

*Late Arrival*

*Tuesday, November 9, 1993*

**SENATE**

*Tuesday, November 9, 1993*

The Senate met at 1.30 p.m.

**PRAYERS**

[MR. PRESIDENT *in the Chair*]

**LATE ARRIVAL**

**Mr. President:** Hon. Senators, Sen. Diana Mahabir-Wyatt has indicated that she might be a little late for today's sitting.

**CIPRIANI LABOUR COLLEGE  
(AMDT.) BILL**

Bill to amend the Cipriani Labour College Act, Chap. 39:51; brought from the House of Representatives [*The Minister of Labour and Co-operatives*]; read the first time.

*Motion made,* That the next stage of the Bill be taken at the next sitting of the Senate. [*Hon. R. Huggins*]

*Question put and agreed to.*

**PAPERS LAID**

1. Report of the Supervisor of Insurance for the year ended December 31, 1992. [*The Minister of National Security (Sen. The Hon. Russell Huggins)*]
2. Draft Policy Statement on Persons with Disabilities (Green Paper). [*Hon. R. Huggins*]

**ORAL ANSWERS TO QUESTIONS**

*The following question stood on the Order Paper in the name of Sen. John Rooks:*

**Television Advertisement**

7. a. Is the hon. Minister of Information aware that over the last two months there has been an advertisement on all three television stations being displayed several times per day, of the Prime Minister asking the population to "go down the road with him"?
- b. Is the Minister further aware that in local parlance this means that the country is going down and we should expect more difficult times ahead.

- c. Will the Minister please advise of the cost to date for these advertisements and who is paying this?

**The Minister of Information (Sen. The Hon. Gordon Draper):** Mr. President, I have spoken to Sen. John Rooks and I now ask that this question be deferred for one week.

*Question, by leave, deferred.*

**Mr. President:** I take it that in the absence of Sen. Prof. John Spence, questions Nos. 8 and 9 will have to be deferred until his return.

*The following questions stood on the Order Paper in the name of Sen. Prof. John Spence:*

**Faculty of Agriculture  
(Handing over of Land)**

8. Would the hon. Minister of Planning and Development state when will the land that has been promised to the Faculty of Agriculture, University of the West Indies, to replace the Faculty Field Station land acquired for the building of the Mount Hope Medical Complex, be handed over to the University?

**Faculty of Agriculture  
(Trincity Entrance Approval)**

9. Would the hon. Minister of Works and Transport state whether approval has been given for an entrance to be made from the Trincity traffic lights to the land that has been promised to the Faculty of Agriculture, University of the West Indies to replace the Faculty Field Station acquired for the building of the Mount Hope Medical Complex?

*Questions, by leave, deferred.*

*The following question stood on the Order Paper in the name of Sen. Muntaz Hosein:*

**National Insurance Board  
(Barataria)**

Could the hon. Prime Minister state:

10. a. The amount of money paid for the building purchased by the National Insurance Board at No. 35 Fifth Street, Barataria?
- b. The owner of the building prior to the purchase?

**Sen. Huggins:** Mr. President, I do not believe that the answer to question No. 10 is quite ready, so I ask that it be deferred for a period of two weeks.

*Question, by leave, deferred.*

#### ORDER OF BUSINESS

**The Minister of National Security (Sen. The Hon. Russell Huggins):** Mr. President, at this stage, I move that the Senate deal with item No. 1 under "Bills Second Reading"; that is the Children (Amdt.) Bill, before Motion No. 1 under "Government Business"

*Leave granted.*

#### CHILDREN (AMDT.) BILL

[THIRD DAY]

*Order read for resuming adjourned debate on question [October 12, 1993]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Surendranath Capildeo:** Mr. President, let me begin by welcoming your return, Sir. I hope you had a pleasant trip, Sir. Also, let me begin as a QRC old boy with a Latin quotation from *Juvenal Maxima Debetur Puero Reverentia*—We owe the greatest respect to a child.

Mr. President, let me immediately add that this Bill is an act of deception on the child. So effective has been the public relations that people who ought to know better are on the airwaves of our talk shows muttering insipid and vacuous inanities that our Opposition, the United National Congress in the Senate, is being inhumane to criticize this measure. The naive and childlike reason given, being that at least the Bill is a step in the right direction even if the infrastructure is not in place.

Mr. President, that is precisely why the promulgation of this Bill in this form at this particular time, is such a gross and despicable act of deception. Let us take a look at the background to this Bill. It comes at a time when:

- (1) The body of the unemployed is at its highest in the history of this country.
- (2) More people than ever before in the history of this country are living below the poverty line.

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- (3) Acts of domestic violence are being documented on a scale never seen before in the history of this country.
- (4) The most heinous and terrible of crimes are being inflicted on our infant population: murder, homicide, infanticide, death by poisoning, death by drowning, death by beating, on a scale never reported before in the history of this country.

**1.40 p.m.**

- (5) The institution of marriage and family life is crumbling across all sections of our community, for a host of reasons, amongst them economic deprivation; a complete lack of moral leadership, and a passive acceptance of the amoral life.
- (6) It is virtually impossible for a young couple to own their own home and raise a family in privacy and decency.
- (7) There is a growing army of the homeless and the unemployed.
- (8) Social services have almost all but broken down and are crumbling.
- (9) The state institutions which provide for the welfare of our abused children can no longer cope with an intolerable burden of lack of funds, space and personnel.
- (10) Never before in the history of this country have we seen so many functionally illiterate children leaving and/or graduating from our failed education system.
- (11) Never before in the history of our country have we seen so many street urchins; children living, sleeping, eking out an existence on the streets, abandoned by parents and society.
- (12) Never before in the history of our country, we are bearing witness to daily horror tales of incestuous abuse and sexual abuse of our children.
- (13) Never before in the history of our country has the magistracy and the High Court been so overwhelmed with matters and trials listed, that they can no longer cope. In fact, those who practise in the magistracy will tell you, that it has all but broken down.

- (14) Never before in the history of our country has our juvenile courts had to deal with such a variety of crimes committed by our youths.
- (15) Never before in the history of our country, related social institutions with respect to the welfare of our children have also ground to a halt and can no longer perform. For example, our adoption services and probation services. In fact, this Bill has come at a time when as far as the welfare of our children is concerned this country is at its primitive best; almost barbaric in its understanding and treatment. I use these harsh words because—
- (16) In the history of this country, we have had the benefit of innumerable reports, not only of our own very distinguished and dedicated local experts, but also by recognized international agencies. The state of the children is well documented.

The suggestions to alleviate the present welfare system are well documented. There is no need for research; it has been done. There is no need to go abroad for experts. We have the experts here. All we need is the political will to do something positive. That is why I say that this Bill is deceptive. After all those reports containing endless suggestions and ideas, is this Bill all we can sit here and debate? Is that what it is, after all the reports we have on hand? Is this what is brought to the Senate?

This administration is trying to fool the people again. There are so many gaps in this Bill it is not worthwhile debating and considering. The hon. Minister should go back to the reports and ask the parliamentary draftsmen to read them and draft another Bill and incorporate the recommendations of all these reports.

Let me just mention a few of those very valuable reports:

- (1) The Ministry of Community Development Welfare and the Status of Women Report of The Committee to Examine The Entire Family Services Delivery System in Trinidad and Tobago—Comprehensive Proposals.

Dated: 22.9.1988

- (2) Data Papers—21st Conference of the Caribbean, the Americas and the Atlantic Region of the CPA 12th—18th May, 1991, Port of Spain—Data Paper No. 10: Protection for women and children at risk.

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- (3) Report of the Committee To Examine The Entire Family Services in Trinidad and Tobago, Part I: "Child Abuse"

Dated:12.8.1987

This is the most important one in my view:

- (4) Child Abuse in Trinidad and Tobago: Approaches to its prevention and management. A proposal prepared by a task force of professional social workers, paediatricians and psychiatrists for submission to the hon. Attorney General, the hon. Ministers of Health and Social Welfare and Status of Women and Education. Reports by the Chairperson Joan Bishop, on behalf of 26 members from hospitals and other institutions, psychiatric social workers, et cetera from all over Trinidad and Tobago.

This is a report by the people, our experts who are involved on a day-to-day basis with our abused children and broken homes. This is our report by 26 experts from all over this country. With all this encyclopaedic information at hand, all local in content and completely relevant to our situation what do we have here? This miserable bit of legislation. It is being hailed left, right and centre by the Government and its apologists as a step in the right direction, even if we do not have the infrastructure. If this is a step, heaven help us if they have to walk fast, run or go down the road, however slowly.

This Government is not only standing still; it is going forward in reverse gear. What has been lacking is the political will and the humanitarian zeal to implement the recommendations of our very own experts, the people of Trinidad and Tobago who have to live this nightmare every day with our children. They have documented what is to be done. We should not deny our experts and break their hearts and moral courage by this kind of frivolous Bill. It is this callous—uncaring callousness which has all but destroyed the country. When that is done, it would break the zeal of the experts and they would have no encouragement to do work like that again.

Let me quote from some of the recommendations of the 21st Conference of the Caribbean.

"B3: A comprehensive Act incorporating all known child protection issues to replace the existing disparate pieces of legislation."

What do we have? Another disparate piece of legislation, flying in the face of the local recommendations. This report has about five pages of solid recommendations.

I turn to the 1982 Report. This is a report on the status of children's homes in Trinidad and Tobago. It sets out, again, in exceeding detail, a summary of every single problem identified in homes that lead up to the problems that children face in our country. Nothing is left out and it is done in simple English that even a minister can understand.

**1.50 p.m.**

There is a summary of recommendations, again done in English, and I will refer only to four of them. They speak of family support systems within each community. They speak of the development of community family service centres. They speak of the need for the foster care service and halfway home programmes, and they speak of small group homes being established. They speak of family structures within existing homes. With that, let me turn to the amendments which we have proposed.

The amendments proposed by the United National Congress are quite simple in concept. They are designed to assist this bankrupt and impoverished Government—bankrupt of ideas and impoverished by lack of funds. What we are suggesting is the decentralization of institutions using the local government authorities, the Tobago House of Assembly and the non-governmental agencies—the service clubs, the churches and all other charitable and well-meaning bodies. We want to use them.

The idea is that the magistracy, already being divided into the districts of St. George West, St. George East, north-eastern, south-eastern, Caroni, Victoria, St. Patrick and Tobago should be able to place children who are brought before them in homes in their districts. For example, a child being brought before a magistrate in the district of Rio Claro should be placed in a home there. That should also be the case in Tunapuna, Mayaro, Tobago, Sangre Grande and Chaguanas. All we ask is that this Central Government assist the local Government, the Tobago House of Assembly and the NGOs to locate these homes, renovate and extend them, as the case may be, train personnel and provide such simple assistance as would be required.

As I said, the amendment is a very simple one in concept. It is time that we get away from the Third World syndrome—which began since the day of Nkrumah and died in this country with Williams—of building grandiose projects; you

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know, the Pegasus-type disease, the twin-tower epidemic. We need to re-orientate our thinking. We should patch the potholes first and then build six-lane highways.

We do not need grandiose homes to house these children. We need simple, cottage-type structures, with appropriate personnel. That will do for the time being. We do not have to get IMF and IDB money and raise a huge loan to do this. It can be done within local means and by local funding if the zeal and humanitarian effort are put into it and if there is the political will, but there is no political will. That will dried up months ago.

I ask you, in all honesty, what is the purpose of this disparate piece of legislation, if—and I enumerate for you:

- (1) the juvenile courts are not adequately staffed and funded and in locations and surroundings where the majesty of the law can be seen, experienced and appreciated?

I invite the good people opposite to take a walk down to the courts at NIPDEC House and spend a morning or an afternoon in a magistrate's court, or go to Couva, Rio Claro or any magistrate's court and tell me if what they see there is justice. It does not smell like justice; it does not look like justice and nine out of 10 times, it is not justice.

- (2) What is the point of this Bill if the attendant services of family counsellors, probation and social welfare officers are not provided; if the magistrates cannot have them? What is the point of the Bill?
- (3) What is the point of the Bill if there are no family support systems being built up within all our communities? Our communities are left to fend for themselves. They do not have any help. There is no help.
- (4) What is the point of the Bill if community family service centres, staffed by trained case workers and supported by adequate resources to effect material change are not there. What is the point of the Bill if those things are not there?
- (5) What is the point of the Bill if homes are not being provided for our children?

Without these minimum five requirements, I say this Bill is a farce. Let us look at the reality of what is happening today. I am sure that all hon. Senators here can recall reading in the newspapers of an instance where a magistrate issued a



warrant for a supervisor of a home to attend court to explain why a child was not admitted, and the poor supervisor could only say that they just could not manage and did not cater for such a disturbed child. What is that supervisor to do?

Let us look at the newspaper reports of October 10, 1993:

"Inmate still terrorizing St. Mary's Home workers"

"Violence in the St. Mary's Children Home"

There is a whole page of distressing news coming out of the children's home. That is the reality of our situation. So, what is the point of the Bill, if, as I said, those five minimum requirements are not there?

The very first recommendation in the data papers of the 21st Conference of the Caribbean, the Americas and the Atlantic Region of the CPA, 1991 says:

"A definition of child abuse and neglect which is appropriate to the Caribbean situation must be developed"

We are yet to hear about that definition, so let us begin by identifying the meaning of child abuse. It is the wilful and unjustifiable infliction of pain and suffering on children. The term child abuse or cruelty to children can denote the use of inordinate, physical violence; unjustifiable verbal abuse; the failure to provide proper shelter; nourishment, medical treatment or emotional support, incest, other cases of sexual molestation or rape; and the making of child pornography, frequently described by the medical profession as the battered child syndrome.

Abusive treatment of children is universally proscribed by criminal statutes because child abuse can have serious consequences for the victims. There can be delays in the physical growth of the child, impaired language and cognitive ability and problems in personality development, learning and behaviour are common following instances of child abuse and neglect. Maybe that can explain the kind of horrors we are reading in our daily newspapers today. We are reaping the whirlwind of indifference to our children for the last two or three decades. Mr. President, cruelty to children can have many causes, but the major one stands out—abusive patterns of behaviour on the part of the parent.

Here we come to family support centres. Where is the family counselling? Where is the support for these people? To whom do they turn? Recent psychiatric

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and paediatric research has found that a high proportion of parents guilty of abusive and inhumane treatment of their children were physically and mentally maltreated themselves as children. What does this say? That generations upon generations of abused children are living in our country and we are doing nothing about it. Yet they come here with this Bill to amend the Children Act and they say that this is a great piece of legislation even though we do not have the infrastructure; even though we do not have the philosophy behind it. Absolutely nothing.

**2.00 p.m.**

Mr. President, I want to quote from a book called *On Character* by a man called James Q. Wilson. He is described here as the pre-eminent political scientist of our times. He is America's home grown Tocqueville blending philosophic wisdom with acute analyses of institutions. To understand the large questions of democracy in America today and elsewhere, read the excerpts in volume. I want to read one paragraph of what he says, Sir, I quote from page 165:

"Policy makers who wish to put in place new programs to reduce crime, or to expand the scope of effectiveness of programs already in place will quickly discover that the knowledge necessary to do this responsibly does not exist except in fragmentary and unsatisfactory form. Whether we wish to prevent delinquency or to rehabilitate offenders, whether we seek to strengthen families or to improve schools, whether we believe that juvenile courts should get tougher or provide better services, we will be forced to admit, if we are honest, that we only have scattered clues and glimmers of hope (and sometimes not even that) on which to base our actions.

This knowledge gap is the largest single impediment to strengthening our society's capacity to cope more effectively with crime."

This is James Q. Wilson the pre-eminent political scientist of our times.

The irony of the situation, Sir, is that we in Trinidad have all the knowledge we need to rectify the situation and we ignore it. That is the irony. For once this country is on top of a first world country and we ignore our own experts.

Mr. President, we have become either embarrassed, unwilling or unable to explain with assurance to our children and to one another the difference between right and wrong. I referred to that earlier when I talked about amorality being classically accepted in this society. We have forgotten how to describe what is

helpful and what is destructive, what is ennobling and what is degrading. The fabric of support that the people of Trinidad and Tobago, families especially, could traditionally find in the culture at large has become worn, torn and unravelled.

Many of us have lost confidence in our rights and our duty to affirm publicly the desirability of what most of us believe privately. We allow our social and cultural institutions to drift away from their moorings. We cease being clear about the standards we hold on the principles by which we judge or if we were clear in our own minds, we have somehow abdicated the area of public discussion and institutional decision-making for those who challenged our traditional values and we are bearing witness to that, Sir, every single day in a very painful way.

As a result, we have suffered a total cultural breakdown in areas like education, family life, crime and drug abuse as well as our own attitudes towards sex, individual responsibilities, civic duties and public service. We have a total and complete breakdown, Sir. We have much to worry about when we consider the public ethos in which we raise our children. Our society is made up of a network of institutions, cultural beliefs and mores. Certain ideas prevail, certain messages sent and these messages can either encourage or discourage particular attitudes and behaviours.

It makes an enormous difference, for example, if a television programme could tell our children that honesty is the best policy and they must honour their mothers and fathers; or if it tells them that adultery is the norm and that the breakup of the family is an accepted thing. That is what is taking place here, Sir.

Are we here in this Senate, all of us, confident that our children are going to inherit the habit and values we ourselves honour? Are we confident that they will be raised in an environment that properly nurtures their moral and intellectual qualities? Can we have confidence in the cultural signals our children receive from the educational institutions, from their Mosques, from their Mandirs, from their churches? Are we looking at the chutney and the carnival that comes out? Are we confident that our society is transmitting to our young the right measures, teaching them the right lessons about family values, respect for religion and our meaning as a nation, our responsibility as individuals? Is the public air in Trinidad and Tobago conducive to moral and intellectual health? I believe, Sir, if you honestly examine these questions the answer would be no, no.

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Mr. President, I want to quote from a man called William J. Bennett, from a book, *The Devaluing of America*. William Bennett, has a Ph.D. in political philosophy and he was the former director of the office of National Drug Control under President Bush. He is now a lecturer at a university. This is what he said:

"Even social scientists now recognize the importance of sound values and moral norms in the upbringing of children. Empirical studies confirm what most people, because their basic common sense, already knows. What determines a young person's behaviour in academic, sexual and social life are his deeply held convictions and belief. They determine his behaviour far more than race, class, economic background or ethnicity. Nature abhors a vacuum, so does a child's soul. If that soul is not filled with noble sentiments and with virtue, if we do not attend to the 'better angels of our nature', it will be filled by something else. These matters are of overwhelming importance to our children."

I see he and all quoting Latin, Sir. As the Roman scholar Pliny the Elder puts it:

"What we do our children, they will do society. Looking today at what we see, many put blame to themselves, to others and to society at large, we need to reflect on what society collectively is doing to them in the critical task of inculturation, the passing of our values in an otherwise hostile atmosphere."

So I ask, what are we doing to our children today and what, in all honesty, do we expect them to do to us.

When I look at our charming, hon. Minister, I must quote Elizabeth Barret Browning for her. It is called *The Cry of the Children*:

"Do you hear the children weeping, O my brothers  
Ere the sorrow comes with years?  
But the young, young children, O my brothers  
They are weeping bitterly!  
They are weeping in the playtime of the others  
in the country of the free."

Mr. President, our children are weeping in our free country.

I thank you, Sir.

**2.10 p.m.**

**Sen. Pundit Ramcharan Gosine:** Mr. President, I rise to support the Children (Amdt.) Bill 1993. The Explanatory Note on the Bill states:

"The purpose of the proposed amendment is to fill a significant lacuna in the Children Act, Chap. 46:01, the Act relating to the protection of children."

Mr. President, children are the flowers of the earth and just as a gardener nurtures and protects the blossoms of the earth, so we, too, need to nurture and protect our children with loving gentleness, kindness and tenderness—the expressed bond between good and loving parents and their children.

The Vedas, revealed Hindu Scriptures, indicate that the child is but a gift from God for parents to love, nurture, nourish, protect, teach and prepare as a God loving, God-fearing, useful member of the family and of society.

The Samskaras, or Sacraments, performed at varying ages of the child are to remind parents or make them aware of their responsibilities to their children and to seek the grace and blessings of God in the fulfilment of their parental duties.

Mr. President, the sacred act of marriage, the holy union of two lovely persons, the bearing and birth of children from such union are the fulfilment of God's command to his people.

However, over time, we have witnessed a growing escalation in the disobedience of God's injunctions and the sacrament of marriage. We have witnessed and are witnessing tremendous increases in divorces and the separation or dislocation of children. We are witnessing the psychological and emotional traumas inflicted upon children by selfish and self-seeking parents. Few want to sacrifice.

Then, there are children born out of wedlock—children born to women as a result of some form of wanton behaviour as is experienced at Carnival time. I have been told that in hospital circles babies born nine months after Carnival to single mothers are referred to as "Carnival babies". Mr. President, a large number of these are also unwanted babies. Worst of all are those incestuous situations which bring lives into being.

None of these children ask to be born, but born they are. These children, the unwanted ones, those from incestuous situations, those on whom the incest is committed, those battered and abused—all are part of the blossoms of the earth

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and they require, even more so, tender and loving, caring and nurturing and the mending and development of their spirits, minds and bodies.

Who is to do this? Who is to provide care and protection to these children exposed as they are to neglect, ill-treatment, physical, sexual and mental abuse and other acts of violence? It is the nation as a whole, which through various institutions and agencies offers and provides care and protection to these children.

By command of the Vedas, it is the King Ruler and in our case, the Government, which must be the parents of these neglected and abused children. It is, therefore, with great enthusiasm that I support this Children (Amdt.) Bill 1993, for I know in my heart that when a government sets out to make new laws or to improve existing ones for the loving care and protection of children, a government that is involved in providing laws and institutions in this regard must be a caring government and one of righteous mind. Such a government is the Government of the People's National Movement.

Mr. President, just as the observance of the Sacraments helps to mould and nurture our spiritual and physical well-being so, too, events in our nation or in the international community help to foster and strengthen our resolve for betterment and an improved quality of life. It is, therefore, auspicious and timely that the amendments to the Children Act are being debated here, after the world community celebrated Children's Day.

We are, therefore, in this Parliament concretizing our observance of Children's Day by saying in the law that, to the best of our abilities, we will protect and provide care to our children from neglect and abuse and, where such acts have been committed, act swiftly to prevent further abuse.

Under the present Act, Mr. President, the magistrate has limited authority to award custody of a child at risk to a fit person. Sections 11, 12, 15, 44 and 45 provide for the award of custody of the child or young person under varying circumstances. These circumstances are all tied to the fact that the parent or guardian has committed, or has been convicted of, an offence. Thus, it would appear that a custody order in respect of a child at risk takes place after much or some damage has been done.

The Care Order services presently advanced by the Minister of Consumer Affairs and Social Services provides for the magistrate to make a custodial order on a complaint on oath of—

"a public officer experienced or qualified in social work who is approved by the Minister in writing; or

a person who in the opinion of the Magistrate is acting in the interest of a child or young person."

A magistrate can make a Care Order where—

"...the magistrate is satisfied that the child or young person has suffered, is suffering or is likely to suffer harm sufficient to cause concern for the welfare of that child or young person, the Magistrate may, with the child or young person's welfare as the paramount consideration, order that the child or young person—

- (a) remain in the custody of a parent or guardian, subject to a period of supervision by a named person or authority, and subject to such conditions as are specified in the order; or
- (b) be committed to the care of a relative of the child or young person or other fit person named by the Court, such relative or other fit person being willing and able to undertake such care."

Mr. President, I am also very satisfied with the amendment dealing with the issue of a warrant by the magistrate authorizing a police constable to remove the child or young person at risk to a place of safety until he is brought before a magistrate. The same warrant may also cause any person accused of any offence in respect of a child or young person to be apprehended and brought before a magistrate. In addition the police constable is accompanied by a duly qualified medical practitioner if the warrant issued so directs. What I consider extremely important is that in the warrant it is not necessary to name the child or young person.

Mr. President, based on all that I have said, I call upon all my colleagues, hon. Senators on the Government, Opposition and Independent Benches to consider this very humane and caring act of our Government in presenting this Bill for the protection of our children and unanimously support this Bill for the sake of our children.

I thank you.

**Sen. John Rooks:** I rise to deal with the amendment to the Children Act, Chap. 46:01. This amendment is intended to protect children who are being

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harmful by neglect, ill-treatment and physical, sexual or mental abuse. I am in favour of protection for these children. The whole world is going through a very rough period, in developed as well as undeveloped countries. The breakup of the family is the number one cause of stress in children. In this country one cannot get out of any contract just by unilaterally saying, "I quit," except for the contract of marriage. We need something better to protect our children. Certainly, many children survive, and even thrive, in single parent households. The rising divorce rates and the increasing incidence of births out of wedlock are underlying factors in the transformation of the modern family.

**2.20 p.m.**

The single parent has to work and, therefore, is unable to give the child the attention and training that forms the adult. This generally leaves the child to pick up his training from the street. One recent report indicates that children living in single-parent households are six times as likely to be poor as those in families with two parents, and just as likely to get the wrong training from the street. Many of the children involved in criminal activities today are those aged 10 or even younger. Obviously, these children have not learnt discipline in their formative years. It is said, "Give me a child until the age of six, and he will be mine for life."

I dare say that there is hardly a person in both Houses of Parliament who did not suffer corporal punishment at home, at school, or both, during his or her growing up and are better for it today. Yet, this is considered to be physical abuse today and frowned upon.

The one concern that I have is with regard to clause 6 which allows the court to remove the young person from the family circle. Whilst this may be thought to be necessary, it will cause additional stress to the harmed young person, particularly if there are additional children in the family. In this case, the perpetrator will shift his attention to another member of the family. I see nothing in this Bill that allows the court to commit the perpetrator to psychiatric examination and treatment, with reports supplied to the court by the doctor. We are literally proposing punishment for the one who has been harmed and not the offender.

The Act is directed primarily to removing the abused child from the source of his abuse, but this may not produce the best results in his formative years. It seems to me that we should be directing our attention to the perpetrator instead. By removing the child from the family circle, he may feel that he was in the wrong and he was being punished for something he had done.



In spite of any ill-treatment the child may have received, he still loves his parents and is loyal to them, particularly the one that has been abusing him. I suggest that the perpetrator should be referred by the court to a suitably trained medical practitioner for examination and report to the court.

Should there be no medical problem, then the court should be empowered to order the guilty parent to perform a period of social work each week for a time to be specified. Hopefully, this will cause him to realize what he is doing to his own child and may correct his unacceptable behaviour and certainly allow the child more leeway in growing up and not being thought to be the one who is in the wrong.

Thank you, Mr. President.

**Sen. Rev. Daniel Teelucksingh:** Mr. President, I am pleased to support the Children (Amdt.) Bill, 1993, and I wish to compliment the Government, in its effort, at least within the scope of this Bill, to come to the rescue and defence of some of the nation's persecuted and neglected children.

The relevance and appropriateness of the Bill can easily be estimated against the frequent incidents of assault, ill-treatment and the various forms of child abuse in our community.

Mr. President, our nation is still mourning the death of so many innocent children, who, within recent months, have been brutally murdered, slaughtered or maimed for life; some even by their parents or relatives, while on a regular basis several more are helpless victims of prolonged mental and physical abuse.

What we are witnessing in Trinidad and Tobago today is a modern day "massacre of the innocent". Notwithstanding the immediate emphasis of the Bill, that is, the protection of abused and ill-treated children, I wish to express three concerns.

My first concern is for us as a community to find preventative measures to control, arrest and ultimately eradicate the incidence of child abuse from our midst. One of the answers may just be in the improvement of the quality of family life in Trinidad and Tobago. I hope that the whole nation following this debate will note that every Senator contributing to this debate has made reference to home and family life.

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The increasing number of suicides linked to family problems, with instances of husbands murdering their wives or entire households, are reminders that family life in this country is receding towards its lowest ebb. Those family-centred crimes expose a serious weakness in our social structure. We are horrified as families self-destruct and we must quickly rescue the family which is fast becoming an endangered social institution.

The increasing number of single-parent families continues to be a source of concern, particularly those unwed mothers, some of whom are unable to maintain themselves, and those young men who have fathered children, but refuse to be fathers. So the vicious cycle continues and their children are either abandoned to fend for themselves, or end up in the custody of relatives or strangers, and the stage is again set for abuse, exploitation or ill-treatment of these children.

Mr. President, it is no secret that some of our young offenders at our penal institutions come from broken homes, or they were left in the custody of aging parents, who are now unable to care for themselves, far less for grandchildren; or some of today's delinquents were victims of abuse since childhood years; or some were forced to join the unfortunate band of waifs, those street children who depend on a fierce struggle for survival.

Let me further add that there is a morality crisis in our community which continues to erode family life and, once again, children are the innocent victims. I join with all the Senators who ask the question—what is becoming of the institution of marriage? There is a wave of unprecedented permissiveness in our country and infidelity and adultery seem to be the order of the day and seem to appear as more of a reason for broken marriages than even poverty itself. I know that there is a school of thought thinking differently.

Our middle and upper classes in this society are guilty as well as the poor people. Divorces and quiet separation agreements are so commonplace that the figures in the *Population and Vital Statistics Report* are only the tip of the iceberg. There it is stated that there were 1,364 divorces in 1991. But I wish we would know really about those mutual agreements where husbands and wives live under the same roof but really and truly they are separated. They are divorced, maybe not legally.

Once again, we are aware of the vulnerability of children who, in such families, are possible targets for ill-treatment by a stepfather or stepmother. I wish to respectfully suggest to the hon. Minister that there is an urgent need for the

establishment of family counselling centres throughout this country in every city and every town, in every village; that we need to use the nation's churches, schools, community centres and other public buildings for such programmes.

**2.30 p.m.**

We need social workers to assist persons to adequately cope with various forms of depression, anxiety, stress and family-related problems. To supplement the present staff of social workers, we have a wealth of capable and qualified citizens in our retired school principals, teachers, probation officers, and others who can assist in counselling programmes aimed at retrieving family life from the brink of disaster.

We must make compulsory, family life education on the curriculum of our high schools and colleges and further encourage such courses in village councils and other community organizations.

My second concern is in the implementation of the Bill. Other Senators in this debate have made reference to apparent difficulties we are having with the implementation of the Domestic Violence Act. I think we need to be practical. Our society is very concerned that recent family-centred crimes indicate that certain persons are prepared to take matters in their own hands irrespective of a court's ruling in crucial family matters. We are learning that executing a court order in certain circumstances is easier said than done. I think that we have an unmistakable signal from our experience with that Bill that it will not be easy to execute a court order to remove children from their parents. That is not going to be easy. It is always a sensitive issue. Therefore, I hope that in the execution of an order, particularly one which separates a child from his or her parents, that purposeful investigation be supported by serious counselling, even if such counselling is done at the court's directive and insistence. The aim and the goal is reconciliation, not separation; healing and restoration within families, to reduce and eradicate levels of violence and avoid such crimes as the kidnapping of children.

My third concern is the possibility that this Bill may be used as a device, a sort of weapon by children against their parents. It is not uncommon to find children of high school age who are rebellious towards parental supervision. They want their freedom even though it is a freedom they are not able to handle. There are children today who leave home to stay with friends or relatives, where there is a laxity in discipline and supervision.

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Mr. President, I am sure you will agree that the word, "abuse" today is a term so broad in use and definition, that no one mentions "discipline" anymore. Any child can cry "abuse" when scolded or corrected by a parent, and in this society they have their champions who are only waiting to uphold the rights of children. If magistrates and investigating officers are not watchful, this piece of legislation can be used by certain children to escape from nothing more than good old-fashioned home discipline in a society where, in some instances, lawlessness begins at home.

I plead not to be misinterpreted. I know that there are several genuine cases of child abuse, and therefore, the Bill we are considering is important. But I also know that there are examples of children who could be very convincing and possibly scheming in their ways and who would brazenly tell an untruth even against a parent. It is a sad state of affairs.

Mr. President, have you heard of children in other societies who can now divorce their parents? New laws make this possible. We are not too far from that. In an effort to respect the rights of children, we have effectively—and we are on the way to that in our society—surrendered parental prerogatives, and it is something we have to watch. We have to return to that. What we are seeing here is that the rights of the child are now taking precedence over the rights and responsibilities of parents. The pendulum is swinging so far on the other side, so much in favour of the child in certain societies, that parental control, parental guidance and caring-discipline is a thing of the past.

If mothers and fathers are to surrender, or abandon, or are deprived of their responsibility and right to discipline their children, then I am grieved to know that we would have passed on this responsibility to the police.

Mr. President, I want to close with some quotations from "Newsweek" of April 19, 1993 with the feature article entitled: "Child Abuse." Let me quote excerpts from that article coming from a nation which conducted extensive research and study in "child abuse" and a nation which may have something to tell us as we, too, address this problem. I quote:

"For some time now America is at war against child abuse. But some recent cases suggest it may be pushing this child abuse business too far...

...But too often...the evidence is flimsy and the pursuit maniacal. A far better way to fight child abuse is to learn how to talk—and listen—to children. Unfortunately they are the experts."

At least some of us have discovered that here.

Since the US Congress passed the Child Abuse Prevention and Treatment Act, a study shows that nearly three million were suspected victims of abuse, but investigations prove that fewer than half of these cases had any merit.

The National Coalition for Child Protection Reform in the US believe that:

"the system ends up hurting children, rather than helping them. Children get placed in foster care when it may not be necessary; cases of real abuse go undetected and people are wrongly reported as possible abusers. The system fails everybody.

Nobody knows for sure whether child-abuse numbers are inflated with spurious allegations, or vastly underrepresent a crime that is often kept secret...

Today there is a handful of professionals in the field of child-abuse who make up what's come to be known as the 'backlash'. The vast majority of child-abuse allegations are valid, say backlashers; but sometimes—during bitter custody disputes or when day-care centers are suddenly swamped with rumors, it's too easy for zealotry and hysteria to replace impartial investigation."

One of the sensational cases, was that in which movie actor, Woody Allen was accused by Mia Farrow of abusing their 7-year old daughter Dylan. After several months of careful investigation, the team found that no abuse ever occurred.

"...some experts are convinced that in many instances children describe fantasies generated during months of intense questioning...

...how easily children can be swayed when interviewed."

This is something we have to bear in mind.

Mr. President, pointing out the possibility of a dishonest child protection worker—we may call them social workers in Trinidad and Tobago—who may not be impartial in his investigation, the article warned, "his job is to get the goods and make the case."

I, too, end, by saying that something like this is possible in Trinidad and Tobago; the smallest bribe will do the job.

I thank you, Mr. President.

**Sen. Roi Kwabene:** Mr. President, before I get into my contribution on this debate, I would like to quote a famous writer on the subject of children. His name is Kahlil Gibran and the name of the book is *The Prophet*:

"And a woman held the babe against her bosom and said: 'Speak to us of children', and he said:

'Your children are not your children. They are the sons and daughters of life longing for itself. They come through you but they are not from you and though they are with you, yet they do not belong to you.'"

**2.40 p.m.**

Dramatic events over the past few months have forced the hands of the Government to make some changes in a fairly comprehensive piece of legislation known as the Children Act. We have the problem of child abuse—not only in Trinidad and Tobago, but throughout the world—which has been defined as sexual, physical, mental and even psychological abuse. We have had instances in Trinidad and Tobago where we have had cases of murder and infanticide, but the fact remains that even in the educational system, our children are, at times, subject of abuse.

I speak of instances where water tanks were poisoned by unscrupulous adults. I speak of instances where clean drinking water, also utilized for the flushing of toilets, is not made available. That, in itself, constitutes abuse, but more so, there is child labour. In Trinidad and Tobago, it is a common sight to see minors working in gas stations, dressed in the uniform of the National Petroleum Company. That is overbearing, taking into consideration that this is a national enterprise and children, dressed in uniform, serve leaded gasoline to motorists.

All in all, I think we have to practise what we preach. Taking into consideration that we are dealing with the issue of children, we have to address the reasons behind the problems that exist in our society. Firstly, I levy a criticism at the Government, that not enough has been done to support the Non-Governmental Organizations in our country, taking into consideration that the Government needs the NGOs. Because they would serve as a consultative machinery and involve the social partners which is necessary for any sort of development and progress in our society.

Non-Governmental Organizations play a very important part in our society. They encompass a variety of community-based, urban and rural organizations;

they also comprise of professionals and special interest groups, and are organized at national and regional levels. They are not established by the private nor public sectors, and are not obliged to structure their actions or activities in accordance with official guidelines.

Despite the fact that we have had our fill of promises coming on green papers in regards to disabled youths, when one looks at the particular scenario as it exist in Trinidad and Tobago, and the goodwill life industries, taking into consideration the fact that their subvention has been cut, one wonders whether the Government is a "caring" or "scaring" one.

The breakdown in the family unit in Trinidad and Tobago must not be seen in isolation, when one takes into consideration that the problem is not the children, but the parenting of the children. As such, I am likely to agree with Sen. Teelucksingh's contribution in regards to the whole point that we should have family life education as part of the curriculum, not only in the secondary schools, but at all levels. I think it is extremely necessary.

When one takes into consideration that we have all grown up in Trinidad and Tobago one realizes that it has changed over the years. However, we have to look at this whole point concerning "roles". People are stereotyped into roles and I think it is having a disastrous effect, not only on our female children, but also our male children. It appears that in Trinidad and Tobago, the male children can do whatever they wish and get away with it, but the female children are protected at home. I do not think that is a positive way for us to go, and we need to address that problem.

Male children should at least be afforded the opportunity to utilize and accept responsibility in the home. They should not be divorced from such a responsibility. However, as one is well aware, we are all products of this society and, if we are confronted with a situation whereby, over the years, the male counterparts have been led to believe that the way they are going is the correct way, in truth and in fact, we are going to have a worse situation than what we have today.

This Bill borders on the constitutional right of privacy and family life. Despite the fact that I may well lend support to this Bill, it will be on one condition, and that is with regard to the fact that we have put forward some amendments which we hope would be supported.

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The nation was ill-prepared for the flooding which occurred in Port of Spain recently. Not one politician, nor a member of the clergy, came out and dealt with this situation the way it should have been dealt with. I am specifically speaking about the fact that here we are, sitting in this Senate, cutting subventions to the local government authorities, and not taking into consideration that they have an important role to play in the upkeep of the communities. How else can we expect those people to function properly in the society, if the facilities that are necessary for a comfortable living, as citizens in Trinidad and Tobago, are absent?

The media's influence plays a very important role in this scenario. I would like to lay a complaint before the Senate. I do not believe that the promotion of any beer, regardless of the label, is going to solve the problems we are confronted with in Trinidad and Tobago with regard to our economic decline. I do not believe the beer can solve the air-conditioning problem, nor the problem with the children. The constitutional problems that are facing us today, I do not think a beer would solve it.

These are all advertisements that are aired on television or the radio during the time when the young people are tuned in. There is an onslaught on the womenfolk in Trinidad and Tobago to promote foreign nuts in this country. Imagine that! In fact, I was reading an article in a newspaper where the author of a letter to the editor was saying he wanted the woman, he does not want the nuts. Even snacks for children are advertised by the media using coins on the screen. I do not know if they are trying to assist the children in terms of identifying what a \$0.25 piece looks like, but that is subliminal seduction. If the Government does not establish a code of ethics as far as advertising is concerned, we are going to be deeper into this problem as it confronts the children in Trinidad and Tobago.

The 1993 UNICEF Report of Children in Difficult Circumstances have linked child abuse with juvenile crime. That is a very serious issue. We have to come to terms with this whole issue of corporal punishment and whether or not we are going to sanction it in Trinidad and Tobago.

There is even a link with incidents of murder in Trinidad and Tobago where persons under the age of 16 years can be found in popular night spots consuming alcohol. There was an incident in Diego Martin where an individual was murdered and he was also a customer—even though he was quite young—at a popular bar in the area of Diego Martin.



**2.50 p.m.**

No investigation has been done with regard to the fact that these young people are going into these night spots drinking beer, and it is "no big thing." As you know, you can send your children to the shops to buy cigarettes. No complaints, no problem. These laws have to be enforced. We have to practise what we preach if we really want to get to the nitty-gritty of this issue.

Mr. President, the Conservation Corps. We look at them, not in isolation but also in relation to this Bill. If this Government truly cares about our young people, why would they put them on the streets to clean up the filth that resulted from the flooding without proper protective gear? Disgusting. They were not placed there for that purpose. They were placed in the corps to do otherwise; to protect and to conserve. Not to clean up drains. I do not agree with that. I think it is very unfortunate that we should do that. It says something. It says that the youth in the country are constantly being used. Instances like this you can refer to it as abuse; to take our young people, underpay them, placed for the purpose of conservation but, they are on the streets of Maraval to clean the drains without protective gear.

If the workers in the Ministry of Local Government cannot get protective gear to clean the drains and they cannot get soap—and here it is we are sending the Conservation Corps who are young people in Trinidad and Tobago, to clean that filth. We have had our fill of Green Paper promises. We have had our fill of piecemeal legislation coming before this Senate and there are solutions to the problems as they exist in Trinidad and Tobago. The instance of foster care is an instance we should look at. There are individuals, elderly grandmothers who take care of children without any help from the state. I am of the opinion that the state should at least provide some sort of help to these elderly people.

Mr. President, there are some flaws in the Bill that I would like to address; this issue about a place of safety. We are well aware that apart from a police station, a place of safety is supposed to be an orphanage or a home for children, but there are instances in Trinidad and Tobago where there are victims of AIDS—and we are talking of not one or two, but entire families are housed at these institutions.

As you are well aware, based on the reports we have before us, these very institutions are breeding grounds for delinquent behaviour. For example, in the Tunapuna/Tacarigua area there are inmates, who, even after leaving the institution the state is not in a position to assist other than a "10 days" which is few and far between. What do they end up doing? Robbing the neighbourhood. Very unfortunate.

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Mr. President, another flaw in the Bill. The issue of psychological evaluation. Time and time again I have stood up in this Senate and called on the Senators opposite to do something about harnessing the human resource in our country. There is a host of young people who have been successful at school leaving examinations and at secondary level who are willing to be social workers. Would they ever be incorporated? Would they ever be assisted? Would they ever receive any opportunity to fulfill their ambition to be a social worker in this country? One wonders, Mr. President.

Mr. President, halfway houses may be a way for us to go but, again, we need to have concrete support for the NGOs, not "tongue" assistance. We want real assistance. We also have to look at the system of illiteracy in our country. We have to think in terms of "harnessing" the young people. How many young persons are going to join the Red Cross and the St. John's Ambulance Brigade? Why do you not make it mandatory that from the time you enter school you have to enter such organizations; despite the fact that they want volunteers. These are very serious issues we have to look at if we want to instil any sort of positiveness in our young people. It is very necessary that they have to get involved in some sort of service.

Mr. President, education cannot be addressed without the utility of the media and the participation of the media. Time and time again I have said that at least one television station should put aside some time, not only for family life education, but also for furthering one's education and this in itself may be an answer to the problem we are having with post-secondary education. We need to support our youth in sport. Recently in Trinidad and Tobago an organization was formed for the support of athletics at the secondary level. I trust that the Government will go that way and provide the necessary support to secondary schools so that we can have more exemplars like the Minister of Finance, among others.

Mr. President, there is a particular issue I would like to address now and it is an amendment which was proposed by my colleague, Sen. Salisha Baksh.

In a proposed clause 15 subclause (11)(a) we are asking that the word "wilful" be included before the word "neglect".

In the parent Act, section 3 (1) a definition has been given for the word "neglect". It reads as follows:

"and for the purposes of this section, a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, he fails to provide adequate food, clothing, medical aid, or lodging for the child or young person."

Mr. President, in difficult circumstances as these, there are many parents who are unable to put food on the table. I also had the rare opportunity of mentioning this to the hon. Prime Minister during the opening of Parliament. He told me fear not, but I still have to be afraid. When one takes into consideration that last Friday 16—18-year-olds were robbing places and up to the present time the police in Trinidad and Tobago are unable to hold anybody. As for the money that is another point. What are we doing? What are we really doing if we do not have family life education, if we do not address gender issues, if we do not provide the necessary support to the NGOs? What are we doing concerning our young people? As I quoted earlier, your children are not your children. It is life longing for itself. Most children are like sharp arrows you may place in a bow. We might be able to aim them to the target, but we cannot control their flight. A wind could blow them away. Mr. President, what are we doing in Trinidad and Tobago? I think a serious problem exists with regard to the question of parenting. If we do not adjust the issue I think that the state would have to go a little further and take over the issue of parenting and that in itself, would be a serious problem in Trinidad and Tobago. If the PNM Government at this time cannot provide effectively for the citizens, I cannot see them providing for the children in the role of being a good parent.

We have not supported our young people in Trinidad and Tobago the way we should and we are all at fault. It becomes mandatory at this point for us to act. I am appealing to Senators to support us with these amendments that were proposed so that we would be able to go a long way in solving the problems as they confront our young people in Trinidad and Tobago.

Thank you, Mr. President.

**The Minister of Consumer Affairs and Social Services (Dr. The Hon. Linda Baboolal):** Mr. President, I first of all thank Senators on both sides for their contributions. Each speaker showed his or her concern and in fact, demonstrated by their contributions that they understand the urgency of this amendment to the Children Act. We welcome the suggestions made and the

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amendments that have also been put forward. We have discussed and addressed most of them. I will now attempt to deal with these and to answer some of the questions which were raised and, hopefully, to give the answers to the satisfaction of the Senators.

**3.00 p.m.**

Some Members were seeking amendments which related directly to the Bill under consideration, while others were not really central to the main purpose of the Bill. I reiterate once more that this Bill has a very urgent purpose. It seeks to provide protection for children at risk of abuse; such children would not have to wait until they are harmed before action is taken. I think one Member put it like this: A child will no longer have to wait until his head is crushed or arms broken before the police could take action. That is putting it very graphically.

The Government has carefully considered all the amendments which have been sought. While we have been able to accept some, it is our view that some of the others require further consideration or may be able to be considered in the long term.

For the most part the amendment moved by Sen. Merritt dealt with infrastructure which must be put in place before being able to give local government authorities responsibility for the care and maintenance of children, especially now, with our system of local government which exists in Trinidad and Tobago. The system which exists in England already contained this infrastructure, and the relevant laws and regulations to enable local government to take care of children.

In fact, the amendment made by Sen. Merritt was largely patterned on the provisions contained in Part VI of the 1989 United Kingdom Children Act. The local authorities in England—as the hon. Member I am sure is aware—had long been charged with the statutory responsibility for the care of children. The discharge of this responsibility is circumscribed by a comprehensive set of rules and regulations. For example, the United Kingdom Local Authority Social Services Act is one of them. I have another document, the Children Act Guidance and Regulation, which deals solely with the responsibility of local authorities as it relates to the placement of children.

It is clear that placing children in the care of local authorities, as the amendment being sought by the hon. Senator requires, is not just simply a question of setting up community homes. However, these amendments are worth considering in the long term, especially where we are now looking at putting in

place the new integrated social services delivery system. In fact, this system would require decentralization of services, the use of NGOs and statutory bodies. I want to assure Sen. Capildeo that this is already being considered.

Senators, because of the urgency for the protection to be afforded by this Bill—and this has been stressed several times by Senators in the House as they spoke—we cannot render this protection dependent upon infrastructure as is required by Sen. Merritt's amendment.

We also appreciate Senators' concern about the eight-day period specified in the Bill within which a child must be brought before a magistrate, once taken to a place of safety and that this eight day period may be too long. However, the specified period of eight days is not without basis. It is an improvement on the existing law as well as an attempt to minimize exposure of the child to the court.

If the period is specified as three days, as is being proposed by Sen. Merritt, in those magisterial districts where the juvenile court only sits once a week, then that child would have to be brought to the court twice within the same week. If a child is moved on Friday, he would have to be brought to the court on Monday and then brought back again when the juvenile court sits maybe on Wednesday or Thursday. In other words, the first time, simply to satisfy the legislation which says three days and then again, when the juvenile court sits. That is not to say however, that the child cannot be brought to the court before the eight days.

In fact, the Bill is saying that the child can be brought to the court within eight days. The child can be brought to court on the day after. If the child is removed on Monday, he can be brought to the court on Tuesday or before the eight days. The draft clearly accommodates this. However, Government appreciates that moving a child from the custody of its parents is a serious issue. As such, Government sought to put checks and balances to this power to which I alluded in my earlier contribution.

Government is prepared to accept Sen. Spence's amendment that the person removing a child should report his action to a superior officer within a given period of time. We must be careful that the law we put in place does not exceed its real purpose. To report such action within 24 hours, for example on a weekend, especially if a social worker is involved may not always be practical or possible.

Thus, if a social worker is faced, on one hand, with removing a child from an abusive situation on a weekend, and, on the other hand, with the risk of running afoul of the law, that social worker may choose to leave that child in that

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situation, because we can all appreciate that this would indicate that to remove the child is not mandatory, but to report such action would be. The Government is just moving an amendment to the effect that such action should be reported within 72 hours.

We should note that Sen. Spence's second amendment is already covered in section 87 of the Children Act which we are amending. That is dealing with the provisions to have hearings concerning children heard in a separate room or building. That is already within the Act in section 87.

An amendment is being sought by Sen. Merritt to have the word "interests" replace "welfare" as proposed in section 53.

Another amendment is being sought by Sen. Mahabir-Wyatt requiring the best interest principle to be made express, but the best interest principle, though consistent with terminology in the United Nations Convention is also inherently value-laden and can lead to a great deal of inconsistency if clear guidelines are not laid down to determine what is in the child's best interest.

On the other hand, while welfare is not defined in the Bill, the courts have long applied the paramountcy principle regarding a child's welfare. A good explanation of the word "welfare" is to be found in the case of Walker versus Walker and Harrison noted in 1981 New Zealand Recent Law and cited by the United Kingdom Law Commission in its Working Paper No. 96 Children In Care.

In that case Justice Hardy Boys commented:

"Welfare is an all encompassing word. It includes material welfare, both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living, and in the sense of adequacy of care to ensure that good health and due personal pride are maintained. However, while material considerations have their place they are secondary matters. More important are the stability and the security, the loving and understanding, care and guidance, the warm and compassionate relationship that are essential for the full development of the child's own character, personality and talent."

However, we appreciate that the court, in applying the paramountcy principle, may not always take into account the wishes of the child or the young person, and so the Government is prepared to accept Sen. Mahabir-Wyatt's amendment to the extent that it deals with the wishes of the child. Logically, this would also apply to the amendment of section 13 which is being sought by Sen. Mahabir-Wyatt and which the Government has accepted with modification.

**3.10 p.m.**

Government recognizes that the penalties stipulated for certain offences prescribed in the Children Act are certainly too low and the language of the Act may not always reflect current thinking as regards the care and thinking of children. However, I should stress again, that the Bill was never intended as a comprehensive review of the Act. It was always intended specifically to address the lack of protection for children at risk of abuse.

A comprehensive review of the Children Act and, indeed, of all legislation relating to children is a current project of my ministry. One of the key issues to be addressed by that review is that of extending the protection offered under the Act to 18-year-olds. The protective provisions of the Children Act deal, not only with protection against abuse, but also with matters of arrest, bail, custody, remand, and committal of children. Thus all of these issues will have to be dealt with simultaneously in order to ensure some degree of internal consistency within the legislation.

The mandatory reporting of child abuse is another important issue to be addressed by this review. The Government is, however, cognizant of the need to proceed with caution in developing a policy on mandatory reporting of child abuse, as urged by Senators Baksh and Merritt during their respective contributions. Nevertheless, in spite of all this, Government is prepared to accept the increases and penalties proposed by Sen. Mahabir-Wyatt, and will, accordingly, move amendments to this effect.

In recognition of the point made by Sen. Mahabir-Wyatt, with respect to the definition of orphanage, Government proposes to move an amendment which will modify the existing definition.

In response to Sen. Baksh's concern that the word "neglect" in the proposed section 15 (11) is too wide for the purpose of the Bill, let me say that this issue was carefully considered prior to the introduction of the Bill. We were of the view then that the definition of "wilful neglect" in section 3, confined as it is to a parent or other person legally liable to maintain a child or young person, is too narrow. Nevertheless, we appreciate Sen. Baksh's concern and as such the Government is proposing to move an amendment to insert the word "wilful" before the word "neglect" in the proposed section 15(11).

At present, the Government does not actually have a formal foster care system in place. The Children Act, which we are amending, provides for placement of

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children who are abandoned, neglected, beyond control or who are victims of abuse, with a family through what is termed a Fit Person Order.

The Bill under consideration makes a similar provision via the proposed Care Order. This is, in fact, a system of foster care, without payment to the foster parent by the state. The Act at present provides that this payment of maintenance should come from a parent or guardian, but, unfortunately, this is not always done. Sometimes you cannot even find the parent or the guardian, or they simply cannot afford it. The problem is, however, that there are very few families who are willing to be identified or who are prepared to take children in, and in practice the majority of the children are therefore sent to institutions.

It should be noted, that the South Social Workers' Task Force has been operating a Government-assisted foster care project since 1977. The introduction of a foster care system to be administered by the state is deemed necessary for placement of children in need of alternative care. The Ministry of Consumer Affairs and Social Services proposes to establish a system of placement which will provide care in a home setting for the following categories of children:

- (1) Children who are neglected, abandoned or abused, who come before the court and in respect of whom a Fit Person Order, a Remand Order, an Order to send the child to one of the institutions or a Care Order under the legislation under consideration.
- (2) Children who are already in orphanages with emphasis on children between the ages of 0 and 5 years. This is an effort to depopulate these institutions by putting these children in foster care or for adoption.
- (3) Children who are beyond control, who come before the court and who are placed in an industrial school. As far as possible these children will be placed with relatives who are willing and able to take care of them. Placement may be either short term, for three to six months; medium term or long term, which could be up to several years, and would be based on the nature of the Order, the circumstances of the case and the possibility for rehabilitation.

Government is committed to addressing the needs of all children, especially those at risk of abuse and neglect. In this regard, it has been recognized that the establishment of a foster care system will provide, not only support for children at risk, but in the long term, serve to strengthen families in our society.



The establishment of a foster care system will also mean that children will not be sent, as a matter of routine to the institution, thus easing the pressure of overcrowding and the other problems which are associated with these institutions and to which Senators have alluded, which we are very much aware of and which we are seeking to deal with. We are hoping to implement the pilot scheme of the foster care system before the end of the year and, hopefully, to have this extended by 1994.

**Sen. Daly:** I thank the Minister for giving way. Will the Minister consider, if the pilot scheme is to be introduced so soon, laying a report in the Senate as soon as the scheme is instituted?

**Hon. Dr. L. Baboolal:** I see no reason why not, certainly.

**Sen. Daly:** Is that a yes or a no?

**Hon. Dr. L. Baboolal:** Yes.

Sen. Wade Mark raised the question of the implementation of the World Declaration of Survival, Protection and Development of Children.

In September, 1990, the United Nations held a world summit for children. At that summit, Heads adopted the World Declaration for the Survival, Protection and Development of Children. Trinidad and Tobago signed that declaration on October 5, 1990 and in so doing a commitment was made to:

- (1) give high priority to the rights of our children to ensure their survival and protection and to promote the full development of their human potential;
- (2) to adopt and implement a national plan of action which would form the framework for more specific national and sectoral undertakings to advance the goals of the Declaration during the 1990s.

The Declaration also called for the earliest possible ratification of the United Nations Convention and this was fulfilled by Trinidad and Tobago in 1991.

In January, 1992, an inter-ministerial committee, under the chairmanship of the Ministry of Consumer Affairs and Social Services, was convened to formulate the national plan of action. Other ministries represented were the Ministries of Health, Education, Sport and Youth Affairs, Planning and Development (Environment Division), Community Development, Culture and Women's Affairs and the Office of the Prime Minister (Central Statistical Office). A representative from YTEPP was also included and discussions were also held with non-governmental organizations such as SERVOL.

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**3.20 p.m**

Following several meetings and preliminary discussions, an initial National Plan of Action was drafted and submitted for Cabinet's consideration by Cabinet Note dated October, 29, 1992.

On November 12, 1992, Cabinet approved the draft, in principle, and agreed to the mounting of a national workshop to facilitate dissemination of the National Plan of Action to the wider society.

On December 15, 1992 a national workshop was held by the Ministry of Consumer Affairs and Social Services in collaboration with UNICEF, which funded the workshop. The aims of the workshop were as follows:

- (i) to familiarize non-governmental organizations with the goals of the World Declaration and this country's National Plan of Action for achieving the targeted goals of the Declaration;

I want to say here to Sen. Kwabene that we work all the time with non-governmental organizations.

- (2) to facilitate the active participation of relevant non-governmental organizations in the workshop and their agreement to activities complementary to those of government.

Approximately 80 representatives of Government and non-governmental organizations were invited, 43 participated. The workshop achieved a high level of participation and the National Action Plan was modified by the Inter-Ministerial Committee in June, 1993 to incorporate:

- (1) critical recommendations emanating from the workshop;
- (2) recommendations of the report of the National Task Force on Education which was released in March 1993;
- (3) results of the Situational Analysis of Children in Especially Difficult Circumstances which was conducted by the Ministry of Consumer Affairs and Social Services.

Copies of the final document were circulated to all relevant government and non-governmental organizations to initiate action with a view to implementing the strategies of the plan.

Feedback from the various agencies indicates that a proportion of the recommended programmes/strategies of the plan, where feasible, have been incorporated into the ongoing activities of the organizations to facilitate speedy implementation. In instances where this has not been possible, preparatory work is still being undertaken geared towards fulfilling the obligations of the plan. This Ministry will continue to liaise with all relevant agencies or ministries with a view to ensuring that the requirements of the plan are achieved.

**Sen. W. Mark:** Mr. President, on a point of clarification. Could the hon. Minister indicate whether the National Plan of Action would be laid in this Parliament, and secondly, how soon will this plan be submitted to the committee on the rights of the child of UNICEF?

**Hon. Dr. L. Baboolal:** We would definitely consider the possibility of laying the plan in Parliament but I cannot tell you how soon it would be put before the committee. I can, however, get the information for you.

**Sen. W. Mark:** Is there a specific time for this?

**Hon. Dr. L. Baboolal:** I am not sure.

Sen. Daly raised the issue of a family planning policy. Government's family planning policy will be outlined in a National Population Policy which is nearing completion and on which an action plan will be based. This policy will take account of the following:

- (1) closer links between the population and family life education programmes and delivery agencies;
- (2) intensive focus on adolescents, introducing comprehensive family planning, counselling and education services;
- (3) emphasis on delaying first pregnancies, spacing subsequent ones and limiting family size;
- (4) introduction of special programmes for male audiences highlighting their shared role in family planning;
- (5) increased use of the media to dispel some of the ignorance surrounding contraceptive use and sexual activity;
- (6) ongoing training of family planning service delivery staff;
- (7) research and evaluation activities to ensure that targets are met and goals achieved.

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In addition, the Population Unit and the Family Services Division of the Ministry have in place a comprehensive education programme on parenting and teenage pregnancy which is being conducted in schools as well as in collaboration with NGOs, and via the media. I am hoping that this Population Policy Plan would be ready early next year. I had hoped that it would have been ready even before the end of this year but I do not see that happening.

Sen. Wade Mark also raised the issue of the nutrition of school children and enquired what Government is doing. I want to briefly say that Government has responded by expanding the school feeding programme from three to five days, and the expanded programme will cater for one third of the primary school population and 100 per cent feeding in pre-schools.

**Sen. W. Mark:** I also raised the question, hon. Minister, dealing with establishing a national nutrition surveillance arrangement where we can monitor the nutritional status of our children. The last one was done in 1975 and then in 1991. We would like to know if there is going to be a continuation of that particular surveillance of our children?

**Hon. Dr. L. Baboolal:** As you know that does not actually fall under my Ministry but I will certainly pass that on to the Ministry of Health and most probably the Ministry of Education, but most likely the Ministry of Health will be the one to deal with that most effectively.

As far as the training of magistrates is concerned, we feel that the training of special magistrates and other personnel, for example, lay people, who will be directly responsible for the implementation of the legislation under consideration, is, in fact, extremely important. My colleague, Sen. Huggins, has, in fact, indicated that this is already being considered. I might also add, that we have in place the juvenile bureau and counselling services. This unit comprises a cadre of police officers who have been trained to deal with and provide counselling services for victims of domestic violence and child abuse.

I want to go on to some of the contributions made today. I must say that Sen. Capildeo got his arguments a little mixed up. One minute he seemed to agree to the urgency of the Bill and supported it, and the very next minute he called it callous. He may have totally confused himself and tried to confuse the Senate, but I do not think the Senate was confused. Since 1982, which is a long time ago, and within the last two years, much has been done to deal with the problems within government-run homes. You do not really hear about what is being done, but it is being done.

The rebuilding of the St. Michael's Home is starting very soon and in the second phase we are considering the cottage style home. As a matter of fact, a pilot project of a cottage home has been running in St. Mary's over the last two years and has proven—

**Sen. Capildeo:** *[Inaudible]*

**Hon. Dr. L. Baboolal:** You did not confuse me at all. I also want to thank Sen. Capildeo for ending his quotation with the words of Elizabeth Browning because it only served to strengthen the cause and the pace for passing this Bill to save our weeping children.

Sen. Rev. Daniel Teelucksingh, I thank you for your readiness in supporting this Bill. I know, as a minister of religion, that you are totally aware and constantly brought into contact with this problem. I agree that prevention is the road to go. Prevention is the road for many of the social problems which we now have to deal with—drug addition, child abuse. We are certainly doing all that is possible to make the society aware that we need to strengthen the family unit and to restore families and moral values.

### **3.30 p.m.**

I welcome the suggestion from the Senator as far as family counselling centres are concerned. In fact, under our new Integrated Social Services Delivery System, which we hope to put in place—maybe not in the same form—certainly, family counselling services would be available on a wider scale. In fact, I would welcome whatever the Senator can do, as a minister of religion, to start family counselling centres within the community. Any help or advice that the Senator needs he will be able to get from our national family services, so I certainly welcome any input that he can give us in that direction. Reconciliation is definitely the aim and, in fact, the Bill allows the court to let the children stay with the parents under supervision or any other conditions that the court might put, so that the child does not necessarily have to be removed if the court thinks that the child can stay in the home.

I want to tell Sen. Kwabene, and I am sorry he is not here, that I consider him one of the sincerest Senators on the UNC Benches; and I really think whatever he says comes from the heart.

**Sen. Huggins:** If not the only one.

**Hon. Dr. L. Baboolal:** I also thank him for starting with my favourite quotation about children which came from Kahlil Gibran. I totally agree that both

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girls and boys should be trained in the home to accept responsibility and to have respect; and as much as the Government can do to put that in place, we will try. But this is really something that we have to look at as a whole community and society. Each one of us has a role to play in ensuring that those values and family responsibilities are, once more, taught to our children.

I would like, however, to disagree with him when he spoke about the Conservation Corps. I would have thought that in using the Conservation Corps to help in the emergency, which was caused by the flooding, that what we have done, in fact, was to awaken their sense of community service and even to develop their sense of responsibility.

**Sen. Ali:** Mr. President, before the hon. Minister finishes, I would like to ask whether there is any serious thought being given to the establishment of a family court, because this was advocated by several Senators in the debate.

**Hon. Dr. L. Baboolal:** Sen. Ali, I have been discussing this with the Attorney General and at the moment we are working on the proposed amendments to the legislation for the family court. We are also collecting and analyzing statistics from the magistrate's courts to give a more up-to-date picture of what form that court should take and what infrastructure needs to be put in place. We are hoping that soon a note will be going to Cabinet on the matter. I am constantly discussing this matter with the Attorney General and he is very much aware of it and of the need. I consider it a great need also. We have looked at all the amendments and we are going to consider them in committee stage.

I beg to move.

**Sen. Daly:** Mr. President, I was confused about what the Minister said about the training of magistrates. Could she elaborate as to whether that training is going to be done and who is responsible for it?

**Hon. Dr. L. Baboolal:** I spoke to my colleague, Sen. Huggins, on this matter and what he said is that they are attempting to put in place the training of some magistrates, and even considering the training of lay people—psychologists [*Interruption*] or using trained lay people who will be directly responsible for the implementation of legislation that is being proposed.

**Sen. Huggins:** Mr. President, if I may, what we are looking at is the question of using qualified lay people to sit as adjudicators in matters dealing with

children, or specialized cases. That is what we are looking at now, as opposed to training magistrates who may be set in their ways.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in Committee.*

**Mr. Chairman:** Before we proceed I just want to be sure that we all have the same number of amendments and recognize amendments just circulated to be moved by the Minister of Consumer Affairs and Social Services and a set of amendments proposed by Prof. John Spence. Sen. Daly are you going to take responsibility for those?

**Sen. Daly:** Yes, I will.

**Mr. Chairman:** Proposed amendments by Sen. Diana Mahabir-Wyatt and a long list of amendments by Sen. Carol Merritt. She is also absent but I expect that the legal voice in Opposition will take charge. The onus is on the movers of the proposed amendments to bring them to the attention of the Chairman when the respective clauses are called out.

I also want to remind you that there is the Preamble which will be taken last. There are a number of proposals for new clauses which can only be considered after all the other clauses in the Bill have been considered. There is a procedure for dealing with that. There is no Schedule and the current Schedule is under clause 10. We proceed.

*Clauses 1 to 3 ordered to stand part of the Bill.*

*Clause 4.*

*Question proposed, That clause 4 stand part of the Bill.*

**Sen. Daly:** Mr. Chairman, I beg to move the following amendment proposed by Sen. Prof. John Spence:

“Add the following new paragraph immediately after the proposed paragraphs (a) and (b) to read:

‘(c) the following words at the end thereof:

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A constable or a person referred to in section 15(1)(a) shall make a written report of action taken under this section to his superior officer within 24 hours of the taking of the action.”

There is also an amendment, which the Government is accepting, with respect to changing the 24 hours to 72.

**Sen. Huggins:** Mr. Chairman, I think the amendment suggested or moved by Sen. Prof. Spence is, in fact, incorporated in the amendment to be moved by the Minister.

**Mr. Chairman:** In the new list of amendments?

**Sen. Huggins:** Yes, the new list that was circulated, on page 3 after clause 8 at the top of page 3. I take it that Sen. Daly has seen it?

**Sen. Daly:** Yes, I see a new clause 9, but it is all very confusing. I see the reference to it there.

**Sen. Huggins:** We have been told that is where it was most appropriate to include the suggestion; and there has been some renumbering.

**Sen. Mahabir-Wyatt:** Mr. Chairman, could I ask for some guidance? With reference to the amendments which are being discussed now, is this a new provision coming in, or an amendment to the existing one? Because I have some amendments proposed, which have also been taken into account, for example, section 3, I wish to have a paragraph included after that. It should be amended by changing "four" to "ten". The amendments submitted by the hon. Minister have taken that into consideration, so I think the correct procedure for me would be to withdraw that. Is this correct?

**3.40 p.m.**

**Mr. Chairman:** Yes. If you are satisfied that your amendments are taken care of in the Minister's amendment, you may then withdraw it to facilitate things.

**Sen. Mahabir-Wyatt:** Then I would like to, because that has just gone by. I would like to withdraw my amendment to section 3 because it has already been taken into account by the Minister's amendments.

**Sen. Huggins:** Just for clarification purposes. What we did was, we looked at the amendments made by Sen. Mahabir-Wyatt, and the experts, in their wisdom, although they accepted it, have put it in the form which they think the drafting



procedure properly requires. Although the substance of what she suggested or moved was included, it has been done in a different way.

**Sen. Mahabir-Wyatt:** I just wanted to know how to directly proceed. Should I withdraw my amendment or just leave it and be quiet?

**Mr. Chairman:** You are free to withdraw your amendment.

**Sen. Mahabir-Wyatt:** To section 3.

**Mr. Chairman:** Now we are dealing with clause 4 and you want the amendment relating to section 3 withdrawn.

**Sen. Mahabir-Wyatt:** To be withdrawn.

**Mr. Chairman:** The entire thing?

**Sen. Mahabir-Wyatt:** Yes, Mr. Chairman.

**Sen. Daly:** But, Mr. President, this is a recipe for confusion. We are proceeding with the Bill in a certain sequence and at the eleventh hour amendments are being introduced which change that whole sequence. I am still trying to find out what we are doing because we now apparently have new clauses 4 and 5.

I mean, I am seeing this with less than five minutes' notice so perhaps Minister Huggins could clear this up. We seem to have new clauses 4, 5 and 6 in the Bill. I mean, it is really ridiculous to give us this with five minutes' notice because all the numbering has been changed. So that it is new clauses 4, 5 and 6 and then we are renumbering 4 and 5 as 7 and 8. I do not understand what is taking place.

**Mr. Chairman:** Could I suggest that we take a little break now? We would advance the normal period of suspension and resume here at 4.30, which would give you a little time to do what you normally do and still be able to see how your respective amendments have been incorporated.

**Sen. Daly:** Much obliged to you, Sir. Thank you very much.

*Question put and agreed to, That the proceedings of the Committee be suspended to be resumed at 4.30 p.m.*

**3.44 p.m.:** *Committee suspended.*

**4.30 p.m.:** *Committee resumed.*

**Mr. Chairman:** When we suspended, we were on clause 4, according to the Bill before us. Please refer to the clause of the Bill before us and not to the sections that they are amending in the Act, for less confusion.

**Sen. Mahabir-Wyatt:** Mr. Chairman, to make this process quicker and less cumbersome, could I just withdraw all my amendments, because they are already covered?

*Amendments withdrawn.*

**Mr. Chairman:** Are there any other amendments to be withdrawn? Sen. Daly?

**Sen. Daly:** I cannot withdraw Sen. Spence's amendments. I have done my best to locate them in the forest, but I cannot withdraw them.

**Mr. Chairman:** I appreciate that. You do not have the mandate from him.

**Sen. Daly:** No, I do not have that brief, Sir.

**Mr. Chairman:** Are you proposing Sen. Spence's amendments to clause 4?

**Sen. Daly:** I believe that what he was proposing under clause 4 is now clause 7; and what he was proposing under clause 5 is now clause 8.

**Mr. Chairman:** And you will deal with it then?

**Sen. Daly:** I hope so, Sir.

**Sen. Capildeo:** What number are you on, Sir.

**Mr. Chairman:** Clause 4, according to the Bill, which seeks to amend section 11, but we cannot deal with the amendments proposed by the Minister to clause 4, because it is proposing new clauses, which will have to be dealt with when all the other clauses have been disposed of.

*Question proposed, That clause 4 be renumbered clause 7.*

*Question put and agreed to.*

*Clause 4 renumbered clause 7 ordered to stand part of the Bill.*

*Clause 5.*

*Question proposed, That clause 5 stand part of the Bill.*

**Sen. Capildeo:** Mr. Chairman, I beg to propose the following amendment:

"Delete the number '8' and substitute the following:

'3 working days'."

That is Sen. Merritt's amendment. I think if I heard the Minister rightly, she said that there are certain days when the juvenile court would be sitting and this might not be a practical suggestion. May I suggest that the magistrates be advised by the Attorney General or by the Chief Justice that they have power to declare any day a juvenile court day, and that the court should be adjusted to meet the needs of the children and not the children adjusted to meet the needs of the court. So that the three working days could work. That is to say, if a child is brought before the magistrate, the magistrate could deal with the matter within the three days.

**Sen. Daly:** Mr. Chairman, is the problem that—if I understand it—there are certain localities where the magistrate does not go every day; he goes once a week? Is that what the problem is?

**Sen. Huggins:** Right.

**Sen. Mahadeo:** As I understand it, Mr. Chairman, the magistrate sits in his or her district and, according to Sen. Capildeo, he may designate any day. Once you have children's matters coming before him on any particular morning, he can designate right on the spur of the moment that this is a juvenile court and it is kept away from the adult court.

**Sen. Huggins:** Whilst a magistrate may do that, they never do that. As it is now the juvenile court sits on a Friday. I am not suggesting that that is an ideal situation, but to just simply put three days here, I mean, this legislation will not be adhered to. That is not a system that can be changed overnight.

**Sen. Mahadeo:** Mr. Chairman, this only happens in the Port of Spain district where Friday is designated a juvenile court day because a special magistrate is a juvenile and ejectment court magistrate. In the other magisterial districts, it is any day, because that magistrate has to deal with every type of matter, including juvenile matters which come before him or her, every day. Only in Port of Spain a special day is designated.

**Sen. Daly:** Mr. Chairman, let us join the fashion for setting timetables for the court. I think we should join that fashion and I do not see that if a magistrate is available in a district every day, why we cannot prescribe the three days and the magistrates be instructed to comply with the legislation.

**Sen. Huggins:** This does not suggest that one has to wait for eight days to elapse. It is, "no later than eight days", so it can very well come to two days, three days, one day. With the system that exists now we thought that eight days was a reasonable time period within which to bring a child before the court.

**Sen. Capildeo:** Mr. Chairman, if the intent of the Bill is to assist the child, then assist the child.

**Sen. Daly:** More than that, where is the child to be kept?

**Sen. Capildeo:** Well I asked that and I was told we have to wait on the infrastructure. But it is a place of safety; a police station.

**4.40 p.m.**

**Sen. Mahabir-Wyatt:** Mr. Chairman, I am being practical about it. I accept the argument about the magistrate's court, but it does say "no later than 8 days". A place of safety is usually a relative's home or the home of someone who is going to be quite carefully delineated by the social workers. I do not see any problem with "no later than 8 days". Very often a child is so traumatized that to take a child to a magistrate's court in under eight days could be even more traumatic to the child since a magistrate's court is extremely frightening for a young child. I think the social worker should have the right to make that kind of judgment. I do not think that is a legal argument.

I accept the amendment as it is in the Bill.

**Sen. Daly:** Mr. Chairman, this is just perpetuating poor standards in the court. That is all this is doing. It is a kind of hypocritical argument because if the argument is that the magistrates are not going to comply with it, then we are perpetuating the low standards in the courts. I do not think we should condone low standards in the courts.

**Sen. Capildeo:** Experiment with the three days, and if that does not work, then *[Interruption]* No, we would not have to come back, the Chief Justice could issue directives to the magistrate. I think Sen. Mahadeo, who has 19 years' experience as a magistrate—

**Sen. Huggins:** Mr. Chairman, I may add also that, in the United Kingdom, for example, the time period within which a child must be brought to the court is 28 days, as well as in Barbados, which has similar legislation.

**Sen. Capildeo:** Are we comparing the United Kingdom with Trinidad and Tobago?

**Sen. Huggins:** Well, the amendment proposed by Sen. Merritt is based principally on the United Kingdom's legislation.

**Sen. Mahabir-Wyatt:** Mr. Chairman, the interest of the child should be paramount. Everyone is arguing as though the court's calendar is always important. We are talking about a child; an Act to look after children not magistrates. If we look at the next clause it talks about "a public officer experienced or qualified in social work". These are the people who can decide in the interest of the child whether two, three, four or eight days is right, not the magistrate's calendar.

*Question put.*

*The committee divided: Ayes, 9            Noes, 19*

**AYES**

Mark, W.

Capildeo, S.

Baksh, Miss S.

Kwabene, R.

Hosein, M.

Daly, M.

Dean, E.

Mahadeo, Miss C.

Teelucksingh, Rev. D.

**NOES**

Saith, Hon. Dr. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Elder, Miss J.

Rahael, J.

Gosine, R.

Hassim, A.

Mansoor, M.

Rooks, J.

Mahabir-Wyatt, Mrs. D.

Ali, H.

Wilson, L.

*Amendment negatived.*

**Mr. Chairman:** Are there any other amendments to clause 5?

**Sen. Daly:** Mr. Chairman, on behalf of Sen. Spence, I beg to move that clause 5 be amended as follows:

"Add after the word 'magistrate' occurring in line 4 of the proposed new section 11A the words 'in Chambers'."

I understood the Minister to say that his advice was that section 87 covered it.

I am not convinced, but having regard to the way this matter is proceeding, I do not know whether I should waste my time. I am not convinced. It is not clear to me—because this is the problem when we get documents five minutes before—that section 87 would cover every situation in which a child is brought to a magistrate because this deals with charges and applications. I have not had time to think about it, but it is not clear to me that every time a child is brought before a magistrate it will necessarily be in connection with a charge or an application. That is one of the difficulties I am having with the drafting.

So, for what it is worth, on behalf of Sen. Spence, I am not accepting that section 87 covers that. I do not see it will do any harm, even if it is covered, to re-enforce it by ensuring that a child is brought, in the first instance, to the magistrate in Chambers. *[Interruption]* That is the problem with piecemeal amendments. I do not know—I have not thought it out—that section 87 covers a situation of a proceeding where there are charges or there is an application. I do not know whether in every case where a child is brought before a magistrate the proceeding would have already been commenced. I simply do not know and I have not had time to think about it

**Sen. Huggins:** Section 87 deals with the charges against children or young persons or when hearing applications with all applications relating to a child or young person. It simply sets out the procedures that the juvenile courts will observe. One is that in section 87(4) it limits those persons who can attend the hearing relating to a child; the magistrate simply gives parties concerned, or their solicitors.

**Sen. Daly:** Mr. Chairman, I just said what my position is. I do not know that section 11A necessarily means that at the time the child is taken there will be proceedings on foot. I have a reservation about that and I am not prepared to withdraw Sen. Spence's amendment on the grounds that *[Inaudible]*. That is the best I can do.

**Sen. Mahadeo:** Mr. Chairman, procedurally, it is only at Port of Spain that there is a special court which is deemed a juvenile court on one particular day of the week. In the other magisterial districts there is only one court room and that magistrate has to deal with civil, criminal and others, including juvenile matters. Procedurally, the moment a juvenile goes before the magistrate, that child is taken before the magistrate in chambers, not in the open court where adults are housed for criminal and other civil matters.

So that the question of putting that child two, three, four or five days after does not arise. The magistrate is going to deal with that child immediately in chambers. This is what happens in the districts because there is one court room in which he has to operate and do everything else, so he must, out of necessity, go into his chamber to deal with juvenile matters.

**Sen. Huggins:** Mr. Chairman, we have no objection to that amendment.

**Mr. Chairman:** We are considering the second amendment to the existing clause, proposed by Sen. Spence:

“Add after the word 'magistrate' occurring in line 4 of the proposed new section 11A the words 'in Chambers'.”

*Question put and agreed to.*

*Clause 5, as amended, ordered to stand part of the Bill.*

**Dr. Baboolal:** Mr. Chairman, I beg to move that clause 5 be renumbered as clause 8.

*Question put and agreed to.*

*Clause 5, renumbered clause 8, ordered to stand part of the Bill.*

**Mr. Chairman:** I would like to go back to the clause immediately before, clause 4 which was renumbered as 7. On the list of amendments circulated by the Minister, there is an amendment to clause 7 as renumbered, which is not a new clause. I think we would have to deal with it; all the others are new clauses, as far as I can see. That is on page 2 of the list of amendments circulated by the Minister. The last amendment is clause 7 which was renumbered.

Sen. Daly, did you say that the first amendment as proposed by Sen. Spence is being taken up elsewhere? Or, is it in this—

**Sen. Daly:** *[Inaudible]*

**Mr. Chairman:** Is it included in this?

**Sen. Daly:** *[Inaudible]*

**Mr. Chairman:** As (b) on page 2 of the proposed amendments. Are you satisfied with that?

**Sen. Daly:** Yes, very much so.

**Mr. Chairman:** Clause 7, as renumbered, be amended as proposed by the Minister in the list of amendments circulated. Those can be found at the bottom of page 2 and the top of page 3.

*Question put and agreed to.*

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



*Clause 6.*

*Question proposed,* That clause 6 stand part of the Bill.

**Sen. Capildeo:** Mr. Chairman, on behalf of Sen. Merritt, I beg to move that clause 6 be amended as follows:

“In proposed section 15(1) insert after the word 'guardian' the words or any person appearing to have care and control of the child.”

That would be the fifth line in 6(b). So, "the magistrate may require a parent or guardian or any person appearing to have care and control of the child to appear before him."

**4.50 p.m.**

**Hon. Senator:** [*Inaudible*]

**Sen. Capildeo:** No, you see in our peculiar society, we have tanties, nenens, cousins, this one and that one, and Miss “Happy,” and any number of persons who take care of children. It is something we must recognize in our society that, in addition to the parent, the guardian who may be lawful, because there may be a meaning to the word "guardian," and they went through the adoption procedures. Then you have the normalcy and the "normalcy" covers persons who take care of children.

**Sen. Mahabir-Wyatt:** I think this is already in the existing Children (Amdt.) Act. It says a person who has for the time being the charge of or control over the child, young person or youthful offender. Is this the same as what Sen. Mark is arguing, any person appearing to have care and control of the child? I wonder if Sen. Capildeo can tell us what the difference is between the existing one and the amendment?

**Sen. Capildeo:** I am looking at the definition of “guardian”.

**Sen. Mahabir-Wyatt:** There is a distinction between "guardian" and "legal guardian."

**Sen. Capildeo:** Legally speaking, the Senator is adding the words "appearing to have care and control" and the interpretation section says "being in charge or control of the child." There will be no need to pursue this amendment, Sir.

*Amendment withdrawn.*

**Sen. Capildeo:** I did not want them to say that they were a caring Government, Sir.

**Mr. President:** There is another amendment?

**Sen. Capildeo:** Mr. Chairman, we propose the following amendment:

"In the proposed section 15 (3) substitute for the word 'welfare' where it occurs in the second the word "interest."

So it would read:

"Where, in proceedings referred to in subsections (1) and (2)... the Magistrate may, with the child or young person's interest as the paramount consideration, order that the child or young person—"

I think "interest" has a far wider meaning than the word "welfare."

**Dr. Baboolal:** In my presentation, I explained—

**Sen. Daly:** Is it the point that the word "welfare" is generally accepted in matters *[Interruption]*

**Sen. Huggins:** I cannot recall what the Minister said in dealing with that but, surely, a sufficient body of jurisprudence has been built up in this country and abroad as to the interpretation of the word "welfare" in dealing with matters relating to children. I am certain that there is absolutely no doubt in the minds of any court as to exactly what the word "welfare" means in the context of a child. So I do not see the need the Senator is attempting to make, Sir.

**Sen. Daly:** That is the point I was attempting to make.

**Sen. Huggins:** That is why I would advise you to withdraw it. Mr. Chairman, that is the explanation we would stand for on this side.

**5.00 p.m.**

**Mr. Chairman:** Do you want to put it to the vote?

**Sen. Capildeo:** I do not mind.

**Mr. Chairman:** Other people mind.

**Sen. Capildeo:** Well, you can put it to the vote, Sir.

**Dr. Baboolal:** Justice Hardy Boyce commented:

"Welfare is an all encompassing word. It includes material welfare, both in the sense of adequacy of resources to provide a pleasant home and a comfortable standard of living; and in the sense of adequacy of care to

ensure that good health and due personal pride are maintained. However, while material considerations have their place they are secondary matters. More important are the stability and the security, the loving and understanding, care and guidance, the warm and compassionate relationships that are essential for the full development of the child's own character, personality and talent."

Then I went on to talk about the paramountcy principle.

**Sen. Daly:** I just want to say at this point I agree with what is being suggested that the word "welfare" should stay. I think it is a pity we could not find where that has been dealt with so many times by our local judges, but I think it is right.

**Mr. Chairman:** The first amendment by Sen. Merritt is withdrawn. That is the one to clause (6) (3) substituting "interest for welfare.

*Amendment withdrawn.*

**Mr. Chairman:** There are two more amendments.

*Clause 6(7)(b).*

**Sen. Capildeo:** I beg to propose the following amendment:

"Insert after the word 'access' the words 'or care and control of the child.'"

I think what she is trying to do there is to extend the meaning of the word "custody" to include "care and control of the child". Is there any definition of "custody". I think there is a meaning to the words "custody", "guardianship", "access" and there is also a meaning to the words "care" and "control." I do not see any harm by including those two words in it. In fact, I think it would give a wider meaning and more control by the magistrate. It certainly cannot do any harm.

**Sen. Huggins:** This refers to an order made by a court in relation to custody, guardianship or access. I am not certain that the high court makes an order to care and control of the child, that is not already incorporated in either the custody or guardianship of a child.

**Sen. Daly:** I think the high court sometimes makes orders for a child to be the custody of one parent and care and control to the other. I suppose it is theoretically possible that you could have an order for care or control standing on its own. I do not know, but there is such a thing, an order for care and control. Split orders are made quite frequently by judges.

**Sen. Huggins:** Like you, I am not aware that courts make that kind of order.

**Sen. Daly:** They do, but they usually make it in conjunction with a custody order. I do not know whether it is possible that a court would make such an order without making a custody order.

**Sen. Huggins:** I doubt that they would make such an order in a vacuum, so to speak. To put that in there would suggest that.

**Sen. Capildeo:** Custody, guardianship, access, care and control. It comes naturally.

**Sen. Huggins:** I do not agree that it comes naturally at all. That is pressing the—

**Sen. Mahadeo:** To the other party to the child, apart from the custody order which entails everything, the control and the care and everything comes to that party who has custody of the child by way of the order, but it also gives access to have the child at intervals.

**Dr. Baboolal:** Access is the important word here.

**Sen. Huggins:** Somebody could have custody and another party could have access.

**Sen. Daly:** Another party or someone can have custody and another person can have care and control.

**Sen. Huggins:** That I am not certain about.

**Sen. Daly:** Split orders are made all the time.

**Dr. Baboolal:** What Sen. Mahabir-Wyatt is saying is that care and control are included.

**Sen. Mahadeo:** Would go together with the custody and you can get access as well.

**Sen. Capildeo:** There are orders which have been made to give custody to one party and care and control to another party. I have had that experience.

**Sen. Daly:** There is a thing called a split order in which a judge can—

**Sen. Huggins:** I accept there are split orders where a court can order one party to have custody. I do not know if you are interpreting “care”—I do not know about one having custody and another one having control. I cannot see that as being consistent. What I can see is a court making an order for custody of a child

and another party being ordered to support that child by way of some financial payments. I cannot see how you can have a custody order and somebody else who does not have custody having care and control. That just does not make sense.

**Sen. Daly:** It is called a split order.

**Sen. Huggins:** No, no. I know about split orders custody and access, but surely not custody, care and control vested in different persons. If he makes that order, then we should close down the judiciary.

**Sen. Capildeo:** They are part of the judicial orders that are made in the high court. Do you agree that there is such a thing as split orders and that the wording in the split order include care and control?

**Sen. Mahadeo:** It is too generalized. How can I have control? Control means I control you and your care and custody and everything else, but yet custody is vested in another party and I, the other party, would now have control and care. How can we do that? If I have custody, then, I also have an overall control and care of you, but the other party who is your guardian, or the other person, can have access to you at whatever time they want and they can be paying for you.

There are split orders as it appears at the moment. There are split orders in the high court as well as in the magistrate's court.

**Sen. Capildeo:** Because it comes from here.

**Sen. Mahadeo:** It does not mean that these would be the correct things. That is why we are here to get laws amended.

**Sen. Capildeo:** You need a lawyer to advise you all.

**5.10 p.m.**

**Mr. Chairman:** Are you withdrawing the amendment?

**Sen. W. Mark:** No, Mr. Chairman. It is simple and clear. To me it is as clear as daylight.

**Mr. Chairman:** The amendment before the Committee is that in clause 6 and in the proposed amendment to section 15(7)(b):

“Insert after the word ‘access’ the words ‘or care and control of the child’”.

*Question put.*

*Children (Amdt.) Bill*

*Tuesday, November 9, 1993*

*The Committee divided: Ayes, 10 Noes, 17*

**AYES**

Mark, W.

Capildeo, S.

Baksh, Miss S.

Kwabene, R.

Hosein, M.

Mahabir-Wyatt, Mrs. D.

Ali, H.

Daly, M.

Deane, E.

Teelucksingh, Rev. D.

**NOES**

Saith, Hon. Dr. L

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

Ojah-Maharaj, D.

Rahael, J.

Gosine, R.

Hassim, A.

Mansoor, M.

Rooks, J.

Mahadeo, Miss C.

Wilson, L.

*Amendment negatived.*

**Mr. Chairman:** There is one more amendment to clause 6, by Sen. Merritt— clause 15(10) on page 10 of the printed version.

**Sen. Capildeo:** I am trying to work back where Sen. Merritt got that from. The Explanatory Note spoke about a care order. It seems that she was trying to make it absolutely clear that the words "interim order" includes the words "care order". I believe that Sen. Merritt got this amendment from page 3 of the Explanatory Note. It seems to me that she was trying to bring the words in the Explanatory Note into the amendment:

"Proposed subsection (3) provides that in proceedings referred to in subsections (1) and (2), where the Court is of the opinion that the child or young person has suffered or is likely to suffer harm in its present circumstances so as to be a cause of concern for the child's or young person's welfare, the Court may make a care order."

I think that is where the words come from.

"The harm has to be of such a degree that it causes concern for the welfare of the child. The care order which has elements of a custody order, may specify that the parents retain custody of the child subject to supervision and other conditions that the Court may specify."

I think what she was doing there was adopting the words in the Explanatory Note and including it as a form of amendment.

I do not see any harm putting "including an interim care order" there. There is not going to be any big damage, but I assume, since it comes from this side, it will be.

Now that I am looking at it, I think it is an excellent amendment. A lay person proposed this. We can lend you her services if you want. She is quite correct. If we are to take the Explanatory Note seriously, Sen. Merritt is excellent. If we are to reject the Explanatory Note as being frivolous and to be ignored, well then Sen. Merritt was quite wrong to even read the notes. If one reads the note, then the amendment ought to be accepted with all the graciousness that the Minister has.

**Sen. Huggins:** The thrust of the Bill is interim care orders and that sort of thing. All I am saying is that an interim order includes an interim care order.

**Sen. Capildeo:** Then there is no harm in including it.

**Sen. Huggins:** But it just becomes superfluous.

**5.20 p.m.**

**Sen. Capildeo:** It makes it absolutely clear, it would not have any problems. *[Interruption]*.

**Mr. Chairman:** Could we go back to the business before the committee?

**Sen. Mahadeo:** Mr. Chairman? He is not listening.

**Mr. Chairman:** The amendment proposed by Sen. Merritt states that in section 15(10) insert after the words "interim order" where it occurs the words "including an interim care order".

*Question put and agreed to.*

**Sen. Mahadeo:** No. I honestly meant it, Mr. Chairman, because I was trying to catch your eye a moment ago. I said I tended to agree with the Minister of National Security, but the vote has already been taken.

**Mr. Chairman:** I think it is one of those conceding decisions. The amendment has been accepted.

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

*Clauses 7, 8, 9 and 10 ordered to stand part of the Bill.*

**Mr. Chairman:** We now return to the new clauses proposed both by Sen. Merritt and the hon. Minister. I think we have new clauses 4, 5 and 6. We will start with the new clause 4.

**Sen. Mahabir-Wyatt:** In the list of amendments to be moved by the Minister there is an amendment which says "In clause 10 (as renumbered)-" I believe it is an amendment not—

**Mr. Chairman:** That is the clause 10 to be renumbered after the new clauses are put in.

**Sen. Mahabir-Wyatt:** It is an amendment though, not a new clause. It is not a new provision, so it should be taken before the new provisions according to our procedure.



**Mr. Chairman:** The existing clause 6 to be renumbered clause 10.

**Sen. Mahabir-Wyatt:** We should have then taken it under clause 6 but because it was numbered—

**Mr. Chairman:** Yes, it came low down in the order. This amendment should have read “clause 6” and should have come before. You are sort of anticipating the committee. You are taking it for granted that the committee will accept. We have to deal with the things on their merits.

We can go back to that and deal with it first since that is the only other amendment that is not in the clause.

*Clause 6 recommitted.*

**Mr. Chairman:** Clause 6 which is anticipated should be renumbered as clause 10—if you look at subclause (3) at the bottom of page 7 of the printed Bill—the amendment reads as follows:

“(a) insert after the word ‘consideration,’ in line 9 of subclause (3) the words: ‘taking into account the wishes of the child or young person involved where such wishes of the child or young person can be reasonably ascertained.’”

*Question put and agreed to.*

**Mr. Chairman:** There is another amendment to subclause (11) which is on page 10 of the printed Bill. It reads as follows:

“(b) insert before the word “neglect” in subclause (11)(a) the word ‘wilful’.”

*Question put and agreed to.*

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

**5.30 p.m.**

**Mr. Chairman:** We go back to page 1 of the amendments proposed by the Minister and the proposal is that we re-number clauses 4 and 5 of the Bill, and 7 as 8, which we have already done; and insert the following new clauses. The new clauses proposed are 4, 5 and 6. We will have to take them individually. There is a little tedious procedure: the Clerk will read the marginal note and that is taken as first reading.

*New Clause 4.*

**Mr. Chairman:** 4. Section 3 of the Act is amended—

- (a) in subsection (1)(a) by substituting for the word "four" in line one, the word "ten";
- (b) in subsection (1)(b) by substituting for the word "one" in line one, the word, "five";
- (c) in subsection (4)(a) by substituting for the words "eight" and "five" in lines four and six, the words "twenty" and "twelve" respectively."

*New clause 4 read the first time.*

*Question proposed,* That the new clause be read a second time.

**Mr. Chairman:** If anybody wants to move an amendment to the proposed new clause 4, this is the time.

*Question put and agreed to.*

*Question proposed,* That the new clause be added to the Bill.

*Question put and agreed to.*

*New clause 4 added to the Bill*

*New clause 5.*

**Mr. Chairman:** 5. Section 8 of the Act is amended—

- (a) in subsection (1) by substituting for the word "two" in line four the word "five";
- (b) by substituting for the word "girl" wherever it appears the words "child or young person".

*New Clause 5 read the first time.*

*Question proposed,* That the new clause be read a second time.

**Mr. Chairman:** Are there any proposed amendments?

*Question put and agreed to.*

*Question proposed,* That the new clause be added to the Bill.

*Question put and agreed to.*

*Children (Amdt.) Bill*

*Tuesday, November 9, 1993*

*New Clause 5 added to the Bill*

*New Clause 6.*

**Mr. Chairman:** 6. Section 9 of the Act is amended by substituting for the word "girl" wherever it occurs the words "child or young person"

*New Clause 6 read the first time.*

*Question proposed, That the new clause be read a second time.*

**Mr. Chairman:** Are there any objections?

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New Clause 6 added to the Bill.*

**Mr. Chairman:** We have already renumbered existing clauses 4 and 5 as 7 and 8.

The next set of amendments would be the ones proposed by the Minister, on page 3 of the list of amendments proposed, and that is for a new clause 9.

**Sen. Huggins:** Sen. Merritt proposed a new clause 8.

**Sen. Capildeo:** Can we re-do the entire amendment?

**Sen. Daly:** Are we on local government?

**Sen. Capildeo:** Yes, that is where we are. Would it be possible to re-draft the entire thing?

**Mr. Chairman:** The next amendment is one proposed by the Minister for a new clause 9 at the bottom of page 3, which reads:

"Renumber clauses 6 and 7 as 10 and 11 respectively and insert after clause 8 (as renumbered) the following new clause 9:..."

What was on the original list as clause 9 has been deleted and you have a new substitute list that was circulated.

**Sen. Daly:** I have two.

**Mr. Chairman:** The one-page one—"Section 13 amended".

**Sen. Daly:** Mr. Chairman, just for what it is worth, it is clear to me that my input in this Bill is not welcome. I am being asked to exercise my judgment on the basis of something that is brought before the committee five minutes before, with ink drawn through it; then we have two other scraps of paper with two different clause 9s. That is what we are being asked to exercise our judgment on. This may be all wonderful drafting, it may be perfect, but how can I—I appeal to you, Sir—exercise my judgment on the basis of one piece of paper with ink lines drawn through it, another piece of paper with five lines and another piece of paper with eight lines?

**Sen. Capildeo:** May I repeat my request that the whole thing be re-drafted and brought back to us, and then we can go through it?

**Dr. Baboolal:** I apologize for that.

**Mr. Chairman:** The Minister has apologized for the inconvenience.

**Sen. Daly:** I accept that.

**Mr. Chairman:** I will read out the proposed new clause 9:

"New clause 9, section 13 amended—

9. Section 13 of the Act is amended by adding after subsection (6) the following subsection:

‘(7) A magistrate, in making an order, may do so with the child or young person's welfare as the paramount consideration, taking into account the wishes of the child or young person involved where such wishes can be reasonably ascertained.’”

**Sen. Mahabir-Wyatt:** Mr. Chairman, I think that it should surely read: "magistrate...shall do so", not "may do so". "May" makes it elective, which nullifies the intent of the subsection. If it is "may", the magistrate may or may not take this into consideration. The whole point of this was that the United Nations Declaration on the Rights of a Child, which we have agreed to, says that we should take this into consideration, which would be "shall" not "may". "May" is elective. "May" does not mean "shall".

**Sen. Huggins:** I have no problem with that.

**Sen. Mahabir-Wyatt:** Thank you, both Ministers.

**Sen. Capildeo:** It took seven law lords to decide what two people could have decided, you know, so do not be too scared if we have seven law lords here. But "may" shall be "shall".

**5.40 p.m.**

**Sen. Mahadeo:** Mr. Chairman, I think my colleagues who are legally trained may agree with me when I say “may” can be left, because there are certain instances in which “may” is left as a discretion with the enquiring person—the judge or magistrate. Sometimes you may have a child who has come and is giving you a lot of falsehoods under his testimony and you are bound under the “shall” as a compulsory, mandatory thing; whereas under the “may”, you still have the discretion to say, “Well, if he wants to have his own way—”.

**Sen. Huggins:** Whilst I accept that, I do not think there is any question of “may” or “shall” where taking the child's interest as of paramount importance is concerned. Not that the child is lying or the child is not lying.

**Sen. Mahadeo:** So the discussion ought to remain with the judge or the magistrate under the “may” rather than the “shall”.

**Sen. Huggins:** I think the concept remains that the child's welfare is of paramount interest. We have no problem with “shall”.

**Sen. Mahadeo:** I think “may” is the better word.

**Sen. Mahabir-Wyatt:** Mr. Chairman, I wonder if Sen. Mahadeo would feel better if, in this instance that we are discussing now, which is different from the last one where we took into consideration the interest of the child. In this one, it does say that the magistrate if we say “shall do so with the child or young person's welfare as the paramount consideration”. So although you can take into account the wishes of the child or you should take them into account, the welfare of the child will be paramount. If the child is mischievous—and there could be occasions where the child may be very mischievous—I do not think that the magistrate— The overpowering interest will be the welfare of the child.

**Sen. Mahadeo:** That is right. The word “shall” is going to be covered by the magistrate for having done something whereas ‘may’ will leave him still with the discretion—

**Sen. Mahabir-Wyatt:** It will also bind the magistrate to take as paramount interest, the welfare of the child. If you put “may” the magistrate does not have to have the welfare of the child as being paramount.

**Sen. Mahadeo:** Yes, he does, because he will have the discretionary power then to sift out and see whether the child is telling falsehoods or whether the child is telling the truth and he is then concerned with seeing that the end is—

**Mr. Chairman:** All right, the proposal is that the proposed amendment be changed by putting “shall” for “may”, but we will go through the process and you will have the appropriate time to do that.

*New clause 9 read the first time.*

*Question proposed, That the new clause be read a second time.*

*Question put and agreed to.*

**Mr. Chairman:** The proposed amendment is that in line 2 of (7) the word “shall” should be substituted for the word “may”.

*Question, on amendment, put and agreed to.*

*Question proposed, That the new clause, as amended, be added to the bill.*

*Question put and agreed to.*

*New clause 9, as amended, added to the Bill.*

**Mr. Chairman:** We now go back to Sen. Merritt's amendment to add one new clause.

*New Clause 8.*

**Sen. Capildeo:** There are four amendments as follows:

New Clause 8

Immediately after Clause 7 add the following  
New Clause 8

New sections  
Inserted

8. After section 30 of the Act the following  
sections are inserted:

"30 A(1) All Local Government Authorities and the Tobago House of Assembly shall make such arrangements as they consider appropriate for securing that homes (in this Act referred to as 'community homes') are available for the accommodation and maintenance of children in their care and for purposes connected with the welfare of children, whether in their care or not.

- (2) In making such arrangements, a local government Government Authority and the Tobago House of Assembly shall have regard to the need for ensuring the availability of accommodation of the different descriptions and suitable for different purposes and the requirements of different descriptions of children.

- (3) A community home may be—
  - (a) a home provided, managed, equipped and maintained by a local government authority and the Tobago House of Assembly; or
  - (b) a home provided by a voluntary organisation but in respect of which a local government authority and the Tobago House of Assembly and the voluntary organisation propose that, in accordance with an instrument of management, the management, equipment and maintenance of the home shall be the responsibility either of the local government authority and the Tobago House of Assembly or of the voluntary organisation.
- (4) Where a local government authority or the Tobago House of Assembly is to be responsible for the management of a community home provided by a voluntary organisation, the authority shall designate the home as a controlled community home.
- (5) Where a voluntary organisation is to be responsible for the management of a community home provided by the organisation, the local government authority and the Tobago House of Assembly shall designate the home as an assisted community home.

S.30(B)

- (1) The Minister may by order make an instrument of management providing for the constitution of a body of managers for any voluntary home which, in accordance with (this Part of this Act), is designated as a controlled or assisted community home.

- (2) Where, in accordance with (this Part of this Act), two or more voluntary homes are designated as controlled community homes or as assisted community homes, then if—
- (a) those homes are, or are to be, provided by the same voluntary organisation; and
  - (b) the same local government authority and the Tobago House of Assembly are to be represented on the body of managers for those homes;
- a single instrument of management may be made by the Minister under this section constituting one body of managers for those homes or for any two or more of them.
- (3) The number of persons who, in accordance with an instrument of management under this section, constitute the body of managers for a voluntary home shall be such number, being a multiple of three, as may be specified in the instrument of management, but the instrument shall provide that a proportion of the managers shall be appointed by such local government authority and the Tobago House of Assembly as may be so specified and—
- (a) in the case of a voluntary home which is designated (in accordance with this Part of this Act) as a controlled community home, the proportion shall be two-thirds; and
  - (b) in the case of a voluntary home which is so designated as an assisted community home, the proportion shall be one-third.
- (4) An instrument of management shall provide that the 'foundation managers', that is to say, those of the managers of the voluntary home to which



the instrument relates who are not appointed by a local government authority and the Tobago House of Assembly in accordance with subsection (3) above, shall be appointed, in such manner and by such persons as may be specified in the instrument—

- (a) so as to represent the interests of the voluntary organisation by which the home is, or is to be, provided; and
  - (b) for the purpose of securing that, as far as practicable, the character of the home as a voluntary home will be preserved and that, subject to section 36(3) of this Act, the terms of any trust deed relating to the home are observed.
- (5) An instrument of management under this section shall come into force on such date as may be specified in the instrument, and if such an instrument is in force in relation to a voluntary home the home shall be and be known as a controlled community home or an assisted community home, according to its designation [in accordance with this Part of this Act].

#### S.30(C)

- (1) An instrument of management for a controlled or assisted community home shall contain such provisions as the Minister considers appropriate...but nothing in the instrument of management for such a home shall affect the purposes for which the premises comprising the home are held.
- (2) Without prejudice to the generality of subsection (1) above, an instrument of management may contain—

- (a) provisions specifying the nature and purpose of the home or each of the homes to which it relates;
  - (b) provisions requiring a specified number or proportion of the places in that home or those homes to be made available to local government authorities and the Tobago House of Assembly and to any other body specified in the instrument; and
  - (c) provisions relating to the management of that home or those homes and the charging of fees in respect of children placed therein or places made available to any local government authority and the Tobago House of Assembly or other body.
- (3) Subject to subsection (1) above, in the event of any inconsistency between the provisions of any trust deed and the instrument of management relating to a controlled or assisted community home, the instrument of management shall prevail over the provisions of the trust deed insofar as they relate to that home.
- (4) After consultation with the voluntary organisation by which a controlled or assisted community home is provided and with the local government authority and the Tobago House of Assembly specified in the instrument of management for the time being in force for that home, the Minister may vary or revoke any provisions of that instrument of management by a further instrument of management.
- (5) In this Act the expression 'trust deed', in relation to a voluntary home, means any instrument (other than an instrument of management) regulating the maintenance, management or

conduct of the home or the constitution of a body of managers or trustees of the home.

S.30(D)

- (1) The management, equipment and maintenance of a controlled community home shall be the responsibility of the local government authority and the Tobago House of Assembly specified in the instrument of management for that home, and in the following provisions of this section 'the responsible authority', in relation to such a home, means the local government authority and the Tobago House of Assembly responsible for its management, equipment and maintenance.
- (2) Subject to the following provisions of this section, the responsible authority shall exercise their functions in relation to a controlled community home through the body of managers constituted by the instrument of management for the home, and anything done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible authority.
- (3) Insofar as any matter is reserved for the decision of the responsible authority, either by subsection (4) below or by the instrument of management for the controlled community home in question or by the service by the responsible authority on the managers or any of them of a notice reserving any matters, that matter shall be dealt with by the responsible authority themselves and not by the managers, but in dealing with any matter so reserved the responsible authority shall have regard to any representations made to them by the managers.
- (4) The employment of persons at a controlled community home shall be a matter reserved for

the decision of the responsible authority, but where the instrument of management so provides the responsible authority may enter into arrangements with the voluntary organisation by which the home is provided whereby, in accordance with such terms as may be agreed between the responsible authority and the voluntary organisation, persons who are not in the employment of the responsible authority shall undertake duties at the home.

- (5) The accounting year of the managers of a controlled community home shall be such as may be specified by the responsible authority and, before such date in each accounting year as may be so specified, the managers of a controlled community home shall submit to the responsible authority estimates, in such form as the authority may require, of expenditure and receipts in respect of the next accounting year, and any expenses incurred by the managers of a controlled community home with the approval of the responsible authority shall be defrayed by that authority.
- (6) The managers of a controlled community home shall keep proper accounts in respect of that home and proper records in relation to the accounts, but where an instrument of management relates to more than one controlled community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

S.30(E)

- (1) The management, equipment and maintenance of an assisted community home shall be the responsibility of the voluntary organisation by

which the home is provided, and in the following provisions of this section 'the responsible organisation', in relation to such a home, means the voluntary organisation responsible for its management, equipment and maintenance.

- (2) Subject to the following provisions of this section, the responsible organisation shall exercise its functions in relation to the home through the body of managers constituted by the instrument of management for the home, and any thing done, liability incurred or property acquired by the managers shall be done, incurred or acquired by the managers as agents of the responsible organisation.
- (3) Insofar as any matter is reserved for the decision of the responsible organisation, either by subsection (4) below or by the instrument of management for the assisted community home in question or by the service by the responsible organisation on the managers or any of them of a notice reserving any matter, that matter shall be dealt with by the responsible organisation itself and not by the managers, but in dealing with any matter so reserved the responsible organisation shall have regard to any representations made to the organisation by the managers.
- (4) The employment of persons at an assisted community home shall be a matter reserved for the decision of the responsible organisation but, subject to subsection (5) below—
  - (a) where the responsible organisation proposes to engage any person to work at the home or to terminate without notice the

employment of any person at the home, the responsible organisation shall consult the local government authority and the Tobago House of Assembly specified in the instrument of management and, if the local government authority and the Tobago House of Assembly so direct, the responsible organisation shall not carry out its proposal without the consent of the local government authority and the Tobago House of Assembly; and

- (b) the local government authority and the Tobago House of Assembly may, after consultation with the responsible organisation, require the organisation to terminate the employment of any person at the home.
- (5) Paragraphs (a) and (b) of subsection (4) above shall not apply—
- (a) in such cases or circumstances as may be specified by notice in writing given by the local government authority and the Tobago House of Assembly to the responsible organisation; and
  - (b) in relation to the employment of any person or class of persons specified in the instrument of management.
- (6) The accounting year of the managers of an assisted community home shall be such as may be specified by the responsible organisation and, before such date in each accounting year as may be so specified, the managers of an assisted community home shall submit to the responsible organisation estimates, in such form as the organisation may require, of expenditure and

receipts in respect of the next accounting year; and all expenses incurred by the managers of an assisted community home with the approval of the responsible organisation shall be defrayed by the organisation.

- (7) The managers of an assisted community home shall keep proper accounts in respect of that home and proper records in relation to those accounts, but where an instrument of management relates to more than one assisted community home, one set of accounts and records may be kept in respect of all the homes to which the instrument relates.

S.30(F)

- (1) The Minister may make regulations with respect to the conduct of community homes and for securing the welfare of the children in community homes.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may—
  - (a) impose requirements as to the accommodation and equipment to be provided in community homes and as to the medical arrangements to be made for protecting the health of the children in the homes;
  - (b) impose requirements as to the facilities which are to be provided for giving religious instructions to children in community homes;
  - (c) require the approval of the Minister for the provision and use of accommodation for the purpose of restricting the liberty of children in community homes and impose

other requirements (in addition to those imposed by section 21A above) as to the placing of a child in accommodation provided for that purpose, including a requirement to obtain the permission of the local government authority and the Tobago House of Assembly . . . in whose care the child is;

- (d) authorise the Minister to give and revoke directions requiring—
  - (i) the local government authority and the Tobago House of Assembly by whom a community home is provided or who are specified in the instrument of management for a controlled community home, or
  - (ii) the voluntary organisation by which an assisted community home is provided,to accommodate in the home a child in the care of a local government authority and the Tobago House of Assembly for whom no places are made available in that home or to take such action in relation to a child accommodated in the house as may be specified in the directions;
- (e) prescribe standards to which premises used for community homes are to conform;
- (f) require the approval of the Minister to the use of buildings for the purpose of community homes and to the doing of anything (whether by way of addition, diminution or alteration) which materially affects the buildings or grounds or other facilities or amenities available for children in community homes;



- (g) provide that, to such extent as may be provided for in the regulations, the Minister may direct that any provision of regulations under this section which is specified in the direction and makes any such provision as is referred to in paragraphs (a), (f) or (g) above shall not apply in relation to a particular community home or the premises used for it, and may provide for the variation or revocation of any such direction by the Minister.
- (3) Without prejudice to the power to make regulations under this section conferring functions on the local government authority and the Tobago House of Assembly or voluntary organisation by which a community home is provided or on the managers of a controlled or assisted community home, regulations under this section may confer functions in relation to a controlled or assisted community home on the local government authority and the Tobago House of Assembly named in the instrument of management for the home.

8, 9 and 10    Renumber clauses 8, 9 and 10 as 9, 10 and 11."

I do not know if the hon. Minister, Mr. Chairman, would like any explanations on each paragraph, each word.

**Mr. Chairman:** No, although it is a very lengthy amendment, it is very simple.

**Sen. Capildeo:** Yes, I said so, Sir.

**Mr. Chairman:** Straightforward. Simple, for the purposes of the Chair. Sen Merritt's proposal is that a new clause 8 be added to the Bill:

The Clerk will now read the marginal note for the new clause 8.

*New Clause 8.*

Immediately after Clause 7 add the following New Clause 8."

*New clause 8 read the first time.*

*Question proposed, That the new clause 8 be read a second time.*

**Sen. W. Mark:** Sir, when are we getting a chance to deal with this?

**Mr. Chairman:** Right now.

**Sen. Capildeo:** The first clause, Sir:

"All local government authorities and the Tobago House of Assembly shall make such arrangements as they consider appropriate for securing that homes (in this Act referred to as "community homes")..."

**Mr. Chairman:** Do you have any changes to propose to the list of amendments that was circulated?

**Sen. Capildeo:** No, Sir. I really wanted to explain clause by clause the simplicity of the amendment.

**Mr. Chairman:** I think they have been circulated long enough, about three weeks now. All the Senators have had a chance to digest it properly.

**Sen. Capildeo:** May I enquire, Sir, does anybody need any clarification?

**Mr. Chairman:** I am sure you will be prepared to respond to any questions that may be raised. Would anyone like to comment on the amendment?

**Sen. Capildeo:** You mean, the amendment is of such clarity that no one needs any explanation. A work of art.

**Sen. Daly:** Mr. Chairman, can I just understand the basis for its rejection? Why is this being rejected, Sir, this local government provision?

**Sen. W. Mark:** You mean the Government did not accept?

**Dr. Baboolal:** Mr. Chairman, in my reply, I mentioned that most of the amendments moved by Sen. Merritt dealt with infrastructure which had to be put in place in order to vest local government with the authority for the responsibility of children. Under our present local government system, we do not have the legislation or the infrastructure to deal with children. This whole thing that Sen. Merritt proposed here, in fact, came out of the United Kingdom Children Act, practically word for word actually, from that Act. In England, the local authorities there have long had the charge of children and they have all the statutory laws and

regulations in place. As I mentioned, these are some things that we can consider in the long term, especially with our new social services system going into place, but they cannot be considered under the present Bill, Sir. We do not have the infrastructure or the laws.

**Sen. Capildeo:** Mr. Chairman, may I just interject? All this is doing is saying that the local government authorities should secure homes. The Minister is still in charge. You do not need to amend any legislation.

**Dr. Baboolal:** It is not just simply a matter of establishing community homes. There is a lot more than that. You cannot just—

**Sen. Capildeo:** I know. That is why the Minister has been left in charge. If you look at section 30(b)(1), the Minister is still in charge. All the local government authorities the THA and so forth, do is provide the homes. The Minister is still in charge, so you do not have to wait on any infrastructure. The thing is ready made.

**Sen. Huggins:** Mr. Chairman, if my Friend reads his amendment properly, he would see that not even much thought was put into copying the English provision. Apparently what happens, even in the UK, is that children are really in the care of the local authorities. If you look at the amendment at 30(A)(1), at page 2, you would see they talk about:

"...are available for the accommodation and maintenance of children in their care..."

The word "their" refers to the English local authorities which, in fact, have the care of the children. This is a system that has been built up in England over many years. It is not something that we can just take and import into Trinidad where we even have problems with what we have. I suspect we are then going to put this in place and—

**Sen. Capildeo:** Is that the basis for the objection?

**Dr. Baboolal:** I said we can think about it in the long term but we cannot just put into place—

**Sen. W. Mark:** I thought we made the point about local experts.

**Sen. Capildeo:** Yes. We have all the local experts, so why can we not put it into being now?

**Sen. Huggins:** All that really happened here is that the words "local government authorities and the Tobago House of Assembly" have been taken and put in place of whatever regional authorities that exist in the UK. But it is a system that has been tried and tested in the UK. We really do not have the infrastructure and that sort of thing and the whole history developed.

**5.50 p.m.**

**Sen. Daly:** Am I right in that there is no provision in the parent Act for committing children who are the subject of a Care Order in the care of a local authority; it has to be a relative or something like that? Am I right?

**Dr. Baboolal:** Yes.

**Sen. Capildeo:** Madam Minister, do I have your undertaking that at some point in time such a system would come into play?

**Dr. Baboolal:** Certainly, as I say, we would be definitely looking at it, but it is a long term system, because we are looking at our new social services system.

**Sen. Mahabir-Wyatt:** Could I add my voice to what Sen. Capildeo said, and say that I hope at some point in time—

**Dr. Baboolal:** We are looking at the whole question of the decentralization of social services—

**Sen. Mahabir-Wyatt:** I think it is an excellent idea and I feel very sad that I cannot see it go through now—

**Dr. Baboolal:** But you understand why we cannot do it now.

**Sen. Mahabir-Wyatt:** Yes.

**Sen. W. Mark:** Mr. Chairman, could the hon. Minister indicate to us when this comprehensive review that she spoke about—

**Dr. Baboolal:** The whole exercise is being done at the moment.

**Sen. W. Mark:** I know, but when is this going to happen?

**Sen. Huggins:** The debate is finished.

**Sen. W. Mark:** Mr. President, we, on this side, have a very serious concern about the absence of infrastructural facilities to deal with the rights of children, and our amendments are designed to ensure that children who are at risk would, in

fact, be able to have the facilities, so that they can recover and grow up in the kind of atmosphere and environment necessary for the kind of development that they would require. In Trinidad and Tobago there is an absence of these facilities and hence the reason we have advanced these very sound, positive and progressive amendments to this Senate. We take objection to the kind of flippant approach that is being taken by the Government in dealing with a very fundamental issue. We are not going to just simply lie down, roll over and die, in terms of these amendments. These are very fundamental amendments, as far as we are concerned, and we would like something more positive coming from the Government side, rather than this flippant, arrogant, insensitive and vicious approach that this Minister has on that side. Not you, Madam, I am very clear on your proposal.

*Question put*, That the new clause be read a second time.

*The Senate divided:*                      *Ayes, 5*                      *Noes, 21*

**AYES**

Mark, W.

Capildeo, S.

Baksh, Miss S.

Kwabene, R.

Hosein, M.

**NOES**

Saith, Hon. Dr. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Mark, A.

Callender, S.

*Children (Amdt.) Bill*

*Tuesday, November 9, 1993*

Ojah-Maharaj, D.

Elder, Miss J.

Rahael, J.

Hassim, A.

Mansoor, M.

Rooks, J.

Mahabir-Wyatt, Mrs. D.

Daly, M.

Dean, E.

Mahadeo, Miss C.

Teelucksingh, Rev. D.

Wilson, L.

*Amendment negatived.*

**Mr. Chairman:** We now continue with the amendments proposed by the Minister which reads as follows:

"New clauses 12 and 13      Renumber clause 8, 9 and 10 as 14, 15 and 16 respectively and insert after clause 11 (as renumbered) the following new clause 12.

Section 29 amended      12. Section 29(1) of the Act is amended in the definition of 'orphanage' by adding after the word 'children' the words 'or a home or institution'."

*New clause 12 read the first time.*

*Question proposed,* That the new clause be read a second time.

**Sen. Mahabir-Wyatt:** Mr. Chairman, I do not want to belabour this point because it is late and I realize that we have gone through a lot, but I think that there may be a mistake in the drafting of the one that we have now before us. It does not read sensibly, if you take it the way it is. The definition of "orphanage" should be either, "adding after the word, "school" the words "or a home or

institution" for children and removing "the industrial training" because an orphanage is a home or institution where children are lodged, clothed and fed, as well as taught, but an orphanage is not primarily a school. I think that if the Minister wishes to keep in the word "orphanage" meaning a school, I think that the "or home or institution" must be added there, and the word "for the industrial training" could be removed. This is the whole point of the recommendation for the amendment. I just think it got scrambled up in the drafting here, perhaps in the typing, because if you take this as it is in front of us it would read: "Orphanage' means a school for the industrial training of children which children are lodged, clothed and fed as well as taught, or a home or institution" which really does not make sense.

**6.00 p.m.**

**Sen. Huggins:** I really do not understand why—

**Sen. Mahabir-Wyatt:** Listen to how it would read:

"Orphanage means a school for the industrial training of children in which children are lodged, clothed and fed as well as taught or a home or institution."

They are fed as well as taught or a home? It is bad grammar for one thing.

**Sen. Capildeo:** It makes no sense.

**Sen. Mahabir-Wyatt:** If the hon. Senator would take a look, I think it may be the word "school" and "taught", which are very close in conception, got mixed up. It means a school and after that put in "or home or institution".

**Sen. Huggins:** *[Inaudible]*

**Sen. Mahabir-Wyatt:** Right after school

**Sen. Huggins:** Do you mean "for industrial training"? We cannot take out "for industrial training".

**Sen. Mahabir-Wyatt:** Well, if you do not want to take it out leave it in, but just put "a school or home or institution" because the primary purpose of an orphanage is not industrial training. Two definitions above that is "industrial school" which is a school for industrial training. There is a distinction between a "school for industrial training" and an orphanage which is a home or institution where children are lodged, clothed and fed, as well as taught to develop. The whole concept of an orphanage is a place where children are taken care of.

**Dr. L. Saith:** Is the Senator saying that it should read "orphanage means a school for industrial training of children, or a home in which children are lodged...?"

**Sen. Mahabir-Wyatt:** I accept that.

**Mr. Chairman:** The amendment now reads as follows:

"12. Section 29(1) of the Act is amended in the definition of 'orphanage' by adding after the word 'children' the words 'or a home or institution'".

*Question put and agreed to.*

*Question proposed, That the new clause be read a second time.*

*Question put and agreed to.*

*Question proposed, That the new clause 12, as amended, be added to the Bill.*

*Question put and agreed to.*

*New clause 12, as amended, ordered to stand part of the Bill.*

**Dr. Baboolal:** Mr. Chairman, I beg to move that clauses 8, 9 and 10 be renumbered as clauses 13, 14 and 15 respectively.

*Question put and agreed to.*

*Clauses 8, 9 and 10 renumbered 13, 14 and 15 respectively.*

*Preamble ordered to stand part of the Bill.*

*Question put and agreed to, That the Bill, as amended, be reported to the Senate.*

*Senate resumed.*

*Bill reported with amendment.*

*Question put, That the Bill be now read the third time.*

*The Senate voted: Ayes, 23*

**AYES**

Saith, Hon. Dr. L.

Huggins, Hon. R.

Barnes, Hon. B.

Kuei Tung, Hon. B.



*Children (Amdt.) Bill*

*Tuesday, November 9, 1993*

Yuille-Williams, Hon. J.  
Draper, Hon. G.  
Robinson-Regis, Hon. C.  
Mark, A.  
Callender, S.  
Ojah-Maharaj, D.  
Elder, Miss J.  
Rahael, J.  
Gosine, Pundit R.  
Hassim, A.  
Mansoor, M.  
Rooks, J.  
Mahabir-Wyatt, Mrs. D.  
Ali, H.  
Daly, M.  
Dean, E.  
Mahadeo, Miss C.  
Teelucksingh, Rev. D.  
Wilson, L.

*The following Senators abstained: W. Mark, S. Capildeo, S. Baksh, R. Kwabene, and M. Hosein.*

*Question agreed to.*

*Bill accordingly read the third time and passed.*

**6.10 p.m.**

#### ADJOURNMENT

**The Minister of Planning and Development (Sen. Dr. The Hon. Lenny Saith):** Mr. President, I beg to move that the Senate do now adjourn to Tuesday, November 16, 1993 at 1.30 p.m.

*Adjournment*

*Tuesday, November 9, 1993*

**Mr. President:** Is there a Senator for the Motion for the Adjournment?

**Dr. Saith:** Yes, Mr. President.

**Mr. President:** Before putting the question for the adjournment, Sen. Carol Mahadeo has been granted leave to raise a matter on the Motion for the adjournment. The matter deals with the need to maintain a visible police presence outside the walls of the Central Market, Port of Spain facing South on the Beetham Highway, to assist in prevention of crime to person and property of those who park vehicles there to do business inside the market.

Sen. Mahadeo you have 15 minutes in which to make your comments and the Minister will have the same time to reply.

**Security  
(Central Market, Port of Spain)**

**Sen. Carol Mahadeo:** Mr. President, after the committee stage of the Bill that has been passed, Senators have been in quite a jovial mood, most of us.

I am happy that I have been given the opportunity this afternoon to put this Motion forward on the topic that you have just read out to us: the need to have and maintain a visible police presence in uniform or in plain clothes outside the walls of the Central Market, Port of Spain facing South onto the Beetham Highway, to assist in the prevention of crime to person and property of those who park vehicles there to do business inside the market.

While I am saying outside of the Port of Spain Market, I would like to amplify on that and say, all the market places throughout Trinidad and Tobago should be so equipped; because of what is going on inside and outside of those markets—and those who care to smile and laugh may do so. I, too, felt that I was not subject to that sort of situation and was accosted at knife point three Saturdays ago on October 16, 1993 at 10.30 a.m. outside the southern walls of the Central Market. We may all say we are not going to be subjected to that. It was my turn on October 16, 1993 and it may be the turn of anyone of the Senators on another occasion. I am a grass-roots person. Do not tell me to go and do my buying of vegetables in the supermarket. I have a choice, yes, but if I choose to go to the Central Market or to any other market to do my shopping, I have a right and an entitlement to be there and to get the protection of the forces that are available to us as paying citizens in the country.

It is interesting to note that on the Senate Order Paper for several weeks now my Friend and colleague, Sen. Mahabir-Wyatt, has had a motion down for debate under "Private Business," on the escalation of crime, lawlessness and criminal activity involving violence to the person and deterioration in the control of the same. She did this because of what has been happening around her over the past years and the escalation within the last few months. Little did she realize that one of her colleagues inside this Senate would have been subjected to the type of violence that, in fact, was meted out to me. And this I bring only after several colleagues of mine met me outside of the Chamber and insisted that I should have brought this before the Minister of National Security, to get his immediate attention. I am happy to see that he is well recovered from his illness and that he is out this afternoon so that he will give me his full attention and action.

My Friends and colleagues, I really do feel—and I am giving it to you as a gut feeling because, until you go through that experience yourself, you cannot have any empathy with me. I know Sen. Salisha Baksh may, because she has gone through that experience herself.

Mr. President, I do not want it to be said that because it is Sen. Carol Mahadeo who is always getting into these sorts of difficulties with thieves, vagabonds and bandits and things of the sort. I move about as any other normal citizen does and I would be subjected to the type of thing that every ordinary citizen is exposed to. This is why I thought I would bring this matter before the Senate.

I must point out that about two and a half years ago I had cause to write a petition on behalf of the wholesale market vendors at this very Central Market in Port of Spain, because they used to come at three o'clock in the morning—and I still think they come at three o'clock in the morning—to vend their wholesale goods. At that time, they complained that they were heavily vandalized, they were beaten and robbed of not only their goods and their money but they were also subjected to injury at that early hour of the morning. Because there was no city police around to assist them, these vandals would just do these things and run up the hills on the northern side of the market. I am told by another colleague that three robberies a week take place there. The city police replied by putting their presence inside the market but in a very marasme sort of way. Two or three city policemen—some of the most malnourished looking ones—are put on duty there, so that if one good able-bodied thief were around he could manhandle them all and go about his business again.

*Security (Central Market, Port of Spain)*  
[SEN. MAHADEO]

*Tuesday, November 9, 1993*

I make it clear that I have been a regular shopper at that market over the years, since its inception, and it has been my habit to go and park there every Saturday morning as others have been doing, and still continue to do, on the southern side of the market, outside of the walls, to attend to our legal and lawful work. It is quite convenient because one is able to operate more easily on that East-West Corridor but then, one is also exposed to elements that come out from the southern side of the Beetham Highway. Some are good, some are bad, but some are definitely very bad.

I was also told, "You should not go in there yourself to do your shopping. Why don't you send your maid, your yard boy or handy-boy?" I do not think that is appropriate. If I choose to go and do my legitimate business, I do not think that I can delegate it to my maid or to my handyman. Sure, I have got a maid and a handyman, but I prefer to go and do that myself and I am entitled to get the protection while I am about my legitimate business.

Let me go into the nitty-gritty of it so that all present will understand the gravity of what I am speaking about. I got in there around 10.30 a.m, parked my vehicle, did my shopping and got into the car—until I make it graphic no one will understand the terror—and as I put my things into the left hand side of my vehicle and was getting around to get back to the driver's seat with my switch key in one hand and my wallet in the left, I just felt—while still on the side of the car—something stick me—a very sharp instrument—on my neck, on my vein in broad daylight at 10.30 a.m.

Mr. President, not a city policeman in uniform was outside there that busy Saturday morning and very few, if any at all, inside of the market. A number of vehicles were parked there. I could not have seen the person at that time because of the angle at which he stood. If I had bent back, my vein would have been pierced and I would have been a statistic for you here this afternoon. I felt that, and the person said, "Give me that". I said, "Give you what? He said, "Hand up that!". And with those words, my wallet was snatched and as my neck was released, I was able to see the young man pushing a brown knife with a six or seven-inch blade into his pants pocket.

He just casually walked across and jumped the 10-foot wall of the market and mixed with the people inside the market. An elderly couple was standing near their car next to me. They thought that the man was talking with me until they saw what had really happened and realized it was a robbery.

This is the situation that faces every citizen who goes into that market, or into any other district market where the public is being served by these vendors. I plead now, not only because of the experience I have had, but for the general public and for the vendors who are actually plying their trade. They need to be secured; they need to be protected. Their property and person need to be protected and so do we who have to go and do our legitimate business of buying.

This is the reason I am appealing now to our Minister of National Security to see to it—and do not tell this Senate that there are insufficient police officers in the City Police Corporation to delegate out there. They do not need motorcycles. They do not need vehicles. One big police van from the City Corporation can house about a dozen officers and can be parked in the Central Market—place six officers outside and six officers inside. That could be done with immediate effect. Do not tell me you cannot find the people. You are recruiting and there are passing out parades every six months. This is something that needs immediate attention and I am requesting that this be done with immediate effect.

**Mr. President:** Sen. Mahadeo, you have two more minutes.

**Sen. C. Mahadeo:** Yes, Sir, I am getting on to the last few words. I would not even read from my notes. I am saying it is Government's business to put in place personnel, whose duty it is to protect and serve the paying public.

**6.20 p.m.**

We are ratepayers. We are helping the corporation to get their money and we must be protected for the dollars and cents that we are putting into the coffers of the city corporation.

I am now asking the Minister of National Security—I know he feels a little bit under the weather, at least he looks that way, but I do trust that his ears are not as sickly looking as his face. He is trying to make me feel he is ill. I am saying this and we all are laughing and joking about it, but ladies and gentlemen, I really want the Minister of National Security to see that something is done quickly, not only for the Central Market, the vendors and members of the public who go there, but for all markets in all the districts, so that we are protected.

Thank you.

**The Minister of National Security (Sen The Hon. Russell Huggins):** Mr. President, first of all let me convey my heartfelt sympathies to the hon. Senator for the experience which she had to undergo outside the Central Market.

*Security (Central Market, Port of Spain)*  
[HON. R. HUGGINS]

*Tuesday, November 9, 1993*

However, I am fully aware that the particular Senator takes a great delight in blaming me for everything. Let me assure this Senate that insofar as the police attached to the city corporation are concerned, I have no responsibility for them. That is a matter that falls within the purview of the Minister of Local Government. The city police have absolutely nothing to do with the Trinidad and Tobago Police Service

The city police are employed by the city corporations and the regional corporations. However, I shall convey the sentiments expressed by the Senator to the Minister responsible, so that he can have discussions with the Mayor and the respective chairmen of the regional corporations, so that the question of the policing of the market is looked into. One must understand that once one is within the walls of the market, that falls within the jurisdiction of either the city corporation or the regional corporation, depending in which district the market falls.

The Trinidad and Tobago Police Service is responsible for security elsewhere. I am advised by the Commissioner that there is a stepped-up presence of uniformed police outside the market, on particular days; I think it is four days a week. One has to understand also, as we indicated, that there are passing out parades ever so often. That does not relate to city police; that relates to the Trinidad and Tobago Police Service.

Like the city corporation, the Government itself, as I have explained before—and I know people do not like to hear this, but these are the hard facts—does not have the financial resources to increase the complement of the police service, either the Trinidad and Tobago Police Service or the city police. Whether it is the PNM Government in power, a UNC government in power or a bunch of independents in power, we do not have the funds. For years now, what we have been doing is simply filling vacancies in the police service.

I know it is something that nobody likes to hear, but that is the fact. I cannot say like the Member for St. Augustine, to print money so that we could have money to hire people. *[Interruption]* Go and ask Mr. Humphrey. We are trying to do our best with the limited resources that we have. It is unfortunate that at times some people have to go through the trauma of being held up, but there is not much more that we can do with the limited resources we have. The most we can do is try our best to address the situation and the Government is in fact doing that.

*Security (Central Market, Port of Spain)*

*Tuesday, November 9, 1993*

As I indicated when I opened, I shall convey the Senator's sentiments to the Minister of Local Government so that he can have discussions with the regional corporations with respect to security at the markets. That is about all that I can say on the matter.

Thank you.

**SENATOR'S WELCOME**

**Mr. President:** Before putting the question, I would like to say that I did not have the pleasure to be present when Sen. Wilson took his oath last week. I am very happy to see him here. I am sorry I did not hear from him this week, and I hope this would not be his first and last appearance. I am sure we would have the privilege of having him on other occasions in the future and he would have a very valuable contribution to make.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.28 p.m.*