

*Question put and agreed to.*

**SPECIAL SELECT COMMITTEE REPORT  
(ADOPTION)**

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Deputy Speaker, before I move the adjournment, I beg to move the following Motion standing in my name:

*Be it resolved* that this House adopt the Interim Report of the 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.

I beg to move.

*Question put and agreed to.*

*Report adopted.*

**ADJOURNMENT**

**The Minister of Works and Transport (Hon. Colm Imbert):** I beg to move that this House do now adjourn to Friday, March 27, 2009 which is Private Members' Day and, perhaps, the Opposition can tell us what we will be doing on that day.

*Adjournment*

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**Dr. Rafeeq:** Madam Deputy Speaker, there is a Motion that was filed by the Member for Siparia and it has been qualified for the Order Paper for Friday, March 27, 2009. This is the Motion dealing with the Minister of Finance—that is a Private Members’ Motion that we are going to be dealing with on that day.

**Madam Deputy Speaker:** Hon. Members, there are four Motions on the adjournment. I have been advised that this House will address Motion No. 3 which is the failure of the Government to repair Scotts Road Penal and roads in Mendez Village, Penal.

**4.15 p.m.**

**Scotts Road, Penal and roads in Mendez Village, Penal  
(Failure of the Government to Repair)**

**Mrs. Kamla Persad-Bissessar** (*Siparia*): Thank you very much, Madam Deputy Speaker and I thank the Speaker, through you, for allowing us to raise this matter and it is one that is causing great concern to the villagers, the residents in the Scotts Road area and the roads in Mendez Village and those include the Mendez Trace and Kay Trace, Scotts Road itself and the Penal/Quinam Road. Now, some of these roads are under the Ministry of Works and Transport as main roads and some of them are under the Ministry of Local Government so I trust that the responses would be appropriate.

These residents have made complaints in various ways including protesting; they have taken to the streets with fiery protest and so on. We have made representation by way of letters to the Minister of Local Government definitely and estimates have been provided to the Minister of Local Government for the local roads. Sometime ago, prior to the budget I had written a letter—the Prime Minister indicated that we should write, we should write the projects we would like to have included in the budget. I did write and listed in that was the Scotts Road for repair, upgrading and so on. I sent a copy of that to the Ministry of Works and Transport and certainly to the Minister of Finance. So with respect to the two sets of roads the residents are saying, look, the roads have become impassable, when it rains the roads are flooded and in the dry season the roads are covered with dust which is causing a great nuisance, causing expense, they have to pay more to taxis plying the route with a great deal of “waste-of-time”, damage to their vehicles and so.

I would like to use this opportunity to ask Government to provide us with their programme in terms of what steps would be taken to address the concerns of the people of Scotts Road, Penal/Quinam Road and the Mendez Village area.



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Now, we had asked the Penal/Debe Regional Corporation to prepare estimates for repairs to Mendez Trace. Those estimates were sent to the Minister of Local Government earlier this year. Thereafter, request was made for funding. The Minister met with some of the residents and indicated that the hon. Minister of Local Government would send technical officers into the area to look at the roads and to give a report. All of that has been done, but in spite of that nothing in terms of actual physical work on the ground has taken place.

So, I will not detain this House longer except to ask through you that some update be given as to what is happening with these roads and steps being taken to address the plight of the residents in the constituency of Siparia with respect to these roads.

I thank you very much.

**The Minister of Works and Transport (Hon. Colm Imbert):** Madam Deputy Speaker, the roads in question are properly described as Scotts Road and Penal/Quinam Road. This is apart from the Mendez Trace roads. *[Interruption]* I will come to those in a while; I am talking about the main roads. The information with respect to Penal/Quinam Road and Scotts Road is as follows: Penal/Quinam Road is approximately 14 kilometres long; the population is approximately 3,000 persons; the average daily traffic is—and certain parts of the road is not significant and other parts significant, and the cost to rehabilitate the whole of the Penal/Quinam Road is approximately \$8 million. *[Interruption]*

What happen? The Member “ain't get on, wha yuh all getting on for”? Approximately 40 per cent of this roadway—Penal/Quinam Road—is in good condition but three kilometres have been classified as uninhabited due to under-development and heavy forestation. So part of the road is active and part of the road is inactive because it is under heavy forest cover.

With respect to Scotts Road, the length of roadway is 5.4 kilometres; the population is about 1,500 and the average daily traffic is a bit lower. The estimated rehabilitation—*[Interruption]* Yes, I know, I am coming to that—cost is \$4.6 million. Now, the condition of Scotts Road is not good.

**Mrs. Persad-Bissessar:** It is not good?

**Hon. C. Imbert:** It is not good. Scotts Road is not good. This is due mainly to a recently concluded pipe laying operation conducted by the Water and Sewerage Authority. Both of these roads, Scotts Road and Penal/Quinam Road, fall under the purview of the Ministry of Works and Transport and rehabilitation works are

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programmed to begin shortly. This is subject of course to availability of funds. I want to make that absolutely clear.

**Mr. B. Panday:** Never! You would never get it.

**Hon. C. Imbert:** They both provide access to Mendez Trace, Mendez Extension and Kay Trace. So, these are main roads—Scotts Road and Penal/Quinam—and Mendez Trace Extension and Kay Trace are roads off of these roads but are accessed through these roads.

Over the last five years the Ministry of Works and Transport has spent quite a bit of money on the maintenance of these two main roads. On Penal/Quinam Road, we spent \$4.3 million and on Scotts Road we spent approximately \$1 million on the maintenance of these two roads. Now, the other roads, the roads that provide internal access to homes and to residents within Mendez Village which is Mendez Trace Extension and Kay Trace, all of these roads are local roads under the purview of the Penal/Debe Regional Corporation.

**Mrs. Persad-Bissessar:** That was never so, you have taken them out of the Corporations.

**Hon. C. Imbert:** That is the information that I have. Okay? I am reading from a document that I have received from the Director of Highways. I will investigate what you have told me and so on.

Nevertheless, the Ministry of Works and Transport has conducted preliminary investigations of these local roads and has found them to be in poor conditions. They are not in good condition. From our inspection, we have found that the poor condition is attributed to natural deterioration of the road over a period of many years. Further inspection has revealed that the surface of the roads is a combination of asphalt and oil sand and that various sections of road are not properly paved at all because of the natural deterioration over many, many years.

The ministry is in the process of compiling a detailed status report on the condition of the roads and also with respect to proposals to repair and rehabilitate these roads. This is notwithstanding the fact that these are not Ministry of Works and Transport roads and when we complete this work; the investigation and the status report, the ministry will collaborate with the Penal/Debe Regional Corporation to see how we can assist that corporation to repair these roads.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 4.24 p.m.*