

Leave of Absence

Tuesday, November 19, 2002

SENATE

Tuesday, November 19, 2002

The Senate met at 1.30 p.m.

PRAYERS

[MR. VICE-PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have granted leave of absence from sittings of the Senate to Sen. The Hon. Dr. Linda Baboolal for the period November 17—24, 2002; Sen. The Hon. Howard Chin Lee for the period November 17—24, 2002; Sen. The Hon. Glenda Morean-Phillip for the period November 18—21, 2002 and Sen. The Hon. Hazel Manning for today only.

ARRANGEMENT OF BUSINESS

Mr. Vice-President: Hon. Senators, I have received information advising me that a Senator is required to be sworn in. However, the instruments of appointment have not yet been received and I seek leave to have the Senator sworn in at a later stage in the proceedings.

Agreed to.

JOINT SELECT COMMITTEES

(APPOINTMENT OF)

Mr. Vice-President: Hon. Senators, I have received the following communication from the Hon. Barendra Sinanan, Speaker of the House of Representatives:

“Please be informed that at a sitting held on Friday November 15, 2002, the House of Representatives agreed to the following resolution which was moved by the Honourable Prime Minister and Minister of Finance:

‘BE IT RESOLVED that this House appoint the following five Members:

Mrs. Camille Robinson-Regis

Mr. Fitzgerald Hinds

Mr. Anthony Roberts

Mrs. Kamla Persad-Bissessar

Ms. Gillian Lucky

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to sit with an equal number from the Senate as a joint select committee to consider and report on the undermentioned Bills:

The Constitution (Amdt.) Bill, 2002;

The Police Service Bill, 2002;

The Police Complaints Authority Bill, 2002.

AND BE IT FURTHER RESOLVED that this Committee be mandated to publish these Bills for public comment; receive public comments on the Bills over the next six weeks; to consider such public comments and report back to the Parliament no later than February 21, 2003 and be empowered to send for persons, papers and records, sit in public if it so desires and receive expert advice and assistance.'

Accordingly, I respectfully request that you cause this matter to be placed before the Senate at the earliest convenience.

Respectfully,
Barendra Sinanan MP
Speaker"

Further correspondence.

"Dear Madam President,

Resolutions—PAC, PAEC, and Other Joint Select Committees

Please be informed that at a sitting held on Friday November 15, 2002, the House of Representatives agreed to the following five (5) resolutions which were moved by the Honourable Minister of Health and acting Leader of the House:

- (1) BE IT RESOLVED that this House appoint the following five members to serve with an equal number from the Senate on the Public Accounts Committee:
 - Mr. Fitzgerald Hinds
 - Mr. Eric Williams
 - Ms. Diane Seukeran
 - Mr. Gerald Yetming
 - Mr. Winston Dookeran.
- (2) BE IT RESOLVED that this House appoint the following five members to serve with an equal number from the Senate on the Public Accounts (Enterprises) Committee:

Mr. Colm Imbert
Mr. Hedwige Bereaux
Mrs. Eudine Job-Davis
Mr. Kelvin Ramnath
Dr. Hamza Rafeeq.

- (3) BE IT RESOLVED that this House appoint the following five members to serve with an equal number from the Senate on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of Municipal Corporations and Service Commissions, with the exception of the Legal Service Commission:

Mr. Hedwige Bereaux
Mr. Anthony Roberts
Mr. Franklin Khan
Mrs. Eudine Job-Davis
Mr. Chandresh Sharma.

- (4) BE IT RESOLVED that this House appoint the following six members to serve with an equal number from the Senate on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of Government Ministries with responsibility areas as set out in Part I of the Appendix and on statutory authorities and state enterprises which fall within the purview of such Ministries:

Dr. Keith Rowley
Mr. Hedwige Bereaux
Mrs. Eulalie James
Mr. Fitzgerald Hinds
Mr. Ganga Singh
Mrs. Kamla Persad-Bissessar.

- (5) BE IT RESOLVED that this House appoint the following six members to

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serve with an equal number from the Senate on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of Government Ministries with responsibility areas as set out in Part II of the Appendix and on statutory authorities and state enterprises which fall within the purview of such Ministries:

Mr. Fitzgerald Hinds

Mr. Jarrette Narine

Mr. Anthony Roberts

Mr. Hedwige Bereaux

Mr. Kelvin Ramnath

Dr. Hamza Rafeeq.

Accordingly, I respectfully request that you cause these matters to be placed before the Senate at the earliest convenience.

Respectfully

Barendra Sinanan, MP

Speaker”

PROCEDURAL MOTION

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to inform the Senate that a motion to give effect to the matters referred to in the correspondence to the hon. President would be dealt with under item 14 on the Order Paper, Motions Relating to the Business or Sittings of the Senate.

PAPER LAID

Central Bank of Trinidad and Tobago/Annual Report and Annual Audited Statement of Accounts for the year ended September 30, 2001. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]

DEFINITE URGENT MATTERS

(LEAVE)

Mr. Vice-President: Hon. Senators, there were two applications for leave to discuss matters of urgent public importance which I have decided were not correct under Standing Order 12, and I have advised Sen. R. Montano to raise his matter under Standing Order 11. Efforts were made to contact Sen. Mark; I was unable to

do so, and I now advise Sen. Mark to raise his matter under Standing Order 11 also.

Sen. Mark: May I raise it now?

Mr. Vice-President: Matters raised under Standing Order 11 must be tendered some five days beforehand.

Sen. Mark: Mr. Vice-President, I was wondering if I could present it because of the critical nature of this particular motion, and the health crisis that has arisen out of the flooding.

Mr. Vice-President: Sen. Mark, I have examined the motions myself and I have decided that they do not constitute matters of urgent public importance as outlined in Standing Order 12. I am advising that you may raise them under Standing Order 11.

Sen. R. Montano: Mr. Vice-President, I accept your ruling, of course I do not agree with it, but I accept it. May I respectfully enquire if I were to file the motion that I have filed on flooding, and the question of a serious health crisis from a nonbacterial virus that was brought into this country on Saturday by the motor vessel *Amsterdam* by tomorrow before 4.00 p.m., will I be in time for next week's sitting to have the matter on the adjournment? Will the five days count so that I will be on time?

Mr. Vice-President: Certainly.

Sen. R. Montano: Thank you. Just to get it right, I must file before 4.00 p.m. tomorrow, is that correct?

Mr. Vice-President: Yes.

FLOOD VICTIMS

The Minister in the Office of the Prime Minister (Sen. The Hon. Christine Kngaloo): Mr. Vice-President, I wish to inform this honourable Senate on the actions that have been taken by the Office of the Prime Minister, Social Services Delivery with respect to the recent floods.

Over the last few days, the various divisions of the Office of the Prime Minister, Social Services Delivery have had to respond to the many requests for assistance to persons who have fallen victims in the recent floods. On a daily basis, we have been receiving reports that several households throughout the country have been badly affected by the floods and require immediate assistance

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[SEN. THE HON. C. KANGALOO]

by way of immediate shelter, food, including cooked meals, mattresses and household items.

So far, officers from the Social Help and Rehabilitation Efforts (SHARE), the National Family Services and the Social Welfare Division of the Ministry have visited several of the villages and communities affected by the floods to assess their immediate needs. The Director of the National Family Services of this ministry is also the chairperson of the Social and Voluntary Services Task Force of the National Emergency Management Agency (NEMA) and through her, we have been in constant communication with the various municipal corporations and NEMA to make every effort to reduce duplication and to assure equity as we attempt to meet the needs of our fellow citizens in their time of distress.

Officers of these organizations and their respective village councils have done, and are now conducting house-to-house assessments. The names, addresses and telephone numbers of persons affected by the floods, and a list of household items and other assistance needed are being collated. The information collected is being relayed to us for further action.

Mr. Vice-President, the reason for approaching the situation in this way is to ensure that the same persons do not access assistance from various sources while others are left out, and the claims made are valid and in good faith. Officers from this ministry have already visited affected areas in St. Helena, Frederick Settlement, Caroni, Munroe Road, Carlsen Field, Coora Village, Montrose, Enterprise, Freeport, Ragoonanan Road and Welcome, Macoya, Valsayn North, Bamboo Nos. 1 and 2 and Kelly Village.

Yesterday, the Director of Social Welfare and other senior staff met with the President of the St. Helena Village Council to discuss their concerns, what were their particular needs, and to obtain an idea of what assistance villagers had obtained so far from government agencies, NGOs and the private sector and individuals.

Later in the evening, a team led by the permanent secretary met the villagers of Frederick Settlement and the Member of Parliament for the area to discuss their situation. These villagers had indicated that they wanted food hampers, mattresses, and to have some of their appliances and household articles that were destroyed in the floods replaced. Apart from that, their main concerns were to have the drains cleared, cesspits cleaned, the surroundings sprayed, and their children inoculated. The village councils from these areas are to submit a comprehensive list today to the Social Welfare Division so that it can start processing claims under the Urgent Temporary Assistance Programme and SHARE.

Mr. Vice-President, later this week, officers from the ministry will visit other affected areas in Warrentville and Claxton Bay to conduct similar exercises. Additionally, the Director of the National Family Services Division and the Director of Social Welfare are scheduled to meet with the representatives of the regional corporations on Wednesday this week to discuss how the process could be improved.

Ideally, effective responses by government agencies to national disaster situations should come in 72 hours. The arrangement, as it exists at this present time does not allow for this. As a consequence, the staff of this ministry has decided to meet officials of NEMA and the regional corporations to devise a common form that could be utilized by the various agencies of health, works and transport, regional corporations and social services, and to establish multidisciplinary teams comprising those key agencies that would make one visit to assess the situation and collect pertinent information. This team would then meet together to discuss what action is necessary.

Mr. Vice-President, citizens are traumatized by the recent floods and live in fear of repeat flooding. The Government understands these fears. Let me assure Senators and the nation at large, that officers of my ministry are in constant contact with officials of NEMA and the regional corporations as we continue to monitor the situation hour by hour and we stand ready to render assistance to citizens.

Thank you.

OLD AGE PENSIONS (AMDT. AND VALIDATION) BILL

Bill to amend the Old Age Pensions Act, Chap. 32:02 and to validate certain things done thereunder [*The Minister in the Office of the Prime Minister, Social Services Delivery*]; read the first time.

PUBLIC ASSISTANCE (AMDT. AND VALIDATION) BILL

Bill to amend the Public Assistance Act, Chap. 32:03 and to validate certain things done thereunder [*The Minister in the Office of the Prime Minister, Social Services Delivery*]; read the first time.

**LEASES OF STATE LANDS
(VALIDATION) BILL**

Bill to validate certain leases of state lands registered under the Real Property Ordinance, Chap. 27 No. 11 and certain leases of state lands registered under the Registration of Deeds Act, Chap. 19:06 and for matters related thereto [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

STATE LANDS (AMDT.) BILL

Bill to amend the State Lands Act, Chap. 57:01 [*The Minister of Agriculture, Land and Marine Resources*]; read the first time.

**JOINT SELECT COMMITTEE
(Appointment of)**

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following five Members:

Mrs. Glenda Morean-Phillip

Ms. Christine Kangaloo

Mr. Rennie Dumas

Mr. Wade Mark

Prof. Ramesh Deosaran

to sit with an equal number from the House on a Joint Select Committee to consider and report on the undermentioned Bills:

Constitution (Amdt.) Bill, 2002

Police Service Bill, 2002

Police Complaints Authority Bill, 2002.

And be it further resolved that this committee be mandated to publish these Bills for public comment; receive public comments on the Bills over the next six weeks; to consider such public comments and report back to the Parliament no later than February 21, 2003 and be empowered to send for persons, papers and records, sit in public if it so desires and receive expert advice and assistance.

Question put and agreed to.

**PUBLIC ACCOUNTS COMMITTEE
(Appointment of)**

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following five Members to serve with an equal number from the House on the Public Accounts Committee:

Ms. Christine Kangaloo

Mr. Satish Ramroop

Mr. Conrad Enill
 Mrs. Carolyn Seepersad-Bachan
 Amb. Christopher Thomas
Question put and agreed to.

**PUBLIC ACCOUNTS (ENTERPRISES) COMMITTEE
 (Appointment of)**

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following five Members to serve with an equal number from the House on the Public Accounts (Enterprises) Committee:

Ms. Christine Kangaloo
 Pundit Maniedeo Persad
 Mr. Mustapha Abdul-Hamid
 Mr. Wade Mark
 Mrs. Mary King
Question put and agreed to.

**JOINT SELECT COMMITTEES
 (Appointment to)**

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following six Members to serve with an equal number from the House on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of municipal corporations and service commissions, with the exception of the Legal Service Commission:

Mr. Mustapha Abdul-Hamid
 Ms. Christine Kangaloo
 Pundit Maniedeo Persad
 Mr. Arnim Smith
 Mr. Robin Montano
 Prof. Ramesh Deosaran
Question put and agreed to.

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following six Members to serve with an equal number from the House on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of Government Ministries with responsibility areas as set out in Part I of the Appendix and on statutory authorities and state enterprises which fall within the purview of such Ministries:

Mr. Rawle Titus

Mr. Conrad Enill

Mr. Satish Ramroop

Mr. Wade Mark

Mr. Sadiq Baksh

Mrs. Parvatee Anmolsingh-Mahabir

Question put and agreed to.

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President, I beg to move that the Senate appoints the following six Members to serve with an equal number from the House on the Joint Select Committee established under Section 66A of the Constitution to consider and report on the operations of Government Ministries with responsibility areas as set out in Part II of the Appendix and on statutory authorities and state enterprises which fall within the purview of such Ministries:

Mr. Rawle Titus

Mr. Mustapha Abdul-Hamid

Pundit Maniedeo Persad

Mrs. Carolyn Seepersad-Bachan

Dr. Jennifer Kernahan

Mrs. Mary King

Question put and agreed to.

Sen. Prof. Deosaran: Mr. Vice-President, I crave your indulgence at this particular time on the subjects just raised by the hon. Leader of Government Business to remind him and his Government that the question of resources for these committees was raised several times. I take the opportunity to remind the

Government that without proper resources for the effective functioning of these various committees—important as they are—the work will not be as expected. There were also some indications given when the Government was in Opposition as to how to handle these committees. I need say no more, except to remind them what those pledges and those views were with respect to the governance of the respective committees.

Cellular phone rings.

Mr. Vice-President: I would like to ask Senators to switch their cell phones off please. We have had a couple instances where we heard signals from cell phones.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have been advised that the instruments of appointment are here and I would like to deal with the matter of the appointment of the Senator now please.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N.R. ROBINSON, T.C.,
O.C.C, S.C., President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ Arthur N. R Robinson
President.

TO: MRS. JOAN HACKSHAW-MARSLIN

WHEREAS Senator Howard Chin Lee is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N.R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOAN HACKSHAW-MARSLIN, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Howard Chin Lee.

Given under my Hand and the Seal of the President
of the Republic of Trinidad and Tobago at the
Office of the President, St. Ann's, this 19th day
of November, 2002.”

Oath of Allegiance

Tuesday, November 19, 2002

OATH OF ALLEGIANCE

Sen. Joan Hackshaw-Marslin took and subscribed the Oath of Allegiance as required by law.

RELATED BILLS

The Minister of Legal Affairs (Hon. Camille Robinson-Regis): Mr. Vice-President, with the leave of the Senate if all concur, given the fact that both Bills deal with the same subject, I ask that they be taken together and when we are in committee, we go through the Bills separately.

Question put and agreed to.

CHILDREN'S AUTHORITY (AMDT.) BILL

Order for second reading read.

The Minister of Legal Affairs and Acting Attorney General (Hon. Camille Robinson-Regis): Mr. Vice-President I beg to move,

That a Bill to amend the Children's Authority Act be now read a second time.

Thank you very much Mr. Vice-President, and I thank the hon. Senators for their indulgence.

Mr. Vice-President, the Children's Authority (Amdt.) Bill, 2002 and the Adoption of Children (Amdt.) Bill, 2002 seek to amend the Children's Authority Act, 2000 and the Adoption of Children Act, 2000 respectively.

These Acts were initially part of a package of bills that were passed in the honourable House of Representatives and the Senate in the year 2000. The package, as we all know, was a social policy measure and consisted of the Children's Authority Bill, 2000; the Adoption of Children Bill, 2000; the Children's (Amdt.) Bill, 2000; the Children's Community Residences, Foster Homes and Nurseries Bill, 2000 and the Miscellaneous Provisions (Children) Bill, 2000. The Family Court Bill, 2000 was also a part of that package but was not introduced with the other bills as further discussions on issues of policy needed to take place.

Mr. Vice-President, when the entire package was laid before this honourable Senate, it was understood that the Family Court Bill, 2000 would be introduced shortly. The Bill, however, has not been introduced.

Upon coming into office in 2001, a committee was established by the hon. Attorney General to examine the Family Court Bill, 2000 in circumstances where it was felt that the establishment of a family court was an imperative for the forward-looking Government of Trinidad and Tobago. It was felt, however, that the policy issues needed to be properly ventilated, and as such, a committee consisting of members of the Judiciary, the court administrator, attorneys-at-law involved in the practice of family law, probation officers, and officers from the Ministry of the Attorney General and the Ministry of Social Development formed this committee.

The committee, on examination of the draft Family Court Bill, 2000 has recommended that a pilot project implementing the salient administrative features of the draft bill be launched. The Judiciary, together with the Ministry of the Attorney General are now poised to establish that pilot project.

Mr. Vice-President, in the interim, it has become necessary—if this pilot project is to get off the ground—to amend the definition of the word “court” in the Children’s Authority Act, 2000 and the Adoption of Children Act, 2000 to facilitate them becoming operative in the shortest possible time.

At present, both Acts define the word “court” as the family court, as established by the Family Court Act, 2000. It is imperative therefore, if the pilot project is to be established—and we think it is important that this be done—that these draft bills which are now before this honourable Senate be brought. The Bills therefore seek to amend the definition of the word “court” to now mean the court responsible for family matters, which is the current administrative situation as exists in the Supreme Court of Trinidad and Tobago.

Mr. Vice-President, this amendment will ensure that whenever a family court is established, be it administratively or legislatively, the definition in both Acts would be applicable so when the Family Court Act does in fact come to this honourable Senate, and to the Parliament of Trinidad and Tobago having had the pilot project, we would have no need necessarily to amend these current pieces of legislation.

Sen. R. Montano: Mr. Vice-President, on a point of explanation. I realize that the Minister may very well explain it in a little while, but I want to be absolutely clear. Do I understand the Minister to be saying that you cannot do the pilot project unless these Bills are amended? And if she is saying that, if my understanding is correct, would she kindly say why the pilot project cannot be run? I am afraid I did not quite understand her reasoning.

Hon. C. Robinson-Regis: Mr. Vice-President, what we are saying is that the legislation as exists talks about—and I will repeat for the benefit of the hon. Senator—the legislation that is currently on the books of Trinidad and Tobago refers to the family court as established by the Family Court Act. I will also repeat that the Family Court Act does not exist, and as a consequence of that, in order for anything to take place effectively, when the legislation refers to the term “court” which is defined in the parent legislation as the family court which does not exist; there is the need to amend the definition of the word “court” in order for it to say the court that deals with family matters, because there is no family court established either legislatively, judicially or administratively. Do you understand?

Sen. R. Montano: With respect, Mr. Vice-President, I understood all that and the Minister was most clear on that. My question was, did I understand the Minister to say—and I admit that I may have got it wrong—that the present legislation refers to the court established by the Family Court Act and there is no Family Court Act? That makes sense, but what I am trying to find out from the Minister is the reason for the amendment to be brought now, because I thought I heard her say—and I want it to be clear in my mind—that it is necessary to do a pilot project and it cannot be done unless this legislation that we are debating today is changed. Is my understanding correct? If I am correct, then would the Minister kindly say why this legislation has to be changed in order for the pilot project to be run?

Hon. C. Robinson-Regis: Mr. Vice-President, in fact he is absolutely correct that the pilot project cannot take place unless this is done. In circumstances where no administrative arrangements were properly put in place by the last administration in order to have these pieces of legislation which are on the statute books operationalized, it is an imperative that we amend the legislation in order to put the administrative arrangements in place so that the legislation can become operationalized. Nothing was done by the last administration and, consequently we have to do the work that is necessary to get the family matters implemented in this country.

[Sen. R. Montano rises.]

Mr. Vice-President, I am on my feet, and I will not be giving way again.

Mr. Vice-President: Please Members, I have always asked for order to prevail in the Senate and I ask for that now. This is a matter that could be debated and I would like all Senators to please understand that we want to hold discipline

tightly to our bosoms in the Senate and, therefore, I am asking if you need to persist with questions, please make a note of them. In addition to that, I would like to point out that when we stand, it should really be on a point of order and we should indicate what that point of order is.

Sen. R. Montano: Mr. Vice-President, what I am trying—

Hon. C. Robinson-Regis: Mr. Vice-President, I am on my feet, and if this is not a point of order, I would like to proceed.

Mr. Vice-President: Please, could we have order in the Senate? Continue, Madam Minister.

Hon. C. Robinson-Regis: Thank you very much, Mr. Vice-President. In each case, the relevant amendment seeks to delete the current definition of the word “court” and substitutes the following:

“‘Court’ means the court with responsibility for family matters.”

Mr. Vice-President, may I also indicate that the proposed amendments to the Adoption of Children Act and the Children’s Authority Act will allow—and I will say this slowly—for family matters pertaining to these statutes to be adjudicated upon by the Judiciary whether or not there is an actual family court in existence. Consequently, it is imperative that we do these amendments.

May I also indicate that the Children’s Authority Act, 2000 and the four other Acts which made up the package of legislation were in fact important pieces of social legislation. They seek to ensure that all our children, especially those who may find themselves in disadvantaged circumstances, are given the best chance for healthier and more productive lives.

The Children’s Community Residences, Foster Homes and Nurseries Act, 2000 will ensure that our children who are facing life without their natural family are cared for in environments which will promote positive development. It will also ensure that where parents entrust the care of their infants to persons while they may be at work, that those caregivers meet minimum standards required to ensure that proper care is in fact given.

Mr. Vice-President, the Adoption of Children Act introduces what is called a new approach to adoption of children in Trinidad and Tobago, one which seeks to recognize the advancements that have been made in the society and to deal with the anomalies that were in the old legislation.

The Children’s (Amdt.) Act, 2000 gives effect to our various obligations

under the United Nations Convention on the Rights of the Child while making consequential amendments as a result of the Children's Authority Act, 2000 and the Children's Community Residences, Foster Homes and Nurseries Act, 2000. Similarly, the Miscellaneous Provisions (Children) Act, 2000 also sought to give effect to a number of our obligations under the United Nations Convention on the Rights of the Child.

Mr. Vice-President, of those five pieces of legislation passed in the year 2000, only this Act required no proclamation and I would like to take this opportunity to point out that the other pieces of legislation which I have spoken about required either—and perhaps I need to say this slowly—substantial administrative mechanisms to be put in place, or regulations, or both, before being proclaimed. So, to date, they have not been proclaimed, although they have been assented to and are on the statute books of Trinidad and Tobago.

Mr. Vice-President, all these reasons have led us to where we are today in order to ensure that we can take the proper administrative action, and the action required legislatively to in fact operationalize the statute that is on the statute books. But because nothing was done, they are just there, lying dormant and it is imperative that the pilot project takes place and this is part of that. As a matter of fact, the United Nations Convention on the Rights of the Child speaks specifically to young people being brought into circumstances which may affect their health, being brought into circumstances where they are employed under onerous conditions, and in fact, the United Nations Convention on the Rights of the Child to which we are in full agreement protects persons like Giselle Salandy, who, according to the laws of Trinidad and Tobago and the United Nations Convention is still a child and needs the protection of the laws of Trinidad and Tobago.

Mr. Vice-President, as I close, may I indicate that these amendments have been identified as imperatives prior to proclamation and they are intended to bring us one step closer to bringing to fruition the proclamation of the Children's Authority Act, 2000; the Children's Community Residences, Foster Homes and Nurseries Act, 2000; the Adoption of Children Act, 2000; the Children's (Amdt.) Act, 2000 and in fact, having a family court established in Trinidad and Tobago.

Mr. President, I beg to move.

Question proposed.

2.30 p.m.

Sen. Robin Montano: Mr. Vice-President, let me state from the outset that we on this side of the Senate are totally in favour of anything and everything that

benefits young children; we on this side of the Senate are in favour of anything and everything that benefits the country as a whole; we on this side of the Senate are basically in favour of these two Bills.

When I was standing a little while ago, I did it because I was trying to make sense out of what the Minister was saying. I was taught that when you do not understand something that somebody is saying, it is usually for one of two reasons: either that person himself, or in this case, herself, does not understand what she is saying, or that person does not want you to understand what is being said. [*Crosstalk*] Are you hearing some noise, Mr. Vice-President? It sounded like some constipated parrots, but I am not sure.

In any event, as I was saying, I found great difficulty—you see, I asked the Minister a simple and direct question: Are these two Bills necessary for there to be a pilot project, and if so, why? I got an explanation that, quite frankly, I did not understand. I got something about, there were no administrative arrangements and they have to do this and they have to do that. But the simple question as to why this is necessary has not been answered. I pause again to give the Minister a chance to state in clear and concise language why these Bills are necessary now in order for there to be a pilot project.

[*Senator sits*]

Well, I guess I am not going to get my answer. It is a pity. I see that some Senators on the other side think that this is amusing. I am sorry that they think the people's business is amusing and cannot give a reasonable answer to what is surely a most reasonable question. I am sorry that they feel, in what is essentially a non-partisan Bill, that partisanship must come into the matter in this honourable Senate. I am sorry that the hon. Minister herself had to come and make statements such as, the past administration did not do anything and these Bills were necessary to sort of bring the law into line, and all the rest of it, when one realizes that the PNM had been in and out of power for some 30 years and that these Acts that we are seeking now to amend were, in fact, brought by the former administration.

But do we in this honourable Senate really need to indulge in the kind of theatrics that take place in another place? Do we in this honourable Senate really need to sit and try to make what are really cheap political points? Or are we in this honourable Senate really here to debate the people's business and to decide and determine what is for the benefit of our country? How do we benefit our people? Simple questions.

I personally intend to vote for these Bills even though I have not got my answers, because at the end of the day I am not prepared, at this time, to accept what the hon. Minister is saying, and I certainly do not wish to be seen to be obstructionist. But, you know, it would be so nice if this Senate operated as a Senate, an upper Chamber, a Chamber that was less interested in indulging in cheap politics and more interested in the benefit that we can give to Trinidad and Tobago.

For example, what is so difficult about answering the question when a Senator, regardless of whether he is an Opposition Senator or not—and okay, so I did not understand. But you know, I could challenge almost anybody on this side, including the hon. Independents, and I am fairly certain that I am not alone in not quite understanding the nexus between the pilot project and these Bills. Why is it necessary? A simple question, and I got an answer that was confusing, obfuscatory and hostile.

It is not right. We, here, are about the people's business. We are trying to provide—by, we, I mean the Senate—leadership to the entire country. It is why, for example, I filed the Motions on flooding and on the MV Amsterdam with the virus that it brought into Trinidad and Tobago. I considered those important matters. Of course, as I said, I accept your ruling although I did not agree with it.

But we on this side will assure you and the country as a whole, that we are here to make certain that the people of Trinidad and Tobago benefit from our leadership, and that when things are done they are done correctly.

Speaking for myself, I do not see the point being raised here as earth-shattering. As I said, if the Minister says it is necessary, I do not see that it is necessary; that is to say, I have not seen the nexus. I would like to see the nexus and I am certain the country would like it spelt out in simple terms. But she says that it is necessary and I would urge my colleagues and those behind me to accept it, if she says so.

But I would say to her that on the next occasion that she comes upstairs—because I am not certain if this is her first time—and most certainly if she comes with something more controversial, be aware that we will not be so accommodating and we will not turn around and say, “okay, we will let you have it”, just like that.

She must treat this honourable Senate with respect, and there is no disrespect in asking for an explanation on a Bill that is basically a bipartisan Bill. When somebody asks for an explanation, for crying out loud, what is the difficulty,

where is the problem in giving it to them? The politicking must stop and it must stop here and now. We must carry on with the business of Government and the business of the people of Trinidad and Tobago.

I thank you.

Sen. Dana Seetahal: Mr. Vice-President, no one can really object to the proposal contained in the two Bills before us, but there are a couple of questions or issues that I have not been able to rationalize.

First of all, I see a problem with the amendment as it relates to the Adoption of Children Act, which in its interpretation section at clause 2 says:

“‘Court’ means the High Court, or a court of summary jurisdiction...”

It actually does not say—and this is my copy here; I do not know if there is another copy somewhere—that “court” means the court established under the Family Court Act. That is the definition in the Children’s Authority Act.

But insofar as the Adoption of Children Act is concerned, if “‘court’ means the High Court, or a court of summary jurisdiction where the context so permits”, and we replace that definition with: “‘Court’ means the Court with responsibility for family matters”, and there is no court so responsible in the Magistrates Court as such—there is no particular court responsible for family matters—it means that this Adoption of Children Act cannot come into effect until there is a court responsible for family matters. That is my interpretation of that.

It may be that you would want to deem a court in the Magistrates Court as such, but if you are dealing with adoption matters, say, in Princes Town, and there is only one court, what court are you speaking about?

Secondly, as I understand the hon. Minister, the amendments are necessary for the carrying out of the pilot project. We need to say in the Acts that are yet to be proclaimed that “court” means a court responsible for family matters. If this is so, then it means that the original Acts will soon be proclaimed. This must be what the Minister means, because why is it that you need to amend the original Act to have that definition of “court” to give effect to the pilot project if it does not mean this?

May I say it another way? The current Adoption of Children Act and the Children’s Authority Act, those two Acts that were assented to and not yet proclaimed, do not constitute law. Okay? If we need to amend those pieces of legislation to give effect to the pilot project, it must mean that it is the Minister’s

intention and the Government's intention to proclaim that legislation. It must mean that you intend to proclaim it soon because, really, it would be nonsensical to say that you need the amendment to give effect to the pilot project.

Therefore, I ask: Is it then that the Government's drafting department has reached some way in preparing those regulations that are necessary to give effect to these Acts? This is what I would like some response to. Both Acts that are assented to but not yet proclaimed say that the Authority—that is the Children's Authority in one case—has the power to make regulations for the purposes of giving effect to the provisions of the Act, that is, the Children's Authority Act.

The Adoption of Children Act says at section 40 that:

“The Minister may make regulations—
(g) for carrying out the purposes of this Act.”

Now that clearly means that regulations are necessary for these Acts to be given effect to. What I would like to know is where have we reached in the drafting of this subsidiary legislation? Because on the admission of the Minister it is only when we have this subsidiary legislation in place, the regulations and the administrative measures, that the Acts can come into effect—can be proclaimed—and it is only when they are proclaimed can we actually have a pilot project.

Let me say that these Acts were assented to two years ago in 2000; October in one case and November in the other. We have a Conveyancing Act that was assented to in 1981 and up to now it has not yet been proclaimed, so it is in a similar state. That is why I seek some kind of reassurance that these pieces of legislation which I consider necessary for the development of Trinidad and Tobago for dealing with social problems and deviance—and I have said that on an early occasion—at the level where people are at risk—when do we hope to have it come into effect.

Thank you, Mr. Vice-President.

Sen. Wade Mark: Mr. Vice-President, we on this side, as my colleague indicated earlier, welcome these Bills and we also query at the same time the sudden interest of the Government in matters relating to children. You know, perhaps this interest could also extend to statutory authorities such as WASA. If the Authority under its new management had any interest in children, as an example, it would have ensured greater concern to safety and fill all of its excavations. But maybe they were too busy employing the husband—

Sen. Dr. Saith: Mr. Vice-President, on a point of order. I wish to draw your attention to the fact that the Senator's contribution is irrelevant to the debate

taking place at this time. We are debating a family court and we have reached WASA and husband employed, and I am suggesting that the speaker is moving away from the matter under debate.

Mr. Vice-President: Sen. Mark, could you please proceed and I would like to ask you to stay with the discussions, please.

Sen. W. Mark: Mr. Vice-President, I had not even begun to make the nexus or the links, but I am glad for your protection so I can have the freedom of speech in the Parliament.

What I was saying is that we are happy that these Bills have come here, because we are dealing with children and we are saying that, for instance, we are happy that the Government of Trinidad and Tobago has suddenly shown some interest in children, because just recently a young child died because of the negligence of WASA, somewhere in Edinburgh, Chaguanas. These Bills are about our children, the flowers of our nation, the resources that we need to nurture for the future development of our country.

Therefore, we believe that this matter of the establishment of a family court which is long in the making, we should truly have that court established rapidly so that the rights of children can be preserved and can be given special focus. If our children are our greatest assets and if we need to have a very healthy and productive nation, we need to focus on the health of these children. We need to ensure that they are healthy and productive.

We cannot have a society in which the rights of citizens are ignored, in which we seek to promote a productive and prosperous nation in a climate where crime flourishes and kidnapping is virtually a way of life and the rights of our citizens are trampled upon by this Government.

We would hope that these Bills that we have here today would go a long way in protecting children's rights. Many children of this nation today cannot go to school, or if they are going to school, they have not been given the so-called book grants that this regime promised and have not yet delivered, and children, as you know, are the future of this nation.

I want to say that the PNM being in power for a number of years prior to what took place, as you know, on October 07 when they stole the election, we recognize that for all these years when they were in office, they did nothing to update legislation in the interest of our children. It took the United National Congress to bring legislation to this honourable Senate to provide a new day for children in our nation.

We are glad they have brought these small amendments and we would like them to go further. We would like them to stop paying lip service to the rights of our children and keep their promises to the children and parents of this nation.

I understand from my own investigations that thousands of families are still without the so-called book grant that they promised. Of course, as you know, it was an idea that originated from the United National Congress and, of course, the PNM stole that idea, just like Project Home. But, as you know, intellectually they are incapacitated to deliver.

So we are hoping that they would be able to provide our children with the kind of environment that is necessary so our children can be given the opportunity to grow and develop so that they can make a meaningful contribution to our nation. We need to promote an environment for children where language and music, as an example, could flourish; where we can promote greater learning in the area of computers. We need to ensure that as a Government, they pay more attention to this question of bringing the family court into being as a separate institution.

That institution is needed because from our information, due to the absence of a specialized family court in Trinidad and Tobago, somehow justice is not being delivered and you still have, in that context in our country, a lot of child abuse. This is something that we need to pay some more attention to and I hope that the hon. Minister would address that issue.

In our country today incest continues at the level of the home. Domestic violence pervades many homes in this nation and many of our children are victims of adult aggression. We have to attempt to focus on these issues. We go around our country, whether it is in Port of Spain, San Fernando or Chaguanas and see many children loitering and languishing on the sidewalks and pavements of our nation.

Just recently the International Labour Organization (ILO) did a report on Trinidad and Tobago and they mentioned the question of child labour. We in Trinidad and Tobago still have many young people who are supposed to be in school but because of all kinds of social, economic and financial difficulties faced by their parents, they cannot be in school, and they are all over the place seeking to eke out an existence.

These are some of the issues we feel as a nation we need to come to grips with. That is a matter that on a bipartisan basis we can address, because we feel that the interest of the children must be paramount and we must focus on their welfare.

The recent flooding in south, central and eastern Trinidad witnessed the dislocation of thousands of young people and the whole question of children being exposed to water-borne diseases is real. As we speak today, there are scores of citizens, children included, who have been hospitalized as a result of all kinds of diseases. One of them, Sir, is the leptospirosis disease that is really—

Mr. Vice-President: Hon. Senator, I would ask you to desist from discussing the matter with the flood which was the gist of the Motion that you sought to have leave for as a matter of urgent, public business. You are discussing the very matter in technical terms. I ask you to desist and please let us deal with the matter at hand. I have already ruled on that Motion and I would like you to observe that ruling, please.

Sen. W. Mark: Mr. Vice-President, I thought I was focusing on matters affecting children in this nation. I find it very difficult but I am a very disciplined soldier and Senator, so I will abide by your ruling.

But the question of our children is an issue that we feel the Government needs to pay more attention to, and whilst at this time we would not pursue that particular line that I was approaching, I would like to indicate to this honourable Senate that that is an issue; the rights of our children, the need for us to promote an environment that can at least allow our children to flourish, to grow and to develop into citizens of whom we can all be proud. This is an area that we would like to at least advance in this Senate.

I made the point about the existence of child labour in our country. That is an area that we honestly believe on this side that the Government needs to pay some attention to, because as a member of the International Labour Organization and given the report that has been submitted by that very important institution, there is need for us to look at that issue in a much more detailed way and to take whatever preventive measures there are to protect our children in the future.

As I said, these two matters before us, the Adoption of Children (Amdt.) Bill and the Children's Authority (Amdt.) Bill, are matters that we would like to identify with and even though they have some limitations, in the interest of Trinidad and Tobago, in the interest of the children of this nation, we have no hesitation in lending our support to these Bills before this honourable Senate.

I thank you very much, Mr. Vice-President.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I thank you for the opportunity to say a few words on the amendments to these very important Acts. I thank the hon. Minister for explaining that these important Bills, except for one,

did not get proclaimed. I also thank her for explaining why the Family Court Bill which lapsed in October of 2001 had not been brought back expeditiously to this Senate.

Mr. Vice-President, after all these years, I still do not know what accounts for the time lapse between bills being assented to and bills being proclaimed, but I do know that these delays can sometimes be embarrassing to persons and very troublesome to the society. To give you an example, I know of two women who were in long-standing common-law relationships, whose relationships collapsed between the assenting to a certain bill and the proclamation of that bill. As a result, the bill was held not to be applicable to them and these ladies are now in impecunious circumstances. They could not find a lawyer who knew the legislation, or who even seemed willing to fight their cause on some kind of compassionate ground that, really, the spirit of the law was that it should apply to these people even though it had not been proclaimed two weeks before.

As far as the society is concerned, I think the delay in the proclamation of these Bills relating to children is a cause for great concern and I hope that if the Government can take steps to accelerate the proclamation, that it would do so. But, of course, it is being said everywhere now—and I believe it—that Trinidad and Tobago has many good laws and one of our problems is people do not know the laws. Secondly, even when we know the laws, they are not enforced.

I commend the Minister for making a statement about the young child who is being exposed to being pummelled in the ring and for making it clear that this country will not permit children to be exposed to that kind of cruel and brutal activity, if they are children. [*Desk thumping*] Of course, I look at boxing on film and on video; I have never been to a boxing match, and on film and video I enjoy it but in my heart of hearts I think this is something brutal and cruel, not only to children, but to adults. But that is in passing.

To go to the Children's Authority Act, I think I might have some problems about definition. Before I go into that, let me look at something in Act No. 68 of 2000: An Act to amend the Children Act, Chap. 46:01. I would not go through all the different amendments, but section 27 is, I think, a brilliant, compassionate and intelligent one. Section 27 says:

“The Act is amended by—

- (a) deleting the words ‘school’ and ‘certified school’ wherever they occur and substituting the words ‘Community Residence’;
- (b) deleting the words ‘Industrial School’ or ‘certified Industrial

- School'...and substituting the words 'Rehabilitation Center'; and
- (c) deleting the words 'Orphanage' or 'certified Orphanage'...and substituting the words, 'Children's Home'."

And very interestingly:

- "(d) deleting the words 'detention order', 'detention' and 'detained'...and substituting the words 'placement order', 'placement' and 'placed' respectively."

The reasoning behind these amendments is that the parent Act, 46:01 has an unfortunate tendency to contain a certain collocation of phrases. Every time they use the word, "child", they use, "or youthful offender"—youthful offender or child. Words do have effects on people and I think this constant repetition of "youthful offender" or "child" is what offended those who proposed the amendments to de-link "child" from "youthful offender" and to try and recognize that different kinds of institutions are needed; different kinds of care is needed; different kinds of specialists may be needed and you cannot just lump "child" and "youthful offender" verbally and actually. So the redefinition of the institutions, that, too, is very helpful.

So when I go to the Children's Authority Act in the section with definitions, children's home in the Children's Authority Act means "a residence for the care and rehabilitation of children".

Now I do not really have a problem with that because you can rehabilitate a child who has been traumatized by bad treatment or by the loss of parents or by some other event, but it might be unfortunate that in the same set of definitions, the thing that the amendments were trying to eliminate, the linking of offenders with people in need of care and protection, et cetera, that thing might be being repeated inadvertently, in the definition of "rehabilitation center".

"'Rehabilitation Center' means a residence for the rehabilitation of youthful offenders, in which youthful offenders are lodged, clothed, and fed as well as taught;"

It might be a quibble. If "children's home" means a residence for the care and rehabilitation of children—and we can understand that in a psychological and emotional sense—I suppose it is clear enough that "rehabilitation center means a residence for the rehabilitation of youthful offenders, and there we are talking about people who have committed offences, and the distinction is quite clear, but I find it a little unfortunate, given the history of the linking of the two, that there is

a possibility here of people psychologically still making the connection. As I said, I think it could be a quibble, but I feel it might be something that we would want to look at.

When you look at the definition of “children's home” in Act No. 65, which is a very important Act, the Children's Community Residences, Foster Homes and Nurseries Act, the definition of it in this Act is:

“‘Children's Home’ means a residence for the care and rehabilitation of children...”

But different from the Children's Authority Act it goes on to say:

“...and includes orphanages as defined in the Children's Act”.

I do not know if it is necessary to go on and if it might be possible to let the two definitions be the same: “‘Children's home’ means a residence for the care and rehabilitation of children...” in both places, rather than to go on “...and includes orphanages as defined in the Children's Act.”

Finally, under the heading of “definitions” I want to look at the provision for foster homes. Act No. 65 of 2000 speaks about foster care, foster child, foster parent, but there is no definition of foster home. When I read it I was saying to myself, I am so happy that this piece of legislation exists, that 10 years ago I would have gone to the Government and said, “Yes, I will take a child and keep him or her for 10 years.”

I do not know if that then makes my home a foster home, because when you read the Act, you realize that people have to apply for a licence to run a foster home, and whether that means that there is some money in it; that somebody could build a foster home and let the Government know, “I have 20 rooms here for fostering children and I have the required staff and specialists to give these children a home and how much will the Government pay me per head?”

Now, I do not consider that objectionable. If properly supervised that could be useful, but I do not think that the Act is very clear about what is a foster home and the Act does not say whether, after you apply for your licence and your place is inspected, your credentials are examined, your staff is examined—I have a feeling that that implies that this is a “for profit” matter; that you get paid for doing it, and I wish somewhere, either in regulations or in the Act itself, these matters could be clarified.

That is about all I have to say, expect that I welcome the Government's interest in bringing the amendments so early in their life and I look forward to the proclamation of

the other Acts and to the proposal for the family court which, apparently, does not meet their approval or they see some flaws in. But I look forward to a very speedy bringing to the Senate and to the House of Representatives, new proposals for a family court.

Thank you.

The Minister in the Office of the Prime Minister (Sen. The Hon. Christine Kangaloo): Mr. Vice-President, I rise in support of the two Bills which are before this honourable Senate today. These two Bills seek to amend two pieces of legislation which will institute standards for the care and protection of children. These two pieces of legislation will safeguard the rights of the children in order to strengthen the family unit.

This debate comes at a time when Poverty Eradication Week is being commemorated in Trinidad and Tobago and the emphasis for this week is on early childhood care, nutrition and the environment. The Government of Trinidad and Tobago cannot ever be mistaken in its commitment to the children. [*Desk thumping*]

We on this side are being accused of cheap political tricks, yet those on the other side tried to introduce by a sleight of hand an issue of no relevance to the matters which are before us, and the mere mention of which will cause distress to the particular family involved, the family which lost the child. Their insensitivity is amazing.

What is also amazing is that those on the other side are proclaiming interest in the rights of the child and are referring to the United Nations convention on the right of the child which recognizes the need for the right of the child to be protected from economic exploitation, and they are celebrating an event which, in the eyes of the convention, would be harmful to this child, this boxer's health and physical development. Hypocritical, Mr. Vice-President.

We also wish to point out on this side, that these pieces of legislation were introduced and passed by the former administration. But once again it is this administration which has to seek to put things right. Once more we are seeking to safeguard the interests of the children of Trinidad and Tobago. So I rise to support these Bills.

I thank you.

Sen. Arnim Smith: Mr. Vice-President, I have no problem with supporting these Bills. What amazes me is the double standard of the Government. You are

bringing Bills here to protect children and you are leaving a child to be abused, exploited, for all kinds of things to happen to her, and you come here today to speak about celebrating her.

There is a young girl by the name of Giselle Salandy who fought and won a world title. She is currently going to school. Her management team contacted the Government for some welcoming or something. What they did was they snubbed the girl. They took a hands-off position. This girl has 12 fights. They are making no attempt to stop that by saying, well convention. The Minister said we are party to some convention against child labour and abuse, but if you do not get involved; if you take a hands-off approach, she would have 30 fights just now, because her management team is getting around the laws and taking her outside to fight. She could die out there. And what do we do here? Sit back. *[Interruption]* Do not tell me about Kamla! We are talking serious! Everything is "kicks". When I am in this Senate, I am here for the betterment of this country whenever I stand to talk. You are taking a hands-off approach and you are talking about Kamla. So leave her and let her go and die.

We took a hands-off approach, and the Minister is talking about "party to convention". Why did this Government not get involved, find the girl where she is—the girl is probably fighting because her family needs money. I watched her and she has some talent. Let the Government get involved and stop her from fighting as a professional, even if it means that they have to give her some maintenance because the family might be poor. Get some tutoring for her. Make sure she goes to school. When she reaches 18 and she wants to box after that, she could. She could become a world champion.

She is doing something positive, you know. She is not taking drugs; she is not on the roadside and we are handing out negatives to her, and we are talking about protecting the child. How could we be protecting her when we take a hands-off approach? On the one hand we are saying we are going to protect her, but there are laws also in this country against children making children, and if you go in the maternity ward, every day there are 12-13-and 14-year-olds making children.

What is put in place to enforce those laws to lock up those fathers? We do nothing! We take a hands-off approach! If you go in the club on Dundonald Street or Tacarigua, close to where Eddie Hart is living, there are prostitute clubs with 14-and 15-year-old children in there. When they reach the age of 22 they are dead from AIDS. Why? We do not care! When it is time to give lip service and "mamaguy", we can "mamaguy" and say, well, yes. I support these laws, but not the double standard.

The Government should have taken the hands of that girl since she came back, but she was left in the hands—she has 11 fights, and there is a law in this country that says you must turn professional—I promote boxing; I know that—at the age of 18. But she is 15 years old with 11 professional fights and we are still saying we are protecting. We have a hands-off position.

They know how to get around the laws here and go outside where there are countries where you could fight at 15 years. You could go to Puerto Rico, Curacao, Colombia. They know how to make those arrangements and you cannot stop her from taking a plane and leaving. But certainly you could get involved in her life, in her career. Guide her, and when she reaches the age of 20 she could bring fame and glory to the country by getting a world title. So my problem is the double standards.

I thank you.

Sen. Prof. Ramesh Deosaran: Mr. Vice-President, I did indicate to my colleagues I would not be speaking on the Bill, but I believe the manner in which the Minister presented the Bill was, to me, surprisingly generous in terms of the scope in which she informed us as to the historical implications of certain things being omitted in the past.

Before I delve into my few points, I must admit that sitting here and listening to the debate from both sides of the Senate on matters concerning children, it certainly leaves me to wonder if there is anything at all under the sun on which we can have consensus so as to move forward the appropriate legislation, when the merit is so clear and the case so deserving.

I cast no aspersions on either side, except to repeat what some have said previously. The state of the country today in terms of fragmentation, insularity and sometimes undue belligerence, can do with a heavy dose of consensus and clear thinking on the essentials.

I think matters concerning children are essential. There are other things in which the adversarial system under which we exist in terms of our Parliament, could manifest itself. There is room for that in and outside Parliament. But I would wish to suggest, respectfully, that matters of old people, matters of children and, in fact, much of our social legislation, can do with a heavy dose of consensus which I regretfully observe seems to be lacking on this particular occasion.

It is true that there may not be any sins of commission on either side related to the Bill and who was in power when, and so on, but the fact is, there have been sins of omission. I am tempted to develop a theory of enlightenment. It always

surprises me, and I suppose the rest of the country, that whenever a government demits office and it becomes the opposition, the enlightenment is rapid about matters of State. It works both sides. Perhaps you might say it is good for a government to be in opposition now and again, because it casts a refurbished level of enlightenment. To me, you see the problems, apparently, much more clearly when you are in the opposition. We must not forget that people who were in the opposition were in government previously.

Many of these matters, I have said on a previous occasion, have accumulated to such an extent because of the neglect of previous administrations. That is the overall picture. And when we sit here and cast barbs and sometimes recriminations at each other, you are tempted to believe that we are all guilty of the sin of omission at some time or the other.

It is heart-rending when we consider the issue of children and their welfare. I am surprised that these matters were not dealt with more expeditiously. I, of course, do not blame the Minister. As I said, and I would repeat, quite genuinely, I commend her for the manner in which she has presented these Bills and also given us the opportunity to comment on matters she had raised. If she had done this more narrowly we would have been, perhaps, constricted in the way we would respond. But raising the question of children's homes provided an opening such as to remind us that almost 15 years ago there was a report on children's homes, not only the problems in terms of administration and infrastructure, but the extent of incest and abuse in those homes, the degree of injury that took place in those homes.

It is commonly called the Sabga Report. The gentleman who did the report under the then Ministry of Social Development was Mr. Robert Sabga who had a destiny of his own, as High Commissioner to Canada. I would suggest that the Minister look at that report carefully, and while the Government is busy with the legislative aspects of this problem in terms of the substantive issue of children care, that particular report, together with another one, which had to do with situationally displaced children, be looked at in terms of the horrors facing children in those privately-run homes.

I certainly do not wish to call the names of those homes, but we have the evidence as to the extent, as I said, not only of sheer neglect, but hurtful injuries, sexual abuse, in homes to which the Government provides subsidies. I have suggested in such context that the Ministry of Finance have some overseeing powers over how those moneys which are allocated to those houses, are used.

There have been instances following inquiries by different ministries that the moneys have not been used for the objectives that were intended. So I therefore wish to bring, with respect, to the attention of the various ministers involved, this matter of child-care and the abuse in these homes, using as leverage the two reports to which I referred.

3.30 p.m.

Mr. Vice-President, related to this is the question of parental responsibility, which will certainly come up in the family court. I wish to agree with the previous speaker, my colleague Sen. Arnim Smith, that there are many laws concerning the preservation and the welfare of children which are not enforced. I refer, in particular—and on this occasion, with relevance—to the ones governing parental irresponsibility and parental neglect.

There are laws that we can use to bring parents to the court for neglecting their children under a certain age. I will not elaborate upon the specific legislation but it is because of the lack of enforcement of such laws that there are many children being allowed to roam the place carefree, to leave their homes at the hours when they should be returning home—leaving home at 10.00 o'clock in the night to go to different fetes, parties and so on, whereas that is the time you would expect those young children to go home to sleep.

Sen. Arnim Smith is correct; there are sins of omission that we need to rectify. I am just quoting a few examples because I do not want to belabour the debate, given the narrowness of the Bills. I certainly want to take the opportunity, however, to point out some of these things and to suggest, Mr. Vice-President, that it is not only a matter of legal reform on two little bills, the scope of concern is indeed very large and it should occupy, what could be called a more holistic approach by more than one ministry. Even the Ministry of Gender Affairs, in terms of the operation in the family court and parental responsibility, should have some direct input.

It might surprise us that over 40 per cent—just to reaffirm what I am saying, I think I brought this to the attention of this honourable Senate previously—of the children who are in these juvenile homes are there for either running away from home, or because their parents cannot control them. So whilst we are looking at the legislation, in terms of its propriety and how it fits into the parent Act, these are matters of process; these are the dynamics that surround children, and which have brought us to the position where we need so much legislation to protect children.

Does it not raise an issue? How much more legislation will we continue to need to protect children? Why is there such a great need to protect children? Where are the parents? Where are the families? What are the laws on the books that would compel these parents, guardians and homes to take better care of these children, so it will not always fall in the laps of a government? Governments cannot always play fathers, mothers, uncles and aunts; there is a limit to public policy in family life.

With those few remarks, Mr. Vice-President, I merely wish to underline the importance of the Bill, to commend the Minister for the manner in which she presented the Bill and to urge the Government, as a whole, to look at its social legislation carefully; there is too much lapse. I remember when the pit bull issue arose, there was legislation overnight—I would not point out which administration it was—but the rapidity of such incidents should also parallel a response to matters of children. So we look to the future with confidence and for a better performance from this particular Government.

Thank you, Mr. Vice-President.

Sen. Brother Noble S. A. Khan: Mr. Vice-President, may the peace and blessings of God be with us this day and for evermore. Perhaps in this amendment that we are seeking here, we could possibly reflect on some of the ideas that come to my mind. One is that we are in an area where we are seeking, I assume, to establish a family court which has been put on the legislation, and possibly some may say, a court which is supposed to act for those who could least possibly defend themselves. We are speaking here of our children. It is important to think in terms of some of the challenges that this piece of legislation has brought to the forefront of the burner.

We have a new phenomenon that has been around for some time that is referred to as “street children”. There is a growing malaise. We have the question of HIV/AIDS, which has been addressed in the budget, but I seem to recall, too, that the position of children in that whole mix of HIV/AIDS and the approach to it has been given some prominence too. Insofar as children are concerned we could think in terms of the preconception stage where care should obviously be put in place; the question of prenatal and after prenatal and then we could come to points like pro-life and pro-choice.

Mr. Vice-President, maybe at another time and in different circumstances, we could possibly go further into these areas. It does mention in the Bill before us, the question of the family court and obviously without family—I should put it this

way—without children the whole question of family is a big question mark; so they go hand-in-hand. But what is important with the family is that we see, in our society, a weakening role of the family. There is also a changing structure of the child. We could think in terms of the values; what has been referred to as liberal values gaining some ascendancy as against traditional values, which have been rooted in our faith-based systems.

Within recent times—and I know in the Ministry of Education—there has been some attempt to bring values education into the system, and work is being done in the curriculum. I would also urge that—I know our Minister of Education is strong on that—some stronger inputs are made into speeding up that process for the values education.

I think our dear friend and colleague, Sen. Arnim Smith, had touched on the question of emotional bonding and parental control. These are important aspects when we think of our children. As recent as Sunday night in the Inter-Religious Organization (IRO) programme, “We believe,” a strong case was made out—when we were discussing “Obedience and Service, and I think some references have been made to it in the debate—with respect to parents and when children deviate or they are aberrant, that some element of accountability, in a very cogent way, should be made or be exacted from parents and possibly within the legal framework and system, too. In other words, calls were being made for parents to be prosecuted for the wrongs of the children. This was, as I said before, a strong case made.

The question of what is called a “delinquent child”—this is related to the court and the family—these are all questions that we could talk about for the longest while, but you know in our country—I do not know if it was an element of ancient civilization but it is prominent in modernity today, the question of child labour, child abuse and the host of things that go with the negatives associated with our children. We hear about “disobedient children” and as I have mentioned before, “street children”, that new phenomenon.

This legislation is one of the attempts being made to address these negatives, and what are the ills that dispose of our children going to the streets; drifting away to urban and city centres, and areas that have so many inputs that put civilization itself on trial. It has been argued that there is a diminishing fabric of social support, even for children within the family and the community. There are decreasing opportunities for societal interaction, with our children at home; outside the home and even with adults. There is a lack of opportunity to consolidate oneself within the borders of societal space.

This is an important aspect where we see our children being drifted apart from the older generations and we see very often the strengthening of peer pressure coming when they get together, and not to mention what comes through on the media—I am speaking about the negative elements of the media—the TV and the Internet. I am not throwing any blame on anyone of either Bench of the Senate, but we just have to visit any of the so-called housing estates and we will see what poor planning for urban environment is like. It is one which inhibits children and does not allow for their physical and mental expansion. The very environment that we see—just walk down in some of the areas that I have mentioned and some of these satellite communities that we have where so many of our children grow up. They become boiling points for so many of the negatives that they breed.

Of course, we have heard much about—not only now but for more than forty years, I would say—vehicles for social transformation being created. I guess this law is one. We have heard mentioned the question of eradication of poverty. All these, I guess, are some of the mix that could obviously help insofar as the myth of the eradication of street children as the case may be, and some of these negatives that seem to persist. Obviously the return to innocence, as we know, would be a laudable goal which we could possibly pursue and which is the hope and aspirations of all parents because I think parents want nothing but the best for their child or children. I have also mentioned previously, in the budget debate, the need to provide, not only for the now generation but for the future generations. This is a challenge that I think the whole nation has to face, even with the expected inflows from the oil and gas, the question of putting aside. We have had that experience before where we have had inflows but through—for the want of a better expression—I would say bad management or how we dealt with it, we have nothing to show for it now, as far as that big flow that we had.

There has been some improvement, I agree, but to allow for the sustained flow and growth, it did not exist at that time; we did not see it—I am speaking here about the seventies and eighties but now that we are on something similar, I think we should definitely provide for that. And it would have some element—if we provide for it—for assuaging or addressing the question which future generations would definitely have to meet.

We have heard the question of the holistic address to any of the problems that we are faced with, and the concept of multi-causality when we meet challenges is one that could obviously be used in this area in addressing the question of our children. The whole question of genuflection before conventional approaches, one would have to question that relevance in these days of dynamism and even as our children grow and expand in their conceptualization and in meeting new demands.

As I have said before there are various descriptions to get new ideas and to meet the problems with which we are faced. But obviously, the old problems we would have to face with new challenges. In supporting the change, these are some of the inputs I would like to see that in our conceptualization, in our reflective moments, we draw on. It is not that our traditional values are no longer relevant; perhaps this is the area in which we should dwell a little more for they have carried us and they have sustained us, as far as civilization is concerned; as far as building a society for all of us. I think there is no doubt about it, all of us would really like to see a beautiful society and we work towards that. What is important, too, is that we ensure that our spiritual values are imparted to our children. Mr. Vice-President, too often we see an element of materialism because very often we see parents are at work, children left in the hands of people who may not have those skills—and I am not blaming them—and training to match the challenges of the modern day. This piece of legislation before us is just a simple two-page document but I think it opens wide vistas to which, I think, we should definitely put our minds.

There is a little idea which struck my mind here with respect to this on the Adoption of Children Law Bill. I see in paragraph 41 the Adoption of Children Act is repealed. It makes reference to the repeal of Chap. 46:03, but the Bill before us is seeking to amend the Adoption of Children Act 2000, so I guess this has changed that and this has been replaced, so to speak. It did create in my mind a bit of uncertainty, but again, this would have been addressed by the lawyers.

Thank you, Mr. Vice-President, for allowing me to share some of these thoughts with you. We hope by the grace of God that whatever we do would redound to the benefit of our children and particularly those from the dispossessed and way-out areas.

Thank you, Mr. Vice-President, and God bless you.

The Minister of Legal Affairs and Acting Attorney General (Hon. Camille Robinson-Regis): Mr. Vice-President, I take this opportunity to thank all the Senators for their input and interest, which certainly demonstrates an interest in the children of Trinidad and Tobago, making sure their welfare is well taken care of.

Mr. Vice-President, at the outset let me indicate that the first thing I would like to do is refer to the point made by Sen. Seetahal. The question that was asked in relation to the definition of “Court”, as it appears in the Adoption of Children Act, the issue that was raised by the hon. Senator was that the definition that appears at this time indicates a court of summary jurisdiction in the High Court.

Let me indicate that in the body of that legislation, section 27 to be exact, the “Court” is referred to as the Family Court. However, she is very correct in saying that in the definition section it does not refer to the Family Court, specifically, but in the body of the legislation, section 27 refers to the term “Family Court”. But as a consequence of trying to clean up the legislation and to make sure that the jurisdiction is, in fact, properly covered, when the family court comes into being. Our intention today is to ensure that:

“‘Court’ means the court with responsibility for family matters.”

So that that entire definition would, in fact, be deleted. To add to that explanation, I would like to also indicate that during the pilot project whatever court is being used to deal with family matters will be deemed, as you rightly said, the court that has responsibility for family matters.

May I, at this stage however, point out that whilst the debate was proceeding it was felt—and after discussions with the technocrats and the legal drafts-people—that perhaps to be even far more specific and clearer, we should amend the word “responsibility” and instead use the word “jurisdiction”, so that all courts—whether it is a court of summary jurisdiction or the High Court—that have jurisdiction over family matters—would be captured by the amendment. So it is proposed at committee stage to have a further amendment. The amendment in both Bills would read:

“‘Court’ means Court with jurisdiction for family matters.”

And it will be moved at the committee stage.

May I also indicate that as a consequence of that proposed amendment, in relation to the Bill to amend the Adoption of Children Act, 2000 that we will, in fact, move to delete section 27(1), which talks about the family court again, so that it will be a consequential amendment that results from the amendment of the definition section. If there is further clarification needed, which I hope would not be necessary, we will deal with that in committee stage.

Let me also say that the regulations that are needed to operationalize this legislation is, in fact, quite advanced and it is now with the Ministry of Social Development just to look at how it will relate to their part of making sure these issues raised in the legislation could, in fact, be dealt with effectively. So the regulations are quite far advanced, and we are just waiting for the comments of the Ministry of Social Development to get back to the Ministry of the Attorney General so that we could do whatever is necessary in terms of regulations to ensure that we can, in fact, proclaim the legislation.

Mr. Vice-President, may I also take this opportunity to indicate that some comments were made in relation to this Government being in government for so long and it did nothing about children and so on. I would like to disabuse anyone who was of that opinion—and I am sure that has to be a very small number of people; perhaps limited to one or perhaps to six—and to indicate that anyone who has been following the legislation of Trinidad and Tobago would remember that there was the whole package of legislation brought by previous administrations to deal, specifically, with children and how this society dealt with how to bring children into the societal net and to ensure that they were not exploited and to ensure that parents lived up to their responsibility. But in any society that is moving forward and developing, legislation would always be amended if we are to move forward.

There is no point having legislation that dates back to a previous era and not feeling comfortable to come to the Parliament and amend the legislation so that we take into account the advancements in our society. So those who have said that when the PNM was in Government it did nothing, I am sure they would want to recant what they have said. It is something that has been said on several occasions, but many of those who have said it; I know they have said it without believing one iota of what they have said. They just said it perhaps because it sounded good.

Let me also indicate, Mr. Vice-President, that we heard, coming particularly from the Opposition Senators that there seems to be a situation of double standards as it relates to those of us on this side. May I take this opportunity to point out that the Quarries Act, which came to this Senate for debate; one section of that Act asked that children of the age of 16 be allowed to work the quarries of Trinidad and Tobago. Let me just point out to those whose memories may be short that the Quarries Act was brought to this Senate under the UNC administration; which is now claiming to love children more than anybody else in Trinidad and Tobago.

That Quarries Act, thankfully, was not allowed to be passed in this Senate because of those of us who were in opposition at the time and who said that children of the age of 16 should not be working in quarries.

Let me also take this opportunity to point out, as we talk about double standards that—it may be a situation of some people who are supportive of the current leader and some who are supportive of the leader to come, perhaps, the one who drafted the legislation that led to these amendments—Giselle Salandy who is being spoken about; those of us on this side have said that the legislation

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that exists does not allow for her to be working; to be boxing; she is a child; she is only 15 years old, and I heard Sen. Smith certainly supportive of that situation, but it depends on which side of the fence he is probably on.

Sen. Smith: Mr. Vice-President, can I stand on a point of correction?

Hon. C. Robinson-Regis: Mr. Vice-President, is it on a point of order?
[*Interruption*]

Mr. Vice-President: Please. Go ahead.

Sen. Smith: I never supported Giselle Salandy boxing as a professional.

Hon. Senators: That is not what she said.

Sen. Smith: What did you say, that I supported it?

Hon. C. Robinson-Regis: I would like, again, to commend Sen. Smith, who is not supporting, as he rightly said, Giselle Salandy. I am saying he is on one side—I do not know if it is the leader to come side or the out-going leader's side but he is on the side of those who are not supporting Giselle Salandy. [*Desk thumping*] But there are those opposed to you who are saying we must uphold Giselle Salandy, give her \$10,000 to support her in this venture, and as far as I know that person is on the UNC side who you are talking about, so I am not sure if in caucus you may need to come to a position about your feelings on child labour. Because the legislation, as it relates to child labour and, particularly, the UN Convention talks specifically, Mr. Vice-President, about child labour and the conventions on the rights of the child.

Let me say for the benefit of the UNC party that is giving Giselle Salandy \$10,000—

Sen. Smith: They are going to do that?

Hon. C. Robinson-Regis: Yes!

Sen. Smith: I do not know that. [*Laughter*]

Hon. C. Robinson-Regis: Mr. Vice-President, let me just indicate that the United Nations Convention on the Rights of the Child says in relation to child labour and maybe I should read this specifically and I hope that the former—not the former, former—Attorney General has looked at this convention on the rights of the child, because of that \$10,000 to support child labour. Under that Convention it says:

“The child has the right to be protected from work that threatens his or her health, education or development.”

Boxing, to me, seems to be a threat—[*Interruption*] No, that is what you are saying! [*Interruption*] All right, maybe I should give in and say the Senators are in agreement with this and the elected representatives are not. Let me also indicate, according to Article 32 of the Convention on the Rights of the Child states that:

“States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”

Mr. Vice-President, let me also indicate, and again I thank Sen. Smith for indicating that there is that concern from him that perhaps what we may need to do is to look at the Children's Act, Chap. 46:01, at section 3(1) which states, specifically: If any person over the age of 18 has the custody, care, charge of any child or young person who is willfully assaulted, ill-treated, neglected—and I am just paraphrasing—abandoned or exposed; if that child is exposed or the person causes the child or procures that the child or young person be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause the child or young person unnecessary suffering or injury to his health, including injury to, or loss of sight or hearing or limb or organ of the body and any mental derangement, that person is liable, in the case of summary conviction, to a fine or, in fact, to detention, Mr. Vice-President and Members of the Senate.

So, in fact, the handlers may be brought within the ambit of this law. As a matter of fact I am so glad that Sen. Smith raised the issue so that we could perhaps look at that, and perhaps what may be necessary in order to operationalize taking care of Giselle Salandy, that \$10,000 would perhaps be necessary to pay lawyers’ fees when charges are brought against those persons.

Let me also indicate to all within the rubric of double standards, that this legislation is also to protect children who are adopted. I think that was clear to everyone. It is a pity that this legislation was not proclaimed, else Shawn, who was adopted by the current leader of the Opposition some years ago, may have been protected by this legislation, and would not have had to die at Beetham, in the La Basse, trying to collect food and other things from the dump.

Sen. Smith: Nothing “eh” wrong with that, I was there too.

Hon. C. Robinson-Regis: You were there?

Sen. Smith: Yes.

Hon. C. Robinson-Regis: All right, so you understand what Shawn, who was adopted by the political leader of your party, had to go through. [*Interruption*]

Mr. Vice-President, may I also say that every effort will be made under this administration, as we implement this very important piece of legislation to ensure that children are, in fact, well taken care of during our time in office, and that they are by no means subject to exploitation. [*Desk thumping*]

Before I close, Mr. Vice-President, let me make the point that in relation to the issue that was raised by Sen. Prof. Deosaran regarding the report in relation to the foster homes and that issue of abuse, between the period 1991—1995, there were some attempts made to try to put administrative arrangements in place in order to train people in the proper care of children.

In fact, that particular Sabga Report was used by the then Ministry of Social Development to examine all the issues as they related to the care of children. The issues that were raised in that report were very revealing in circumstances where our society had depended on a number of foster homes to ensure care for our young children and for children who had suffered abandonment by their families. That report did, in fact, inform quite a number of the policies that were developed during that period, especially as they related to the United Nations Convention on the Rights of the Child.

Mr. Vice-President, let me give the assurance to all Senators that we on this side will, in fact, do all in our power and, indeed I think, the substance of the budget that was presented and, in fact, our vision for Trinidad and Tobago, indicates that ours is an intention to ensure that the society in which we live is a society that looks at the interest, not only of children, but of all the people of Trinidad and Tobago.

Mr. Vice-President, may I say thank you to those Senators who did, in fact, contribute to this very important debate. With those words, I beg to move that a Bill to amend the Children's Authority Act, 2000 be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mrs. Robinson-Regis: Mr. Chairman, may I indicate, as I did during the winding up of the debate, that in relation to clause 2 where it says:

“‘Court’ means the Court with responsibility for family matters.”

we would like to propose that the word “responsibility” be deleted and the word “jurisdiction” be put instead.

Sen. Seetahal: Mr. Chairman, I was indicating that after the words, “family matters” there should be a semicolon instead of a fullstop because these are all separate listed definitions. It is not a big deal but just for completeness.

Mr. Chairman: Hon. Senators, are there any other comments? Hon. Senators, the amendment is that the word “responsibility” be deleted and replaced by the word “jurisdiction”.

Sen. R. Montano: Mr. Chairman, what about the semicolon?

Mrs. Robinson-Regis: Mr. Chairman, could we just point out that that would be done, and it is considered editorial rather than substantive.

Sen. Prof. Ramchand: Mr. Chairman, is it “jurisdiction for” or “jurisdiction over”?

Mrs. Robinson-Regis: “For” is also correct.

Sen. R. Montano: Mr. Chairman, with the greatest of respect, Sen. Prof. Ramchand is correct. I think the correct English should be “over”.

Mrs. Robinson-Regis: Mr. Chairman, if I may, in legislative drafting, the correct terminology is “jurisdiction for”. I think we are in the process of drafting legislation here, so it is “for”.

Sen. Prof. Ramchand: Mr. Chairman, I think the legislative drafting is allowed to be un-grammatical. [*Laughter*]

Mr. Chairman: Are there any other comments?

Sen. Prof. Ramchand: Mr. Chairman, I wonder if the Clerk could clear this up? Have we voted on the original amendment?

Madam Clerk: Yes.

Question, on amendment, put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, with amendment; read the third time and passed.

ADOPTION OF CHILDREN (AMDT.) BILL

Order for second reading read.

The Minister of Legal Affairs and Acting Attorney General (Hon. Camille Robinson-Regis): Mr. Vice-President, I beg to move,

That a Bill to amend the Adoption of Children Act, 2000, be now read a second time.

Sen. Mark: The Children's Authority.

Mr. Vice-President: I beg your pardon?

Hon. C. Robinson-Regis: If I may, Mr. Vice-President. Perhaps I was not clear and I will again move. Mr. Vice President, I beg to move,

That a Bill to amend the Adoption of Children Act, 2000, be now read a second time.

Question proposed.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

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

Mrs. Robinson-Regis: Mr. Chairman, may I indicate, as I did during the debate, that it is our intention to move the amendment that has been circulated. The amendment, as circulated, states as follows:

Clause

2 Delete. Substitute the following clauses:

Section 2 amended 2. Section 2 of the Adoption of

Children Act is amended by deleting the definition of “Court” and substituting the following definition: “Court” means Court with jurisdiction for family matters.

Section 27 amended

3. Section 27 of the Adoption of the Children Act is amended by deleting subsection (1).

Sen. Seetahal: Madam Minister, will we be moving the marginal note now as well?

Mrs. Robinson-Regis: Yes, this marginal note will be moved. The marginal note that says section 27 amended, as similar to the request for the semicolon, is editorial but it will be done. We take this opportunity to apologize for that, in circumstances where we wanted to ensure that before the end of the day you did, in fact, get a typewritten amendment.

Mr. Chairman: Hon. Senators, are there any other comments? Hon. Senators, the amendment is that section (2) be deleted and replaced by the definition: “‘Court’ means Court with jurisdiction for family matters.” Delete the entire clause 2 and substitute it with the clause as circulated.

Question put and agreed to.

Clause 2, as amended, 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; read the third time and passed.

Mr. Vice-President: Hon. Senators, it is now 4.30 and we shall take the tea break at this time. The Senate is suspended for half an hour. We shall resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Mr. Vice-President I beg to move that the Senate do now adjourn to Tuesday, November 26, 2002, at 1.30 p.m.

Mr. Vice-President: Before I put the question, a Senator has a motion on the adjournment, which I would like to entertain now, please.

Compensation For Lands Acquired By The State

Sen. Wade Mark: Mr. Vice-President, historically it has been the State's inalienable right to acquire private lands for a variety of public purposes. It has become routine for Parliament to deal with land acquisition matters. At the same time, Parliamentarians have had to intervene to urge the Government to compensate disenfranchised citizens whose lands were acquired by the State and who were experiencing great difficulty in receiving their compensation awards, which were at times meagre. *Hansard* is replete with such instances over the years.

The Government is quite aware of the problems, yet for some inexplicable reason it has spectacularly failed to recruit, train and secure skilled personnel, at the various levels, to facilitate the process. Lands need to be properly surveyed, assessed and priced, still nothing is being done to assist expeditiously the victims whose lands were acquired by the State over a period of time.

Hundreds of citizens have not received compensation awards as we speak; yet this Government, of what has been described as high spiritual and moral values, has found it convenient and appropriate to take care of one of its own whilst scores of persons, in this case, in Tobago, in close proximity to that same individual's land, have lost their lands through compulsory acquisition and continue to suffer and even die without receiving just compensation or reward.

Mr. Vice-President, in the face of this unjust situation, the present Government appears to be extremely selective, compensating handsomely, persons close to the bosom of the Government who hold high office in this land. This cannot be fair and just. Indeed, it is an untenable situation, which has to be addressed in favour of the disenfranchised landowners in Trinidad and Tobago.

In the circumstances, there is an urgent need for clear guidelines to be established and enacted into law, if necessary, to ensure justice, equity transparency and accountability in the system. We cannot facilitate a system of unjust selection. No one should be allowed to break the queue and receive preferential treatment over others, regardless of the title of that office holder.

There is undoubtedly a huge bottleneck and pile up of compensation claims in Trinidad and Tobago. What is the extent of the backlog? Maybe the hon. Minister, who is here today, will share with this honourable Senate the extent of

the backlog. The Attorney General, who is not here today, has been at the epicentre of this controversy and ought, as far as we on this side are concerned, to have tendered her resignation a long time ago.

The Attorney General has called for information on all outstanding land acquisition matters. We compliment her on that point, but we ask, "Where was the Attorney General during the last eleven months?" Space, I guess, or maybe she has been too busy giving out gifts with the Christmas season approaching.

The Senate and the nation need to know the number of citizens who are currently being affected by this unjust situation. The Senate needs to know the quantum of money owed to these citizens by the State. We need to know how soon this so-called caring Government intends to honour the outstanding obligations to those citizens whose properties were seized by the State. We need to know whether new criteria and guidelines are being formulated along lines submitted by a high-ranking Cabinet Minister in his bid to have his outstanding claim settled. What is good for the goose is good for the gander. Would the State now look more favourably on citizens whose financial standing do not permit them to engage legal counsel to argue on their behalf, in a very forcible way, for greater compensation at the level of the court?

Mr. Vice-President, a precedent has already been established by persons in the bosom of the ruling party. I would like to say that hundreds of citizens, if not thousands, have been directly or indirectly affected by Government's action on land acquisition matters. This is a most serious problem. A stance must be taken on this issue. A policy stance or position must be articulated to ensure justice, equity and transparency for all the citizens of this Republic whether they live in Tobago or they live in Trinidad; whether they are in the ruling party or in the Opposition. It does not matter whether they have Cabinet rank or are poor, elderly citizens living in Mason Hall, Tobago or Toco. There must be equity. There must be equality under the law as outlined in our Constitution. There must be equality of opportunity and no discrimination on any ground.

The Government of Trinidad and Tobago owes this Senate and the nation a proper explanation on what we would like to describe as its obvious bias and discrimination in attempting to award unjust compensation on a land acquisition matter. I would like the hon. Minister to provide this Senate with some perspective on the policy of the Government as it relates to the acquisition of lands by citizens of this Republic who, for some reason or other, have not received compensation although years have passed. Yet we see certain persons, whose names I will not call, because of their rank in the Government, who seem

to receive preferential treatment over other citizens. It is unjust, unfair and cannot continue. We need an explanation from the hon. Minister who is here today representing the interest of the State.

I thank you very much, Mr. Vice-President.

The Minister of Agriculture, Land and Marine Resources (Hon. John Rahael): Mr. Vice-President, I am really amused every time I come to the honourable Senate and listen to my good friend, Sen. Wade Mark. He really fits the role he is in perfectly.

The Motion on the adjournment, as I have it here, and I wish to read it:

Government's position as it pertains to the compensation to citizens of the Republic of Trinidad and Tobago whose lands have been compulsorily acquired under the Land Administration Act.

There was no matter with respect to quantifying the money owed to persons who have made claims for lands, so I will proceed to deal with the fact of how a stable government will comply with the law of the land when it comes to compensation for the acquisition of land by the State.

Let me first say there are two Acts that are relevant. The current Act is the Land Acquisition Act of 1994, which came into effect on December 23, 1994. This Act, subject to section 40, now governs the settlement of compensation to be paid in respect of all lands that were acquired by the State, including those that were compulsorily acquired. However, prior to this Act, compensation for all lands acquired by the State was determined in accordance with the old, now repealed, Land Acquisition Act, Chap. 58:01.

I would like to give a little background with respect to lands that were acquired prior to December 23, 1994, for the information of hon. Senators. Prior to December 23, the process for determining compensation was as follows:

- (a) The landowner would submit a proper claim for compensation that may have included the cost of preparation of the claim and interest up to a maximum of 6 per cent per annum.
- (b) The Commissioner of Valuations then determined the value of the land.
- (c) If the landowner rejected the valuation, the State or the landowner could have applied for arbitration under sections 15 and 16.

- (d) If arbitration failed, the State or the landlord could have applied to the court for a determination of the matter under section 18.
- (e) In determining the value of the land, the open market value of the land at a date 12 months prior to the date of notice of acquisition would have had to be taken.

If the Government at that time had acquired your parcel of land, say today, November 19, 2002, they would have valued it at its value on December 19, 2001. So, that they would have taken the value one year prior to giving notice for acquisition.

- (f) No account was to be taken of the value of the land in terms of its special suitability or adaptability for any purpose, if such purpose required statutory approval even if statutory approval was given prior to the date of proposed acquisition.

If a parcel of land had approval for some purpose, that purpose or value would not have been taken into consideration prior to December 23, 1994. That is what existed prior to 1994.

Since coming into effect of the 1994 Act, the procedure for determination of compensation has been varied to be as follows.

- (a) A claimant submits his claim to the Commissioner of State Lands.
- (b) The Commissioner of Valuations values the land.
- (c) In the absence of an agreement, the claimant may file an action in the High Court for determination of the matter.

Let me now give some factors that are taken into consideration with respect to the valuation of one's lands acquired after December 23, 1994:

- (a) The value to be attached to the land is the value assessed at the date of its proposed acquisition.

So, the new law governing land acquisition is that the date at which notice was given is the date the value will be assessed and not what applied prior to 1994 when they took you back one year.

- (b) Assessment of value would take into account any use to which the land would have been put, such use to be certified by the Minister responsible for planning.

If a person's parcel of land, because of the usage of the land, has added value, that would be taken into consideration. Prior to December 23, 1994, that was not so.

- (c) When the claimant owns lands adjacent to the acquired land, any increase or decrease in the value of the adjacent land resulting from the acquisition will be debited or credited, as the case may be, to the claimant's account.

If a person has two parcels of land and the State acquires one and by their acquiring one parcel the purpose of that parcel of land increases the value of the other parcel of land or decreases the value, that will be taken into account. That did not apply prior to December 23, 1994.

- (d) Where any plot of land adjacent or contiguous to the acquired land, and which has not been part of the acquired land has been injuriously affected by any works carried on, on the acquired land, the owner of the affected land may claim compensation.
- (e) Interest is payable at the rate of 9 per cent from December 23, 1994, even in respect of lands acquired prior to that date.

Prior to December 1994, if someone's parcel of land was acquired in, say 1990, he would have received 6 per cent interest per annum until December 1994 and thereafter, because of the new Act, he would get 9 per cent.

- (f) That the claimant is entitled, on application, to an advance payment of up to 80 per cent of the estimated value of the land under section 22.
- (g) The Act now limits a person to a period of 12 months from the date of the proposed acquisition in which the claimant must submit his claim. He may, however, apply to the President, His Excellency, within six months of the expiration of the time limit above for an extension of the time within which to apply.

So, if the State gives notice of acquisition of a parcel of land, a person must now proceed to make that claim within 12 months of the date of the proposed acquisition.

Mr. Vice-President, each case will also have to be dealt with on its merit.

Where there is failure to reach an agreement between the State and the claimants on the quantum of compensation to be paid, the claimant can pursue any one of the many remedies outlined. Their failure must not be blamed on the State.

This, therefore, is the Government's position. The Government is committed to pay compensation to all its claimants in an equitable, fair and timely manner—and I correct Sen. Wade Mark—no compensation was paid, as far as I am concerned, with reference to what he is implying. The record in *Hansard* must, therefore, be set straight that this Government has given no one any favour with respect to payment for any land that the State may have acquired over whatever period. The Government will continue to make every effort to expedite the settlement of all claims for lands that were compulsorily acquired by the State.

When I assumed the position of Minister of Agriculture, Land and Marine Resources, the land portfolio came under my Ministry and I saw what was left of the Director of Surveys that was really responsible for all lands in Trinidad and Tobago—for surveying lands and referring matters to the Commissioner of Valuations. Senators would not believe that this discarded division was such an important division. That division was scattered under different ministries and so we had to pull all the various offices and bring them into a unit to expedite the necessary work. It has been a challenge from 1996 to 2001. If I were to ask the same questions the hon. Senator is asking today, we would see little or nothing was done.

We are committed, as a Government, to ensure that all citizens be given equity and equality in all the dealings with respect to the acquisition of State lands. I give this honourable Senate two assurances. We will move with the speed we can and with the resources available to us. I have approached Cabinet in order to increase the resources—personnel and otherwise—so that we will be able to expedite a number of, not only claims for lands, but surveys. When surveyors make their surveys to submit to the Director of Surveys to be approved, by not doing it in a timely manner, it slows the growth of development in our country. We are committed to moving the process forward.

I thank you, Mr. Vice-President.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.27 p.m.