

*Leave of Absence**Tuesday, May 20, 2008***SENATE***Tuesday, May 20, 2008*

The Senate met at 1.30 p.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

Mr. Vice-President: Hon. Senators, I wish to inform you that the President of the Senate, Sen. The Hon. Danny Montano is out of the country.

Hon. Senators, I have granted leave of absence to Sen. The Hon. Jerry Narace and Sen. The Hon. Arnold Piggott, who are out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. FOSTER CUMMINGS

WHEREAS Senator Danny Montano is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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, FOSTER CUMMINGS, to be temporarily a member of the Senate, with effect from 20th May, 2008 and continuing during the absence from Trinidad and Tobago of Senator Danny Montano.

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 14th day of May, 2008.”

Senators' Appointment
[MR. VICE-PRESIDENT]

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“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. JOEL PRIMUS

WHEREAS Senator Jerry Narace is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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, JOEL PRIMUS, to be temporarily a member of the Senate, with effect from 20th May, 2008 and continuing during the absence from Trinidad and Tobago of the said Senator Jerry Narace.

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 15th day of May, 2008.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MR. NOEL GAYLE

WHEREAS Senator Arnold Piggott is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, 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

Senators' Appointment

Tuesday, May 20, 2008

Republic of Trinidad and Tobago, do hereby appoint you, NOEL GAYLE, to be temporarily a member of the Senate, with effect from 20th May, 2008 and continuing during the absence from Trinidad and Tobago of Senator Arnold Piggott.

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 May, 2008."

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Foster Cummings, Joel Primus, Noel Gayle.

PENSIONS (AMDT.) (NO. 2) BILL

Bill to amend the Pensions Act, Chap. 23:52. [*The Minister of Education*]; read the first time.

PAPERS LAID

1. Annual report of the Heritage and Stabilisation Fund for the period ended September 30, 2007. [*The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the South West Regional Health Authority for the year ended September 30, 2004. [*Sen. The Hon. M. Browne*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Chaguanas Borough Corporation for the year ended September 30, 2004. [*Sen. The Hon. M. Browne*]

ORAL ANSWERS TO QUESTIONS

Tertiary Education (Grant of Financial Assistance/Scholarships)

11. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister inform the Senate whether her Ministry has provided financial assistance or awarded scholarships to persons desirous of pursuing studies at universities in Trinidad and Tobago, the Caribbean region and/or internationally?

- B. If the answer is in the affirmative, will the Minister provide this Senate with the following information:
- i) a list of the names of persons who have benefited from such assistance for the period 2002 to December 2007;
 - ii) the amount of financial assistance provided to each person; and
 - iii) the names of the institutions involved?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I regret that question No. 11 is not now ready. According to the information that I have, it was deferred by the Parliamentary Questions Committee on the 29th for an amendment.

Sen. Mark: Mr. Vice-President, you would know that we granted him a week last week and we were expecting the answer today.

Question, by leave, deferred.

Mr. Douglas Mendes SC
(Details of Retention of Services)

12. Sen. Wade Mark asked the hon. Attorney General:

Could the Attorney General provide the Senate with:

- A. a detailed list of the matters in which Mr. Douglas Mendes SC has been retained by:
- i) the Government of Trinidad and Tobago;
 - ii) the Integrity Commission;
 - iii) the National Lotteries Control Board;
 - iv) the Telecommunications Authority of Trinidad and Tobago; and
 - v) any other state enterprise and/or statutory authority during the period January 01, 2002 and December 31, 2007?
- B. Could the Attorney General also provide a detailed breakdown of the fees paid to the said Senior Counsel during the same period?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Vice-President, the response is not as yet ready. It is still before the Parliamentary Questions Committee.

Sen. Mark: Could the hon. Attorney General, Mr. Vice-President, indicate to you and this honourable Parliament when the question will be ready?

Sen. The Hon. B. Annisette-George: This is with respect to question 12?

Mr. Vice-President: Yes, Senator.

Sen. The Hon. B. Annisette-George: Are you allowing that question, Mr. Vice-President?

Sen. Mark: No, I am asking you, when are you going to answer that?

Sen. The Hon. B. Annisette-George: It is the Vice-President in charge of the Senate, he called question No. 15.

Mr. Vice-President: Question No. 15, Sen. Mark.

Sen. Mark: So, you are not asking her when she is going to provide us with the answer.

Mr. Vice-President: Question No. 15, Sen. Mark.

Sen. Mark: No, I am asking.

Mr. Vice-President: I have ruled.

Sen. Mark: You are not a dictator; you must tell us what—[*Inaudible*]

Mr. Vice-President: Question No. 15, Sen. Mark.

Sen. Mark: I have asked a question, Mr. Vice-President. Are you ruling me out of order?

Mr. Vice-President: I am ruling that we move on.

Sen. Mark: Oh, you are ruling that we move on?

Mr. Vice-President: Yes. Question No. 15, Sen. Mark. [*Laughter*]

Sen. Mark: You have now assumed ominous proportions here. We will have to move a vote of no confidence in you. [*Interruption*] All right, that is the behaviour of the Government, but they would not last forever. Is it question No. 12, Sir?

Mr. Vice-President: Question No. 15, Sen. Mark.

Sen. Mark: Okay. [*Laughter*]

Question, by leave, deferred.

**Granting of Scholarships/Funding
(Committee Members)**

15. Sen. Wade Mark asked the hon. Minister of Community Development, Culture and Gender Affairs:

- A. Could the Minister provide the Senate with a list of the Members who comprise the committee in the Ministry of Community Development, Culture and Gender Affairs charged with the responsibility for determining the grant of scholarships/funding to needy individuals?
- B. Could the Minister provide the Senate with copies of the brochures/pamphlets containing the procedure and criteria adopted by the committee for determining the eligibility for scholarships/funding?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, question No. 15 is not available because there is an issue with this question and the advice of the office of the Attorney General is being requested. Until such advice is given, this question will not be answered, so that this question is now not available to be answered.

Sen. Mark: Mr. Vice-President, question No. 15 will never be answered. Once it goes to the Attorney General it is in cold storage. [*Laughter*]

Question, by leave, deferred.

**Multimillion-Dollar International Waterfront Project
(Status of)**

25. Sen. Wade Mark asked the hon. Minister of Planning, Housing and the Environment:

With respect to the multimillion-dollar International Waterfront Project, could the Minister inform the Senate:

- (i) how many contracts were signed between the State and UDeCott, for the management of the project;
- (ii) the names of any other company that signed contracts with UDeCott for project management and construction from the commencement of the project to December 31, 2007;
- (iii) the details of the amount of money paid to each of these contractors;
- (iv) whether these contracts were the subject of competitive tendering or a sole selective basis; and
- (v) if the contracts were on a sole selective basis, what were the rationale and reasons for same?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Gaynor Dick-Forde): Thank you, Mr. Vice-President. This question, we received all of the materials from the agency. However, we have quite a lot more work to do and I believe, perhaps, in the next three weeks we will be ready with this question.

Sen. Mark: Is that a justification for commission of enquiry into UDeCott?
[Laughter]

Question, by leave, deferred.

**Official Residence
(Details of Payments)**

26. Sen. Wade Mark asked the hon. Minister of Finance:

- A. Could the Minister provide the Senate with the details of the final cost of the construction of the Prime Minister's residence and Diplomatic Centre?
- B. Could the Minister also provide the Senate with the details of payments of value added tax, income and corporation taxes, and all other corporate taxes by the Shanghai Construction Corporation of China during the period of construction of the said Prime Minister's residence and Diplomatic Centre?

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, this question is not ready, but will be ready in two weeks.

Thank you.

Question, by leave, deferred.

Mr. Vice-President: Question No. 28, Sen. Mark.

Sen. Mark: Mr. Vice-President, you think I should stand again? [Laughter]

Sen. Dr. Saith: [Inaudible]

Sen. Mark: No, I have to stand again, man.

Sen. Enill: You want us to agree now—[Inaudible]

Sen. Mark: Of course. Your behaviour is being viewed, you know.

Sen. Enill: That is all right.

**Conduct of the Chief Justice
(Legal Advice Offered on)**

28. Sen. Wade Mark asked the hon. Prime Minister:

- A. Could the Prime Minister make available the official legal advice offered to him by Dr. Lloyd Barnett, QC and Mr. Mark Strachan, QC from Jamaica and the United Kingdom respectively on which his decision to have the President of the Republic establish a tribunal to investigate the conduct of the Chief Justice?
- B. Could the Prime Minister also provide the Senate with details of the legal costs and fees paid to both Dr. Lloyd Barnett, QC and Mr. Mark Strachan, QC for the said advice?

Who is the Prime Minister here today, Sen. The Hon. Dr. Saith? [*Laughter*]

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, this question has not yet been approved. It was deferred for an amendment.

Sen. Dr. Saith: The answer has not been approved.

Sen. The Hon. C. Enill: Sorry, the answer has not been approved.

Question, by leave, deferred.

1.45 p.m.

**Securities and Exchange Commission
(Government's Measures to Strengthen)**

42. Sen. Wade Mark asked the hon. Minister of Finance:

Could the Minister state the measures, legislative or otherwise, the Government intends to take to strengthen and support the Securities and Exchange Commission in its efforts to ensure that companies listed on the Trinidad and Tobago Stock Exchange submit annual reports on a timely basis to allow shareholders to be better able to monitor and protect their investment?

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, the Securities Industry Act establishes the Trinidad and Tobago Securities and Exchange Commission to regulate the securities market. A critical responsibility of the Commission is to maintain surveillance over the securities market and to ensure orderly, fair and equitable dealings in securities.

As part of this responsibility, the Commission also regulates the activities of securities brokers and self-regulatory organizations such as the stock exchange. All companies listed on the stock exchange are required by Act to register with the Commission. In its ongoing thrust to ensure that companies comply with all their obligations to the investors, the Commission is currently instituting the rules of practice for hearings and settlements to clarify the procedures for the conduct of enforcement actions and to provide for the negotiated settlement of such actions. This will result in a more expeditious and less costly resolution of matters on which the Commission has had to adjudicate.

In addition, the Commission is now engaged in consultation with all of its stakeholders on revisions to the Act with the aim of strengthening the regulatory regime for the securities industry.

The measures outlined above are designed to ensure that companies listed on the Trinidad and Tobago Stock Exchange, submit adequate information to allow informed investment decision-making by shareholders and other investors. The information is intended to be both adequate in terms of timeliness, as well as relevance.

Thank you.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate to us whether there is such a time frame envisaged for the conclusion of these consultations and new legislation coming before this honourable Parliament?

Sen. The Hon. M. Browne: Mr. Vice-President, it is anticipated that these consultations will end by the end of this month and that there are legislative provisions which are before Cabinet which are being discussed and finalized at this stage. It is anticipated we should be in a position to bring these Bills before the end of the year.

Thank you.

**Ongoing United Nations Development Project
(Computerization of the Licensing Office)**

45. Sen. Wade Mark asked the hon. Minister of Works and Transport:

With respect to the ongoing United Nations Development Project for the computerization of the Licensing Office, could the Minister advise the Senate:

- (i) what is the status of this project;
- (ii) what was the sum of money allocated for this project;

- (iii) how much money, if any, has been spent on this project so far; and
- (iv) whether the project has been abandoned or there is a new completion date?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the answer to question No. 45 is not now available.

Sen. Mark: Mr. Vice-President, could the hon. Minister indicate to you and to the Parliament when the question would be ready?

Sen. The Hon. C. Enill: Mr. Vice-President, today the Government came prepared to answer questions 55, 60, 61 and 64, and a number of questions, unfortunately, they are not on the Order Paper. The issue here is that as soon as the questions are in fact available, they are approved for answer to the Senate. With respect to question No. 45, according to the information I have, it has not yet been prepared, we have not received it. So question No. 45, has not yet been prepared by the Minister.

Question, by leave, deferred.

**Public Transport Service Corporation
(Status of Local Agents for Volvo Buses)**

46. Sen. Wade Mark asked the hon. Minister of Works and Transport:

- (a) With respect to the Volvo manufactured articulated buses owned by the Public Transport Service Corporation, could the Minister inform the Senate who are the local agents for these buses?
- (b) Could the Minister also inform the Senate whether those agents have a workshop and spare parts facility in Trinidad?
- (c) If the answer to (b) is in the affirmative, could the Minister state where this workshop and spare parts facility is located?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):

Mr. Vice-President, with respect to question No. 46, the question was in fact submitted to the Cabinet; it was not satisfactory and a new reply was requested. That is still outstanding.

Question, by leave, deferred.

**Judges of the Industrial Court
(Disparity in Retirement Benefits)**

53. Sen. Mohammed Faisal Rahman asked the hon. Attorney General:

- A. Could the Attorney General please inform this Senate whether there is a disparity in retirement benefits between judges of the Industrial Court and that of similar officers of the regular Judiciary?
- B. If the answer is in the affirmative, could the Attorney General state what steps are being taken to rectify this discrepancy?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Vice-President, the determination of remuneration and retirement benefits for judges of the Industrial Court and judges of the Supreme Court of Judicature falls within the purview of the Salaries Review Commission. It should be noted that this is a matter of public record, since it is contained in the 80th Report of the Salaries Review Commission which was laid in the Senate on February 21, 2006.

Thank you, Mr. Vice-President.

**Eco-lodges
(Details of)**

59. Sen. Dr. Adesh Nanan asked the hon. Minister of Tourism:

- (i) Would the Minister inform this Senate, how many eco-lodges have been constructed from 2002 to present in Trinidad and Tobago?
- (ii) Would the Minister also identify the location of the said eco-lodges, the local or foreign investors involved and the estimated investment in the said eco-lodges?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, question No. 59 was deferred for an amendment; it should be ready on the next occasion.

Question, by leave, deferred.

Sen. Mark: I am afraid to ask this one before I get the same answer.

**Solicitor General
(Application for position)**

65. Sen. Wade Mark asked the hon. Attorney General:

- A. Could the Attorney General provide the Senate with the number of candidates who have applied for the position or office of Solicitor General over the past three (3) years?

- B. Could the Attorney General further state whether her office endorsed or supported the application of any of the candidates and the reason, if any, for such endorsement and/or support?
- C. Could the Attorney General further state when the Office of Solicitor General will be permanently filled?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Mr. Vice-President, I expect that this answer should be available next week.

Question, by leave, deferred.

**World GTL Trinidad Limited
(Cumulative Preference Shares)**

67. Sen. Basharat Ali asked the hon. Minister of Finance:

Could the Minister advise the Senate on the following:

- A. The date of acquisition, the number of shares and acquisition cost of the 12% Cumulative Preference Shares in World GTL Trinidad Limited, reported in the NIB Annual Report 2007?
- B. Whether this investment by the NIB met the criteria for approved investments in accordance with paragraph 1 of the First Schedule of the National Insurance Act (Chap. 32:01)?
- C. Alternatively, was approval for this investment given to the Board by the Minister with responsibility for Finance in accordance with paragraph 1A of the said Schedule and, if so, the basis for such approval.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, the answer to this question is not yet ready and will be ready in two weeks' time.

Question, by leave, deferred.

**Licensing Authority
(Measures to Stamp out Illegal Practices)**

68. Sen. Wade Mark asked the hon. Minister of Works and Transport:

With respect to the numerous reports over the past seven (7) years of fraudulent activities at the offices of the Licensing Authority, particularly the Port of Spain office, could the Minister inform the Senate of the steps or measures taken by his Government to stamp out such illegal practices?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, question No. 68 has not been received from the Minister. We would take steps to see how this can be rectified.

Question, by leave, deferred.

WRITTEN ANSWER TO QUESTION

Sen. Mark: Mr. Vice-President, may I engage you? If you go to the appendix of the Order Paper, you will see that there are several written questions that are supposed to have written answers to them and I am dealing with my four, they are long overdue. I would like to appeal to you, to appeal to the Leader of Government Business, to have these written answers supplied to my person and to this honourable Parliament as soon as possible.

Mr. Vice-President: Hon. Senators, please note that the written answer to question No. 51 was circulated.

Status of Projects (Street Children)

51. Sen. Cindy Devika Sharma asked the hon. Minister of Social Development:

- A. Would the Minister provide this Senate with the status of projects aimed at reintegrating and assisting children living on the streets?
- B. Could the Minister inform this Senate of the number of children that have benefited from these projects for the years 2002, 2003, 2004, 2005, 2006 and 2007?

Vide end of sitting for written answer.

EMERGENCY AMBULANCE SERVICES AND EMERGENCY MEDICAL PERSONNEL BILL

Bill to regulate emergency ambulance services, to provide for the registration of emergency medical personnel in Trinidad and Tobago, for the establishment of a National Emergency Ambulance Authority and for matters connected therein [*The Minister of Health*]; read the first time.

INTERNATIONAL CHILD ABDUCTION BILL

Order for second reading read.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Thank you, Mr. Vice-President. I beg to move,

That a Bill to provide for the application on Trinidad and Tobago of the Hague Convention on the Civil Aspects of International Child Abduction and to provide for matters connected with or related thereto, be now read a second time.

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Mr. Vice-President, it is disheartening to consider that several thousand children are the victims of international parental child abduction each year. In fact, we in Trinidad and Tobago have not been spared such a development, as over the years our courts have witnessed several legal battles between parents for custody of their children in circumstances where one parent may have taken the child out of the jurisdiction that it customarily resides in, or in other circumstances, the child having come to Trinidad and Tobago to spend a vacation period with one parent, is kept and not returned to the other parent in the jurisdiction which the child habitually resides.

The Hague Convention which was passed on October 25, 1980 on the Civil Aspects of International Child Abduction, is a multilateral treaty which seeks to protect children from the harmful effects of parental abduction and retention across international boundaries by providing a procedure to bring about their prompt return.

Mr. Vice-President, this Hague Convention has been a pioneer in developing systems of international cooperation for the protection of children who are caught up in cross-frontier situations. Eighty countries have signed on to the convention, 26 have ratified, and 54 have acceded. Bahamas, Belize, Dominican Republic, St. Kitts, Nevis and Trinidad and Tobago are the Caribbean States which have acceded, Venezuela has ratified. The convention, in general, continues to work well in the interest of children and broadly meets the needs for which it was drafted.

The purpose of the Bill before us, the International Child Abduction Bill, 2008 is to give the Hague Convention on the Civil Aspects of International Child Abduction the force of law in Trinidad and Tobago. This convention was established as an international mechanism for the peaceful and orderly return of wrongfully abducted or retained children in any contracting State back to their country of habitual residence. The objectives of the convention are to establish procedures to secure the prompt return of such children and to ensure that the rights of custody and of access under the law of one contracting State are effectively respected in other contracting States.

The convention requires the establishment of an authority to discharge the duties imposed by the convention. The authority is required to cooperate with other such authorities, promoting cooperation amongst competent authorities to secure the prompt return of children and to achieve the other objectives of the convention. As regards action taken by Trinidad and Tobago concerning this convention, the records in the Ministry of the Attorney General show that by a

letter dated March 17, 2000, the then Attorney General received correspondence from the Embassy of the United States of America which state, among other things, and I quote:

"Attorney General Reno has an interest in issues involving women and children and would like to use her visit to promote programmes to assist these groups in particular. Trinidad and Tobago's accession to the Hague Convention on Child Abduction would be a positive result of Attorney General Reno's visit and would benefit the children of both our countries."

That letter, Mr. Vice-President, may have triggered certain actions on the part of the Government of Trinidad and Tobago which included, among other things, Cabinet Minute No. 611, dated April 05, 2000, wherein Cabinet agreed:

- (a) to the accession by the Republic of Trinidad and Tobago to the Hague Convention on the Civil Aspects of International Child Abduction, subject to a reservation made pursuant to Articles 24 and 26, and in accordance with the provisions of Article 42 of the convention regarding cost to be borne by Trinidad and Tobago in respect of proceedings resulting from an application made under the convention; and
- (b) to the designation of the proposed Children's Authority as Trinidad and Tobago's Central Authority, as provided for in Article 6 of the convention.

And as a result of this Cabinet Minute, on June 07, 2000, Trinidad and Tobago's instrument of accession was deposited.

Paragraph 3 of Article 38 of the convention provides for the entry into force of the convention for a State on the first day of the third calendar month after the deposits of its instrument of accession which meant that the convention should have come into force in Trinidad and Tobago on October 01, 2000.

2.00 p.m.

Having acceded to the Convention, an attempt was made to give legislative effect in part by the establishment of the central authority as required by the convention and this was by an amendment to clause 5A of the Children's Authority Bill, 1999 which was then before the Parliament, and the effect of that would have been for the Children's Authority to be the central authority for the purposes of the Hague Convention.

The Children's Authority Act, No. 64 of 2000 was passed by a special majority in Parliament in 2000. However, this Act was never proclaimed but in an attempt to partially give effect to Trinidad and Tobago's international obligations,

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the National Family Services Division was designated by Cabinet as an interim central authority for six months for the period commencing with effect from February 2000.

In 2001, certain changes took place and a new PNM Government was sworn into office after the general election. The then Attorney General appointed a Family Court Committee which, among other things, viewed what was commonly known as the package of children legislation. The Family Court Committee subsequently recommended, and Cabinet agreed, that section 5A of the Children's Authority Act which would have given effect to the central authority should be deleted from the Children's Authority Act, 2000 and that a separate stand-alone piece of legislation be drafted to give effect to the implementation of the Hague Convention. The Family Court Committee also recommended, that given the legal and sometimes quasi-criminal, or criminal act involved in child abduction, that the central authority for international child abduction should be within the Ministry of the Attorney General.

Mr. Vice-President, the International Child Abduction Bill, 2008 is a very simple piece of legislation which consists of 14 clauses and a schedule which contains the actual Convention on the Civil Aspects of the International Child Abduction.

Clause 1 provides the short title of the Bill.

Clause 2 stipulates that the Act will only apply to children under the age of 16 years.

Clause 3 of the Bill provides for the interpretation of certain terms and I particularly draw reference to the definition of "court" in clause 3 which describes the court as having jurisdiction as the Supreme Court of Judicature, which, according to section 99 of the Constitution and section 4(1) of the Supreme Court of Judicature Act will mean the High Court and the Court of Appeal.

Clause 4 of the Bill is significant as it refers to the Convention in the Schedule and states that it shall have the effect of law.

If I may be permitted to break at this time with respect to going through the Bill clause by clause just to highlight some of the main aspects of the Convention which will be attached to the Schedule of the Bill. The Convention applies in cases where both the country of the child's habitual residence and the country to which the child was taken have acceded to the Convention.

The Convention governs children who are under the age of 16 years and it relates where a child has been wrongfully removed or retained in breach of rights of custody under the law of the State of the child's habitual residence. It does not

provide a new procedure for custody and to access issue; in fact, its primary objective is that it ensures that abducted children are returned to their country of habitual residence as the Convention is based on the rationale that disputes regarding custody and access are best resolved in the country where the child habitually resides.

The Convention provides both an administrative and a judicial mechanism for parties seeking relief and both these mechanisms can be accessed simultaneously. These mechanisms are by no means mutually exclusive. The administrative mechanism for securing the return of the child is obtained by making an application to the designated central authority in the nation to which the child has been removed, or in the nation where the child habitually resides.

Further, Mr. Vice-President, a party may also initiate the judicial process in the country where the child is located. A party initiating the judicial proceedings under the Convention may request either the return of the child, or that arrangements be made for organizing access to the child. Further, returning to the provisions of the Convention, clause 5 of the Bill empowers the ministry with responsibility for foreign affairs to make an Order specifying the contracting States other than Trinidad and Tobago.

Clause 6 of the Bill seeks to establish the central authority as required under Article 6 of the Convention and in Trinidad and Tobago, the Bill provides that the central authority shall be called the Civil Child Abduction Authority so as to distinguish this from the central authority which has been dealing with mutual legal assistance in criminal matters for the past several years in the Ministry of the Attorney General.

The functions of the authority as detailed in Article 7 of the Convention are listed in the Schedule to the Bill, and just to be able to give to the Members of this honourable Senate some details of the Convention and the duties of the authority, I hereby list as follows:

Among the duties would be—

- “(a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm of the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring an amicable resolution of the issues;

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- (d) to exchange, where desirable, information relating to the social background of the child;
- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far possible, to eliminate any obstacles to its application.”

Mr. Vice-President, at clause 7 and clause 8 of the Bill it gives the Supreme Court of Judicature, the High Court and the Court of Appeal in Trinidad and Tobago the jurisdiction to entertain applications under the Convention and to make interim orders for the purpose of securing the welfare of the child concerned.

Under clause 9 of the Bill, provisions are made for procedure for requests to be made to the Civil Child Abduction Authority containing information regarding the child. It provides for a written report which would assist the authority in promoting cooperation with other central authorities in other contracting states as they seek to secure the prompt return of the child to its habitual place of residence.

Clause 10 of the Bill provides for proof of documents and evidence.

Clause 11 permits the court to make declarations that the removal of a child was wrongful.

Clause 12 of the Bill gives the court the power to make orders to protect the welfare of the child pending its return to the contracting state of its habitual residence.

Clause 13 provides for the Rules Committee established under section 77 of the Supreme Court of Judicature Act, to make rules as may be necessary.

Clause 14 gives the Attorney General power to make regulations for the purpose of giving effect to the legislation and particularly with respect to the functioning of the Civil Child Abduction Authority.

Mr. Vice-President, at this stage I wish to point out that when this Bill was debated in the other place on February 08, 2008, an amendment was made to clause 14 to include that such regulations will be subject to the negative resolution of Parliament.

It is important to know that the Hague Convention of 1980 comprises 45 Articles with a preamble that states among other things that the framers were firmly convinced that the interests of children are of paramount importance in matters relating to their custody and that there was a desire to protect children.

Mr. Vice-President, I would therefore like to urge Senators to support this Bill as it brings Trinidad and Tobago in compliance with best practices of international standards.

I beg to move.

Question proposed.

Sen. Dr. Jennifer Kernahan: Thank you, Mr. Vice-President, for the opportunity to contribute to the Bill before us, the International Child Abduction Bill, 2008.

Mr. Vice-President, this afternoon while this Parliament debates this Bill on child abduction and clearly the infrastructural programmes we need to put in place to seriously deal with preventions of all forms of abuse and neglect of children including child abduction, our heart and prayers are with the people of China and Myanmar, whose countries have been devastated by natural disasters.

While we mourn the death of tens of thousands of persons including children who are so much more vulnerable in situations so horrific, we remember here today that one of the major challenges these countries face at this point in time, is the protection of thousands of children from the predators who usually come out of the woodwork at this point where countries are in the midst of chaos and really serious conditions and who pursue their nefarious practices precisely because of the lack of control.

Mr. Vice-President, we in Trinidad and Tobago have been blessed and fortunate that we have not ever been subject to that sort of misfortune and have never had to deal with chaos on such a wide magnitude.

2.15 p.m.

But the thing is that we in this country, have a crisis situation with respect to children that is festering, that is ongoing and that is very serious and we have an administration that is guilty of the most unconscionable, cynical neglect—shameful neglect—of the children of this country for the past seven years. This administration has, actually, over the past few years since it has assumed office, put the issue of children and the suffering, the problems that our children are undergoing every day in this country on the back-burner.

In September 2000, a package of children legislation was laid by the UNC government in this Parliament; a total of five Bills, including the Children's Authority Bill. The Family Court Bill was also introduced in 2000. These pieces of legislation were proposed by the UNC government and were brought to Parliament precisely because of our concern for children; precisely because of the high priority we placed on dealing with the issues of children very early in our first term in office.

In 1997, just two years after the UNC assumed office and after 35 years of PNM rule in this country—30 years uninterrupted—and after an oil boom of the 1970s, what was the legacy of the PNM with respect to abused children, exploited children, neglected children, abducted children? We can get an idea of what was the status quo at that time simply by looking at a report of the committee on the Convention of the Rights of the Child, where the committee made certain observations with respect to what was happening in Trinidad and Tobago—that was as early as 1997—and these are the issues that prompted the UNC government to deal in a holistic fashion with the issues of children and we brought five Bills to Parliament, and also the Family Court.

Some of the things that the committee said at that time were:

“The Committee is concerned at the insufficient attention paid, at both national and local levels, to the...victims of child abuse, ill-treatment or economic exploitation, girl children, children of single-parent families, children born out of wedlock, abandoned children, institutionalized and disabled children, children living and/or working in the streets and children involved with the juvenile justice system.”

These are the issues that prompted the UNC government to bring a package of children legislation and the Family Court. I think the Attorney General, as a lawyer and somebody who knows better, should not come to this Parliament and speculate about the motives of the UNC in bringing comprehensive legislation to

Parliament, which included the International Child Abduction Act. She should do further research and understand what the committee on the Rights of the Child had said about this country in 1997, after 40 years of PNM rule, and to understand what was our motivation.

“The committee notes with concern that...insufficient attention has been paid to the training of all professional groups working with or for children such as judges, lawyers, magistrates, law enforcement personnel, police officers, army officers, officials of the central and local administrations, health professionals, teachers, social workers, and personnel working in child-care and detention institutions.”

This was our motivation, a horrendous state of affairs after so long that administration had been in office. So that is the track record and that is why we brought this package of children legislation.

With the advent of the Bill in 2001, as the Attorney General mentioned, what we had in 2001 was this politicking; playing politics and nit-picking with the legislation that we had brought to Parliament to deal with the issues of children. What you found happening was, while they were busy politicking and nit-picking and wondering about certain clauses; intellectual fantasizing, and so on, instead of using the legislation, dealing with it very promptly and establishing the infrastructure and the facilities to deal with the implementation of the legislation, what you had was a total laissez-faire attitude and a veritable crisis developing in this country with respect to our children over the last few years, while they were playing politics and nit-picking and stripping legislation and going back to committees, and so on.

We just have to look at some of the headlines that would tell us what happened while they were there playing politics. On Wednesday, February 20, 2008, in the *Trinidad Guardian* it states: “Porn for sale, ...students cash in on sex in the classroom.” This was an article by Kyle Jeremiah and it says:

“Secondary school students are selling sexually explicit footage of themselves for as little as \$5.”

But, you know, the Ministers on that side find that funny.

“This was revealed at a seminar on juvenile delinquency yesterday at the Faculty of Social Sciences Lounge at the University of the West Indies, St. Augustine.

Head of the Unit for Social Problems Analysis and Policy, Dr. Daphne Phillips...”

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So this is what we had to deal with. These were some of the issues that were looming and were growing why we brought the package of children legislation and why the crisis has intensified to this point.

“La Brea schoolgirl missing for three weeks”

“Teen stabbed to death in fight”

“Teen missing”

We have several issues of missing children. There is a headline in the *Newsday* on April 20, 2008 which states: “System still failing vulnerable children”, which spoke to the young children who were poisoned by their father.

The stories that these headlines tell are very sad and all the blame should be laid squarely at the foot of this administration that refuses to bring holistic legislation to deal with the issues that children face in this country. This stand-alone Bill that the Attorney General has brought to this Parliament this afternoon is, in itself, sloppy, deficient and vague. I will go into that because I have looked at other pieces of legislation that other countries have brought with respect to this issue of child abduction and our legislation is in a class by itself, really.

You know, to understand why this Attorney General and why this administration can come so brazenly before this population and bring this piece of legislation which is irrelevant to the real problems that we are facing on a mass scale with respect to the children of this country, after having taken it out from our original Children’s Authority Act—you have to understand, this presentation here reminded me of the character in the Spanish literature by Miguel de Cervantes, written in 1605. I do not know if you are familiar with the character, Don Quixote. Don Quixote was this solitary, delusionary character who operated behind a full suit of armour and so on; he was unreachable behind his suit of armour, and he rode around the countryside attacking structures which he mistakenly believed to be the enemy. Presumably, what happened, was that while he was busy attacking imaginary enemies, the real enemies remained untouched.

So what is happening here this afternoon in this Senate, that in the best traditions of Don Quixote, this administration is engaged in a project here of attacking structures perceived to be the enemy. This administration, over the last few weeks, the population has watched in amazement as they have been attacking the JCC, architects, planners, opposition; firing Cabinet Ministers, all and sundry—

Hon. Senators: Relevance! [*Crosstalk*]

Sen. Dr. J. Kernahan: Recently they have been attacking sundry caucuses, but today the Parliament has been co-opted in this Don Quixote syndrome and what we are fighting today is this perceived enemy, “children who are victims of parental abduction”. This is nowhere, based on what is happening in our society, based on the headlines that we are seeing, this is not an issue of major priority; this is not something that can stand alone.

In fact, I have looked at other legislation where the issue of child abduction was brought to parliaments in the context of all the issues that affect children and they set up systems and monitoring mechanisms, and so on, to deal with the issue in a holistic way. This administration, in its paranoia, deletes perfectly good legislation that was brought in a holistic way and brings it back as a stand-alone to deal with issues that really are of little relevance at this point in time.

The issue of child abduction is not an easy one. It is extremely complicated because it involves the rights of the child; it involves the rights of the left behind parent; it involves the right of the parent who takes the child and it also involves laws and cultural, social and religious norms that are sometimes conflicting and contentious based on the countries with which you are dealing. The Hague Convention stresses that there is need to determine jurisdiction and it does not really deal with custody, and so on.

I am looking at clause 5 of this Bill before us which says:

“For the purposes of giving the Convention the force of law in Trinidad and Tobago under this Act, the Contracting States other than Trinidad and Tobago shall be those for the time being specified by the Minister with responsibility for foreign affairs by Order in the *Gazette*.”

Even where countries have signed the Hague Convention, the issue of compliance, the issue of enforcement, determine whether a major signatory like the US, for example, would actually enforce the terms of the convention with that particular country. It is all well and good to bring legislation to this Parliament, but the problem you are going to have is if you are not enforcing compliance, if you are not able to really carry through with the terms of the convention, the US is not going to recognize you as a contracting party.

I want to read from a “Report to Congress on International Child Abduction in Response to the Statement of Managers Accompanying F-103 Omnibus Appropriations Bill”. You would appreciate that the issue of the US is fundamental to this Act for us, because so many of our immigrants here leave to go to the United States; there are so many family ties, and so on; in fact, they say there are more Trinidadians living in the US than living in Trinidad and Tobago.

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So this is going to be fundamental to how this Act is able to work. In this document which I quoted just now, it says:

“Each new country that now accedes to the Convention undergoes a review process, during which countries that are already Hague parties each have the right to evaluate whether they will accept the new member state. In our view, countries that sign and ratify the Convention should expect such scrutiny and be capable of and committed to meeting all of their Hague responsibilities when we agree to accept them as partners.”

2.30 p.m.

It is not a question of signing the convention; bringing a few clauses to the Senate and saying that we are party to the convention. We would not be able to access the reciprocity that we need if we do not have the authorities operating in the proper way.

The Report on Compliance with the Hague Convention on the Civil Aspects of International Child Abduction, April 2007, is a report by the United States. They looked at all the countries within the Hague Convention and categorized them as “countries not complying with the convention or countries demonstrating patterns of non-compliance”. Based on this, they would reciprocate your access to the Hague Convention with respect to their authorities.

The requirements for being accepted by the United States as part of the Hague Convention are very stringent. We do not have a track record of being able to deal with the issues in the Magistrates’ Courts and the criminal justice system. We would have serious problems and we would not be able to stand the scrutiny of the United States and other countries that are party to this convention and would question us.

The Department of State of the United States looks at three areas in order to determine if they would accept a particular country as part of the Hague Convention.

It looks at the central authority’s performance; the judicial performance and law enforcement performance. Central authority performance involves the speed of processing applications; the existence of and adherence to procedures for assisting left-behind parents in obtaining knowledgeable, affordable legal assistance; the availability of judicial education or resource programmes and responsiveness to enquiries by the United States Child Authority and left-behind parents.

Under judicial performance, these are the criteria. It comprises the timeliness of a petition under the convention; timeliness of subsequent appeals; correct application of the convention and the efforts by the courts to enforce decisions for return or access.

Law enforcement performance includes the success in promptly locating abducted children and the prompt enforcement of court orders issued pursuant to the applications under the convention, by administrative or law enforcement authorities.

We live in this country and we know what happens here. We are talking about prompt location of abducted children; judicial performance that includes timeliness and correct application of the convention. We have serious problems without what is required of us. There is no track record that would allow us to do these things because we do not have a history of judicial performance, law enforcement and so on, and our institutions would not be able to deal with these issues. Clearly, we are not going to come up to scratch under this administration because it is about hiding things; coming to Parliament and saying nice things. The follow-through or implementation always leaves much to be desired and it would not come up to scratch.

The documents “Good Practice Report and Access Under the Hague Convention” of October 25, 1980 and the “Civil Aspects of International Child Abduction”, go into more detail of what is required. I do not know if the Attorney General understands what we are getting into. Under this convention the general principles are: “Clear and effective communication, Cooperation, Transparency and Speed.”

Under Article 21 of the Convention, there are some things which are required in order to be considered as having good practice and compliant with the convention. They are asking that access applications be handled expeditiously and prioritized over domestic cases, where access is dealt with as a 1980 Hague Convention application; the applicant should be able to benefit from generous provision of legal aid; court hearings should be kept to a minimum as cost involved in proceedings with a foreign element are known to be considerable, especially for the respondent who may have to travel long distances to attend hearings. We know what happens in our courts and we know that this would not happen.

Under initial processing of applications these are some of the criteria to be part of this convention and to be considered a signatory: You would be scrutinized and assessed and applications should be processed with maximum speed. We do not

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do anything in this country under this administration with maximum speed, to start with. Whenever this administration gets into power, many people believe that it is their time; they do not have to work; they lay back and nothing happens in government departments. The central authority should reply promptly to all communication and should rapidly acknowledge receipt of an application; central authority should use model forms to assist and process applications and where relevant, copies of the domestic access legislation of the requesting contracting State should be provided.

Under the Judicial Processing of Applications, the central authority should have a monitoring system to track the speed and outcome of each case; a limited number of suitably trained legal practitioners should be involved in handling the 1980 Hague Convention access cases in order that an expertise can be developed. The central authority should maintain a list of such lawyers. Is this administration ready for this? Judges at both trial and appellate levels should firmly manage the progress of access proceedings.

This Government has brought this piece of stand-alone legislation and made a big to-do about the need for being part of the Hague Convention. It takes a little more than that. It takes commitment; resources; training people; dedicated lawyers to assist in that work and who can respond to foreign authorities and central authorities. Based on the track record of this Government it would not happen.

What will happen? We will ask to be party to this convention and after the scrutiny by the United States and other countries which decide on whether or not you can be party to the convention, we will be firmly rejected and ejected from the convention.

When I looked at the legislation that speaks to how other jurisdictions set up their legislation to deal with the convention and ours, it was like chalk and cheese. We have 14 clauses before us and the entire convention is tacked on. When I looked at the International Child Abduction Remedies, a Bill that went to the Senate of the United States on this issue, it was amazing to see the kind of safeguards that other countries have in their legislation, with respect to this Hague Convention. As I said before, it is not a cut and dry convention. The convention can be very complicated and difficult. In spite of signing and ratifying the convention, other countries have taken concrete measures to ensure that they would be able to control the return of children under their jurisdiction under the convention.

I looked at the International Child Abduction Remedies and the United States Central Authority. In our legislation, clause 6 says:

- “(1) There is established a Central Authority to be known as the Civil Child Abduction Authority.
- (2) The functions of the Authority referred to in subsection (1) shall be discharged by the Attorney General.”

I will now quote some of the issues that were raised in the United States Senate Bill on the United States Central Authority. It says:

Designation: The President shall designate a federal agency to serve as the Central Authority for the United States under the convention.

They take the issue of a central authority very seriously. A federal agency was designated in their Act to serve as the central authority.

Under “Functions” it says that the functions of the United States Central Authority are those ascribed to the Central Authority by the convention in this chapter; and under “Regulatory authority”, the United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the convention on this chapter.

When we looked at the establishment of the central authority, it said nothing about regulations. When we look at clause 14 it says:

“The Attorney General may make regulations for the purpose of giving effect to this Act.”

The difference is that in the US central authority was given the authority to make the regulations for its smooth functioning. This Bill says that the functions of the authority will be discharged by the Attorney General. Nothing comes before the Senate in terms of what regulations will govern the running of the central authority.

In the US legislation before me several issues are outlined; that the central authority will take charge of such as administrative costs; costs incurred in civil actions; collection; maintenance and dissemination of information. This Bill goes into detail and gives the central authority the authority to receive information from a federal or state department or agency only pursuant to applicable federal and state statutes. It gives the central authority the permission to transmit information; request information and enquire of any government department, or

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agency of the United States, a request for information and instructs such authorities that they should promptly cause a search to be made on the files and records maintained by such a department and transmit this information to the central authority.

2.45 p.m.

Mr. Vice-President, under this legislation, the role of the central authority and its jurisdiction are clearly spelt out. Anybody reading this legislation is clear on the role, function and authority of the central authority. Our legislation has come before Parliament and it is cryptic, as usual. All it says is that it is going to establish a central authority and that the Attorney General will make regulations to give effect.

One of the major points that was made is that, under this US Act, there was also established an interagency coordinating group to monitor the convention to provide advice on its implementation to the central authority and other federal agencies. So the central authority is not left up to itself. It was given stated functions, prerogatives and roles in the whole question of child abduction, but an interagency coordinating group was also set up to monitor the central authority and to implement the convention. This is where I thought that our Bills that come before Parliament were so deficient and cryptic. The danger of this is that when there are these broad generalizations and nothing is clear, Parliament is abdicating its responsibility to deal with these issues in this Bill.

The Bill, in clause 13, says that:

“The Rules Committee, established under section 77 of the Supreme Court of Judicature Act, may make such provisions for giving effect to this Act as appears to it to be necessary or expedient.”

When I look at what is happening in terms of the judicial aspect—this was the administrative aspect—in other jurisdictions, these things were not left up to some vague question of a court establishing rules where expedient. They were brought to Parliament and spelt out because these are serious issues that involve people's lives, a lot of cost, a lot of heartache, trauma and so on. The legislators took the responsibility to be clear and precise about what is necessary to deal with it.

Mr. Vice-President, when I looked at the South Carolina General Assembly, 117th Session, 2007—2008, and the Bill that they passed to deal with child abduction, it says this Bill is:

“To amend the code of laws of South Carolina, 1976 by adding Subarticle 9...to enact the ‘Uniform Child Abduction Prevention Act’ to provide a legal mechanism to protect children from credible risks of abduction related to legal custody or visitation.”

What is happening is that, based on clause 14, where the Rules Committee is going to come at some later date to make provisions as may be necessary or expedient, we do not have clear guidelines in the legislation for courts with respect to the issues that will arise within the addressing of the problems.

One of the things I noted here also is that, in the US legislation, the court was given the power to order an abduction prevention measure in a child custody proceeding on its own motion if it finds that the evidence establishes a credible risk of abduction of the child. One of the things that they have inserted in their legislation that is so important and, I believe, is important to us, is that they did not just wait for the issue of child abduction to arise for the central authority to get involved and all the hassle and expense that comes after that. They put in a clause in their legislation to deal with the prevention of child abduction and made it very clear that the court, looking at a petition, or in its own understanding of the situation, can make an order to prevent child abduction in that country.

One of the things that also struck me when I looked at the issue of child abduction in this legislation is that there are a lot of caveats in determining how the Hague Convention is carried out. If we look at a hypothetical case, for example, a Trinidadian woman who lives in the United States, perhaps, with an abusive spouse—even in 13B of the Hague Convention, there are exceptions to this Act that say:

“Notwithstanding the provisions of the preceding Article, the judicial and administrative authority of the requesting State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights...”—of the child—;
- “(b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”

Some of the talk that has been emerging around this convention is that the mother of a child has a right, in case of domestic violence, to remove herself and her child from that particular situation.

In looking at the judicial aspect of the legislation in South Carolina and in keeping with Article B of the Hague Convention, they have elaborated many issues where it is permissible for the State in which the child is actually residing

at any time, not to return that child because of different issues. I would like to read some of the things that they have put in their legislation that would enable them not to return children regardless to being a party to the convention. It says here that:

“Section 20-7-380. (A) When determining the existence of a credible risk of abduction of a child, the court shall consider evidence that the petitioner or respondent:

- (8) is likely to take the child to a country that:
 - (a) is not a party to the Hague Convention...and does not provide for the extradition of an abducting parent or for the return of an abducted child;
 - (b) is a party to the Hague Convention on the Civil Aspects of International Child Abduction but:
 - (i) the Hague Convention and the Civil Aspects of International Child Abduction is not in force between the United States and that country;
 - (ii) is non-compliant according to the most recent compliance report issued by the United States Department of State;”

This was the original document I quoted which says that although you are part of the Convention, if they do the assessment and you are non-compliant according to the most recent compliance report issued by the United States, they will not entertain your request for returning an abducted child. If you lack the legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention and the Civil Aspects of International Child Abduction, you will not be entertained. If there is a risk that is posed that the child's physical or emotional health or safety may be endangered in that country because of specific circumstances related to the child or because of human rights violation committed against children, the return of the child will not be entertained.

If that country has laws or practices that enable the respondent, without due cause, to prevent the petitioner from contacting the child, which restricts the petitioner from free travel; which restricts the child's ability legally to leave the country after the child reaches the age of majority because of the child's gender, nationality or religion. A respondent will not be allowed to take a child out of the United States if that country is included by the United States Department of State on a current list of state sponsors of terrorism.

It is very clear that although the United States has signed this convention—over 80 countries have according to the Attorney General—these are all issues which are extraneous to the convention, and which they have said very clearly in their legislation, at least in South Carolina based on these, they will not respond to requests to return children. In all the States in the United States, all the courts are required to accept the rulings of the other courts and the Federal Courts are also asked to do so.

Mr. Vice-President: The hon. Senator's speaking time has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. A. Nanan*]

Question put and agreed to.

Sen. Dr. J. Kernahan: Mr. Vice-President, these courts have established very clear guidelines, very detailed issues that courts must look at when they are responding to petitions for the return of children who may be abducted. In addition, they have instituted Abduction Prevention Orders, which the court may trigger in order to ensure that the child is not actually carried away from their jurisdiction. Among some of the issues that they have put into their legislation is the imposition of travel restrictions that require a party travelling with the child outside a designated geographical area to provide the party with the travel itinerary, a list of addresses and telephone numbers at which the child may be reached at all times, a copy of travel documents. The court can also prohibit the respondent directly or indirectly from removing the child from the State or the United States or other geographical area without permission of the court or the petitioner's written consent.

3.00 p.m.

The courts, or the petitioner's attorney, require the respondent to surrender a United States/foreign passport issued in the child's name, including a passport issued in the name of both parent and child. These are the lengths to which they have itemized and developed very clear guidelines. The courts will deal with the rules as they deem expedient. In that jurisdiction, they did not leave it up to the court. They went to great lengths to itemize in detail, very precise conditions under which a request for return of an abducted child may be made.

They went so far as to deal with the political aspects of the state and the political relations with the state that requires the return of a child. It states that they will not entertain a request by a state that is on the current list of state-sponsored terrorism.

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They went to the length of itemizing, in very much detail, the Abduction Prevention Orders which they would trigger to prevent abduction of a child from their jurisdiction in the first place.

In this piece of legislation, we see all the issues that a court must consider and what are the powers of a court, with respect to the Child Abduction Prevention Orders. We see the powers of a court in preventing the repatriation or removal of a child, based on all kinds of issues other than what is stated in the Hague Convention and those with respect to physical harm or returning the child to a place of war, famine or disease. We have to sit up and take notice. We do not have anything like this in our legislation. Therefore, when we sign on to this convention, clearly we would be at a disadvantage, based on the very thorough and methodical way that their laws have been drafted and crafted.

We have come with two or three clauses thrown together. The entire Schedule is the actual convention. This is actually a waste of Parliament's time with this piece of legislation. What is happening is like a Don Quixote situation. They are evading the real issues and real questions of how we deal with the crises that have developed, due to their criminal neglect of the children of this country, the crises that have developed among our children over the last seven years. They have come and brought this stand-alone piece of legislation.

I saw South African legislation that dealt with the issue of children in a holistic way. Comments were brought by the South African Human Rights Commission. They dealt with all the aspects that were affecting children, in a holistic piece of legislation, not by just bringing this Bill.

In the Bill, they have placed monitoring mechanisms and systems that would determine that the legislation is actually implemented, is working and would not stay and gather mothballs in some corner, never to see the light of day.

This Government can run but it cannot hide. The facts are there for everybody to see. Over the last seven years, not one single facility has been built in this country for abused and exploited children at risk, yet we have the Prime Minister's residence completed. The Prime Minister boasted that his residence was completed in record time at a cost of \$148 million and counting, apparently. He sits in splendour, while our street children continue to endure all sorts of unimaginable horrors every single day in this country. Nothing has been put in place after a \$40 billion budget was passed in this Parliament. Nothing has been put in place in this country to deal with the issue of street children.

My colleague raised the question of street children and what is being done to deal with the issue of street children. Do you know what the response was by this Government that has spent \$40 billion and has built the Waterfront Project and is

involved in all kinds of projects? These are the high priority projects. Nothing has been done for the children. Do you know what they have said in this answer? They have dropped the responsibility for street children, children at risk and children who are in crisis in this country and given it to the NGOs. All they have said in this answer is what the NGOs have done. They gave the NGOs a small amount of money. The NGOs are always complaining that they do not get enough funding and that they are unable to do what they have to do.

The YMCA is always under-funded. Children who attend the YMCA outreach classes are at risk. I know the young person who attends to these children. She is always “all over the place” looking for food and supplies for the children, because the funding is never enough. You have put the onus of dealing with children at risk, homeless children and children in crisis in this country, on the NGOs. You boast that you go to the international committees and that the NGOs are a part of this. Yet they do not get enough funding. In no part of this answer, the Minister can say: The Government, per se, has built this facility or trained these social workers.

Mr. Vice-President, you know and we know the situation in this country with respect to social workers. The Ministry of Health has approximately 12 social workers for thousands of people who attend the hospitals. The schools need social workers. The communities need social workers. Nothing is being done to train social workers out there to attend to the needs of the people in their constituencies and communities, but we have billions of dollars being frittered away on mega projects. We have the luxury of instituting projects where foreigners can come here and work and send thousands of dollars back home in remittances and our children are still on the streets. *[Interruption]*

Mr. Vice-President: I think I have allowed you a lot of leeway. The Bill is about international child abduction. Please, stick to that.

Sen. Dr. J. Kernahan: Mr. Vice-President, the case that I have made this afternoon is that this Government is never ready to deal with real issues. They always look for the non-issues, the easy way out. They look for issues that would make them look good. International child abduction is something that they can deal with. Maybe, if we stick to the issues here, they would not get any flak. There is nothing to deal with. They have done nothing. All they have done is put a couple of clauses together. We are confident that they are not going to do anything. Children are not their priority. They can jump high, they can jump low, they cannot get away from that. They have had seven years to show this country that they are serious about children and they have failed miserably. Nothing has been done to better the status of children under this administration.

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In fact, in 2006, with respect to the Report of the Committee of the CRC, they had to make the same observations they have been making; that there are not enough resources allocated and that there is not enough disaggregation to understand what is happening with children. There are not enough facilities to deal with children. This Government has refused to deal with that. That is why they have not brought this Bill in a holistic context. That is why they have chosen to bring it by itself, so that we would talk about child abduction alone; an issue that is hardly an issue in this country right now. Hopefully, they would get away from having to deal with the hard and pressing issues that face children.

Don Quixote is at his best here this afternoon, tilting at windmills and charging imaginary enemies. But, they can only go so far. I think all over, the civil society has recognized that this Government is an illusion. There is nothing happening behind closed doors and, therefore, they are reduced to attacking everybody, “toute baghai/toute monde”, because they have been found out.

This Bill, although we need it to comply with international conventions, is not a top priority. It is not the most urgent issue facing our children today. This Government, as usual, has refused to deal with the urgent, pressing issues and the suffering of the children of this country.

I thank you.

Sen. Dana Seetahal SC: Thank you very much, Mr. Vice-President. I would like for us to consider what this Bill is about. The Bill will be an Act when it is passed. The International Child Abduction Bill is giving effect, as the Attorney General has said, for the Convention on the Civil Aspects of International Child Abduction of 1980.

The question that emerges from that, or that is begged by this Bill, is whether or not we have any issues of international child abduction in Trinidad and Tobago. The fact is that Trinidad and Tobago is a signatory to this convention. A lot of times, it has happened in the past, we sign conventions willy-nilly and long afterwards we then realize the impact of having signed that. For example, with respect to the Convention on the Human Rights Committee, long afterwards it came into being that we had to submit reports to the committee on the people who were being executed and what was happening here. People were making complaints there about the prison conditions and we just could not keep up because we did not have the resources. It seems to me that this convention, which we signed 28 years ago, was really of that ilk. What is the interest, apart from a generic kind of interest?

We do not want to see children being moved from one country to the other and parents not having access to them. What is our interest in this? This convention really deals with requests for information to discover the whereabouts of a child if he has come to Trinidad and Tobago and the parent in the United States suspects such. You want to prevent prejudice to the family's interest if the mother, for example, or a certain family, has the control or guardianship of that child and someone else, like a grandparent, has taken that child. You want to ensure the voluntary return of the child. How many children? I would like the Attorney General to tell us, if she can, whether or not we have a list of requests to Trinidad and Tobago, in the last 10 years, for the return of children. That might be one per year.

The hours we spend on this Bill, to give effect to it, is it worth it? Could not the administrative services in our country and whatever country that are contracting parties to this convention, deal with the issue? Can they not make a call to the Attorney General's Department, or some inter-governmental department and work on it?

I say this because when we pass this legislation, assuming we do, in any event, it is not going to come into effect until it is proclaimed. There is a provision not to come into effect until a date to be proclaimed. Then there are regulations to be made. It seems like much ado about nothing.

On the other hand, we have the Convention on the Rights of the Child, which we signed in 1991. That, to my mind, is a much more significant convention. Anyone who has the interest of the child at heart would recognize that. It does not deal solely with international child abduction. It deals with putting in place measures to deal with the care and treatment of children with disabilities, and setting an age of how you define a child. Right now, our legislation says that a child could be 14, 16 or 18, in different Bills.

3.15 p.m.

Sen. Annisette-George: Mr. Vice-President, through you, we have already passed an amendment for a child to be 18 years.

Sen. D. Seetahal SC: As I know it, in the criminal law, that amendment is not yet effective. There was an amendment to the relevant legislation, but it did not come into effect. So, a child in the Juvenile Court is still a person who is 14 years. There is no consistency in this. For the purposes of liquor it is 18, and for other purposes it is 14, and a child for criminal liability is seven years old—a person who can be liable for a crime, which I personally do not have a problem with. If at

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that age you were to kidnap someone and beat up that person for example, and you are at the age of seven plus, then that means that you are thinking much more ahead of your age. If you know that it is wrong, then you ought to be able to be dealt with.

What provision do we have in Trinidad and Tobago for that? As was pointed out by Sen. Dr. Jones-Kernahan, the Government of Trinidad and Tobago—and I dare say all governments before that—has never established any orphanages or halfway homes for children. How long have we been independent? It is a non-rhetorical question really, but it is 46 years.

We have had two major oil booms, and do you know that our main institutions like St. Mary's, St. Dominic's, St. Jude's and St. Michael's are all assisted homes. The question that was asked by Sen. Sharma is a very pertinent question and that is, what is the status of projects aimed at assisting children? Do you know that last year, the money that was spent on children, as Sen. Dr. Jones-Kernahan said, was \$36 million. All of that were subventions to non-governmental institutions.

In 2002, before this Senate, in my first budget contribution, I made the point then that children were at risk; that crime began at an early age; that there were persons who would never break the law, let us say 5 per cent of us; and then there is the majority of persons who would go with the flow. They would break the law if they are not deterred. They would go through a red light if there is no one around, and they would benefit from the general law, but there are certain persons—about 3 per cent to 5 per cent of all persons—who would be bad or evil, as it were. This has much to do with how they were brought up and what their parenting was.

I made the point then that Lincoln Guerra who was and is a person convicted of murder of a mother whom he raped and a baby whom he strangled, turned out that he had been living at an orphanage. Many of our serious criminals are either abandoned; they live on the streets—I am speaking from personal knowledge—or they do not have parents around.

I made the point then that the Government never set up an orphanage. I do not mean this particular Government, but no government but, of course, we are dealing with this particular Government now. One of the ways to prevent crime effectively is to treat with the children.

My point is, while it is all well and good to deal with international child abduction which is no threat essentially to anything with respect to the stability of our country, when you talk about \$36 million that you are spending per year for

all of the children who are at risk—I have no doubt that in schools and other ministries—I am not saying that all the children are getting is this \$36 million, but we are talking about “at risk children.” I know about that.

I used to be a Juvenile Court Magistrate and every day parents would bring in their children. It used to be once a week in San Fernando and once a week in Port of Spain. The parents would come on Fridays and say that this child is out of control, I want to have an order. What does that mean? It means an order to be sent to the orphanage or the Boys Industrial School or wherever. A lot of times it was a problem. We had to call the priest at St. Mary's Home and beg him to take one more child. If you had a child with a disability who was out of control, there was nowhere to send that child, so you had to call somebody from the St. Elizabeth's Home. That is the kind of problems that you are dealing with. It was so depressing for the social worker. It used to be the most depressing thing to go into the Juvenile Court, and I dare say it still is.

I raised that matter to say that while we are concerning ourselves with these things internationally, it looks good—we signed this convention, we signed that convention and we are passing the legislation that is giving effect to it—the real things are not being dealt with.

Six years ago, I was told in October 2002 that yes, we are putting measures in place. The Minister of Community Development said that they were going to deal with orphanages and give them more money. I remember the Minister of Social Development saying that also but, I have discerned not much has been done. One thing I did see is that we now have treatment centres for drug offenders, but for children there is very little.

I know my former Independent colleague, Sen. Martin Daly, has raised oftentimes the case of Akiel Chambers who was abused, and there has been no effective detection in that offence; effective in the sense that no one was brought to justice. Nothing was preserved for DNA, and nothing appeared to have concerned the authorities that they were dealing with an 11-year-old child.

One would think that when you are talking about abuse, of crimes against children that we ought to have legislation or practice in place that the authorities would know that you ought to deal with it specially.

If we can put into effect an International Child Abduction Bill, I see no reason our police service cannot have within its structure, a specific department or unit dealing with children and offences against children. Is it not about time that something like that should be given consideration?

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While we are talking about things like these, we have children at the age of 10 who are being sodomized—I can speak of what I have known—in the Tunapuna area by the market for a box of Kentucky Fried Chicken. That is the kind of thing going on in this country. That would reveal itself in the Juvenile Court. It would not reveal itself to many of us, because the Juvenile Court proceedings are not publicized. Some of the lawyers in the know would know about these things, but until such time that the Government realizes how serious these matters are—what we are doing by not dealing with it is creating criminals who would have no conscience, as we have already done to an extent. They would continue to do that, and we need seriously to address this situation.

Mr. Vice-President, thank you very much. [*Desk thumping*]

Sen. June Melville: Mr. Vice-President, thank you for giving me this opportunity to contribute to the debate in the honourable Senate to the Bill to provide for the application on Trinidad and Tobago of the Hague Convention on the Civil Aspects of International Child Abduction and to provide for matters connected with or related thereto.

Mr. Vice-President, the Hague Convention of October 25, 1980, on the Civil Aspects of International Child Abduction is a multilateral treaty which seeks to protect children from the harmful effects of their wrongful removal or abduction across an international frontier. It also seeks to establish procedures to ensure their prompt return to the state of their habitual residence, as well as to secure protection for rights of access across international boundaries.

The definition of “abduct” is to remove by force or kidnap. Indeed, child abduction is a tragedy because it affects some of society’s most vulnerable individuals. Inevitably, child abduction jeopardizes the child and has substantial long-term consequences for both the abducted child and the left-behind parent.

Mr. Vice-President, the principle governing the Hague Convention is that matters concerning the custody of a child are most appropriately decided in the place of the child's habitual residence. The convention requires that the judicial or administrative authorities in any convention state to which a child has been removed, act without delay to determine the parental or custodial rights and the residential status of the child. Hence, the importance of this Bill to the PNM Government and to Trinidad and Tobago.

Mr. Vice-President, under the Hague Convention, a case for the return of a child must fulfil a number of requirements. The principal ones are:

- the child must be under 18 years of age;
- the child must have been habitually resident in a convention state before the wrongful removal or retention;
- the removal or retention of the child must have been wrongful, that is, in breach of someone's rights of custody which were being exercised for example, court order;
- the abduction must have taken place after the relevant convention came into force in respective countries; and
- the child must now be in a Hague Convention country.

Mr. Vice-President, an abducted child is at risk of serious emotional, psychological and social problems. May I just add that I have in my previous profession managed a department for newborns. So, child welfare and the concerns and the love for children are absolutely dear to my heart. I assisted in probably hundreds or thousands of deliveries. It is so important that we deal with issues relating to children in a very positive and urgent manner. Some of the serious emotional problems are:

- depression;
- loss of community where a child is removed from his normal habitat;
- loss of stability, security and trust;
- excessive fearfulness, even of ordinary occurrences;
- loneliness, being taken away from your normal environment;
- anger;
- helplessness;
- disruption of identity formation; and
- fear of abandonment.

Mr. Vice-President, during my research, I located a list of convention countries from the Internet, and this is the Hague Abduction Convention country list in which the Bill is enforced. On this list, I tried to find Caribbean countries which we would be more familiar with, and I observed that the Bahamas was on

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the list; St. Kitts & Nevis, Bermuda and the Cayman Islands. It shows that our nation, Trinidad and Tobago, must be included on this list. This Bill will enable Trinidad and Tobago to be a member of an esteemed group of nations, and it will fulfil our international obligations under the convention as it relates to children.

3.30 p.m.

I wish to inject a different perspective to this debate. The culture of a nation speaks to the management of international child abductions. I am quoting from the Internet again on International Family Law, an article about Japan; Japan being the world's only developed nation that has not signed this Bill. What I am trying to say is that because of their culture—and I read from this document:

"There is also a cultural perception that a Japanese child is best off in Japan with a Japanese parent."

Furthermore, that very few—if any at all—children who are taken to Japan will ever return to their country.

What I am saying is this, as it relates to our scenario; we are a small developing nation and we aim to attain developed nation status by 2020. Of course, Trinidad and Tobago at this moment, is demonstrating to the world that we are morally correct and more so, that we care about children.

Again, during my research, I located some information about international child abductions and one of the countries I focused on was Australia. In an article dealing with Australia from the Attorney General's Department, it reads:

“International child abduction

Cases of international child abduction occur...across Australia and the rest of the world. In Australia an estimated 2—3 children are taken illegally by a parent out of and into Australia each week.

When a child is abducted across international borders, it creates...emotional trauma and confusion for all parties involved and it is difficult to make any decisions under these circumstances.

The Australian Government Attorney-General's Department considers international child abduction to be an important and serious matter."

The department has created its website to deal with issues and incidences across international borders.

Mr. Vice-President, even relatively new nations such as the Czech Republic—and we all know the history of some of these East European countries—is also a signatory to the Civil Aspects of International Child Abduction. Please allow me to read again from the International Family Law at page 45. The Czech government says:

"We expect in the future to deal annually with up to one hundred cases of international—child—abduction."

So they are preparing themselves to deal with issues relating to this Bill. Hence, the expediency with which this honourable Senate must deal with this Bill cannot be understated. Indeed, it is imperative that the legal infrastructure, court systems and all necessary and related measures are promptly put in place.

Modern society has progressively become more mobile, with people from different countries and cultures intermarrying. Presently, in Tobago, under the PNM and the leadership of the hon. Orville London, Tobago is experiencing a growth in tourism and basically in development.

Tobago has welcomed individuals from many, many countries as residents. Presently, we have individuals from Germany, England, the United States of America, European countries and other Caribbean countries. Also, in Tobago, we must be mindful of the fact that there are many interracial marriages; some are even marriages of convenience.

Tobago now has a small but growing number of children who are both mixed races and dual nationalities; this is quite unlike the previous norm. Inevitably, personal relationships and marriages could give rise to real issues where the enforcement of the International Child Abduction Bill will be required.

Crown Point Airport is a gateway to many international destinations. Large international airlines such as British Airways and Virgin Airlines frequent our airport. Tobago can be an easy escape route for child abductions.

Under the leadership of our political leader of the PNM and Prime Minister, hon. Patrick Manning, our nation has evolved as the leader in most aspects in the English-speaking Caribbean.

In 2009, Trinidad and Tobago will be the host of the Fifth Summit of the Americas. Our nation will be the first English-speaking Caribbean nation to host this auspicious and important meeting. Also in terms of leadership, recently in this honourable Senate, there was a debate on the location of the headquarters of the Caribbean Court of Justice in Trinidad.

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Indeed, Trinidad and Tobago continues to demonstrate to the wider Caribbean and indeed, the wider world, that we are leaders in the Caribbean. Our nation must continue to enforce laws that are worthy, caring and relevant. Furthermore, our Prime Minister has a holistic vision as the nation focuses on the attainment of developed nation status by the year 2020; a caring, developed nation at that. Central to all our achievements, is the family and indeed, the child is the most important member and the future. One of the five pillars in the 2020 vision is nurturing a caring society.

This Government continues to demonstrate that it is a caring Government. We are fully committed to the welfare and interests of our children. We do not believe in talking only, our actions and intents are laudable. This is why, as a Member of this caring PNM Government, I am supporting the International Child Abduction Bill, 2008. I look forward to the establishment of the Civil Child Abduction Authority under the esteemed guidance of our “grade A” hon. Attorney General, Brigid Annisette-George. [*Desk thumping*]

Mr. Vice-President, earlier Sen. Dr. Jones-Kernahan mentioned that this is a stand-alone Bill; it is sloppy and vague and with very little relevance. I would suggest to the hon. Senator that we must be prepared to be prepared and I believe that a successful passing of this Bill will most certainly prepare the Republic of Trinidad and Tobago for that fateful day when an abducted child would benefit from our intuition and good governance.

The time to do right, to further protect our children is now. Indeed the time is always right to do right.

I thank you.

Mr. Vice-President: Sen. Melville, I would like to just take the opportunity to congratulate you on your maiden speech. [*Desk thumping*]

Sen. Cindy Devika Sharma: Thank you, Mr. Vice-President. Coming on the heels of the last speaker, I want to agree firmly with the last statement that she made, that the time is right for dealing with matters concerning the protection of the children of our future. [*Desk thumping*] Sadly, this is not really the case as it exists in Trinidad and Tobago today. It has taken this Government approximately six-plus years to deal with this legislation and they have been dragging their feet over the last few years to make changes, probably because of deficiencies they might have identified. From what I have observed, they have made very little change.

In fact, what has happened, since 2000 under the UNC government that introduced a package of legislation dealing with children's lives, protecting their future, one alone was proclaimed in that period of time, and today, the first one

they have prioritized is the one on international child abduction, when in fact, we have children being abused locally and abducted locally. We have so many victims out there who are left without any serious attention on the part of the Government.

What we have seen over the last few years are those non-governmental agencies working hard and doing so with a lot of effort on their part, with some assistance from the Government, but the real force in this area has been those non-governmental agencies. One written response I received earlier today concerning street children indicated this clearly. So it is with great joy that I have to rise and support this Bill. Unfortunately, it has come at a time, too late I suspect, and not only that, it is not one I feel should be the major priority of this Government, in fact, any government of the day; bearing in mind the six years that have passed since they were given to deal with this legislation.

Mr. Vice-President, as has been observed, this Government, which has been in office since 2002, has persisted in making many promises to our nation that they are going to deal with children's legislation. They are going to come, enact and implement all the requisite policies, develop and put in place the necessary infrastructure. Sadly, I cannot say that this has happened, because clearly they are still reliant upon non-governmental agencies that already exist. This is echoed also by several persons who are experts in the field, so to speak.

I refer to an article dated December 16, 2007 by Andy Johnson in the *Daily Express* titled:

"Suffer little children...

T&T not equipped to protect and save most vulnerable citizens"

This article cites educational psychologist, Dr. Harold Mahabir; social worker, Jocelyn Ransome; Abintha Clarke, a representative on the Trinidad and Tobago Coalition on the Rights of the Child, and collectively, each of these persons has cited that the infrastructure necessary for the establishment of the proposed children's authority, for one, was not in place as yet. Six years have passed and I repeat that again to show the lack of action on the part of our caring Government.

In addition to this, the very heavy weight being borne by these individuals is also clearly evident in the social workers who have to deal with the children, who are suffering right now locally, who are crying out for attention. They are crying out for financial assistance; they want to see the Government get serious.

Former Senator, Diana Mahabir-Wyatt, in an interview—and she is cited in the same article—said that while it is all well and good for the Government to

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pass legislation that will serve to address the problem, what is really needed is the infrastructure necessary to deal with the issues in a very real fashion. She called on the Government to get serious and put more funding into the dozens of homes that care for those children who are already in distress and in difficult circumstances.

3.45 p.m.

Bearing in mind the fact that many of these homes, if not all of them, are overwhelmed, overpopulated with the problems of children; are we saying that when we have a case with an international child abduction, a custody case, that we are going to take this child who is already suffering from an extremely traumatic situation; is it that the Government is right now prepared to deal with the issues, psychological and otherwise, that this child would be facing? Right now we can barely handle the severe cases of trauma that our children are experiencing. Last week was evidence again of the neglect of this Government. We had an unfortunate case of a student hanging himself because of CAPE being postponed.

Hon. Senator: That is irrelevant.

Sen. C. D. Sharma: And it is relevant because a simple directive from the Government, the Ministry of Education, “guidance counsellors, we have a serious situation, call our students in, talk to them, advise them on what is going to happen”.

I am a CAPE teacher; I know that it is a serious case. Children are under a tremendous amount of stress when they engage in studies, especially a high-stakes assessment as CAPE is. They should have realized that many of the students would have felt severely traumatized by this incident, and they did not deal with it in a very real fashion. What they should have done, in effect, was just give a simple message out, please, call in our students and talk to them. No, they had to wait until—in fact, reports were made in the newspapers about the incident—

Hon. Senator: The next day. It took two days.

Sen. C. D. Sharma:—before they even announced it and dealt with it as a serious issue. One might wonder how long we might have had to wait if the newspapers had not done their duty and reported the matter to the citizens of the country. Again, our children are clearly being done a disservice by this Government. Yet they persist in acting as if they really care about the children of our country when in fact that is not the case.

This Bill, Mr. Vice-President, which provides for the protection of children who have been abducted by a parent at a time when relationships between spouses or parents have broken down and the abducting parent has come to feel that he or

she—and from the research most of the cases in recent years have been the mother doing the abducting—has no other choice, may involve a wide range of push factors that influence the parent who is abducting to act in a fashion that is obviously outside the boundary of lawful activity. Some of these push factors that have been identified have been domestic violence, extensive hostility between estranged parents, there is the desire sometimes for acts of revenge on the part of one parent to another; there is sometimes the sense of deep unfairness in the judgments of custody hearings or access rights by parents.

These children who come out of the situation are severely traumatized, as I was saying and this legislation seeks to address those issues. However, I am looking at the paucity of information in terms of data collected on how many children have been affected internationally with regard to Trinidad and Tobago. Were there 40 cases, 50 cases? That pales in comparison to the hundreds of children, perhaps, thousands who face abuse daily in our system.

Mr. Vice-President, we also know that today the family unit in Trinidad and Tobago is one that is suffering from higher levels of stress, whether it is from increased inflation—the effects of it, whether it is because of children caught in the unfortunate cycle of violence and gang-related warfare that seems to be plaguing our nation today. Our families are under severe stress financially; many of them are burdened with high food bills, increased cost of living. How is this Bill, which is seeking to address the concerns of a minority, such a priority that it needed to be put in place of other legislation, such as the Children's Community Residences, Foster Homes and Nurseries Act, No. 65 of 2000 which is yet to come again; the abduction act; the Children (Amdt.) Act? These seem to be even more of a critical concern of Trinidad and Tobago today. Not the one on the International Child Abduction Bill, which is, we know, necessary, but is it really the one that should have come before this Senate first? I think not. The Government needs to get its priorities straight and deal with those concerns that are more pressing.

Mr. Vice-President, I want to draw reference to a newspaper produced by the Trinidad and Tobago Teachers Unified Association (TTUTA). On the front page of issue No. 104, dated March 2008, there is an article entitled, "School Violence", which underscores the numerous warnings that teachers and TTUTA have been issuing over the last few years, to deaf ears, apparently. Last week we saw one student stabbed to death. How many more are we going to have to report before the year is ended? These are the real issues that are affecting our children and as such the legislation that needs to be prioritized must come forth as soon as possible.

In looking at the International Child Abduction Bill, I did some research and came across a report written by William Duncan who is the Deputy Secretary General on the Hague Conference on Private International Law. While we are all well set and prepared, apparently, to pass this piece of legislation, I remember Sen. Seetahal SC earlier talking about, “It is all well and good to pass the legislation but what are we going to do to implement it?” This piece of legislation might appear to be simple as we keep hearing from the Government, but in fact its simplicity is an illusion, because after you pass this, hopefully it will be proclaimed within a short space of time or the required time; after it is proclaimed we hope that the Government will not have forgotten its duties, and its duties are not only to just pass the legislation, proclaim it, but to do the actual groundwork in establishing it and direct how it is intended to act in the future.

What I have found is that enacting this legislation, what is required is further support provided by agencies. This support is necessary in order for it to better lend itself to those victims who suffer from abductions. What is clear up to this point is while the Hague Convention does provide a legal remedy for those children who have been abducted to be returned to their country of habitual residence prior to their abduction, so that matters related to custody rights, et cetera, will be heard in their original jurisdiction, the limitations of this legislation come directly from that because it only deals with the legal aspect of it.

What was found in a project undertaken by the International Social Service, Australia, in a report produced in 2005, titled: “Living in limbo, the experience of international parental child abduction, the call for a national support system”, is that the Convention is inadequate when it comes to dealing comprehensively with addressing issues of the post-traumatic stress experienced by, not only the victim child but the victim parents, families and all the underlying issues which led to the abduction in the first place. What is recommended is that, locally a support service comprising of an action line, links to specialist agencies, a listing of local lawyers along with links to experienced parents to give further support to those parents who are involved in the actual events to be put in place.

The support service should also function to educate the local community on this issue and the dangers of it as a recourse when you are frustrated, of course, with custody hearing, et cetera and you feel that it is this time that you need to get out and find a more favourable place for your child, at least for you to have more rights over your child. You need to train personnel to handle, not only how to give advice in the action line, you need to train personnel to deal with counselling victims, the parents, families. You need to undertake research and this support

service they say should also function to undertake research. As of now, I am yet to hear if we have any real documented evidence, at least data collected or statistics on how many international abductions or cases Trinidad and Tobago has really been involved in over the last five years.

Finally, one of the functions of the support service should be to advocate on the issue. My question is: are we really serious and are we really ready to deal with this issue? We do not even have the necessary infrastructure in place to deal with the Children's Authority; are we saying that we are suddenly going to be prepared to deal with those parents, those children who are affected by cases of international child abduction? Are we going to suddenly allocate resources to train all these people; are we going to suddenly allocate resources to deal with something which only affects, maybe, two persons per year in Trinidad and Tobago? I think that our money could be spent in a much wiser fashion, much more frugal fashion and in the long-term more beneficial in a very real sense to every single child in Trinidad and Tobago.

Hon. Senator: True. [*Desk thumping*]

Sen. C. D. Sharma: Not only, I suspect, is there a need for the support system, as I was saying, there should also be some form of custodial care available to these children.

In looking at the Bill, clause 12 talks about the Bill empowering the court to make any order for the provision of the protection of the child. This might very well mean that a child might have to be taken away from a home, after, of course, we hope the police service in Trinidad and Tobago manage to locate that child. I do not know how they will do this, because I am not sure if they have a computerized system and access to, perhaps a missing persons' list. Do they have such easy access locally to that kind of information? Because these things would obviously lend itself and give great assistance to the police service if they are in fact going to get serious about the matter.

So, after that, of course, the police has located the family, if that is the case or if through the central authority, the Civil Abduction Authority—they manage to find the child, they are now going to have to decide, perhaps, depending on the circumstances that the child might be found in, to place this child in a home, be it a government-operated one or otherwise. Again, the support systems are suffering right now and something needs to be done to make sure that resources are allocated for their needs.

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And while we see for the last few years, as my colleague, Sen. Dr. Jones-Kernahan mentioned earlier, budgets of \$40 billion in excess being passed in this country, land apparently of milk and honey, but unfortunately, if you really look below the surface existence, below the pretty buildings being put up in Port of Spain, you will find a sad story.

4.00 p.m.

You will find families that are distraught and you will find families who are living and eking out an existence on a very minimal level of income, and there is a deep sense of hopelessness among a majority of our population. I am not saying that every child in this country is suffering today; clearly that is not the case. What I am saying however, is that with approximately one million people, after two oil booms, why should we be in a situation where so many of our children, so many of our families have been left unprotected up to today? Today, we come in 2008, to deal with something which could have been dealt with six years ago. It had six years in which to be passed, and yet the time, effort and energy was perhaps misspent or not directed on this issue.

One other area I wish to deal with, is that because child abduction is such a complex issue—and to further complicate it, it is an international issue in this case—we need to be sure that our police service is sensitized enough to deal with this kind of event. As far as I am aware, they need a lot of assistance in this direction and I direct that comment to the Minister of National Security. It is often the case where you find yourself—and you hear of many cases that when you go to the police to report on some cases of abuse, some domestic situation, a child is missing, it could be an abduction locally, and often the response of the officers is that: "Well, she run away with some man." It is always passed off very lightly and almost in a very laughable fashion, as if it is not really serious.

While it might be well and true that we have some teenage girls who might feel that this is a life that they want to choose, in fact, what we have are misguided children; we have children who do not have enough parental attention; they do not have enough direction from young; and they might have placed themselves in situations where they have lost control and suffered the consequences. However, there are many cases today where abductions are occurring locally.

Mr. Vice-President, is the police really serious about dealing with these matters? One has to wonder. One can only look at the statistics with regard to murder in Trinidad and Tobago today. How many cases were solved? I think about four or five out of 100 and more. What month are we in already? May.
[*Interruption*]

Hon. Senator: [*Inaudible*]

Sen. C. D. Sharma: It is relevant because if we cannot deal with local matters, suddenly, we are going to be able to deal with international legislation, dealing with children's abduction. [*Desk thumping and interruption*]

Sen. Rahman: Well said.

Sen. C. D. Sharma: Clearly, we are going to continue to have a very poor and inadequate response on the part of the Government. Sadly, he might not be working with the ground level of Trinidad and Tobago. I am a teacher; I have engaged in community action with many students and I have tried my best to find out about issues affecting our students, and in fact—[*Interruption*]

Sen. Joseph: I thank the hon. Senator for giving way. She had raised the question earlier on, about the police ability to treat with the question about abduction of young children. Just to inform the Senator, that the police have now changed the practise of requiring 24 hours before a missing child is considered to have been missing, and they have now been mandated to treat with the issue of reported cases of missing children in a shorter time frame. Just to respond to that specific issue that you raised with respect to children.

Sen. C. D. Sharma: I am very happy to hear that. What I was really commenting on, was the fact that the police need to be sensitized in dealing with someone who reports on these matters, and unfortunately, there is a great deal of insensitivity on the part of these officers, especially when you have to work with them. Everyone here might have encountered some of that already, even if they want to deny that. If not, then you are very lucky; I might not have been so lucky.

So in closing, I want to go back to Sen. Seetahal SC and I want to commend her on her excellent summation of general neglect by this Government on issues relating to the protection of our children. Again, I wanted to cite that we have so many homes right now being overpopulated; we do not have the legislation put in place to really serve to assist these homes; we have cases where you actually have to call around and beg for a child to be given a place to overnight for a period of time because only the very severe cases are usually dealt with by many of these places; and we need to ensure that this does not continue.

While we need to look at international cases of child abduction, I fear we have a far more serious epidemic facing Trinidad and Tobago today, and if we continue along the pathway that we are on, Trinidad and Tobago—and I heard His Excellency, Prof. George Maxwell Richards, echo the sentiments earlier, that Trinidad and Tobago might very well be on the pathway to becoming a failed State under this PNM Government.

Thank you. [*Desk thumping*]

Sen. Gail Merhair: Mr. Vice-President, I rise to make my contribution today on the International Child Abduction Bill, 2008, wary of the many issues facing children in our society and in the world today, and right here in Trinidad and Tobago, poverty, disease, persecution, mental and physical abuse, all play a part in the lives of millions of children on a daily basis, and as adults, it is our duty to protect the innocent, the vulnerable and the helpless. While it may be tempting to discuss child abuse here in Trinidad and Tobago, because of not only my passion, but that of many of my colleagues as a matter of concern, I will confine my contribution in the strictest sense of the international child abduction, as presented here today in the Bill, and the schedule which outlines the Hague Convention on the Civil Aspects of the International Child Abduction.

The problem of international child abduction is not a new one and some statistics have shown that from 1978—1996, more than 5,500 international child abductions by parents have been reported, and this has been described as an international phenomenon. It is not confined to just one basic set of countries, but it is confined to countries, east, west, north and south. It is basically around areas where there are marital disputes and most kidnappings occur in multicultural nations with high immigration.

I have some more statistics that between the years 1987 and 1995, 317 children were abducted from Australia. In 1995 alone, 196 children were abducted from Britain to Europe. In Trinidad and Tobago, I think on May 14, 2004, we just have probably one case of international child abduction which has never been proven and that is the case of Mark Prescott, where it was alleged that he was taken out of the country. He was never found to date, so we are not sure whether that constitutes one of our cases or not.

Mr. Vice-President, there has always been an urgent need for a convention that purports the ideals outlined in the Hague Convention. However, from my research, I see that there has been an uneven application of this convention by signatory countries over the years, and it creates the opportunity now to debate whether the application by other countries and their interpretation of the Hague Convention, can in fact be disadvantageous to us here in Trinidad and Tobago.

First of all, the convention does not provide any substantive rights. The convention provides that the court in which the Hague Convention action is filed, should not consider the merits of any underlying child custody dispute, but should determine only the country in which those issues should be heard. Return of the child is a matter for the member nation, rather than specifically to be left to the

parent left behind. The convention mandates the return of any child who has habitual residence in a contracting nation, immediately before an action that constitutes a breach of the custody or access rights.

Mr. Vice-President, when we survey the actual implementation of the Hague Convention on the Civil Aspects of International Child Abduction, we see a very different picture, a picture that may in fact be disadvantageous to us in Trinidad and Tobago. I would like to review the United States position on this and there are four significant problems that they have identified in the implementation of the Hague Convention and they are:

1. gaps in federal services to left-behind parents which make it difficult for parents to recover their abducted children;
2. weaknesses within the existing state department case tracking process which impair case and programme coordination;
3. a lack of systematic and aggressive diplomatic efforts to improve international responses to parental abduction; and
4. limited use of the International Parental Kidnapping Crime Act, 1993 to pursue abducting parents and bring them to justice.

Mr. Vice-President, even with the United States, left-behind parents usually have to travel abroad and retain a lawyer and pay other fees. One parent left behind in the United States, had to pay as much as US \$200,000 in pursuing his abducted child, while the parent from which the country of the child was being held, had to pay no costs at all.

I wish to mention that the United States raised a reservation to Article 26 of the convention and it is therefore not bound to assume any cost relating to conventions of the applications. Fortunately, the US Department of Justice in 1995, agreed to fund the American Bar Association creation of the International Child Abduction Attorney Network, which was a pool of attorneys that provided pro bono work at a reduced fee and legal assistance for incoming convention cases in the United States. The Department of Justice also determined in 1999, that if a left-behind parent could not afford international travel, the Office of Victims of Crime would fund the parent and the child's return travel. I see no provisions for this in our Bill

Mr. Vice-President, one other significant observation about the application of the Hague Convention in the United States is the fact that on an average, just over 50 per cent of incoming requests were settled voluntarily. However, the United States jurisdiction to hear convention cases is not limited to courts or judges, and

consequently, an astonishing number of 30,849 judges can in fact hear convention cases. This made the reservation of Article 24 requiring that all documents be translated into English and no funding of additional cost is provided for translation. I see no provision again for us, Trinbagonians, in our Bill before us in the Senate today.

There have been a number of issues facing the Hague Convention when it comes to application, and at this time, Australia, Ecuador, Honduras, Mauritius and Venezuela are considered non-compliant countries to this convention.

Brazil, Chile, Colombia, Greece, Mexico, Panama and Turkey are considered countries that are not fully compliant. Countries of concern to the Hague Convention are Hungary, Poland, Romania, Spain and yes, if I must add, contrary to the research that my colleague, Sen. Melville has done, the Bahamas are countries experiencing enforcement problems and Germany, Israel, Poland, Sweden and Switzerland also have problems in enforcing these laws.

4.15 p.m.

In the United Kingdom, the majority of Convention cases resulted in a judicial return of 51 per cent which is well above the global average of 32 per cent. Conversely, just about 5 per cent resulted in voluntary return which is well below the global average of 18 per cent. This also showed that the system in England and Wales is court-based and arguably does not allow sufficient time for the seeking of voluntary resolutions.

Another problem that I see as a major drawback is the slow process. Because of the court-based system in England, Wales and Northern Ireland, there is little opportunity to seek voluntary resolution as required in Article 7(c) and Article 10 of the Convention. In the absence of research on the effect of the children who are returned, I submit that voluntary agreements may lead to a better communication between the parties of benefit of post-return litigation. Other challenges are the fact that the court cases are decided very slowly in Northern Ireland and legal representation is only available on a means and merit basis in the pursuance of access application before the courts in England, Wales and Northern Ireland.

In Italy, the situation is such that statistical data on applications dealt with by the central authority are solely in Italian alone. Applicants wishing to appear in court proceedings can only do so at their own expense by hiring private lawyers. Jurisdiction to hear applications under the 1990 Hague Convention is vested in too many courts at the same time and there is no expedited procedure for hearing appeals. The issue of long gaps between accepting accession is to be raised with respect to the convention's application in Italy.

In Holland which is the home of the Convention, jurisdiction to hear such cases is generally vested in the first instance in the district court which means, given the relatively low number of cases that go to courts, that most judges have neither experienced nor detailed knowledge of the Convention. Although the Netherlands Central Authority improved in processing applications, they are still considered the slowest in the European Union.

Mr. Vice-President, I continue to refer to these various countries because they are, in fact, signatories to the same Convention that we are trying to pass, and these are the problems that their various jurisdictions have in fact encountered. If we are to pass this international law and they are in fact having problems, then what is left for our courts and systems? It really and truly precludes the types of problems that we may face in Trinidad and Tobago and despite our very best intention, we must be prepared to deal with the ramifications that are entailed with the passage of this Bill like my colleague, Sen. Seetahal SC outlined before. And I can go on to Australia where they have similar problems and even in Honduras, they acceded to the Convention on March 01, 1994 and the Honduran government has never submitted it to the Honduran legislature for ratification.

To date, Mauritian courts have ruled that the absence of implementing legislation has made the Convention inapplicable. In Mauritius, even though the country has been party to the Convention since 1993, the Panamanian government has not adopted implemented legislation clarifying the goal of the central authority vis-a-vis the judicial system and without such system, the Panamanian code of family justice takes precedence over the Convention.

In Germany, there is a similar situation about the Convention and the reluctance of the German Central Authority to provide the Judiciary with explanatory material about effective implementation about the Convention, and again my colleague, Sen. Melville mentioned that in Tobago there are all sorts of inter-marital situations from different cultures, and we might also add that many of these people come from Germany, Switzerland and Sweden. So what is left if these countries do not in fact adhere to what is taking place in the Hague Convention?

Parents seeking the return of their abducted children are sometimes asked to prove that the return would not harm the child even though the Convention places the burden of proof on the abducted parents. German courts have often used a traditional best interest of the child analysis to justify refusing to return the child thereby wrongly addressing those issues as if they were custody issues while asserting that non-return is a basis of Article 13(b) of the same Convention.

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The reality is that there is need for urgent review of the application under the Hague Convention in the near future. Bahamas has been designated a country of concern due to the way in which it applies for the Articles of the Convention. While timelessness of responses from the Bahamian Central Authority has proved in the only case that has been decided in the 2005/2006 period, the Bahamian Court appears to have ordered a home study on the left-behind parent and his family in the United States of America suggesting that the court is treating the Convention case as a custody determination, and in so doing contravening Convention guidelines.

In addition, the Bahamian Central Authority continues to necessitate unacceptably rigid requirements for documentation submitted by the Convention.

Mr. Vice-President, in conclusion, I would like to say that abducted children can in fact suffer physical and emotional harm and find themselves isolated from the environment to which they have become accustomed, from their parents, family members and from their school.

Victim parents, as well, often encounter problems such as legal, financial, cultural and language barriers when trying to recover their children. How is this Bill going to deal with this if we are to go into another country, deal with hiring attorneys, not understand the language and the culture? So the legal and social systems must be improved in order to assist the resolution of these cases in a swift and consistent manner.

This is our opportunity, as I see it, to become a functional signatory to the Hague Convention, and I think it is our duty as a Parliament to ensure that the loopholes identified are addressed if the passage of this Bill is to have any significant impact upon international child abduction.

Thank you.

Sen. Mohammed Faisal Rahman: Mr. Vice-President, I rise to make my contribution on a Bill to provide for the application on Trinidad and Tobago of the Hague Convention on the Civil Aspects of International Child Abduction and to provide for matters connected with or related thereto.

During the contribution of my colleague, Sen. Dr. Jones-Kernahan, the question arose very vociferously on several occasions as to the relevance of what she was presenting to the Senate. I must say that I am extremely grateful that Sen. Seetahal SC spoke when she did.

Sen. Seetahal SC did not deal with this Bill at all, but she gave a brilliant contribution which showed the irrelevance of this Bill in the context of the

Trinidad and Tobago society. When we are looking at the relevance of a contribution to a Bill, it is intelligence that tells us that we have to look at the relevance of the very Bill and legislation that we are seeking to pass.

This piece of legislation which has a misnomer and is so convoluted in concept—and I hope to demonstrate this to this honourable Senate—is a gem of—I am at a loss for words to find the correct description for this particular Bill. This Bill is a mishmash, convoluted piece of nonsense.

First of all, we are not dealing with the abducted children. You abduct, you kidnap, and you take from one location and send to another. Here we are talking about immigrant children whose parents have brought them to Trinidad and Tobago for security from whatever difficulties they were facing in the foreign land in which they were living. This is a matter of custody, it is not a matter of kidnapping, it is a custodial matter, it is domestic—[*Interruption*]

It is very funny I know, because you reject a matter, the meaning of which you do not understand.

Sen. Browne: [*Inaudible*]

Sen. M. F. Rahman: It would seem so from your laughing.

Mr. Vice-President, we are not dealing with incidents of kidnapping and abduction, we are dealing with “induction” into Trinidad if there is such a thing. It is an absurdity, we are dealing with an absurdity here and we are looking at a situation where we are being rushed. Yet I am very pleased with two aspects of the contributions made from the other side.

The Attorney General clearly said it is a piece of compliance legislation and Sen. Melville very kindly admitted almost in these words: that this is cosmetic legislation to appear good in the eyes of the nations of the world. It could not have been better put and I do compliment her on her maiden contribution.

[*Sen. Melville stands*]

Unless it is a matter on a point of order, I do not have much time and I do not think I want to give way at this point. But I do compliment you, Sen. Melville, on your maiden contribution.

Yet I was not impressed with the points which the Senator made because some of the things she said were totally at variance with reality.

Mr. Vice-President, we are dealing with a Bill that disregards every aspect of legal reality in my view, as well as every aspect of the social fabric and context of Trinidad and Tobago.

Trinidad and Tobago is a country and I would say that the attempts of the Government under the wonderful Prime Minister described by Sen. Melville—a view that we do not share, of course. [*Crosstalk*] We are looking at the attempts to put on a suit, a garb, a masquerade, a costume to make this country look as if it is entering into a 2020 vision scenario.

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m. and we will take the tea break now and return at 5 o'clock. This sitting is now suspended.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. M. F. Rahman: Mr. Vice-President, there is a saying that “charity begins at home”, but this rush to cosmetic beauty denies charity to every national and offers it to the global citizen who is not a national. The focus of this Government denies the reality. Why should we be concerned about the children of this nation?

The late hon. Dr. Eric Williams made a statement: “The future of this nation is in the school bags of the children.” That is a statement that properly resonates through the decades. But, you know, when we have this army of street children increasing in numbers, the street children do not have school bags. So do you know what we are doing? We are making sure that we have no future for this nation without that aspect of our social need being addressed.

Sometime ago, Archbishop Burke was running a little shelter for a number of young people and she was not only displaced, she was deceived and her place was demolished. We really do not have a clue about what is important. I am saying, we; I really should say the Government. But, you know, we are on the other side but we have to share in the responsibility here. So, collectively, we do not have a clue about what is important. We are seeking to look good in the eyes of the nations of the world when we are really—if you examine the urgency of this 28-year-old piece of international legislation and Convention—rushing today to pretend that we have a concern, to no effect.

It is a sad thing, that the UNC government had introduced a package of children legislation, but because it was introduced by the UNC, like the interchange which the Government tried to find every reason to not build and took a good six and seven years to get around to—because it originated with the UNC, it has to be deemed wrong and bad. You are cutting off your nose to spite your face. The children of today will form and constitute the nation of tomorrow.

When the NAR government did not have money and they could not put up a shelter for the vagrants, they used a car park—inventive thinking—and they tried to house the vagrants. But now the country is awash in money; we have petro dollars all over the place and the testimony of it is the crop of buildings that are rising with the foreign labour, to embellish the skyline. That is the 2020 vision that this Government is continuing to promote.

Sen. Melville spoke about the caring Government. I have been hearing this term about “caring Government” and “prudent Government” from the other side and when I turn on the television on a Friday, from the Government Benches in the other place you hear, “a caring Government”. This is a scary Government! This is not a caring Government. If you understand what is going on, we are going to have to start to emigrate from this place just now. This neglect of the nation’s children is not a recent syndrome.

Mr. Vice-President: Sen. Rahman, please, I do not want you to go on a journey all over. The Bill is about International Child Abduction, not street children. Make some relevance to the Bill with what you are going around with.

Sen. M. F. Rahman: I thank you, Sir. I began my contribution this afternoon referring to the contribution of Sen. Seetahal SC. If a bill is not relevant to the society—and I made this point when I started—we have to show how it is not relevant to the society, because the society has greater needs. Now, if we are discussing that pillar and the roof is falling down and that other pillar there is crumbling, we have to pay regard to the structure that we are looking at. Somebody tells me, “look, speak about the pillar”—

Mr. Vice-President: Sen. Rahman, are you questioning my decision?

Sen. M. F. Rahman: No, Sir. I am trying to explain to you the relevance. I am attempting to tie in the matter. You are perfectly right. Irrelevance should not be tolerated. I agree with you, but I beg to submit that what I am saying about the context of this Bill, the irrelevance of the Bill makes the comments that I am suggesting to you—I would like to ask you, Sir, if we are to say that the Bill must be examined—I am going to come to it clause by clause, you know, Sir, but I am saying that the Bill has to have justification.

Sen. Seetahal SC asked what was the need for this Bill. We have legislation in this country that says that if you have a custody matter, you can bring up somebody in the Magistrates’ Court and pay, what, 50 cents—I do not know what

is the amount now, but you can bring up anybody, and say, “Look, Mr. Magistrate, that is my child; I want to take him back.” We have legislation to deal with rectifying these breaches of custody and these claims of custody.

The question is: Is this grand Bill that is 28 years late after the original convention, and some—I think about 18 years late since we indicated that we were going to accede to it, and this Bill which properly should form part of an omnibus legislation dealing with the rights of children—because this Bill is really dealing with the rights of the custodians of the children; the parents of the children. The parent could take up the child and say, “Look, we are going down to the Caribbean to spend a couple years.” “Yes, mammy, I want to go.” There is no trauma in the child at that point, you know, the trauma comes when the mother and the father are fighting over the child.

But let me say this, that when a parent takes a child and removes him from the other parent, it is because of the love of that parent, and when the fight comes up between the parents, it is because of love for the child. The child is the most favoured one in the whole picture. He or she may not appreciate that, but the fact of the matter is that what we are doing here is catering for non-nationals, people who are coming to Trinidad and Tobago, setting up their residence here and then the other party wants to take the child back.

Sen. Merhair made the point that other dominions have added—and Sen. Dr. Jones-Kernahan also made the point—supererogatory clauses to make the bills relevant to their countries. We are taking a bill that is not a kidnapping bill; it is a custody bill; it is an immigration bill in reality, and making it—do you know, according to the kidnapping statute of Trinidad and Tobago, kidnapping incurs serious penalties, and it is not a kidnapping unless you do it for ransom. We are not like America where if you take somebody across a state line, you are committing a kidnapping offence, you know. Kidnapping has specific definitions in the law dealing with kidnapping in Trinidad and Tobago.

In Trinidad and Tobago, when a mother and a father have a fight and the mother or the father takes up the child and goes somewhere else, we do not charge the absconding parent with kidnapping here; it becomes a custody matter and you deal with it in that way. But you know, when you understand the culture of this nation—and I am talking about the culture of the nation in terms of the ghetto culture and what really goes on at certain levels. We have itinerant fathers and we have people—right now we have mothers leaving their children in washing machines, and this is the reality. We have a culture here that does not recognize

the rights of children and the duties of parents to child. When the mother takes the child and “gone”, the father “glad”, and when the father wants to leave, he leaves the mother with the child; and when the mother wants to leave the father with the child, she “gone”.

We are not looking after the social needs of this country to develop a culture. This Government has been in power from 1956 with a little break here and there and the total contribution to the social development of this country has been zilch, zero, a big nothing. All it has been doing is looking after—now, I must give credit to Dr. Williams and some of the efforts that he made. But in recent years, the focus of the Government has been totally skewed away from the reality.

When you do not take care of your own nation's children, you are providing a criminal resource, and as I was saying, this matter did not start a couple years ago. Street children have been a problem to this country for almost two decades. By now, the original street children are grown criminals and we have the present street children being a resource for criminal gangs. We know about Oliver Twist and Fagin. We have a country where we have Fagins all over the place and God knows how many Oliver Twists being taken away from the society.

We have shooting; we have murders. Hello, we have a situation of implosion. The President speaks of the approaching failed state nation of this country and we are still continuing to invest in glass and concrete, not realizing that the children of this nation are our first priority. When we speak of the caring Government, I want to read what Mr. Martin Daly wrote in the *Express* on Sunday. I will just read two or three sentences:

“I have stressed the common bond between mothers of every creed and race and economic standing, mothers to whom the loss of a child is an irreparable injury and for whom this Government cares not one damn.”

May I say that word Sir? I am sorry. I was quoting.

“The Government has thrown ordinary law-abiding citizens to the wolves.”

Then in the other sentence:

“Crime in Trinidad has gone global and world class and is a huge ugly spot on the world radar, no matter how much this unfeeling Government tries to minimise it.”

This is the Government that Sen. Melville characterizes as a caring Government and led by a man who is a caring, considerate, good man. He is a good man, but

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he needs reformation, because one of my teachers taught me that there are no bad people, just bad habits and bad habits can be corrected. But I believe that unless you can see your faults and your problems, you are not going to correct them.

Coming back directly to this Bill, it is a Bill that caricatures concern. It is not a Bill that is about to do any good for this nation. Sen. Seetahal SC asked the question: What is the relevance; what is the need for this Bill? This Bill cannot be supported. It has wonderful intent. It is laudable in its intent, but it is imprecise in its method—and I am going to go through the Bill now—and it is contradictory in terms.

5.15 p.m.

If we were to say that this Bill had some sort of justification, in the context of what the UNC did to bring this convention into existence together with its omnibus legislation, this Bill was relevant and made sense. Extracted out of it; put out of context and thrown upon the nation in the way that it is being thrown now, it is a caricature. It is not what was originally intended.

It is a favourite ploy of the Government to say that your side did it; your side did this and your side did that, but it does not understand the changing circumstances and presentations that are being made today, in presenting what was once relevant and important to the nation. If we were looking after our children; we would have acceded to the convention and done what we ought to have done, oh yes, great! We would have had no problem with that. But you have literally pulled a tooth out of the jaw and said here is part of your mouth. This is not fit to be called legislation in the sense that it is being presented now.

I noticed en passant that the Bill defines “court” meaning, “the Supreme Court of Judicature”. We spent much time in this Senate and the other place as well to establish the Caribbean Court of Justice (CCJ). I do not know whether the Supreme Court of Judicature automatically includes the CCJ. We have a disregard for the existence of the CCJ which has just been validated by law in this country. It means to say that the CCJ cannot hear cases of abduction even in Caricom countries that will be bringing cases to be heard. I find that this is a bit of an anomaly.

One thing that this Bill does not recognize and the point was made, is dual citizenship. According to this Bill, Trinidad and Tobago law, the authority and the courts have no concern with the rights of the child. They are concerned with custodians’ pleadings. A Trinidadian child with Trinidadian citizenship must be meekly sent back to wherever he or she came from because the convention says that he must be returned to his home of habitual residence. We are myopic. If you

are going to make a law, make a law that makes sense in all its aspects. This is mismatched legislation. It does not address the issues in a holistic way. You can never address things in a holistic way when you move them out of context. We are fooling around with legislation.

Underlining the custodial aspect, the removal or retention of a child is to be considered wrongful, where it is in breach of rights custody attributed to a person, an institution or any other body and so on. We are talking about custodian rights. We are not looking at the rights of the child.

There is another very interesting aspect to this legislation. While it says that the opinions or views of the child are not to be considered because of being under age, later in the legislation, Article 13 says:

“The judicial...may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.”

Earlier on the legislation stated clearly, that the views of the child are not to be considered. This is a total contradiction.

I do not want to waste too much time going through clause by clause. This legislation is not worth the paper it is written upon in the context of the society of Trinidad and Tobago. The Government will do well to look at the needs of the country's children by building houses of refuge that are required for the children that are being abused, raped, kidnapped, murdered, abused and dehumanized. We have orphanages but that is where you have voluntary entry into orphanages. In this country we have a growing army of street children. The newspaper reports, “Overdue Children's Authority by year's end”. That is a promise by the Government. A Government official who is Mr. Roberts says that street children are really not a big problem. I do not know how he got to that. The newspapers report continuously that street children are increasing in numbers. These children are pickpocketers and they graduate to very serious levels of crime.

I will wind up now. I am appealing to the Government that if you insist on passing this piece of nonsensical legislation, go back and bring an omnibus law that deals with the package of children's legislation that was introduced by the UNC and do something decent for this nation, that would contribute to our future development. At the present time, we are looking at concrete, steel and pretty buildings and we are not looking at what constitutes a nation. It is the people of the nation that constitute a nation. A million persons could be living on a rock and

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they would be a nation, but a beautiful concrete jungle with all the amenities without people is not a nation. It is a museum. You do not want to have a nation that is in essence and reality, a museum with destroyed souls roaming the streets.

Thank you.

The Minister of Local Government (Sen. The Hon. Hazel Manning): Mr. Vice-President, I rise to join the debate on the International Child Abduction Bill with great concern especially after that last contribution. It is the opinion of this Government that our children need to be better protected and their rights must be enshrined and cherished—every last child—whether it is one child we are talking about or thousands of children, because what we are talking about is abuse. Therefore, as a Government we care. When they on the other side talk about how many children we are impacting on; “it is only one child they can find,” somebody said; even if it is just one, I think that we need to pass this Bill. I am sure that that must also be the view of Senators on the other side because over the years the various governments have ratified several treaties and conventions that seek to protect women and children.

It is important to place the protection of women in context because when you protect the woman, you also protect the child. The relevant treaties and conventions signed and ratified by Trinidad and Tobago over the years are as follows:

- United Nations Convention on the Rights of the Child, ratified by Trinidad and Tobago in 1991;
- the Declaration on the Survival and Protection and Development of Children that emanated from the 1990 World Summit For Children;
- the Hague Convention on the Civil Aspects of International Child Abduction which is what we are dealing with and was done in 1980;
- the Convention of Belem do para, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women;
- the Convention on the Elimination of Discrimination Against Women and the International Labour Convention, 182 on the Worst Forms of Child Labour.

We have a history of doing the right thing.

In order to facilitate this country’s obligation under these conventions and to address the situations in this country’s social landscape that impact negatively on our children—and we are aware of that—the Government undertook to review all legislation on children. When the people on that side were in government in 2000 they undertook to review all legislation on children with a view to amend the

existing law and to drafting new ones. They did it in 2000. The exercise is also in keeping with our Vision 2020 and the pillar that talks about nurturing a caring society, because we understand what they wanted to do. We know that we need to put in place a nurturing society. We need to have goals to build strong families, communities and a nation.

Back to them. Sometime in 2000, they looked at five Acts from 1964 to 1968 and one draft Bill of 2000. Those Acts and Bill were the Children's Authority Act; the Children's Community Residences, Foster Homes and Nurseries Act; the Miscellaneous Provisions Act (proclaimed by Legal Notice 266 of 2003) the Adoption of Children Act and the Children (Amdt.) Act.

I want to give a little history. The Bills were passed in both Houses of Parliament in 2000 after consideration by a joint select committee and the President of the Republic of Trinidad and Tobago assented to those Acts in June 2000. At that time, Trinidad and Tobago's instrument of accession was deposited. They are now taking this abroad.

Part III, Article 38 of the Convention provides for the entry into force of the convention for a state on the first day of the third calendar month after the deposit of its instrument of accession which meant that the convention should have come into force by October 2000.

At that time, all the measures to bring Trinidad and Tobago into conformity with the convention were not in place, so they could not have done it. The legislation to establish a children's authority was before Parliament at that time. It was still before the Joint Select Committee. It was at that stage that the then Attorney General caused an amendment to be prepared for the Children's Authority Bill, 1999, which introduced a new clause 5A to provide for the Children's Authority to be the central authority for the purposes of the Hague Convention. That is what they did. They now start to cut and paste, as they like to say; taking piece from here and putting it there. The insertion of section 5A in the Children's Authority Act, 2000 is one of the several aspects of the package of children legislation that has been commented on by the Family Court Committee. "Ah comin to tell yuh about dat family court committee."

5.30 p.m.

You know what happened? In 2001, the People's National Movement formed the government of this country. The PNM looked at the package of legislation that was placed on the Table and realized that something was wrong with it. The PNM, as government, decided to put in place a family court committee to examine the legislation. The recommendation of the committee has been that section 5A be

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deleted from the Children's Authority Act, 2000 and that a separate stand-alone piece of legislation be drafted to effect the implementation of the convention. It was also recommended that, given the legal and sometimes quasi-criminal and criminal acts involved in child abduction, the Central Authority for International Child Abduction should be the Ministry of the Attorney General. So, Mr. Vice-President, we could go no further with this piece of legislation until we started to make some changes to it.

The National Family Services Division of the Ministry of Social Development also had something to say about the package of legislation brought by the people on the other side. They began to do sensitization sessions as they call them, talking to the stakeholders and the stakeholders began to object to the pieces of legislation. Participants included the Judiciary, the children's homes, religious bodies and other agencies in the national community that address children's issues. Both the legal and the psychosocial aspects of the legislation were addressed at these sessions.

When I listen, I am amazed at what comes from the people on the other side. Something is seriously wrong. I do not know who they think they are fooling. The sensitization sessions also allowed for participants to express how they thought the legislation would impact on their operations, with a view to making necessary adjustments for the continuous operations of the said organizations. The general feedback from the stakeholders was that Government was attempting to control them. That is what they said based on the legislation before them. They said that Government was not considering that the NGOs and religious bodies were doing the best they could without resources. They are saying that we are not giving money to homes and institutions, but this is what the stakeholders were saying about them: they refused to give them money and expected them to do the world and then they were quarrelling about them.

Shortly thereafter, the National Family Services Division made adjustments. We were then in the year 2001/2002 and the Ministry of Social Development began to make adjustments. They presented a plan of action to the Minister of Social Development, which included a budget to fund the first year of operations of a proposed children's authority.

The Attorney General at that time, Glenda Morean, appointed the Family Court Committee, a committee of experts and they, working along with the stakeholders, began to consult some more. The committee of experts expressed concern about the implementation of the package of legislation for children in the form in which it was passed in 2000. These concerns were presented by the committee to the Ministry of Social Development. This action prompted a further review process, which led to a new package of legislation.

In the interim, the Ministry of Social Development, understanding that they had a problem, engaged the Faculty of Social Sciences of the University of the West Indies, St. Augustine Campus, to conduct a study of children's homes. They did legislation without doing a needs assessment—they did not know what they were talking about—and without developing a policy. They wrote laws without developing a policy and when the results started to come in, one of the things this Government did, based on the information coming in, was to increase the subventions to these homes because we realized that we needed to increase the funding.

The completion of work on the package was delayed mainly due to the many changes that had to be made; they were so fundamental. So many things had to be changed that it took a while. For example, the Children Act, which pertains to the introduction—

Mr. Vice-President: Sen. Mark, I would like to hear the Minister of Local Government. Will you refrain from disturbing?

Sen. Mark: Not at all.

Sen. The Hon. H. Manning: Thank you very much, Mr. Vice-President, for your protection. One piece of legislation they looked at was the Children Act, which spoke to the introduction of new criminal offences against children. So bad was that piece of legislation, that a decision was subsequently taken by this Government to repeal and replace the entire Act, thereby allowing for the creation of new offences and the modernization of the language to ensure consistency in the Bill as well as in the whole package. They started to change the language to make sure that all the packages were modernized. So the new package of legislation now comprise seven new Bills replaced, repealed, upgraded and rewritten.

As mentioned before, three of those Bills are now before the Parliament. So when they are complaining about why we pulled that out and put that in, three of those Bills are now laid in Parliament: the Children Authority (Amdt.) Bill, 2008, the International Child Abduction Bill, the one we are now debating, the Children's Community Residences, Foster Homes and Nurseries (Amdt.) Bill, 2008; those three have been laid in Parliament. We are now debating one.

The Adoption of Children Bill, 2008 is ready and will be laid in Parliament within the next week or two. I know that the Children Bill, 2008, the Family Court Bill, 2008 and the Status of Children (Amdt.) Bill, 2008 will soon be laid in Parliament. [*Desk thumping*]

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I see the legal experts working very hard to get these Bills ready. They report to the Legislative Review Committee meeting very often about the need to make radical changes to the Bills which were created without much research. They took a Bill from somewhere, without much research and without a policy to guide them. We had to start afresh, do the research, develop the policy and modernize the Bills. And they are talking about this Government.

I heard Sen. Dr. Jennifer Jones-Kernahan talking about the Central Authority of South Carolina with respect to the Act that refers to the Children's Authority of Trinidad and Tobago. It was so strange; I cannot repeat what was said. Enough to say that the Children's Authority Bill, the one we have laid before Parliament, will assist in the operation of the administrative mechanism. I think that is what she was trying to say—that we needed the Central Authority, I do not know of South Carolina or where, to help us operationalize what we have to do, not understanding that the Children's Authority Bill will do the same thing.

A comment from the Ministry of Social Development explained the role of the Children's Authority Bill. I want to read it. They said:

“The Children's Authority Bill will serve as the guardian of the children of Trinidad and Tobago—persons under the age of 18. This Act was amended for better integration with other pieces of legislation in the package. The interface between the authority and parents has also been clarified to ensure that the rules of national justice are observed. The Authority will also now be required to route some of its actions through Family Court applications thereby reducing the circumstances where its decisions will fail to be reviewed and providing increased safeguards for parents and children in difficult circumstances.”

The Children's Authority will have the responsibility to:

- Oversee and monitor children's residences and nurseries and foster care homes as well as issue and revoke licences for residences and nurseries
- Receive applications, investigate and make recommendations to the Court with respect to adoption
- Provide care, protection and rehabilitation for children
- Investigate reports of mistreatment of children
- Provide support services to children while they are living with their families

- Operate Reception and Assessment Centres
- Provide hostels for children over the age of sixteen (16) years.

The Authority will be managed by a Board of Management comprising twelve (12) members with diverse skills—appointed by the President of the Republic of Trinidad and Tobago. Certain members of this board will make up the Adoption Committee and fulfil the functions of the previous Adoption Board. In pursuit of these functions, an Adoption Unit as well as a Foster Care Unit will operate within the ambit of the Authority.

Assessment and Support Centres shall be staffed with experienced social workers and shall be responsible for:

- Initial assessments and referral of children coming to the attention of the Authority; and
- Liaising with support services and agencies for counselling, investigations and continued management.

Reception centres are to be responsible for the temporary care of children received by the Authority for a maximum period of twelve (12) weeks. These Centres will:

- Conduct initial medical examinations, diagnostic assessments and formulate treatment plans;
- Make recommendations to the board on the placement of children; and
- Implement plans in respect of any child in the care of a Reception Centre.”

So, we have put in place all the pieces to support those children who we may have to bring back from somewhere if abducted.

5.45 p.m.

Mr. Vice-President, the International Child Abduction Bill will therefore implement the Hague Convention on the Civil Aspects of International Child Abduction which requires states to establish a central authority to liaise with central authorities in other signatory countries.

This Bill ensures that any litigation as to the custody of children will take place in the jurisdiction they are most closely connected with, usually in circumstances where children are moved, detained, or where there are non-custodial parents. That is the connection, as we pull the package of Bills together.

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I am hearing the talk that there must be an omnibus Bill. They do not understand that there are seven pieces of legislation pulling the whole thing together. That is what this is all about, the establishment of the Children's Authority.

They spoke about the Multidisciplinary Committee, the same committee that told us to throw out those Bills, they were not good, there is no data, no policy and no analysis and that we should bring in new Bills. This committee, established to advise the Minister of Social Development on the establishment of the Children's Authority, has undertaken and achieved, pending the enactment of the legislation—They are not waiting for the legislation to take place; they have already started to act. Hear what they have done.

They have identified units relevant to the operation of the Children's Authority. They are ready to identify more units. They have had preliminary meetings with the Property Management Unit and the Director of Lands and Surveys, with a view to identifying spaces for head office, area offices and reception centres. They have a preliminary list of personnel required for adequate functioning of the authority. They have explored relevant information systems for the purpose of networking operations throughout the country and abroad. They have plans to sensitize sessions for government policy-makers and civil society groups, which are intended to explore the implications of the legislation on agencies that treat with children. *[Interruption]*

I am responding to those across there. What was it, North Carolina Civil Centre? They do not understand what they did. They did not understand. That is Don Quixote in full flight. They do not understand what they have said. That is the problem. Their own—*[Interruption]*

Mr. Vice-President: Sen. Mark, please, I would like to hear the Minister and you are still disturbing. I hope it does not happen a third time.

Sen. The Hon. H. Manning: Thank you again for your protection, Mr. Vice-President. It is a sad thing. It is really sad. There is also a role for the national community, with respect to the successful establishment of the Children's Authority of Trinidad and Tobago, which pertains to more actively ensuring that the people of this country get involved in protecting our children, because it takes a village to raise a child.

Therefore, this Government is appealing to the public to report incidents of child abuse, child exploitation, neglect and abandonment—*[Interruption]*

Sen. Mark: To whom?

Sen. The Hon. H. Manning:—to the Government. Report it and we will look after it to ensure that our children are not abused. Supporting—[*Interruption*]

Sen. Mark: “In yuh palace?”

Sen. The Hon. H. Manning: Yes, in the palace. What we are doing is responding to the needs of children who are in trouble/difficult circumstances.

As I have said before, abduction of our children is tantamount to abuse. Even if one child is abducted, that is one too many.

Please note that our package of legislation is far-ranging and impacting on the psychosocial support of our children, the safe and secure protection of our children and their custodial care, because we on this side support the International Child Abduction Bill, 2008, because we care and because we believe that every child matters.

Thank you.

Sen. Dr. Adesh Nanan: Mr. Vice-President, I rise to make a contribution on the International Child Abduction Bill, 2008. The last speaker talked about one child too many. I would start there in my contribution. Sen. Melville also made reference to the caring PNM Government. How can we forget that it is the same PNM Government that placed 10,000 children on the streets year after year? We must not forget that. Never! It was the UNC government—[*Interruption*]

Sen. Manning: Mr. Vice-President—

Sen. Dr. A. Nanan:—that placed every child in a secondary school.

Sen. Manning: May I?

Sen. Dr. A. Nanan: No, I am not giving way. We must never forget that. I would deal with that Senator, because the debate has been opened wide. It is very wide. It is dealing specifically with children. Whether it is Opposition, the Independent Senators or the Government, we see the need to protect children. We must always recognize the fact that children are vulnerable. The Senator who spoke before me took the responsibility to malign the UNC government and it is my responsibility to set the record straight.

I would start with the former Attorney General, Glenda Morean-Phillips and the United Nations Convention on the Rights of the Child. We heard about pieces of legislation and piecemeal legislation by the UNC government. You went into

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history, Senator. I would put the record straight, in terms of history. It is the UNC government that looked at all the children's legislation and made the amendments that were necessary. What did your Government do from 2000 to now?

Sen. Manning: We have modernized it.

Sen. Dr. A. Nanan: What have you done? You would bring your legislation before the Parliament in 2020 to become a developed country. That is what we are seeing from you, in terms of your arrangement.

Sen. Manning: We have made sense of it.

Sen. Dr. A. Nanan: You are trying to conceal the facts, as you did in a previous incarnation as Minister of Education. You said that the UNC built pre-schools that were of no structural integrity. That is totally false. I could not wait for the opportunity to come in this Senate and say that you are very wrong.

Sen. Manning: I am very right.

Sen. Dr. A. Nanan: The records will show that. You can go to every pre-school that the UNC built and they are still functioning today.

I would go even further, because this debate is dealing with children and you opened it wide enough. You cannot get any protection from the Vice-President today.

The children in Biche are being deprived of a secondary school because of the former Minister of Education who refused to place the children of Biche in that secondary school that was built by the UNC government. It is spite and vindictiveness by the previous PNM administration and it continues under the present administration, because there are persons from the previous administration in the PNM Government. They are trying to malign the UNC government's achievements. A major pillar of the UNC government is this package of children's legislation. The Senator tried this afternoon to put in perspective—I have a lot to say. I am not giving way unless you come with a point of order. I will continue to make my points.

Sen. Mark: They are very relevant, Sen. Hazel Manning.

Sen. Dr. A. Nanan: I took note, because I wanted to make sure when I make my contribution it would be relevant to what the Senator said. The Senator went on to talk about the Children's Authority. She gave a long discourse about the Children's Authority. That is not before the Senate this afternoon. That is in

anticipation of another Bill. The Minister has enough experience to know that. It is called waffling and padding to make up the time. That is what is happening here, that shallow contribution that you came to the Senate with.

What annoys me this afternoon is that the Senator took the hardworking UNC government officials and Ministers—because it was an inter-ministerial team that was dealing with this package of legislation; they were the Ministries of Education, Social Development and Community Development.

I want to read something, because it is important. Apparently you are not aware but I would make you aware. When your ambassador had to report in 2006 as to why you were not conforming to the International Convention on the Rights of the Child, that ambassador made reference to the piece of legislation introduced by the UNC. That was the defence of the ambassador. In case you were not aware, it was that particular piece of legislation.

I want to go on. When we look at the judicial system, the Senator introduced that and a Family Court Committee was set up. We have to face facts. You have failed in the Family Court. It was the UNC government that introduced the Family Court concept. It was supposed to have been a pilot project. Today, it is still a pilot project, under the PNM administration. It was supposed to have taken place throughout Trinidad and Tobago. Six years have passed and they are still piloting. They have continued with pilot after pilot. In almost every Ministry, they are operating with pilots. The only thing that is not a pilot project is CAPE. They have spread it throughout Trinidad and Tobago and it has become a fiasco under the PNM administration, a total fiasco. Who is responsible? It is the former Minister of Education, the current Senator.

We heard about the NGOs' involvement. Before I go there, I want to deal with another area. We are dealing with children and what the PNM administration said. They are a caring Government and they are nurturing and caring for children. Where? This is the wrong island and the wrong place. Probably you were thinking—*[Interruption]* Sorry, Mr. Vice-President.

Mr. Vice-President: Senator, I have allowed you your show and I think you should get back to the Bill.

Sen. Dr. A. Nanan: I am responding, Mr. Vice-President, to what the Senator—*[Interruption]*

Sen. Mark: He is responding. “Ah think yuh better understand the Standing Orders.”

Sen. Dr. A. Nanan: I am responding to the Senator before me. Probably the Senator was thinking about the global perspective, when that particular statement was made, in terms of a caring government and the nurturing of the children of Trinidad and Tobago.

6.00 p.m.

Mr. Vice-President, let the record speak for itself, in terms of the performance of the PNM Government dealing with children. What is the PNM's record? We heard about the push factors from Senators and what drive these people with respect to trauma. Look at the push factors in our country! We have high food prices and bulldozing of houses in various parts of the country. Children are being put out of homes by the PNM administration; children are being traumatized under the PNM Government, because there are killings every day and they have to face that. There is no detection by the PNM administration under the current Minister of National Security; total failure.

I want to deal with the Convention on the Rights of the Child. Mention was made in the debate about the Ministry of Social Development. I want to ask the PNM Government, what about the national plan of action for children? That was supposed to come into force by the end of September, 2005, and we are now in 2008. It is a National Plan of Action for Children and the Convention on the Rights of the Child. Is there a monitoring committee in place with respect to this particular convention?

We heard about developed country status, and in terms of the International Child Abduction Bill, this is going to make us look good from a global perspective. How can we look good in a global perspective when there is a situation in our country where we are now hearing in this debate about the setting up of the Children's Authority?

Since 2000 to now, children have been brutalized, traumatized, killed, sodomized, raped and tortured. I can quote all the examples, but they have fallen on deaf ears. This is a nurturing and caring PNM, and they love children.

We heard in this debate about the contributions to NGOs and that the UNC government was giving pittance to these NGOs. We are talking about a \$40 billion budget, and we have had spending of \$200 billion. We have seen in a reply to a question the allocations which were given to these NGOs. There is no commitment on the part of the PNM government in trying to protect our children. They cannot protect our own in Trinidad and Tobago, but they have come with an International Child Abduction Bill.

So, it is a passionate plea that I want to see the Children's Authority in place. It should have been in place in 2001. We heard that you have found a way to conceal the fact that you would not go with the legislation that was already drafted, because it originated from the UNC.

Sen. Mark: They get a Kangaroo team to say it was poor.

Sen. Dr. A. Nanan: You laid out a case-by-case summary. A joint select committee deliberated on that legislation. This was passed by a special majority. It was not a simple majority. It was passed by a special majority. *[Interruption]* Yes, the PNM supported the legislation. Mr. Valley was there, Mr. Imbert and Dr. Rowley were also there. I hope that this piece of legislation is not the death knell for the Member of Parliament for Diego Martin West. According to this, the former Member of Parliament, Mr. Kenneth Valley is not there.

Sen. Annisette-George: On a point of order. Standing Order 35(1).

Mr. Vice-President: I think you are bounding on irrelevance. So, continue your contribution and get back to the Bill. *[Crosstalk]*

Sen. Mark: Hazel, are you frightened? You are getting licks. Take your licks.

Sen. Dr. A. Nanan: Mr. Vice-President, I have enough experience in debates, so I will go to the Bill or go close enough to the Bill. *[Laughter]* I want to deal with clause 6 which establishes “a Central Authority to be known as the Civil Child Abduction Authority”.

We heard much about the Children's Authority and the role of the Children's Authority. With respect to the role of the Children's Authority, we have been given the highlights and what would be the personnel. We look forward to the protection of the children, but I am afraid that we might have to wait, not too long, for a UNC Alliance government to put this particular authority in place, according to clause 6 of the Bill.

I want to speak to what the Attorney General referred to and quoted at length and that is Article 7, which deals with Central Authority. This particular Central Authority relies heavily on the authority that is the Ministry of National Security.

In terms of the Ministry of National Security, we have seen the situation with respect to kidnapping, and this part of the legislation deals with international kidnapping. We are dealing with international kidnapping, and we cannot deal with kidnapers right in our twin-island Republic. It is unfortunate that we have those examples to quote. There was a recent kidnapping, and I do hope that particular person would be released unharmed. So, we are dealing with that current situation.

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The point that was made by the Opposition is that there are other pieces of legislation dealing with children that have a greater priority in terms of this particular piece of legislation. Article 7(a) states:

- “(a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;”

Mr. Vice-President, when you look at the situation with respect to the current facilities for children within our own twin-island Republic, and in terms of the voluntary return of the child, there is a great difficulty. Apparently, when the court places a child in one of these homes, it is very difficult to remove that child. If somebody wants to adopt the child it is also very difficult.

So, we have administration problems in our own jurisdiction. I thought it would be a great opportunity for the Attorney General to give us an idea of this particular hurdle, and how are we going to get over this administrative hurdle for children to be facilitated. Actually, this particular convention talks about the ease with which people can be returned to their respective countries, and it has to do with the Judiciary.

Article 12 states:

“Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.”

So, there is that facility for speeding up the process, whereas in the Judiciary—*[Interruption]* The point I am making with respect to the Judiciary and the administrative hurdles has to do with Article 12, and the other aspects, in terms of the Central Authority and this particular convention.

I spoke about the trauma and the traumatic situation, and the authority has to ensure under Article 13 that there is no great risk to the return of the child in terms of psychological harm. We also heard of the particular central authority and the psychological analysis that would be undertaken and the staff to be hired.

Mr. Vice-President, the other area I want to deal with is with respect to clause 3 which speaks about the Civil Child Abduction Authority and the setting up of the Central Authority.

I spoke about the allocation to the NGOs. We have to examine our own structures as we come forward with this International Child Abduction Bill. I thought this was an opportunity to examine our own structures and the facilities, because the PNM government has a history in terms of not nurturing and caring for children.

Many of us would recall that the former Minister of Education, under the PNM administration, paid no attention to special education. If you look at the budgetary allocation for special education under the PNM administration, it was very little in terms of the facilities for these poor children.

As a former Minister of Education, we had reports of abuse in many of these homes like the St. Michael's Home for Boys. There were enquiries with respect to abuse in that particular home.

6.15 p.m.

When we heard from the Senator, in terms of the structure and the oversight, we have to ask questions. From 2000—2008, what were the structures in place to investigate these homes and to look at the situation under which these children were being housed?

We also have to ask the question in terms of the structure, not only of the homes, are there any plans in place in the immediate future? I know that you are building high-rise buildings in Port of Spain, but are there any plans in the future to use probably UDeCott to build a few orphanages and more facilities for these particular children that require the facilities? There is a need right now in this country in terms of special education and the construction of more special education facilities. We have to call upon the Government to recognize this fact. Apparently, although many people see that there is a need for special education facilities, it is not happening.

Not only in special education, I looked at a particular situation in New York, in terms of the number of children that are displaced from their homes and they are moving into gangs; so we have to be extremely careful. But probably—I do not want to say that—it is a policy of the PNM administration to not take care of these children, so they may end up in gangs. [*Crosstalk*] It may be, because when we look at the situation in this country, more gangs are being formed.

The Minister of National Security said he does not know how many gangs are in place in today's society and more and more children are being left by the wayside. What is happening in our country? We see a big oil and gas corporation retrenching workers. What signal is being sent; we see high food prices and all this is being related to the children, because it is children in these homes that are being malnourished. They do not have enough money; there is not enough family income to support them and the children are going to suffer. We see the Minister of Agriculture, Land and Marine Resources handing out seeds; the Ministry of Social Development is not making the intervention that is necessary to help these people who are below the poverty line. What they are doing is destroying homes of children without any recognition of the fact that those people are suffering, reeling under the high prices caused by inflationary trends. So, children are at risk in Trinidad and Tobago under the present administration.

In terms of the Ministry of Social Development and the National Family Services, how many staff members are in that particular facility—National Family Services? Is it enough in that Ministry, because we heard the former Minister of Social Development saying that there were not resources available to cope with the situation. So, we have to ask the question, is this lip-service that we have heard this evening? Is it lip-service, that once again, we are hearing from the PNM administration in terms of caring for children? We have seen plans on the drawing board; we have been given time lines, but we have seen no progress.

In fact, Mr. Vice-President, I asked a question in this Senate on legislation with respect to the environment, and we heard that it would be presented to the Senate probably at the end of the year. So, there is no urgency on the part of the PNM administration to bring legislation that would really make a difference in our society. We cannot condone statements made by a Senator to support the PNM—

Mr. Vice-President: Senators, there is a procedural matter.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Thank you, Mr. Vice-President. In accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the end of the contribution by the current Senator.

Question put and agreed to.

INTERNATIONAL CHILD ABDUCTION BILL

Sen. Dr. A. Nanan: Thank you, Mr. Vice-President. In the other place, there was a call for a child registry. It was suggested even further to have a missing person's registry, as a supplement to this particular International Child Abduction

Bill, because we can go on the Internet and probably look up missing children. It is an important aspect and I ask the Attorney General to consider putting that in place in terms of a missing child registry or a missing persons' registry.

Mr. Vice-President, I rose to take a certain perspective in terms of the contribution of the former speaker. I did so in the context of placing Trinidad and Tobago in the current scenario and what will happen in the year 2020, because we are seeing the tardiness on behalf of the PNM administration in terms of the legislative agenda.

The legislative agenda is supposed to be driving a society and we are not seeing any concrete pieces of legislation coming forward. It is our view that the Attorney General is not doing her work of assessing the current situation and the legislation that will make a difference in our society.

There is a package of legislation that can make a difference with respect to children and the protection of children and we have this particular piece of legislation before us as priority. It is in this context that I put forward to the Government to get its act together, really study the country and bring legislation that will make a difference in Trinidad and Tobago.

I thank you.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, May 27, 2008 at 1.30 p.m. when we will debate the Finance (Supplementation and Variation of Appropriation) Bill, 2008, which will be taken through all its stages.

The timetable for this Bill is as follows: Finance Committee of the House will meet on Friday, May 23, 2008 and the report of the Committee will be debated on Monday, May 26, 2008 thereafter on Tuesday we will be debating. It is our intention that as soon as the documents are available they will be circulated to Senators. As this would normally be Private Members' Day, we have agreed that Tuesday, June 03, 2008 would be Private Members' Day instead.

Mr. Vice-President: Hon. Senators, leave has been granted for a matter to be raised on the Motion of the Adjournment of the Senate by Sen. Wade Mark.

**Home Mortgage Bank
(Transfer of Shares)**

Sen. Wade Mark: Thank you very much. Mr. Vice-President, I rise to address a very important issue of interest to the population of the Republic of Trinidad and Tobago. It deals with the transfer of shares of the Home Mortgage Bank to one Mr. André Monteil and his wife of Stone Street Capital Limited, former chairman of the said bank, former chairman of the Housing Development Corporation (HDC) board, former chairman of the Education Facilities Management Company, a top ranking PNM activist, treasurer, chairman of the Clico Investment Bank and a former director of Home Construction Company (HCL).

The illegal transfer of close to six million shares from the Home Mortgage Bank to Stone Street Capital Limited, owned by one Mr. Monteil and his wife, constituted a grave injustice and virtual grand corruption against the people of this country. So grave was this issue, that the Prime Minister, the then Minister of Finance, referred to two reports on this transaction: one issued by the Securities and Exchange Commission and the other issued by the Central Bank.

We were told that these reports were referred to the Commissioner of Police, the Integrity Commission and the Director of Public Prosecutions for action. To date no action has occurred. The Prime Minister and Minister of Finance, as he was then, gave an undertaking to the Parliament and to the country, to change or to have the legislation changed in order to facilitate the relevant transaction referred to and have that addressed.

We were told that one individual or one company substantially owning the shares of the Home Mortgage Bank was contrary to Government's policy. I want to quote the Minister of Finance then, the hon. Prime Minister:

“Just as legislative action on the part of the Government facilitated that transaction, so we intend to resort to legislative action to correct it, and in correcting it we are going to ensure also that the shares are now retransferred at the same price the shares were transferred in this first place. Such legislation will require more than likely a special majority of Parliament. I hope”—that is the Prime Minister saying so—“that on this matter we can depend on the support of the hon. Members opposite. We will bring it—the legislation—before the general election. Suffice it to say, that the Government will take appropriate steps.”

The general election has come and gone. The promising Prime Minister has done nothing to address this grave matter and the country awaits with bated breath for the next move of Prime Minister and his Minister of Finance.

The fact is that Stone Street Capital Limited, owned by Monteil and his wife, today controls some 46 per cent of a quasi-state institution, amounting to six million shares, when compared to the Central Bank, which controls 15 per cent of shares or some 2.4 million shares, the same Central Bank which played a very critical role in protecting and safeguarding the public interests. The Prime Minister sought to hoodwink the Eighth Parliament by submitting information that was one-sided; that was tendered to him by the Central Bank. I want to put on record what the Central Bank said in its report.

6.30 p.m.

“Given where we are now and in the spirit of good corporate governance, there would seem to be two options. If Stone Street Capital maintains its shareholding, there is a case for changing the legislation to eliminate the HMB special status and incorporate it under the Companies Act as a financial entity which will fall under the ambit of the Financial Institutions Act. Alternatively”—the Central Bank goes on—“we may consider using moral suasion to convince Stone Street Capital Limited to divest its shares so as to preserve the purpose of the Act. This latter is obviously the preferred option which the Prime Minister did not identify as it supports the original mandate of the institution. The pursuit of this public purpose mandate has brought significant benefits to the population since the HMB has acted to provide liquidity to the mortgage market and more recently contain the cost of mortgage lending and increase competition in the mortgage market.”

Mr. Vice-President, the Central Bank in advancing its preferred option raised several challenges. On the issue of valuation, one would need to guard against the likelihood that the sale of Stone Street Capital results in sizeable capital gains to the company. One way to avoid this—according to the Central Bank—is to use the NIB as the initial purchaser at a predetermined price equal to the amount paid by the Stone Street organization; plus all interest and expenses incurred. Of course, there would be need to have, one, a prior agreement that the shares would be listed publicly by a specific time. They were recommendations made by the Central Bank. The Prime Minister chose to hide this second option when he addressed the Parliament and the nation. The Prime Minister had information since May 31, when he received a report from the Central Bank, but presented his one-sided version on August 17, to the Parliament.

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Mr. Vice-President, there was a scam involved in this whole exercise and the PNM was totally responsible and they were in league with Monteil in order to rob this country and the people of their resources. Open theft. Restrictions on the transfer of shares. The HMB Act was amended in a very surreptitious way in 2005. It was amended to allow the bank to dispose of shares. Section 27 of that amendment stated:

“There are no restrictions on share ownership or share transfer. There shall be no right of preemption in respect of share transfer. The shares of the Home Mortgage Bank shall be under the control of directors.”

This is the amendment that they brought in 2005 to set up Monteil to take control of the Home Mortgage Bank (HMB) in which they have certain privileges, fiscal privileges that they enjoy.

Mr. Vice-President, as if this was not enough, the PNM Government came back to the Parliament with a further amendment to the HMB in January 2007 removing the HMB from under the purview of the Financial Institutions Act of 1993, and they made it retroactive to July 2005. They undermined the public's interest in this regard.

Mr. Monteil, who was then chairman of the HDC took \$100 million of poor people's money and transferred that money to the Clico Investment Bank of which he was the chairman. He took that money in January and placed it in that bank in February and by March of the same year the same \$100 million was used by André Monteil and his wife to purchase 46 per cent of the HMB shares, some four million shares they purchased, and this Government sat there and did nothing about it. They were all part of a corrupt act in order to deny the public of their rights. And this Prime Minister, this so-called born again Christian that we have here told this country and the Parliament that he is going to bring legislation to Parliament in order to have those shares retransferred to the people of this country.

He said that and we said that we will give him the constitutional majority because he was dealing with property rights and he needed a special majority in order to have the shares transferred. He gave a commitment—he lied—and said that he would do it before the elections. The elections came and the elections went and no transfer or retransfer of shares has taken place. This is a scandal of national proportions, and I call on the Minister, who seems to be a front man for the Prime Minister these days—fronting for the Prime Minister—and taking blows for UDeCott. [*Laughter*]

I would like the Minister in the Ministry of Finance to tell this country and to tell this Senate this evening, when is the legislation going to come to Parliament to have those shares retransferred to the people of the Republic of Trinidad and Tobago. When is it going to come? You are not going to get away. This Home Mortgage Bank is Calder Hart, is André Monteil. The Waterfront Project is Bouygues, André Monteil and Calder Hart. There is a triangle taking place, a triumvirate, virtually involved in this exercise. I think the country is crying out. They are crying out for fairness, they are crying out for justice in this matter, and this PNM that talks about transparency, accountability, openness and integrity, this is a testing moment for them. You have a situation where there was an open attempt at stealing the public moneys and fooling the country, an attempt to use the Parliament in a most surreptitious way in order to take control of the HMB.

I do not even know the former Minister of Finance who was here, my good friend, Conrad Enill when he piloted the Bill, if he was aware—I doubt he was aware of what was taking place—I would never accuse him of being part of that particular arrangement. And we in this Parliament were hoodwinked by the then Government in supporting—well we opposed the legislation, but they brought the legislation, conscious of the fact that it was all part of a conspiracy in order to allow André Monteil, an individual to own 46 per cent of the shares of the HMB when they know that bank was a quasi state bank and it was set up in the interest of the population of this country.

So, I call on the junior Minister or the Minister in the Ministry of Finance [*Laughter*] to answer, tell the country when the legislation is coming. Let us know what is taking place, and I call on him to so do at this time.

Thank you very much, Mr. Vice-President.

The Minister in The Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I am reminded by David Rudder—

Hon. Senator: Don Quixote.

Sen. The Hon. M. Browne: Not of Don Quixote. [*Laughter*]—he has a wonderful calypso which I believe is called “The Madman's Rant”. When I listen to the comments made by Sen. Wade Mark, I am reminded of that calypso.

The Home Mortgage Bank was set up by an Act of Parliament in 1985. Its intention was to provide liquidity to the banking sector, in particular to an area of the economy that required additional resources and that was housing. That Act allowed and set up the HMB as a limited liability company with a number of ordinary

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shares of no par value, approximately 16 million shares. At no time was the Government of Trinidad and Tobago ever the majority shareholder in this company or did the company ever belong to the Government of Trinidad and Tobago.

The shareholding was widely dispersed between interested parties in the sector, the commercial banks, the insurance companies and a number of other institutions which were deemed to be interested parties. In fact, there took place a consolidation whereby one insurance company bought out a number of other parties and it ended up being the largest single shareholder of the HMB. That insurance company is CL Financial. The shareholding of the HMB as at December 31, 2007 in percentage terms is as follows:

- the Central Bank of Trinidad and Tobago, 15 per cent;
- the National Insurance Board, 7.5 per cent;
- Republic Bank Limited, 24 per cent;
- the Bank of Nova Scotia Limited, 6 per cent;
- Stone Street Capital, 43.8 per cent;
- Tatil Life Assurance Limited, 3.1 per cent; and
- British American Insurance Company Limited, .06 per cent.

A total of 16 million shares.

Prior to the purchase of those shares, those seven million shares in the name of Stone Street Capital, those shares were owned by CL Financial. They were never owned by the Government. A number of issues surrounding the transfers arose, and I should like to deal with and set out where those issues with regard to the transfer of the shareholding to Stone Street Capital stand.

On March 28, 2007 the sale was made to a company called Stone Street Capital for a consideration of \$110 million. The company is co-owned by Mr. André Monteil and his wife. Mr. André Monteil at the time of the transaction held chairmanship of three entities: One, quasi-public, the Home Mortgage Bank and the other two public institutions, the Housing Development Corporation and the Education Facilities Limited.

Moreover, as a senior official of Clico, he was also chairman of Clico Investment Bank at the time. Shortly after the transaction Mr. Monteil offered his resignation as chairman of Housing Development Corporation and Education Facilities Limited. The Government accepted the offer of Mr. Monteil to resign

his chairmanship of these two agencies. It was alleged that the transaction represented a conflict of interest and involved possible impropriety. For the Central Bank of Trinidad and Tobago, the issue is whether the transfer of 43.8 per cent of the shareholding owned by Clico to Stone Street Capital was consistent with the provisions of the HMB as amended in 2005 and 2007.

For the Securities and Exchange Commission, the issue is whether the transaction breached any provisions of the Securities Industry Act. A question also arose with respect to the financing of the transaction. Under the HDC which was said to have made a deposit of \$100 million in Clico Investment Bank, Mr. Monteil was at the time chairman of both institutions, the HDC and Clico Investment Bank.

It should be noted that the 2007 amendment to the Act was made in the context of a policy decision to list the shares of the HMB on the stock exchange in order to allow the widest possible participation in the ownership of the bank. As a result, it was expected that the share transfers would have been regulated by the Securities and Exchange Commission under the new arrangements.

The transaction between Clico and Stone Street Capital needs to be placed in the context of section 28 of the Home Mortgage Bank Act. The earlier 2005 amendment removed the various classes of shareholding and provided for the unrestricted transfer of shares and accordingly initiated the process for public participation in the HMB.

In the context of this policy initiative, section 28 requires the shares of the HMB to be under the control of the directors who may from time to time allot or otherwise dispose all or any of same to such persons and at such terms and conditions as the directors think fit.

It is the view of the Government that sound and fair principles of corporate governance must prevail in all institutions which are established by statute for public policy purposes. Accordingly, the Government intends to amend the section which will appropriately amend the transfer of shares from any existing shareholder to another shareholder. The Government is of the view that the emerging new share structure—the HMB—is inconsistent with the public policy objective of the widest possible participation in the ownership of the HMB which was the foundation of the 2005 amendment and which provided for the unrestricted transfer of shares.

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The action that began in 2005 was to lay the groundwork for a broad-based ownership structure of the company. At the appropriate time, the bank would have been made the subject of an initial public offering to the national community. As an initial step, the Government has agreed that there will be a further sale, but policy measures have to be adopted and changed to reflect that, or alternately, other matters have to be changed.

The following factors have precluded the need to take legislative action in this matter. The report by the Securities and Exchange Commission on the sale of shares by CLICO to Stone Street Capital is relevant because the Home Mortgage Bank is the reporting issuer under the Securities Industries Act, 1995, as a result of its issuance of certain debt securities to the public. However, the Securities and Exchange Commission has advised that the equity of the Home Mortgage Bank does not trade on the Trinidad and Tobago Stock Exchange, and in its view, the sale of securities of the Home Mortgage Bank are private placements and are not required to be registered with the Securities and Exchange Commission.

Further, the Securities and Exchange Commission has also examined the sale of shares by CLICO to Stone Street Capital. The Securities and Exchange Commission has further advised that the Home Mortgage Bank as a reporting issuer has other obligations including the reporting of material changes, for example, a change in ownership. That material change must be reported as soon as practicable, but no later than seven days after the change has occurred, and the bank so notified. In this context, the Securities and Exchange Commission has advised that the Home Mortgage Bank has satisfied the requirements under the Securities Industry Act.

In summary, the Central Bank and the Securities and Exchange Commission have advised that no law was broken by the transfer of shares to Stone Street Capital of 43.8 per cent shareholding held by CLICO in the Home Mortgage Bank. However, the transaction was not consistent with Government's policy objective of the widest possible participation in the ownership of the bank. Accordingly, the Government will take necessary measures and is in dialogue to so do. I might also add, Mr. Vice-President, that no law was breached and as we understand it, having investigated the finances of this particular transaction, the \$100 million deposited by HDC with CLICO Investment Bank, did not finance the transaction.

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Mr. Monteil, and in his own right, substantial deposits which more than covered, and in fact, fully covered, the amount of money that was used to finance this purchase. Accordingly, there is no breach of law caused by this transaction. It does however conflict with Government's policy and Government will make the necessary changes to facilitate that policy move.

Thank you. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.48 p.m.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Cindy D. Sharma:

**Status of Projects
(Streets Children)**

- 51.** A. Would the Minister of Social Development provide this Senate with the status of projects aimed at reintegrating and assisting children living on the streets?
- B. Could the Minister inform this Senate of the number of children that have benefited from these projects for the years 2002, 2003, 2004, 2005, 2006 and 2007?

The following reply was circulated to Members of the Senate:

The Minister of Social Development (Hon. Dr. Amery Browne): As a signatory to the 1990 World Declaration on the Survival, Protection and Development of Children and further to its ratification of the United Nations Convention on the Rights of the Child (CRC) in 1991, the Government of Trinidad and Tobago was mandated to formulate a National Plan of Action (NPA) for Children. This activity was coordinated by a Cabinet-appointed Inter-ministerial Committee under the aegis of the Ministry of Social Development. In August 2006, the second *National Plan of Action for Children* was finalised and approved by Cabinet.

One of the goals outlined in the NPA is to address matters relevant to the protection of children from all forms of abuse, neglect, exploitation and violence. To this end, the Ministry of Social Development has identified priority areas that will assist in achieving this goal. Some of the initiatives undertaken by this Ministry include:

1. Collaboration with non-governmental organizations (NGOs) that seek to address issues such as children living on the streets, vagrancy, the exploitation of children and poor parenting skills. It is believed that fostering better relationships with suitable NGOs can result in an efficient delivery of social services and an improved framework for greater accountability. Currently the Ministry of Social Development provides annual subventions to a number of NGOs that work specifically with street children as their priority target group. These NGOs include:

- The Credo Foundation for Justice

In partnership with the Ministry of Social Development, this organisation began its awareness-creating programme of children on the street in 1994 and has expanded its services to address the different needs of its clients. This collaborative approach began in 1996 with the establishment of:

- ✓ The Drop In and Development Centre which provides meals, clothing, counselling and remedial services to children who live and/or work on the street. Where required, short-term night accommodation is provided. A Family Support System is also available to families of the children already on the street as well as to those at risk.

The Government of Trinidad and Tobago facilitated this initiative by purchasing a building for the operation of the Centre and provides an annual subvention for the maintenance of the service.

- ✓ The Aylward House is an extension of the Credo Centre for Socially Displaced Children that provides temporary accommodation for youth who have returned to the education system but were not yet reintegrated with their families. Aylward House also offers an *Independent Living Skills Programme* and facilitates training and employment designed to enable residents to either reintegrate with their families or to pursue independent living. Additionally, Aylward House provides support to families.
- ✓ The Sophia House which is geared towards the Empowerment of Young Girls who are living and/or working on the streets and living in abusive and/or degrading circumstances.

Government provides a subvention of \$743,996.00 per year to the Credo Foundation for Justice for the operation of these three centres.

- The Young Men Christian Association (YMCA)

The YMCA embarked on a project for street children in 1995 and has since broadened its scope to address youth at risk. The organisation acts as a drop-in centre for the rehabilitation of male street children and provides them with counselling and training in life skills, numeracy and literacy. It also provides services such as outreach programmes, vocational and entrepreneurial training and early childhood care services. The Ministry of Social Development provides the YMCA with an annual subvention of \$81,600.

- The Rainbow Rescue

This organisation targets male children who live on the streets and who may have been referred by the Courts, Social Services, the Police or family. It provides services such as counselling and anger management that will assist the young men reintegrate into society. This organisation receives an annual subvention from the Ministry of Social Development in the sum of \$242,252.40.

2. The Ministry of Social Development also provides financial assistance via subventions to a number of other organisations that work with and/or provide services for children in difficult circumstances or those at risk. The following organisations receive subventions annually at a total sum of \$36,231,504.40:

- ✓ The Child Welfare League
- ✓ Jaya Lakshmi Children's Home
- ✓ Ferndean's Place Children's Home
- ✓ Shelter for Women and Children
- ✓ Petherton Trust for Girls
- ✓ St. Dominic's Children's Home
- ✓ St. Mary's Children's Home
- ✓ St. Michael's School for Boys
- ✓ St. Jude's School for Girls

- ✓ Credo Foundation for Justice
 - ✓ Young Men Christian Association
 - ✓ Rainbow Rescue
3. Another activity undertaken by the Ministry to address the issue of street children includes on-going 'street patrols' by social workers of the Social Displacement Unit. This is an initiative undertaken by the unit on a weekly basis in the company of a police officer. If a child appears to be living on the streets, he or she is interviewed by the social worker from the Ministry and the police officer. If warranted, the child is removed from the streets and then referred to the Family Court for further assessment. Unfortunately, some children living on the street have learnt to evade the attention of these officers.
4. The National Family Services Division of the Ministry of Social Development also has a responsibility for managing cases pertaining to the abuse of children and children in need of protection. The services offered by the Division include the monitoring of the homes for children, counselling for families and public sensitisation through workshops and lectures—all aimed at reducing the incidence of children living on the streets.
- B The various children's homes and organizations that provide services for children in Trinidad and Tobago all treat with the issue of 'street children', to various degrees, through residential programmes and other rehabilitative services. However, given the transient nature of children living and/or working on the streets, it is difficult to disaggregate the available data to precisely identify the children that benefit from social interventions as particularly being 'street children'. The figures below present information on the three (3) major programmes which comprise services that most directly target street children.
- The Credo Foundation for Justice
- Over the period 2002 to 2007, the Credo Foundation for Justice, via the operation of its three (3) facilities has treated with two-hundred and fourteen (214) children, all of whom benefited from its range of services.

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Long-term in-residence & development/remedial programme	2002	2003	2004	2005	2006	2007	TOTAL
Credo Drop-in and Development Centre	13	15	14	15	16	16	89
Aylward Transitional Facility	7	7	7	8	8	8	45
Sophia House Empowerment Centre (est. 2004)	-	-	15	19	24	22	80
TOTAL	20	22	36	42	48	46	214

It is estimated that two (2) to three (3) boys come to the Drop-in Centre on a weekly basis—often with repeat visits. Approximately fifty (50) parents/guardians/families are assisted on an annual basis under the Parenting Skills & Support Programme. For the years 2002, 2004 and 2006, the Credo Foundation conducted an Income Generating Skills Programme which, over the period, benefited twenty (20), twenty-two (22) and nineteen (19) children respectively.

- The Rainbow Rescue

Eighty-five (85) children were housed at Rainbow Rescue during the period 2002 to 2007. The following is a breakdown of the number of children that benefited from particular services at Rainbow Rescue throughout the period:

- Psychologist Counselling—20
- Residents who were placed in the school system—75
- Residents who are employed—30
- Reunited with their family—20
- Returned to the streets—7
- Referred to a correctional institution—3
- Whereabouts unknown—9
- The Young Men Christian Association (YMCA)

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The YMCA, under its Youth Outreach Programme, targets both out-of-school youth and socially displaced young persons in the 13-19 age group. Centres are operated in Sangre Grande and Port of Spain and offer educational, behavioural and rehabilitative as well as social services to the youth. Over the period 1995-2007 the organisation worked with 303 young persons to achieve the following outcomes:

- Returned to formal educational institutions—218
- Presently employed—49
- Migrated—2
- Deceased—5
- Cannot be contacted—29