SENATE

Tuesday, June 30, 2009

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Conrad Enill and Sen. The Hon. Dr. Emily Dick-Forde who are out of country.

SENATORS' APPOINTMENT

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

"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 Dr. Emily Gaynor Dick-Forde is incapable of performing her duties as a Senator by reason of her 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, NOEL GAYLE, to be temporarily a member of the Senate, with effect from 30th June, 2009 and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Emily Gaynor Dick-Forde.

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 26th day of June, 2009."

"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 Conrad Enill 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 30th June, 2009 and continuing during the absence from Trinidad and Tobago of the said Senator Conrad Enill.

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 26th day of June, 2009."

OATH OF ALLEGIANCE

Senators Noel Gayle and Foster Cummings took and subscribed the Oath of Allegiance as required by law.

COMMITTEE OF PRIVILEGES

Mr. President: Hon. Senators, at a meeting of the Committee of Privileges this morning, Sen. The Hon. Jerry Narace recused himself from the matter before the Committee, and informed the committee that Sen. The Hon. Dr. Emily Dick-Forde has been appointed in his stead for the matter that is before the Committee only.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Telecommunications Authority of Trinidad and Tobago for the fifteen-month period ended September 30, 2005. [*The Minister of Trade and Industry and 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 Chaguaramas Development Authority for the year ended December 30, 1999. [*Sen. The Hon. M. Browne*]

3. The audited financial statements of Government Human Resource Services Company Limited for the financial year ended September 30, 2008. [*Sen. The Hon. M. Browne*]

4. The audited financial statements of the National Gas Company of Trinidad and Tobago Limited for the financial year ended December 31, 2007. [*Sen. The Hon. M. Browne*]

5. The Defence (Short Service Commissions) (Amdt.) Regulations, 2009. [*The Minister of National Security (Sen. The Hon. Martin Joseph*)]

6. The Freedom of Information Act, 1999 annual report to Parliament for 2007. [*The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith)*]

ORAL ANSWERS TO QUESTIONS

Brian Lara Cricketing Academy (Details of)

5. Sen. Wade Mark asked the hon. Minister of Sport and Youth Affairs:

Could the Minister inform this Senate of:

(a) the current status of the Brian Lara Cricketing Academy in Tarouba;

(b) the total sum expended on the project as at December 31, 2008;

(c) the estimated sum required for the completion of the project; and

(d) the completion date of the project?

The Minister of Sport and Youth Affairs (Hon. Gary Hunt): Mr. President, firstly I would like to apologize for the delay in the delivery of the answer to question No. 5, and I would like to state that it is not for the want of trying to get the information to the Senate to be able to adequately answer this question, but there have been great difficulties in collating some of the information, and I am to report that the answer is almost complete. I beg the indulgence of the Senate for a postponement of a further two weeks at which time I anticipate that I will be able to adequately deliver an approved answer to the Senate.

Sen. Mark: Mr. President, I want to welcome the Minister here. This is the first time he is here, and I would hope that he would keep to his word.

Question, by leave, deferred.

Mr. President: Question No. 13, please.

Sen. Mark: I had given you a signal, Sir, that I wanted to respond to the Minister, but your head was down, so you did not catch me.

Dr. Rupert Griffith and Dr. Vincent Lasse
(Status of Debt Incurred in Judgment)

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

With respect to the judgment in the matter involving the challenge by the Prime Minister, honourable Patrick Manning of the Crossing of the Floor Act relating to Dr. Rupert Griffith and Dr. Vincent Lasse, could the Attorney General inform this Senate of the status of the debt incurred by him?

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. President, the answer to this question is not yet ready. I have reviewed it, and I anticipate that a reply will be forthcoming in a fortnight.

Question, by leave, deferred.

Motor Vehicles and Road Traffic Act
(Date for the Full Enforcement)

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

Could the Minister inform this Senate of the date for the full enforcement of the Motor Vehicles and Road Traffic Act with specific reference to the introduction of the Breathalyzer?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I have been advised by the Minister that this question will be ready by next week and, therefore, I ask for a one-week deferment.

Question, by leave, deferred.

Cocoa Cultivators/Farmers
(Status of)

30. Sen. Lyndira Oudit asked the hon. Minister of Agriculture, Land and Marine Resources:

Could the Minister inform this Senate of:

(i) the number of cocoa cultivators/farmers at present in this country;

(ii) the size of land under cocoa cultivation of each farmer; and

(iii) the number of years each cultivator/farmer has been involved in cocoa cultivation?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. President, this answer should be ready within two weeks.

Question, by leave, deferred.

Trinidad and Tobago Amateur Boxing Association (Monetary Assistance)

31. Sen. Lyndira Oudit asked the hon. Minister of Sport and Youth Affairs:

Could the Minister indicate to the Senate the amount of monetary assistance which was provided individually to female boxers Wendy Alleyne, Ria Ramnarine and the late Jizelle Salandy, either directly or indirectly, through the Trinidad and Tobago Amateur Boxing Association for the period 2003—2008?

The Minister of Sport and Youth Affairs (Hon. Gary Hunt): Mr. President, this question is completed and is awaiting approval. I would ask for an extension of one week to be able to deliver the answer.

Question, by leave, deferred.

Nation's Judges (System of Monitoring)

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

Could the Attorney General outline to the Senate the system of monitoring that is in place in respect of assessing and evaluating the performance of the nation's judges?

The Attorney General (Sen. The Hon John Jeremie SC): Mr. President, this question is not ready. I anticipate that an answer will be forthcoming in a fortnight.

Question, by leave, deferred.

National Academies of Performing Arts
(Details of)

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

With respect to the construction of the National Academies of Performing Arts in Port-of-Spain and San Fernando, could the Minister provide the Senate with:

(a) a detailed status report on the construction of the National Academies of Performing Arts;

(b) the original estimated cost of construction of the National Academies;

(c) the initial projected completion dates for both Academies;

(d) the current estimated cost and new projected cost of the construction of the Academies; and

(e) the new projected completion dates for the National Academies?

The Minister of State in the Ministry of Planning, Housing and the Environment (Sen. The Hon. Tina Groulund-Nunez): Mr. President, this question is not yet ready and we ask for a two-week delay.

Sen. Mark: Mr. President, you would recall on the Order Paper a three-week period of extension was granted for this question, and we were expecting the answer after three long weeks, and now they are asking for another two weeks. I believe that they are treating you and this Parliament with disrespect. Why do they make commitments that they cannot hold? I want to protest over this delay.

Question, by leave, deferred.

Rental of Cruise Ships
(Details of)

47. Sen. Mohammed Faisal Rahman asked the hon. Minister of Finance:

Could the Minister provide the Senate with a detailed account of the cost of renting the two cruise ships to be used as floating hotels for the forthcoming Summit of the Americas?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. President, the full accounting for the cruise ships and the revenue derived from the cruise ships are not yet

complete, because there are some items of expenditure to be charged by the court and they have not yet been quantified. So, we would ask for a deferment of two weeks. Thank you.

Question, by leave, deferred.

Agricultural Leases
(Details of)

88. Sen. Gail Merhair asked the hon. Minister of Agriculture, Land and Marine Resources:

> Could the Minister inform the Senate how many standard agricultural leases have been granted to farmers on State Lands during the period January 01, 2007 to March 31, 2009?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. President, the records of the Office of the Commissioner of State Lands indicate that 581 standard agricultural leases have been issued to farmers on state lands during the period January 01, 2007—March 31, 2009.

In 2007, there were 20 registered leases; in 2008, there were 352 registered leases; and for the period January 01, 2009—March 31, 2009, there were 209 registered leases.

Mr. President, thank you.

National Test Results
(Details of)

91. Sen. Dr. Adesh Nanan asked the hon. Minister of Education:

A. Would the Minister of Education indicate to the Senate whether all primary schools in Trinidad and Tobago have received the June 2008 National Test results?

B. If the answer to (A) is in the negative, could the Minister inform the Senate of the reason(s) for the delay?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, this question is not yet ready, and I would like to ask for a one-week deferral.

Question, by leave, deferred.

Tax Duty Concessions for Hoteliers

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

Would the Minister inform the Senate what was the value of tax duty concessions provided to hoteliers over the fiscal year 2007—2008?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I have the answer to this question. The estimated total value of custom duty concessions granted to hoteliers over fiscal 2007—2008 is $15,642,000.

Columbus Communications Trinidad Limited (Protection of Customers)

137. Sen. Gail Merhair asked the hon. Minister of Information:

Could the Minister indicate to the Senate whether it is the Government's intention to take steps to protect customers from the unsatisfactory service provided by Columbus Communications Trinidad Limited?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, the answer to this question is not yet ready, and I would like to ask for a two-week deferment.

Question, by leave, deferred.

1.45 p.m.

Ministry of Information (Details of Port of Spain Property)

141. Sen. Gail Merhair asked the hon. Minister of Information:

With respect to item 2.72 under Head 57-Ministry of Information at page 110 of the report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2007/2008, could the Minister inform the Senate:

(i) What is the address of the property located in Port of Spain for which $138,000 was paid in rent during the period December 18, 2007 to September 30, 2008; and

(ii) Whether the property was ever occupied during that period?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, again, the answer is not ready. I would ask for a two-week deferment.

Question, by leave, deferred.

Uriah Exchange Opening Ceremony
(Details of)

142. Sen. Gail Merhair asked the hon. Minister of Works and Transport:

With respect to the opening ceremony of the Uriah Interchange, could the Minister inform this Senate what was:

(a) The overall cost of the opening ceremony;

(b) The cost of confetti and flags for the said opening; and

(c) The cost of the helicopter that was used to transport "Bunji Garlin" and Faye-Ann Lyons to the opening ceremony?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I have been advised that this answer will be ready by next week Monday.

Question, by leave, deferred.

Major Fishing Areas
(Establishment of Facilities)

143. Sen. Lyndira Oudit asked the hon. Minister of Agriculture, Land and Marine Resources:

A. Could the Minister inform the Senate what programmes have been instituted or proposed to establish cold storage facilities at the major fishing areas in Trinidad and Tobago, namely: Cedros, Oropouche, Mayaro, Carli Bay, Claxton Bay, Waterloo, Las Cuevas, Blanchisseuse, Erin and Moruga for the period of January 2007 to March 2009?

B. Could the Minister further inform the Senate what facilities, equipment and infrastructure namely: secured boat storage facilities, washrooms, jetty construction, engine repair centres and fish-sale area that have been established or proposed for use by fishermen in these communities during the said period?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. President, the Ministry of Agriculture, Land and Marine Resources provide facilities for fishers at several fish landing sites. There are no facilities at Carli Bay and Waterloo due to the small number of boats operating from these sites and their close proximity to the well-established landing site at Orange Valley. The facilities which were provided for the fishers at Mayaro were never utilized and eventually went into a state of disrepair. Suggestions were made for an alternate location to be used for a new infrastructure.

As a result of the high demand for seafood, the usual practice is that upon landing, the fish or shrimp is purchased immediately by vendors, placed on ice and distributed to wholesale and retail markets, fish sale stalls, supermarkets and processing plants. It is for this reason, Mr. President, that the Ministry has not traditionally placed much emphasis on constructing cold storage facilities.

Additionally, cold storage facilities which were provided at the fish landing sites at Erin and Icacos have been subject to misuse and vandalism. Moreover, these facilities required frequent maintenance, the cost of which, in addition to security, was difficult to meet in the long term. Currently, cold storage facilities are available at the Orange Valley Fish Market and Port-of-Spain Fish Market, which are managed by the National Agricultural Marketing and Development Company (NAMDEVCO) as well as the San Fernando Fish Market, managed by the San Fernando City Corporation.

The Ministry, however has placed emphasis on the availability of ice for fishers to take to sea in an effort to improve the quality of fish landed through maintenance of the cold chain from capture to vendors and consumers. In this respect, the Ministry through its incentive programme, waives the payment of value added tax on several marine accessories, including freezers for registered fishers and boat owners. Facilities for storage and dispensation of ice are available at the Fishing Centres at Claxton Bay, Otaheite and San Fernando.

The Ministry has also facilitated the installation and management of an ice-making machine by the Seafood Industry Development Company, Ministry of Trade and Industry, at the Toco Fishing Centre. Fishers from Matelot, Grande Riviere, Sans Souci, Toco, Cumana, Balandra and Salybia access ice from this facility. Ice-making machines are also available at two operators in Icacos and one at Sangre Grande. At several other areas, the availability of ice is within close proximity to fish landing sites through private establishments. In addition, vendors supply ice to fishing vessels from which they purchase fish.

Mr. President, due to the increased demand for fish and fishery products, both locally and abroad, the need to meet national, regional and international sanitary and phytosanitary standards, and the need to satisfy the fishers' increasing demand for fish landing facilities, the Ministry of Agriculture Land and Marine Resources plans to embark on a project to upgrade existing fish landing sites and to construct additional new facilities inclusive of cold storage where deemed to be necessary.

Mr. President, with respect to facilities, equipment and infrastructure, the Ministry of Agriculture, Land and Marine Resources has already constructed facilities at several landing sites. Currently, the Ministry maintains facilities at 22 fish landing sites utilized by the inshore artisanal fishing fleet in Trinidad,

namely: Toco, Cumana, Balandra, Salybia, Gran Chemin, Morne Diablo, Erin, Fullerton, Cedros, Otaheite, San Fernando, Claxton Bay, Orange Valley, Brickfield, Cocorite, Carenage, Maracas, Las Cuevas, Blanchisseuse, Sans Souci, Grande Riviere and Matelot.

The Ministry also pays the utility bills for these sites to include electricity and water supply. The works conducted between January 2007 and March 2009 at the 22 landing sites were valued at over $4,349,824. For the information of hon. Members, work conducted at other fish landing sites over the same period, was valued at an overall cost of $2,043,478. The Ministry has also provided assistance to fishers at other sites which it does not normally maintain, namely: Port of Spain, Alcan Bay and L'Anse Mitan.

In addition, the Rural Development Company (RDC) was mandated by the Government of the Republic of Trinidad and Tobago, through the Ministry of Agriculture, Land and Marine Resources in 2006, to undertake the upgrade, expansion of the existing fishing facilities at Gran Chemin and to undertake a study of the offshore fishing industry in Moruga and environs to offer information for the overall development. The studies have been completed and a tender will be awarded shortly for the construction works at this site.

The proposed facilities include:

(i) safe harbourage and mooring facilities, including breakwaters;

(ii) jetty and slipway;

(iii) washrooms and change rooms;

(iv) administrative office with washroom and canteen;

(v) ice-making and cold storage facilities;

(vi) fuel storage facility and pump station;

(vii) fish processing facility;

(viii) wholesale market;

(ix) standby power generator;

(x) workshop for mechanical repairs;

(xi) net and boat repair areas;

(xii) fire-fighting equipment;

(xiii) expanded fresh-water distribution system;

(xiv) waste collection and treatment system; and

(xv) associated infrastructure and parking.

Notwithstanding high developmental and maintenance costs related to these fishing facilities, the Ministry and by extension, certainly the Government of the Republic of Trinidad and Tobago continues to give high priority to the fishing infrastructure in Trinidad and Tobago. A strategic approach to this is soon to be presented for the consideration of the Cabinet.

I thank you, Mr. President.

Fifth Summit of the Americas
(Removal of Homeless Persons for)

145. Sen. Dr. Sharon-Ann Gopaul-McNicol asked the hon. Minister of Social Development:

With respect to the hosting of the 5th Summit of the Americas and the removal of homeless persons off the street, could the Minister inform the Senate of:

(i) The number of homeless persons removed from the street;

(ii) The cost of removing these homeless persons off the street; and

(iii) The number of homeless persons who have since returned to the streets at the conclusion of the Summit on April 19, 2009?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I wish to request a two-week deferment of this question.

Question, by leave, deferred.

Disabled Persons
(Details of Funds Allocated)

146. Sen. Dr. Sharon-ann Gopaul-McNicol asked the hon. Minister of Social Development:

Could the Minister provide the Senate with the details of funds allocated to each category of disabled persons for fiscal years 2006—2007; 2007—2008 and 2008—2009?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Again, Mr. President, I would request a two-week deferment.

Question, by leave, deferred.

High School Population
(Details of)

147. Sen. Dr. Sharon-ann Gopaul-McNicol asked the hon. Minister of Education:

With respect to students who have dropped out of high school during the academic years 2006—2007, 2007—2008 and 2008—2009, could the Minister indicate to the Senate:

(i) The total school population for each academic year;

(ii) The percentage of students that have dropped out in each academic year; and

(iii) The name of each school, total student population and number of students that have dropped out in each academic year?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I would request a two-week deferment.

Question, by leave, deferred.

Psychological Counselling
(Details of)

149. Sen. Dr. Sharon-ann Gopaul-McNicol asked the hon. Minister of Education:

With respect to psychological counselling in secondary schools throughout Trinidad and Tobago, could the Minister provide the Senate with a detailed list of:

(i) The number of students who have received counselling during the academic years 2006—2007; 2007—2008 and 2008—2009;

(ii) The name(s) of the company or companies contracted to provide psychological counselling for the said years; and

(iii) The total amount of money spent on psychological counselling for these years?

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, the Minister of Education is not here, but I do have the answer. If the Senator wishes, I could provide the information.

(i) The number of students who have received counselling during the academic years 2006—2007; 2007—2008 and 2008—2009 are as follows:

2006—2007	1,503
2007—2008	1,905
2008—September 02, 2009	614

(ii) The Ministry of Education uses qualified in-house school social workers and guidance counsellors to conduct the psychological counselling and as such no companies were contracted for the above-mentioned period.

(iii) No money was spent on psychological counselling for the 2006—2007; 2007—2008 and 2008—2009, except for salaries paid to guidance officers and school social workers.

Gang Violence
(Details of)

150. Sen. Dr. Sharon-ann Gopaul-McNicol asked the hon. Minister of National Security:

A. With respect to gang violence in Trinidad and Tobago, could the Minister provide the Senate with the details of the model being used to combat the problem; and

B. Could the Minister also provide the Senate with any evidence of the success of the model being used in other countries, particularly in the Caribbean, Britain, United States of America and Canada?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. President, this answer is not ready. I would ask for an additional two weeks.

Question, by leave, deferred.

Red Mite Disease
(Details of)

151. Sen. Lyndira Oudit asked the hon. Minister of Agriculture, Land and Marine Resources:

(A) Could the Minister indicate to the Senate the measures which have been put in place, implemented or proposed to stop the spread of the "red

mite" disease that has plagued coconut producing areas in Trinidad, and in particular the South West peninsula of Cedros and Icacos since 2005?

(B) Could the Minister also indicate the extent of the devastation in financial and non-financial terms of the "red mite" to coconut, bananas and ginger producers of Trinidad and Tobago?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. President, I am afraid this answer is not yet ready? I would expect it to be ready within a few weeks.

Question, by leave, deferred.

Recreational Facilities
(Details of)

152. Sen. Lyndira Oudit asked the hon. Minister of Sport and Youth Affairs:

Could the Minister indicate to the Senate:

(i) The number and geographical locations of full service recreational facilities, that is, facilities containing jogging/field track, covered bleachers, washrooms, children's park, full lighting and secured perimeters which are either operational or proposed in Trinidad and Tobago since 2006?

(ii) The number and location of such recreational facilities that currently exist in Central and South Trinidad?

(iii) The rationale used to determine rural/urban need of full service recreational facilities in Trinidad and Tobago since 2006?

The Minister of Sport and Youth Affairs (Hon. Gary Hunt): Mr. President, the answer to this question is not ready. I request a two-week deferral.

Question, by leave, deferred.

Health Surcharge
(Current Value of)

153. Sen. Lyndira Oudit asked the hon. Minister of Health:

Could the Minister indicate to this Senate:

(i) The current value of the Health Surcharge contribution to the national Treasury since 2006; and

(ii) The ways in which the Health Surcharge has been used to improve health care in Trinidad and Tobago since 2009?

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you, Mr. President. We are still awaiting the information from the Ministry of Finance and as soon as we have it I hope that we would be able to have it ready. I ask for a two-week deferment.

Question, by leave, deferred.

Health Surcharge
(Removal of Payment)

154. Sen. Lyndira Oudit asked the hon. Minister of Health:

Could the Minister indicate to this Senate whether consideration will be given to the removal of the payment of Health Surcharge by citizens in the light of the current downturn in the economy of Trinidad and Tobago?

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you, Mr. President. Consideration would be given to the removal of the Health Surcharge when the proposed national health service is introduced.

Value Added Tax on Food Items
(Removal of)

155. Sen. Lyndira Oudit asked the hon. Minister of Finance:

Could the Minister indicate to the Senate:

(i) whether it is the intention of Government to remove value added tax from all food items; and

(ii) the rationale for the answer given to (i) above?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. President, there is no value added tax on unprocessed food and some action was taken with respect to the removal of value added tax for some critical food items one budget speech ago or two budget speeches ago. We cannot answer this question because it also begs the question of what we would do with regard to the next budget speech, and we would like to reserve our option in this regard.

Tax Regime
(Revision of)

156. Sen. Lyndira Oudit asked the hon. Minister of Finance:

Could the Minister inform the Senate whether it is Government's intention to revise the existing tax regime with the aim to allow for greater disposable

income in order for employees/citizens to deal with the worsening economic outlook for 2009/2010?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. President, generally speaking, a budget speech is where you make decisions with regard to your taxation policy and I think that is due in September.

Thank you.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Gail Merhair:

Embassy of the Republic of Trinidad and Tobago (List of Items)

135. Could the hon. Minister of Foreign Affairs provide the Senate with a list of the items bought and disposed of by the Embassy of the Republic of Trinidad and Tobago in Geneva during the period 2007/2008?

Vide end of sitting for written answer.

FAMILY COURT BILL

Order for second reading read.

The Attorney General (Sen. The Hon. John Jeremie SC): Mr. President, I beg to move,

That a Bill to vest jurisdiction for all family matters and juvenile matters in a Division of the High Court to be called the Family Court and to make provision for matters connected therewith, be now read a second time.

Mr. President, I am sure you would recall, and some of my colleagues would recall, the history of the Bill which is now before us this afternoon.

The Bill before this honourable Chamber seeks to establish a specialist Division of the High Court to be known as a Family Court. It is a result of a successful five-year pilot project that was launched by the Executive and the Judiciary in 2004. The pilot project which has proven to be of great success is the base upon which this Bill has been drafted. Discussion on the creation of a Family Court in this country dates back as far as 1979, some 30 years ago.

However, in 2002, my predecessor, twice removed, Glenda Morean, took active steps in consultation with the then Chief Justice, to establish a Family Court Committee.

2.00 p.m.

This committee then proposed a well-resourced Family Court pilot project in Port of Spain with a unified registry and administration which was to be located in a separate building. The court was to handle matters from the High Court in Port of Spain and the St. George West Magisterial District; it was also proposed that intake would be at one registry and the internal processes of the registry would provide for routing through the appropriate procedural channel.

Cabinet agreed to the proposal of the committee and the result was the implementation of the family court pilot which opened in/or about May 17, 2004, I think. I had the honour of opening the Family Court with the then Chief Justice. That court represented a new and radically improved approach by the Government in combination with the Judiciary and civil society to dealing with the challenges faced by many families in crisis in Trinidad and Tobago.

The Family Court of Trinidad and Tobago is a judicial institution unlike any other in this country. It has a unique physical layout; it provides an excellent quality of service delivered by highly trained, competent and courteous staff members who are dedicated to the employ of the Family Court. I might also add that the court compares to the best of its kind anywhere else in the world. It was always the idea that the lessons that were learnt from the pilot project would serve to inform the establishment of a permanent court and that is why we are here this afternoon.

The pilot status operation of the Family Court since 2004 reveals some very telling lessons in dealing with justice in the area of family law. Its success has led directly to the Bill which is now before this honourable Senate. The pilot project has been monitored since inception by a monitoring committee which is chaired by a judge in the High Court and supported by evaluation teams, led by an independent evaluator. It has always been the vision of the Government that the lessons learnt, as I said, would form the basis of putting the court on a statutory footing.

I would like to take the opportunity, briefly, to highlight some of those lessons. Before the creation of this pilot project, family disputes were being dealt with in the same court environment as criminal matters and regular civil matters. The atmosphere was not conducive to calm the discussion and settlement; it bred combat and aggression, was often intimidating and left the average litigant feeling alienated from the disposition of the matter. This, of course, is the typical criminal court environment.

It is clearly recognized that this environment is very unhelpful in resolving family problems or even recognizing the sensitivity of the issues involved in family litigation, so the philosophy of the court which emerged from the discussions of the deliberations of the monitoring committee, was to encourage the parties to resolve their family disputes themselves with specialist assistance and support wherever necessary—so you put the resolution of family disputes in the hands of the parties themselves. Yes, there is a judicial intake officer; yes, there is a judge; yes, the parties are represented by counsel; yes, you have ancillary services, but the parties themselves often work their way through to a resolution of their disputes under the guidance of the court.

It is the clear purpose of the courts to administer justice in family matters in a manner that is less adversarial and more conciliatory. The intention was always to provide families with all necessary support while they arrive at their own solutions. It became obvious very soon, early in the process, that certain services would be crucial to the success of the project. These services range from mediation to counselling. It also became clear that if persons with family problems were to feel that they had received justice, then the court had to focus on finding solutions and not promoting conflict. So the overall objective of the court as opposed to the philosophy is to encourage and assist the parties to formulate their own outcomes when possible, but with the understanding that the court will keep the process moving and will make decisions where necessary. It is a system which adopts a holistic approach to resolving family disputes and embraces legal, psychological, social and material support services, and I can say this afternoon without fear or contradiction that it is a model that has worked.

The pilot project has indeed been a success. This is evident from the reports of the monitoring committee which come to us every year. Another lesson learnt—that is to say, as opposed to finding a way to deal with family disputes in a non-adversarial setting—was that it was far better to have a fully unified court. The court does possess many elements of a unified family court including social services as part of its structure. The Family Court offers a range of related support services that are all located within one building. It is therefore a virtual one-stop shop. Mediation and counselling services are readily available and an intake officer or a judicial officer, now immediately refers parties to these services as they walk through the door. He takes control of the proceedings and without exception the court has been a success both in terms of outcomes and in terms of speed of resolutional matters.

It was also discovered that issues relating to family matters go beyond the four walls of the court. Hence the court will refer persons to special services not available within its precincts such as access to psychologists and psychiatrists, et

cetera. The success of this pilot demonstrates the benefits to be gained from collaboration between the judicial system and civil society.

Mr. President, apart from having such a court in a separate building with separate specialist services, both within and without the court, experience has also shown that the very design, and even the use of technology, can enhance the delivery of justice in family matters. The Family Court was therefore designed to be a model court in terms of services and infrastructure with a more comfortable and relaxed environment for all the parties involved. Upon entering the court persons are quite often surprised by the look and feel of the court.

The court is contained in the old Nipdec building and I would encourage many of the Senators here today to visit it. Physically, it has several of the colours which one would not normally associate with a courtroom. The colours were specially chosen as indeed its wall finishes and its park-style benches. The general atmosphere is one which is deliberately designed to create the impression that you are not inside a court. The physical layout underpins the philosophical difference with the traditional court buildings.

The new approach is conciliatory. The movement is from adversarial to conciliatory. The hearing rooms are quite unlike traditional courtrooms. The design and layout of the courtrooms are not intimidating. The judicial officer sits around an oval table at the same level of the parties rather than in an elevated position in an ordinary court, and thus, he can speak directly to the parties. What experience has shown is that you have a range of discussions which take place around that table which would never have taken place in the past in the old court system.

Parties also leave with a sense that this new court understands the need for confidentiality in the hearing of the matter and a sense that they have been heard. That was not always the case in the old family court. Additionally, the court is fully computerized, unlike some of our existing courts in the mainstream. It has an automated case management information system which improves the speed and efficiency of dealing with routine operation associated with filing, processing and retrieval of case information. Customers also benefit from the ease with which information on their matters is easily available. The use of IT reduces the number of times customers have to visit or call the court to get information, collect documents or wait in long lines to collect or make maintenance payments. Once routine court documents are available, these are posted to customers—you do not need to come in. The focus of the system on customer service and access to information whether sought in person or by telephone is a significant feature of the operations of the Family Court.

The very Family Court committee which was instructive in ensuring that the necessary amendments to the Children's Authority Act and the Children's Community Residences, Foster Care and Nurseries Act were made earlier this year—of course that was before my return—was also instructive in ensuring that this Bill incorporated the principles by which the pilot project operates. As a result, this ensures that the Family Court can operate adequately with the other pieces of legislation to which it relates, especially the children legislative package, that is the Children's Authority Act, the Children's Community Residences, Foster Care and Nurseries Act, the Adoption of Children Act and the Children Act, itself.

Mr. President, with your leave I propose now to turn to the Bill itself—

Sen. Mark: May I, through you, Mr. President. I do not know if the Attorney General would be willing to make available to this Senate, copies of the reports of the monitoring committee as it relates to the very successful operations of the Family Court because we do not have any access to the report.

Sen. The Hon. J. Jeremie SC: Okay, that is a very useful point. Did you not have access to the initial report from the pilot project?

Sen. Mark: We never got it.

Sen. The Hon. J. Jeremie SC: Are you certain, Sen. Mark?

Sen. Mark: [*Inaudible*]

Sen. The Hon. J. Jeremie SC: I would make those reports available because they tell a success story. There is absolutely nothing that the Executive or the Judiciary should be ashamed of in them. I would not point you to a website; I would actually produce the reports to you.

Mr. President, with your leave I propose to turn to the Bill itself. It is made up of five parts, consisting of 19 clauses. It requires a simple majority vote and I will spend some time explaining why it does that because I expect that once we come to create a court certain questions are bound to arise.

The long title of the Bill recognizes that it is intended to vest the jurisdiction for all family matters and juvenile matters in a division of the High Court to be called the Family Court. It must be noted that both the terms “family matter” and “juvenile matter” are defined in the interpretation section and thus limit the scope of the Bill.

If I can turn to the creation of the court point which I know might cause Senators some disquiet. This is not the Executive setting up a court. It is not a gun court like the High Court in Jamaica and I am going to explain what I mean by that.

I am sure you will recall that the Privy Council in the celebrated Jamaican case of *Hinds v R* set out the constitutional requirements for the creation by statute of a new court which seeks to exercise any jurisdiction previously exercised by the High Court. That would normally be the case in relation to a Family Court. If you are creating a Family Court, family matters is a jurisdiction which has normally been exercised by the High Court, so you have to fall within the *Hinds v R* principles.

The Privy Council in *Hinds v R* held that while the State is free to establish any court it sees fit, it must, where such a new court is established and charged with the responsibility for adjudication on matters that were previously exercised by the High Court, be comprised of persons who under the Constitution are competent to exercise such jurisdiction.

2.15 p.m.

There is a more recent case than Hinds. The case of Suratt, in which the Privy Council goes on to explain that what is required is that those who are to be the adjudicators or the decision makers, must be persons who under the Constitution were previously empowered due to their competency to so adjudicate.

If the persons empowered in the proposed law did not meet this requirement, the law would be seen to be going contrary to the Constitution, and as such, would require a special majority for its passage. I have already said that this Bill does not require a special majority, and the reason is that we are not putting this resolution of family disputes in the hands of any persons who are not judges appointed by the Judicial and Legal Service Commission. So we are fully compliant with Hinds and we are fully compliant with the Privy Council's guidelines in Suratt.

Mr. President, this is not what is happening here. We are not creating a special majority court. While we are transferring the jurisdiction of the High Court for family and juvenile matters, they are remaining within the High Court and simply being transferred to another division of that court. The intention is to provide that all family and all juvenile matters shall be dealt with by one Division of the High Court, rather than be spread out and heard by numerous judges over the country. The court is intended to be a virtual one-stop shop along the lines of the pilot

project. Therefore, the persons who are adjudicating or making decisions are the same persons empowered by the Constitution to do so, that is, judges of the High Court who will still have the security of tenure, and terms and conditions of service as provided for under the Constitution. So these persons are protected from executive interference. That is one of the pillars of the Hinds guidelines. This is well in keeping with the ruling of the Privy Council in Hinds.

Mr. President, the issue of a constitutional majority therefore does not arise, and this Bill therefore is not one for which special majority provisions are required. What in fact we are doing, is making changes in the High Court to create a new division, which will in addition to exercising High Court jurisdiction with respect to family and juvenile matters, exercise magisterial jurisdiction in respect of those matters also.

To ensure that the exercise of magisterial jurisdiction by a division of the High Court was permitted under the Constitution, the Government sought to obtain advice from the senior counsel, and his advice was to the effect that the draft Family Court Bill which is materially the Bill before you, does not raise a constitutional concern regarding the jurisdiction of the Family Court which is vested by clause 4 of the draft Bill, with exercising jurisdiction other than that which is generally exercisable by the High Court.

Mr. President, confident therefore that this Bill poses no constitutional challenges, I will continue with the provisions of the Bill. The Bill commences with a Preamble which recognizes the success of the pilot project and the intent of the legislation based on that success.

Part I of the Bill would provide for the preliminary provisions of the Bill such as, the short title, its commencement provisions and the interpretation of certain words and phrases which are used in the Bill. Noteworthy are the definitions as mentioned earlier of “family matter” and “juvenile matter”. A “family matter” is defined to mean “any cause, matter or legal proceeding”:

"3. (1)(a) concerning maintenance, guardianship, wardship, access, custody, care, adoption or welfare of children, succession and inheritance excluding probate and the administration of estate; and

(b) arising out of statutes listed in the Schedule or any other written law and which is connected with or arises out of a matrimonial, familial or other domestic relationship..."

The Schedule contains the statutes under which family matters as defined would arise. “Juvenile matter” is defined to mean:

"(a) a summary offence; or

(b) a preliminary enquiry under the Indictable Offences (Preliminary Enquiry) Act..."

Mr. President, I should take this opportunity to state that it is the intention of the Executive to move speedily to the abolition of all preliminary enquiries in this country. That is something which is before us in policy terms, but which will greatly enhance the delivery of legal services on the criminal side.

It is therefore intended that a child who is over the age of 14 years and who is charged with an offence would be subject to the normal court process and will not appear before the Family Court.

Part II of the Bill would provide for the establishment of the court and set out the jurisdiction of the Masters of the Family Court.

Clause 4 establishes a Division of the High Court to be known as the Family Court, and entrusts it with the jurisdiction for all family matters and juvenile matters. The clause goes on to provide that on commencement of the Act, the jurisdiction and powers in all family matters and juvenile matters which were hitherto exercised by the High Court and a Court of Summary Jurisdiction are vested in the Family Court.

Further, any question as to whether a matter is a family matter falling under the jurisdiction of the Family Court, would be decided by the Family Court. Where there is doubt on such a question, the court would—[*Interruption*]

Sen. Seetahal SC: Through you, Mr. President, I would like to ask the hon. Attorney General, from my reading of clause 4, it appears that juvenile matter in relation to offences, that is only the preliminary enquiry and the summary matter. So for example, if a juvenile is charged with a murder, it will not be heard in the Family Court I take it? [*Interruption*]

Sen. The Hon. J. Jeremie SC: Yes. I thought I had said that. [*Interruption*]

Sen. Seetahal SC: Not by the definition of juvenile matter. Juvenile matter says summary offence and preliminary enquiry, it does not say trial. [*Interruption*]

Sen. The Hon. J. Jeremie SC: If I did not say it, I meant to say it. When you speak, I will respond fully to you. Mr. President, we are on clause 4 and the point is that it establishes a Division of the High Court which is to be known as the

Family Court, and entrusts it with the jurisdiction for all family matters and juvenile matters. The clause goes on to provide that on the commencement of the Act, the jurisdiction and powers in all family matters and juvenile matters which is exercisable by the High Court and a Court of Summary Jurisdiction is vested in the Family Court.

Further, any questions as to whether a matter is a family matter falling under the jurisdiction of the Family Court, would be decided by the Family Court. Where there is doubt on such a question, the court would examine whether the application requires a determination because of the existence of a matrimonial, familial or domestic relationship between the parties, or the primary issue to be determined affects the welfare of a child. The clause goes on to provide that in all juvenile matters, no term of imprisonment should be imposed. This will mean that a child under the age of 14 years would not be imprisoned.

The Bill establishes a new office of Family Court Master. This is not a Master in the traditional sense that has been established by the Supreme Court of Judicature Act. The Family Court Master will not only exercise the jurisdiction currently exercisable by the current Masters of the High Court, but will now exercise the summary jurisdiction of the Family Court. Provision is made for these persons to be appointed by the Judicial and Legal Service Commission (JLSC) and these persons will be required to possess not only the required training and experience, but also to have the temperaments suitable to adjudicate in family matters and juvenile matters.

In addition to the JLSC appointing persons to the Family Court, the Chief Justice is also empowered to assign the court Masters currently operating in the main system, in the Supreme Court who are suitably qualified and experienced to adjudicate on family matters.

Mr. President, the Masters of the Supreme Court do not have inherent powers, rather they get their powers from the Supreme Court of Judicature Act. As such, we have had to include in this Bill a clause 6, which seeks to ensure that Family Court Masters are, in respect of the powers exercisable by a Master of the High Court, clothed with the similar powers in relation to making orders including provisions for cost, certificates for attorney-at-law and other consequential matters. In exercising their jurisdiction, the Master is also given all the rights, powers, immunities and privileges of a judge.

Mr. President, recognizing also that there will be certain orders that a magistrate is empowered to enforce in respect of maintenance under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act and that the

Family Court Master would be required similarly to enforce such orders in the exercise of the jurisdiction of the Family Court, the Bill at clause 7 provides for section 37 of the Matrimonial Proceedings and Property Act (MPPA) to apply as if the Order was a Maintenance Order under that Act.

Further, where a Family Court Master makes an Order under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, sections 26 and 27 of that Act which provide for orders for the transfer and settlement of property, and for the variation of settlements and the matters to be taken into consideration, in making such orders, would apply as if they were made by a magistrate under that Act.

Part III of the Bill would set out simpler administrative provisions of the Bill. These would include clause 8 of the Bill, which will provide for the Family Court to be supported by a sub-department of the Department of Court Administration. The High Court and the Court of Appeal is now run—when I say the High Court, I mean the Supreme Court—on the administrative side by a Court Executive Administrator, so that releases some of the burdens on the Chief Justice. It is an innovation which started I believe with the Chief Justice de La Bastide and has continued to this day. It is an innovation which, from what I have heard, is working well and we seek to replicate here. So this Department of Court Administration would be called the Family Court Administration Department and would include a number of administrative support offices or divisions, staff will be appropriately qualified persons.

Part IV of the Bill would provide for the rules and proceedings of the Family Court.

Clause 9 would provide that the Family Proceedings Rules of 1998 and any other relevant rules of court would apply, but would allow the Rules Committee established under the Supreme Court of Judicature Act to also make rules, both generally and specifically in respect of the powers of the Family Court Masters because these I admit are new creatures.

Clause 10 sets out the specific provisions in respect of the restrictions on publications of proceedings on the application of parties before the court.

Clause 11 provides for the establishment of the offices of children's attorneys and senior children's attorneys in the Civil Law Department by the JLSC. The children's attorneys are assigned by the Attorney General to safeguard the interest of a child, in all matters where a child is before the court.

Clause 12 would provide for the appointment of a guardian *ad litem* by the court, on a request by the court that the children's attorneys be assigned to safeguard the interest of a child.

Clause 13 of the Bill would empower the court to adjourn any family matter or juvenile matter for an application to be made under the Legal Aid and Advisory Act.

Clause 14 of the Bill would provide for matters to be transferred from the High Court to the Family Court.

Part V of the Bill would contain the ordinary miscellaneous provisions. Since Masters of the High Court do not have the power to sanction for contempt, it was necessary to empower the Family Court Masters specifically with that power.

Clause 15 therefore gives the details required in respect of such provisions.

Clause 16 would provide for appeals from decisions of the Family Court or Family Court Masters to the Court of Appeal.

Clause 17 would empower the Attorney General to amend the Schedule.

Clause 18 would amend the First Schedule of the JLSC Act to include the post of Senior Children's Attorney and Children's Attorney.

Clause 19 would continue the traditional provisions.

Mr. President, the Bill before this honourable Senate is a short one—19 clauses—but seeks to do a very real and tremendous job, as it seeks to ensure that a particular service is delivered to a part of the population, which is deserving of that service. [*Interruption*]

Sen. Prof. Deosaran: Thank you, hon. Attorney General. Could you help us please? On section 11 and before you close, it says for the purposes of sections 22 and 23, could you assist me with respect to—[*Interruption*]

2.30 p.m.

Sen. The Hon. J. Jeremie SC: I saw that yesterday, the Bill went through several versions before the one you have before you; so that is really a reference to section 11. It is a typo.

Sen. Seetahal SC: That is in 11.

Sen. The Hon. J. Jeremie SC: But it refers to—

Sen. Seetahal SC: It refers to 22, so it is for the purposes of the same section. I think it means some other section.

Sen. The Hon. J. Jeremie SC: I am sorry. Is it the section which speaks to the children's attorneys?

Sen. Seetahal SC: Yes.

Sen. The Hon. J. Jeremie SC: I think the reference is to section 11. It cannot be to anything beyond section 19. I will be pleased to clear it up for you as we go on, but I did notice that there was a difficulty with the numbering.

Mr. President, the Bill before this honourable Chamber is an important one. The Office of the Attorney General has met with the Judiciary on this matter and has had agreement on its provisions.

In closing, I will like to summarize what I am asking this honourable Chamber to support. The intent is the creation of a unified Family Court, combining all the essential elements of a traditional Family Court into one entity, and also containing other resources such as social services critical to the speedy resolution of a family's problems.

The Government is proposing the establishment of a comprehensive court with jurisdiction over all family related matters; hence jurisdiction in family and juvenile matters from the High Court and Magistrates' Court will now be vested in the Family Court.

The structure of the court would promote the resolution of family disputes in a fair, comprehensive and expeditious way. It would also allow the court to address the family, as a whole, and its long-term needs as well as the problems of the individual litigant. The creation of this court will remove the complexity of identifying the appropriate court to which to take a matter, by having one intake point for the customers seeking direct access to family justice.

This Government feels certain that the public will be well served in this regard. Customers may also obtain access to social services or mediation, even without actually beginning proceedings. That is because as soon as you walk in the door, you have a judicial officer, an intake officer, who is going to take command of your proceedings and decide what your needs are.

The entire new court system can only redound to the benefit of the public. It is a great opportunity for us all to ensure that there is reasonable access to reasonable and speedy justice. I think the Opposition Benches, in particular, would find it difficult not to support this piece of legislation this afternoon. As a matter of fact, I am looking forward, with great anxiety—[*Laughter*] anticipation, to the contribution of Sen. Mark, who I am pretty certain will speak, as he normally does, right after me.

There is nothing in this Bill that even Sen. Mark could find to object to. [*Desk thumping*] That is why, when I was looking at the legislative agenda which my predecessor left behind, I said that this would be a nice Bill to have Sen. Mark's complete cooperation on. It is before us this afternoon, for Sen. Mark to speak highly of the pilot project and his interest in securing the interest of the children of this nation.

Mr. President, with those few words, I beg to move.

Question proposed.

Sen. Dr. Jennifer Kernahan: Thank you, Mr. President, for giving me the opportunity to make a contribution on the Bill before us. I think the Attorney General is almost disappointed. [*Laughter*]

The Bill before us purports to provide for a Family Court, whereas the jurisdiction for all family matters exercisable by the High Court and the Magistrates' Court, along with essential elements and resources, combined in one unit, including a Social Services Unit and Mediation Unit and such other units and services critical to the resolution of family problems. This is what the Bill generally is about.

The Attorney General in his concluding statements made sure to make reference to the care and love that this administration has for the children of our country and for the families of our country.

Sen. Jeremie SC: One love!

Sen. Dr. J. Kernahan: The recent history of this Bill says otherwise. This Family Court Bill came to the Senate on September 13, 2001, and it lapsed on October 13. It came back to the House of Representatives on September 10, 2007, and was allowed to lapse on September 28. Now it recently has been reintroduced into the Senate. So this one love that the Attorney General talked about took about eight years to mature. [*Interruption*]

Sen. Jeremie SC: Love is patient.

Sen. Piggott: Love is patient; love is kind.

Sen. Dr. J. Kernahan: In addition, the UNC embraces the concept of a family court because it was our vision for the children of this country that they should have a family court for their needs. [*Desk thumping*] It was part of the package of children legislation that we brought to this Parliament.

In spite of all the love that this administration has for children, it only succeeded in establishing this pilot project, called the Family Court, four years after we brought the package of children legislation in 2004.

Mr. President, this pilot project was initially staffed by four magistrates and one High Court judge, and in November 2004, a second High Court judge was added. In July 2005, a third High Court judge was added to the court. So this love came trickling in, very reluctantly, after nine years.

This Bill comes to the Parliament at a point where there is almost an irretrievable breakdown in family life, family values, throughout many communities in this country. The virus, wherever it would have started in the most depressed communities, in the East-West Corridor and so on, has spread to the whole of Trinidad and Tobago. Almost like the H1N1 virus, there is no stopping it.

Our society is finding it very hard to deal with the whole issue of maintaining families and family structure, maintaining control of children and maintaining a decent and ordered society for younger children to grow up.

When we talk about families and establishing institutions that would enable families to resolve their differences in a non-antagonistic way, as this Bill purports to do, when we talk about providing a nice environment, as the Attorney General was so happy to tell us, of the beautiful environment that they provide in the family courts to resolve the problems of families, I believe that the Attorney General was talking of a different place, a different time, a different era, and he is not cognizant of the fact that the problems we are experiencing in our families and communities have gone way past what this Bill would have provided for.

This Bill and the concept of a family court was crafted in 2000; we are in 2009, and our country has slid so far down the slope of anarchy, chaos and heinous crimes committed on children, committed by children. Therefore, you would have thought that this Government, in bringing this legislation to Parliament, would have taken into account the almost phenomenal changes that have taken place in our society since even 2004. There is a big difference between the environment in which we live in 2009 and the environment in which we lived in 2004.

We have a situation where there is almost cultural regression in this society. We have a situation where mothers, families and fathers are no longer able to hold that family structure together. There are very good reasons for that. The reasons

stem from the fact that there has been a total lack of commitment on the part of this administration to deal with crime, to deal with white-collar crime, to deal with the drug barons, to deal with the importation of drugs and guns into this country and to deal with money laundering in this country; that is where it all starts. Then it trickles down into the fact that whole communities are riddled with drugs and guns and violence.

We have developed in this country a culture of violence which means that the slightest infraction of the rules of the street, ends in the death penalty. This is the environment in which we live, and we are talking about bringing this Family Court Bill today, where we are going to have mediation and where we are going to have a nice environment, with persons talking and persons trashing out things. I do not know if this is relevant anymore to our society. We have to go back to square one. People are saying that we have lost two or three generations and the issue now is to save the upcoming generation; this is where we are.

Mr. President, how are we to relate some of the clauses in this Bill to what is really happening in our communities? I am not saying it is an easy problem to solve, because we have let it go so long, we have let it go so far, that it would take a Herculean task for all the civil, political, non-political forces in this country to come together to solve this problem. It is not a question anymore of coming to Parliament and dropping a 15-clause Bill and expecting it to solve the problems of families in this country.

I am saying to the Attorney General that you have clauses in this Bill which are out of sync with our reality. One of the clauses is clause 4(5). Clause 4 deals with the whole question of the establishment of this special division of the High Court to be known as the Family Court, which would exercise jurisdiction for all family and juvenile matters. The Attorney General gave the constitutional basis for that. We have no quarrel with that; that is a very good provision; that was our vision for dealing with family matters in 2000. But we are in 2009, where we have children, under the age of 14, who are being accused of serious crimes, including murder.

We all know the situation in our secondary schools, even in the primary schools. We had a situation in a primary school recently where a young girl, about 10 or 11 years, took a smaller child, five or six years, into the forest and gave her a sound whipping, and the whole community had to come out and look for those children. So this culture of violence that has been engendered in our society, that has come from the top right down to the bottom, to the children and to the families, has escalated beyond belief within the four years of this lovely pilot project, that was so successful and so lovely and everything.

2.45 p.m.

We have a situation that has escalated beyond that and this Government has come to this Parliament today with a clause 4(5) which says that "no term of imprisonment shall be imposed by the Family Court in relation to any juvenile matter." Well, given the fact that we have young people 12 and 13 years being accused of murder; given the fact that mothers now, when they dress their children in their school uniforms and send them to school, they can stay home and hear that their children have been stabbed in the street, as happened to a young boy in my area in Cumuto on his way to school; was stabbed by school mates, we are bringing in 2009, a Bill that says that the Family Court will not be able to impose a term of imprisonment. Fine. But what are the alternatives? What do you suggest?

How do we deal with a situation where the violence from the drug lords and the drug barons, and so on, who bring all these guns into communities, have trickled down to the children who, in many situations are exposed to that, and have to fight for their very lives in terms of the bullying, in terms of the violence that surrounds them in the schools, in the communities, at the bus stops, in the maxi-taxi stands and so on? These children are surrounded by violence and some are going to react. There are so many cases of children walking with knives, and so on, to school.

A young boy was murdered in a secondary school in the East-West Corridor, in school, in class. This is where we are and we have this kind of clause talking about a family court and not being able to impose imprisonment. What are the alternatives? What is the Attorney General proposing—what are the proposals that we would have from civil society, from people in the society, who care about our children? How are we going to deal with those young offenders, the juvenile delinquents and so on, in our society who have found themselves in situations as serious as this?

The Attorney General has to say something, because imprisonment is not always the solution. Because we know and we have always said that under this system in Trinidad and Tobago, you imprison young people, you mix them with hardened criminals and at the end of the day what happens is that you get a young person who goes in as a first-time offender into the penal system in Trinidad and Tobago and at the end of the time served in the penal system he comes out with his PhD in crime, as they make all their contacts and so on.

In fact, somebody was saying to me the other day that he observed in reading a newspaper, that there were five young offenders before the courts and one was from the Beetham, one was from San Juan, one was from San Fernando, one was from Moruga and five of them before the courts, accused of the same crime. So where do you think these young offenders would have met each other? In the penal system. That is where they make all their contacts; that is where they network and that is where young offenders are introduced to the more hardened offenders and their means of doing things and their ways of doing things and so on, and they come out of that penal system more hardened, more criminal and more motivated to commit crimes than when they went in.

So we are not saying that a term of imprisonment is necessarily the option for a young offender even though he is accused of murder, but the Attorney General has to bring a solution. You said that you would save this country; you went on the election platform and said that you can save Trinidad and Tobago. Well, tell us how you are going to save it; tell us how you are going to deal with our children; tell us why you are not dealing with the source of the problem, which is the drug barons and the money launderers and so on.

A $30 billion money laundering trade is going on right under the nose of the Attorney General and the Minister of National Security and nobody is being touched. We have seen no white-collar criminals come before the court and yet you are saying that the Family Court now will not be able to imprison children. Well, bring an alternative; bring the solution. What are they going to do? How are we going to deal with these young juvenile offenders, outside of doing what you are supposed to do in the first place? Clean up your society; clean up the rogue cops; and clean up the environment in which these children grew up. That is what you have to do. [*Desk thumping*]

There are families in this country who are trying very hard to keep their children under some sort of discipline, maintain values and so on, and they try their best, but when you have all these children in a milieu; thousands of children going to these huge schools, secondary schools that hold thousands of children, it is difficult. It is difficult for families to maintain their grip on the children and we know the strength of peer pressure; we know what peer pressure can do, even to the most saintly children; children who are well brought up and so on. This is a serious problem and this problem is escalating and the administration, apparently, has no answer, because this Family Court Bill before us does not provide the answer to the horrible, horrible scenario which our families and our children are facing in this country.

The Attorney General spoke about the lovely environment of the Children's Court. I looked at the report—a certain report—by the honourable Justice Michael de la Bastide, President of the Caribbean Court of Justice at the Commonwealth Law Conference in 2005 in London and he spoke to this issue of the family court there. The name of this document is "Caseflow Management in a Unified Family Court - A Caribbean Experiment." We have to get information on this family court where we can, because apparently the reports of the Evaluation and Monitoring Committees, we are not privy to those reports in Parliament. We are expected to come and make some sort of decent contribution to this Family Court Bill; we are expected to support the Attorney General in his presentation of this Family Court Bill and yet the Attorney General has not seen it fit to allow us, parliamentarians, to get an idea of how successful this court was in 2004.

Mr. President, the honourable President of the Caribbean Court of Justice in this document, told this Commonwealth Conference and I quote:

> "One unusual feature of the Family Court is that it was set up without the need for any legislation. The Court is a unified Court in which both High Court judges and magistrates adjudicate."

We were able to glean some of the information with respect to this court when the President of the Caribbean Court of Justice said that a—

> "…novel feature of the Court is that it provides in-house the services of social workers, mediators and probation officers."

And that:

> "A judge or magistrate may refer parties to the proceedings to any of these services…"

But that the public may access these services directly and so on. All that is well; all that is fine, but we have a situation where we have children in this country who are suffering trauma beyond belief and we want to know if it is enough and sufficient to provide calming environments like is said here; lovely environment in the court and so on, to deal with the situation of these children. We want to know if it is that there are no or very few counsellors in the secondary schools, in the primary schools, in the communities, and so on, where the children live and operate every day; we want to know if it is enough and sufficient to provide mediation and counselling at the level of the Family Court. Because I was looking at comparative legislation and, for example, in Australia, they saw the need to set up these family services committees and so on, in the communities where families live, and that is the first step; in the communities where you live, you can get

access to counselling services and so on. Because these children are exposed to gunfire every day; they are exposed to dead bodies every day; they are exposed to their fathers being shot, and so on, every day; they are exposed to their fathers going off to jail every day.

When you speak to teachers in this country, they are almost as traumatized as the children because they do not know how to deal with these children when they come crying to them with these problems. My sister-in-law is a teacher and she was telling me about this five-year-old child in her class not concentrating, not working, not doing anything, just staring off into space all day and when she spoke to the child, she said: "My daddy died. My daddy went to get me a bicycle and he died." This is the sort of trauma that children are going through every day.

I do not know if it is enough and sufficient to say you are going to have these family courts, maybe one eventually in Scarborough, one in San Fernando, one in Port of Spain and expect that the few counsellors, and so on, that you are going to have in these courts are enough to deal with the massive and extensive levels of trauma that our children in every community now, are experiencing.

It is not a question in the East-West Corridor anymore; we have Cunupia; we have Chaguanas under threat; we have south under threat. It is a violence that has spread throughout the country and, therefore, these are not normal times; these are critical times and this Government, when it comes to this Parliament with legislation, must recognize that we are in critical times and must speak to the intelligent people of this country and not come with these stopgap measures and so on, that are eight and nine years old and have no value in the context of what has escalated out of control in this country over the last nine years.

In this document we learn that the basis on which this pilot project was deemed to be successful, as outlined by the honourable de la Bastide, was the fact that they had decreased very much the time between the filing of cases, and so on, and the time of first hearing in these courts. Nothing is wrong with that; that is a good thing for the people who access these services. It says in this document that the purpose of the court is to deal with family matters justly; to deal with family matters in a way which, in proceedings affecting any child of the family, gives first and paramount consideration to the welfare of that child, and the purpose of the Family Court is to ensure that the parties are on an equal footing with respect to the ability—the financial position, and so on; that they are not prejudiced by inability to pay any fees or fines and so on and to encourage settlements of any disputes by negotiation or mediation or other means, and so on.

So all the issues that they had outlined as objectives of the court in this document, the honourable de la Bastide was satisfied that these objectives were met. But this is a, sort of, not real life situation in terms of what happens when the child steps foot out of that environment and steps back into the real world. So you see there are two worlds here now: the world of the Family Court where within families, certain matters can be resolved and disputes and so on, but the real world in which we live, we have seen so many spouses in a situation of stress and conflict, and so on. And the first reaction in this country where crime is a runaway horse and where there is very little detection and where people feel they can act with impunity because of the general state of the country, we have seen so many cases of women being murdered by their spouses in a situation of conflict.

3.00 p.m.

Outside the measures that I spoke about in terms of dealing with the source of these problems, you must have community liaison counsellors to have these issues resolved at the community level. Many of these cases of spousal abuse and murders do not reach Port of Spain. They would not reach Scarborough and San Fernando. They are resolved there in the rural and urban communities and massive housing developments where people live and are resolved in death because of the cultural regression that we have undergone in this country where every infraction of a rule is met with the death penalty.

Even the honourable de la Bastide in looking at this Family Court and outlining the working and describing the success of the court established in 2004 as a pilot project, said that the Family Court is particularly welcome when in the country, there is a disturbing increase of violent crimes committed by young persons, a phenomenon which many in the society attribute to the breakdown of family life and a consequential lack of proper parenting.

I would like to add to that. Many in the society also attribute this breakdown and violent crimes being committed by young persons, to the fact that gang leaders and criminal elements are definitely in control of communities in this country, whether or not we like it. I know for a fact in Port of Spain along a certain maxi route, that a certain gang stations itself every time the maxis have to park and then make another round in their daily work. Every time the maxi man makes a trip and comes in the stand, he has to pay this gang money. That is what we are dealing with in this country. There are young men less than 20 years of age involved in this activity.

They teach the 12-and 13-year-olds, the younger ones, the juveniles and they get involved automatically in this kind of criminal activity. How is the Family Court going to deal with these massive problems? Sometimes these young men

do not have a choice because they are faced with bullies who have guns and control the community. Just recently, I saw where to enter certain communities in the night, you have to be recognized and they allow you to pass.

This is the environment in which these young people are growing. I am at a lost to understand, with the gravity of the problem how mediation will solve that. We have passed that stage. This society has passed that stage of mediation, talking and working out things in spite of all the millions of dollars being spent on anger management programmes, young people, young men and learning to be a man and a woman. We need to learn to have a decent, organized and ordered society where criminals know that they are going to pay and would be put behind bars. [*Desk thumping*] That is the only thing that is going to solve this problem.

We have a serious problem and this Government is burying its head in the sand. It is escalating out of control. We got access to another Family Court document which established the pilot project and introduced the mediation team and established the monitoring team and the building. This was produced by the Judiciary of Trinidad and Tobago, May 12, 2004 and is called Family Court of Trinidad and Tobago. It boasts of the innovations of the Family Court. In terms of the information technology, it is far advanced. The audio digital recording goes live in the court having been initially piloted in two Magistrates' Courts and one Civil High Court. Customer service representatives have been introduced. It also mentions that new hardy, non-allergenic and easier to maintain finishes for court designed purposes have been piloted.

It mentioned that new record management systems are being utilized and a new workplace has been designed which provides specifically for litigants. It seems to me that what has happened here is that events have definitely overtaken this Government. They need to go back to the books, to civil society and be serious about liaising and talking with the legitimate Opposition of this country. We need to look at liaising seriously with civil society groups in this country. I remember in 2001, a report of the family in this country was commissioned by the then Minister of Social Development and a report was made to this Government on all the issues that I have been describing. Over 40 recommendations were made in this document including some of which I have mentioned here and some recommended looking directly at supporting women as heads of households. Many women are heads of households especially in the more depressed communities, and it is important to directly support them so that they do not have to depend on the gang leaders for jobs in URP and CEPEP or to give their girl children jobs.

I talked about cultural regression. Do you know the reality of cultural regression in this country that is happening to families? Young girls in these communities are very happy and proud to be the “baby mothers” of gang leaders. It is a big feather in their cap. They have stripes. When you are the gang leader's "baby mama" you have real power, authority, you wear a lot of gold, you have all the bling and you wear all the shoes. This is escalating the problems because when these gang leaders can support these young girls with all these material things, then ordinary young men cannot compete. There, the violence escalates again.

Clause 12, Part IV of this Bill before us speaks to the fact that:

"In any family matter or juvenile matter the Family Court may—

(a) appoint a guardian *ad litem* of the child; and

(b) make an Order requesting the Attorney General to assign a Children's Attorney as the attorney to safeguard the interest of the child and perform such other functions as the Family Court may think necessary."

Another piece of anachronism, Mr. President. I do not know if this Government is aware that because of the violence that has been perpetrated in Port of Spain East, whole families are leaving and moving out in droves with what they can carry in plastic bags. That is the reality. Children are involved in that exodus, because of the fear that has been allowed to envelop the Port of Spain East area and because of the plans that this administration has to make that Port of Spain East area into Eastmoorings and get rid of all the poor people living there.

What you have is a situation practically of internal refugees because this is what it is; nothing less, nothing more than that. We look at Gaza, Somalia, the Congo and all these areas and say, "Oh gosh! Poor people, yuh know, all these refugees and so on." Do we not know that we have refugees, internally displaced people in our society who have had to leave their homes and run for their lives? [*Desk thumping*] Why are you burying your heads in the sand and bringing these inane pieces of legislation and talking about appointing a guardian? What guardian you can appoint to a young child 12 or 13 years who has left his home in Beverly Hills, Morvant or Laventille with what he can carry in a plastic bag and the mothers have to hide from reprisal killings? How many mothers have died in this country because their sons may have been involved in criminal gang activities? When they cannot get the sons they start killing the families one by one until the son comes out from hiding wherever he is.

That is the reality in this country. This is what is happening in this country. In 2009, after you have let the situation escalate to this, you bring a Bill with clause 12 to tell me that you could appoint a guardian to that child. To do what? Totally traumatized child, internal refugee, has no home, no family, probably lost three or four brothers in the gang war, mother on the run, unable to work and these children dropped out from school and then they look for what they can do to survive, and they do whatever they need to do to survive. This is the reality. I do not know if this Government does not understand what is happening in this country. What is the Ministry of Social Development doing? Where are the sociologists in this country to document the trauma of these children? You want to tell me that you will carry them to the Family Court, put them in a nice environment, non-allergenic fittings and they would feel nice. Is that the solution to the problem? Are non-allergenic fittings in a nice family court with flowers and plants the solution to the problem? Children who are totally traumatized and might have been involved already in acts of serious violence and delinquency. This Bill is almost surreal, given the conditions obtaining in this country at this point.

When we brought this package of legislation in 2000, this country was nothing like it is today. If the package of children legislation as brought by the UNC government had been properly initiated and implemented we would never have reached where we are today in terms of family and children. [*Desk thumping*] You bring it nine years later, leave the whole country to go up in flames because it suits the interest of the rich in this country to be milking the wealth away from this country, when everybody is frightened to talk, there are no witnesses, and nobody wants to see or hear anything. You bring it nine years later when mothers and children are refugees in their country; families are falling apart and there has been serious psychological trauma on these children. You carry them in a nice place and talk to them nice and everything would be fine, when they are accustomed to the issue of holding guns. I know of a case just recently, while doing exams an invigilator in the school said that they had to search the children's bags when they come to do the exams. She looked into one of the young boy's bags and saw a gun. She froze. She did not know what to do. She looked at him and he looked at her—[*Demonstration made*] "Do someting nah. Say someting nah." He challenged. She quitely closed back the bag, gave it back to him and let him go his way because she saw death. This is what is happening. This is the reality in this country with children.

3.15 p.m.

Is that the young boy to whom you will say: You have a problem in the family, let us go and talk about it? They already know how to settle their problems. They have already been indoctrinated into how to settle problems—with guns and knives. That is what you have brought this country to and now they want to carry us back 10 years and talk about family courts, mediators, counsellors and things you should have implemented 10 years ago.

In one of the clauses I saw here, domestic violence would not be entertained in the Family Court unless there is a matter already pending in that court between the parties. I was surprised, but then I looked at the schedule and saw that the Domestic Violence Act is one of the Acts that will be relevant to the function of the Family Court. I am confused. I do not know if domestic violence will be entertained as part of the jurisdiction of the Family Court.

I looked at the Family Court of Australia and at an address given by Chief Justice Diana Bryant, State of the Nation, on October 23, 2006, at a national family law conference. She was very explicit when she spoke to the fact that family violence guidelines must be part of the Family Court. I will just quote what it says:

> "The Family Law Violence Strategy is part of the government's changes to the family law system and a strategy was launched in February 2006 by the Attorney-General. The Attorney-General has stated that the strategy aims to take a practical and informed approach combining a series of new efforts and existing resources to ensure concerns about family violence and child abuse that arise in family law proceedings are investigated and resolved appropriately."

This is clear to me; this is common sense. I do not understand how one of the clauses here could say that the Family Court does not deal with the issue of domestic violence unless the parties are already before the court. This is fundamental to the welfare of the child; it is fundamental to the protection of the children caused by abuse or violence; and it is fundamental to the psychological and physical welfare of the child that the Bill purports to protect. This is a contradiction I would like to see cleared up when the Attorney General rises to deal with this Bill.

We would like also to make the point that you must have, as part of this whole legislation, provision for family violence guidelines. You must have the whole question of violence within the families—

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made. That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. W. Mark*]

Question put and agreed to.

Sen. Dr. J. Kernahan: Thank you, Mr. President. The clause that says that domestic violence will not be dealt with in the Family Court unless the parties are already before the court shows a lack of connection with reality on the part of the Attorney General and this Government. The reality in this society is that family violence is a major problem.

There are children carrying guns and intimidating their parents. This is where we have reached. Parents are practically afraid to talk to their children because they carry guns and intimidate the elders in the family. We have to open a whole realm of strategies and legislation to deal with these issues. Civic society and all levels of society have to come together to deal with these issues. We have to think outside the box now. We have long passed the stage where we have a nice society and a nice Family Court and children going there and mediation taking place. That is an Alice in Wonderland story. Face the reality that there are young men in their homes who threaten parents and elders. So you have to deal with family violence and you have to have a strategy for it with proper attention being paid to this.

One thing I am surprised I did not see in this Bill, something that is just mentioned by the way in the schedule, is that there is no clause that would make a connection between the Children's Authority and the Family Court. I thought those two would have been like twins. The Children's Authority has all the power to deal with children at risk and so on. You would think that it would have an integral part to play in terms of the Family Court, how the authority is dealt with, the lines of communication and how it would interact with the Family Court.

There is a whole Bill on the Family Court. You set up a Children's Authority and there is no mention in any of the clauses of the Bill of how the Children's Authority would add the weight of what it is able to do to marshal and channel the children it is responsible for into the Family Court system. This is a serious omission and makes nonsense of the Children's Authority. If you do not make that definite connection, with people just operating without reference to each other, it becomes non-productive. I was very surprised not to see that definite link between the Children's Authority and the Family Court. There must be a definite link.

We on this side say that the concept of the Family Court is a UNC concept, in the context of the package of children legislation which we brought in 2000, where we had envisaged that these institutions and organizations would deal with the problems that face our children. We are saying that in 2009 our children face a new set of problems, almost insurmountable problems in terms of the cultural regression that is taking place in this society, the violence that surrounds them and the trauma in which they live in terms of not having fathers and mothers, of being refugees; in terms of the bullying they experience in schools and the horrendous amounts of violence that stalk them at every turn.

The family is under threat. Mothers are under threat. Women are being murdered in this country. Recently a woman was murdered as she sought refuge in a police station, of all places. We have reached the place where, even seeking refuge in a police station cannot save your life. The criminal element is definitely on the road, as Pastor Dottin said yesterday on *Gayelle*, to confront the security forces in this country en masse. This is where we are headed.

The Family Court Bill is 10 years too late. It is too little too late. You have to rethink your strategy. You have to consult civil society, the Opposition and get a unified approach by the people of this society to deal with the horrendous problem we have with families and children.

I thank you.

Sen. Dana Seetahal SC: Thank you very much, Mr. President. The purpose of the Bill as stated in the long title is to vest jurisdiction for all family and juvenile matters in a new division of the High Court to be called the Family Court.

I make my first point arising from something that Sen. Dr. Kernahan said, and that is whether domestic violence falls under the purview of this court. If one looks at the definition of "family matter", in clause 3:

"'family matter' means any cause, matter or legal proceeding—

(a) concerning maintenance, guardianship, wardship, access, custody, care, adoption or welfare of children"—it means also any cause, matter or legal procedure—

"(b) arising out of the…Schedule or any other written law and which is connected with or arises out of a matrimonial, familial or other domestic relationship;"

One of the statutes listed in the schedule, Mr. President, is the Domestic Violence Act. So, it would follow in my view that if you have a cause, matter or legal proceeding arising out of the Domestic Violence Act, which pertains to domestic

relationships—and that is what the Domestic Violence Act is about—it is only within a domestic relationship that the Act operates when there is domestic violence, it stands to reason that domestic violence matters should fall under a family court.

Unless I am told otherwise—and I would like to hear from whoever says it is not so—then the clear definition of "family matter" would encompass domestic violence matters.

My second point, however, pertains to clause 4 and the definition of "juvenile matter", remembering of course that this Bill covers both family matters and juvenile matters.

"'juvenile matter' means—

(a) a summary offence; or

(b) a preliminary enquiry under the Indictable Offences (Preliminary Enquiry) Act,

in which the accused is under the age of fourteen years at the time of the hearing of the charge…"

The first issue here is that "juvenile matter" means "a summary offence", and secondly it means "a preliminary enquiry". There is inconsistency in the type of situation with which you are dealing. An offence is an offence and an enquiry is a status of a hearing. One deals with a juvenile matter meaning an offence and the other one a juvenile matter dealing with a type of hearing. In drafting, one ought not to have the definition of something meaning two inconsistent things. You are either dealing with a summary offence or an indictable offence; a Magistrates' Court hearing and a preliminary court hearing. You cannot have an offence and a preliminary enquiry. The two things are meaningless.

The other issue deals with an accused at the time of hearing being 14 years of age or under 14 years of age. If you have a matter committed ten years ago and it only comes up for trial now and the accused, who was then 13, is now 23, clearly it would fall outside the provision of the Family Court. In normal terms, when you are dealing with offences and culpability, you look to the date of the commission of the offence. So the purpose to me is really to deal with the trials or hearings of juvenile offenders, which is why you are concentrating on the age at the time of the hearing.

If that is so, why does clause 4 provide that no term of imprisonment shall be imposed by the Family Court in relation to any juvenile matter? The point is that

if you are talking about rape and you committed that rape when you were 13—although, technically, under the common law, you cannot rape anybody until you are 14; it is a very weird old law, but still.

3.30 p.m.

Let us talk about serious indecency at the age of 13. If you are lucky and you get a trial before you are 14, you cannot be sentenced to imprisonment. If you are not so lucky and it is not your fault and you get a trial at the age of 15 or 16, you could be sent up to life or any terms of years. Should that life depend then on the vagaries of the court system? I should think not. Why should the future of an individual depend on something as simple as that?

My third and more compelling point is that this proposed statute says at clause 4(2):

> "Subject to section 29(a),"—which, by the way, does not exist in this Act—"on the commencement of this Act, jurisdiction and powers in all family matters and juvenile matters exercisable by the High Court and Court of Summary Jurisdiction shall vest in the Family Court."

"Juvenile matters", as I already said, is defined as a summary offence and as a preliminary enquiry. There is nothing which talks about a High Court trial. If you are dealing with murder, under the current Children Act, that offence cannot be tried by a magistrate, it has to be tried by a judge and jury even if you are talking about a child. Normally, all indictable offences are triable before a judge and jury. That is a normal situation.

In relation to children, the Children Act provides that in relation to offences such as murder in particular and serious crimes of violence, meaning serious bodily injury, then those offences should be tried before a judge and jury, even if you are talking about a child.

According to clause 4, it is not clear if we are dealing with High Court trials. The definition talks about summary offence and preliminary enquiry. It does not say summary offence and indictable offence. What is a preliminary enquiry? A preliminary enquiry is a hearing that you have in respect of indictable offences. What you are getting from this is if you are talking about an indictable offence, a preliminary stage will be in the Family Court. Thereafter, what happens? We do not know, because it is not stated here. It is not clear.

From what the Attorney General has indicated, the intention is that these trials of juveniles under the age of 14 should take place in the Family Court. That is what I am hearing, but there is the definition that suggests that in the current draft.

If one looks at clause 4(4), I invite us all to look at it. There is something strange about that. [*Interruption*]

Sen. Jeremie SC: Would you give way on that point?

Sen. D. Seetahal SC: Certainly.

Sen. Jeremie SC: I want to flag it. I will come to give a comprehensive explanation of my position in my winding up. It is not that I have ignored it.

Sen. D. Seetahal SC: I never thought the Attorney General ignored it. I was raising it in detail. I saw you engaged in conversation, so I thought I would address you directly.

Clause 4(4) says:

> "Notwithstanding any written law, the Family Court shall have jurisdiction in relation to any child who is under fourteen years of age at the hearing of the offence."

In the normal language and speech, if one rephrased something as "the" it would presume that there was a reference before. Nowhere in the draft legislation is there a reference to offence. Therefore, I do not know what is the offence that we are talking about. If one looks at clause 4(1), (2) and (3), there is nothing about an offence, so I do not know what offence. That is another matter. In any event, it suggests that we are talking about all offences if one were to glean some sense from this.

Finally, I deal with clause 4(5):

> "No term of imprisonment shall be imposed by the Family Court in relation to any juvenile matter."

If we are to assume that one of the purposes of this Family Court is that it deals with trials of persons at the time of the hearing, which is the stumbling block in the first place, they are under 14; assuming that—let us talk about murder. If the person is found guilty of manslaughter, is it then that a child of that age cannot be sentenced to a term of imprisonment? That is what I am gathering. I am not saying that I am in favour of children just under 14 necessarily going to prison. I have a problem with a child that age who is convicted of murder and serious offences being in community service, probation and the like.

At present, if you were under 18 at the time of the commission of a murder and you are found guilty, then you are detained at the court's pleasure and you spend that time in that institution called the YTC, which is for boys and it should

be St. Jude's for girls. You then come up for review time after time. After a certain number of years the court may deem that you are fit to be released. After you have been psychologically tested, there is a probation report and the like. This provision, while I know it does not oust the section dealing with the powers of the court, clearly suggests to me that the intention is to replace the Children Act, where you are talking about punishment, with this clause. This clause is very unclear. I think it definitely needs looking at. We need clarification. Are we talking about trials of children for serious offences as well, apart from the summary offence and the preliminary enquiry?

Are we talking about persons who are 14 at the time of the hearing only? That means we are allowing the fate of that child to be determined when the court finds it convenient to have a trial. If I am a judge who may have a temperament that may not be totally suitable, whatever that means, it is mentioned in the Act when it talks about looking for people with the right temperament, I feel that is a serious matter. It is serious if it is a sexual offence or if it is trafficking of narcotics. When the child comes up to me and he is 13, I can just delay the matter until he is 14 plus and then send him to the adult normal Magistrates' Court. There is nothing to prevent that. Is there?

Mr. President, clause 11 provides for children's attorney. I think that is a good idea. I have seen it in other jurisdictions, however, there is nothing to indicate in that entire clause as to what this children's attorney will do. The children's attorney must have a number of years' experience. If you are senior you may have seven years and if you are a normal junior, you have three years. You must have knowledge of family law and you must have an appropriate temperament, which is a very vague thing. I may seem to have that because I can get along with children, but it might be because I am immature. I think it is vague. We are talking about the qualification for the children's attorney, but what is that children's attorney to do? The nearest that one can garner is clause 12, which says:

"In any family matter or juvenile matter the Family Court may—

(b) make an Order requesting the Attorney General to assign a Children's Attorney as the attorney to safeguard the interest of the child and perform such other functions as the Family Court may think necessary."

What we have is a function of a children's attorney coming through the back door, as it were. This is what the Attorney General is assigning the children's attorney to do, but nowhere in there is there a definite indication as to the purpose

of the children's attorney, what the business of that children's attorney is and what its functions, in short, are. One could just add subclause (2) and state that. What is the difficulty?

Added to that, there is a statement at clause 11(5):

"Save as otherwise provided in this Act or under any other written law, the Children's Attorney shall not, in the exercise of his functions, be subject to the direction or control of any other person or authority."

It seems to give the children's attorney a lot of independence because there is no other law that I know of, which talks about children's attorney. When it says:

"(5) Save as otherwise provided in this Act or under any other written law…"

There is no other written law. Compare that with clause 11(2), which says:

"The Children's Attorneys shall be appointed to the Civil Law Department within the meaning of the Judicial and Legal Service Act."

We have a Civil Law Department which is currently headed by the Solicitor General and the ultimate head of that is the Attorney General, there being no direct conflict constitutionally between the Solicitor General and the Attorney General. As I see it in the Constitution, there is nothing specifically saying either way.

Then you have clause 11(5), which says—these terms might sound familiar to the Attorney General—that in no way shall this children's attorney be subject to the direction and or control of any other person or authority, save as otherwise provided in this Act. What this means is that there could be another person who could be functioning independently, ignoring the Attorney General. [*Interruption*]

Sen. Jeremie SC: Would you give way? You started by saying that here is no conflict under the Constitution, in relation to the Solicitor General and the Attorney General. Clearly, if the Constitution is the supreme law and this is a mere statute, any words in it which might appear, I am not saying that they do conflict with the Constitution, would be void to the extent of the conflict.

Sen. D. Seetahal SC: I do agree with that totally. However, this legislation that is proposed is less than clear. It says:

"The Children's Attorney shall be appointed to the Civil Law Department within the meaning of the Judicial and Legal Service Act."

You have these attorneys appointed to the department, but you are not told, in relation to attorneys of Solicitor General, that they shall not be subject to the direction and control of any other person or authority. This is legislation put forward by the Attorney General, which would suggest to me that the Attorney General is agreeing with that.

Sen. Jeremie SC: If you wish to move that amendment, I would gladly, as you know, embrace it and accept it at the relevant time.

Sen. D. Seetahal SC: Thank you very much. I was raising, but I do not have a burning desire to amend the law which gives people independence, as the Attorney General knows.

Having pointed that out, I move along. I really do think there should be an amendment to define what the functions of the children's attorneys are and we need to look at those other sections.

The third point is—[*Interruption*]

Hon. Senators: Fourth.

Sen. D. Seetahal SC: I am glad you have accepted it. My fourth point is the definition of "child". Child is defined in clause 3 as:

"a person under the age of eighteen years"

Juvenile matter, in terms of whether a matter should be before the Family Court or not, speaks to under the age of 14. Then again you have reference to clause 14.

3.45 p.m.

You see, there is nothing inherently wrong with that. You might have a definition for "child" generically, and you may have a definition for "child" for the purposes of the criminal procedure and law. You do not want to see a big hard-backman and 17-year-olds being treated in the same way as a child who is 13.

The law in Trinidad and Tobago has traditionally made a difference between those under 14 and those between the ages of 14—17, in terms of whether they could be punished to a term of imprisonment and the like. However, I think the time has come for some certainty in the law. In the Office of the Attorney General, there is a piece of legislation which defines "child" under the Children Act. I think it was passed, but it was never proclaimed.

Now, I am not necessarily in support of that for criminal offences, but I think that if we are moving to some kind of certainty in the law, then there must be clarity. You cannot have the same meaning. A "child" means a person under the

age of 18, and then when you are talking about a juvenile matter, you are talking about a person under the age of 14, without any explanation, clarification or why. Clearly, in the Act, you are differentiating in the treatment of the two.

My next point has to do with magistrates and judges. Currently, there are magistrates and judges functioning in the Family Court. Under clause 4, there is the statement:

> "There shall be a Division of the High Court to be known as the Family Court which shall exercise jurisdiction for all family matters and juvenile matters."

This means that there will no longer be any magistrates in the Family Court. So, is it that all the magistrates who were trained in family matters will just to be out in the loop and back in the Magistrates' Court? Is it that only High Court judges are now good enough for the Family Court? Do we have any new proposals for the increase? I saw a Bill being passed along with a proposal to increase the number, but I did not see it listed.

Sen. Jeremie SC: There is a proposal to rule out what was the pilot project across the country. If that is done, there will be additional resources required in terms of human resources. So, I imagine that the magistrates who have been trained and some of the judges—I am least concerned about the judges—but, certainly, magistrates who have been trained, their situation will be taken into account by the JLSC with respect to the consideration as to whether or not they can perform the function of master or judge of the Family Court. [*Interruption*]

Sen. D. Seetahal SC: So, I am hearing that magistrates who have been functioning in the Family Court may have an advantage, in terms of the application for the post of master. It is not that the Attorney General can decide that but, obviously, that would be an issue. We are passing this legislation now, and there will be no magistrates per se in the Family Court. That is the point. I got that clear.

My final point is in relation to the publicity of proceedings. Now, the current law—in relation to children matters and sexual offences and so on—there are provisions for matters to be heard in camera, but this does not prevent publication of the name of the accused or the names of the accused and, subsequently, if there is a conviction of the fact of the matter. In other matters, the court can give permission for the matters to be published.

Now, it says in clause 10(1):

> "In any proceeding, the Family Court may, at its own instance or on the application of either party, restrict the publication of the names of the parties or of any proceedings…"

So, there is no provision for the publication of names.

If one looks at clause 10(2), it says that any judgment or ruling of any publication cannot identify a child, which is an extremely strong term. It says:

> "Any publication of a judgment or ruling…shall be done in such a manner that the parties to a family matter, juvenile matter or the children, to whom the matter may relate, cannot be identified."

I know in England we have C, B, F and J and so on, but eventually you are going to exhaust the alphabet. So, I think that "cannot be identified", in a small country, puts an extreme hardship, in my view, on the persons who are publishing the judgments.

Clause 10(3) says that the proceedings must be held in camera and not be published, and that is the problem I have. It is one thing to say something should be in camera, but not be published? If it is a domestic violence matter, or if it is a criminal offence committed by a child at the time of the trial, I do not see any reason why the facts of that matter and the name of the individual cannot be published if he is convicted. It is one thing to talk about not publishing the name of a person who is charged, if it is a child, but I think there are issues here in terms of the rights and freedom of the press and freedom of expression.

With respect to clause 10, I know the hon. Attorney General said that he got his advice in terms of the constitutionality of the legislation. I am not sure if they considered clause 10, but also one has to look at the wider public interest, and sometimes knowing the names of the parties and knowing the facts of certain matters is important. I think that is an issue that needs to be considered.

In short, while I think now is a good time to give legitimacy, as it were, to the Family Court which has been operating as a pilot project, when they are codifying this institution, we have to make sure that we dot the i's and cross the t's. We have to look at all the consequences that can flow from well-intentioned desires, especially with regard to clause 4. I think there is much work here to be done in tidying up this Bill in general. For example, there are references to sections that no longer exist. Thank you very much. [*Desk thumping*]

Sen. June Melville: Mr. President, I rise in support of the Bill, an Act to vest jurisdiction for all family matters and juvenile matters in a Division of the High Court to be called the Family Court and to make provision for matters connected therewith.

Mr. President, the hon. Attorney General gave us very detailed information on the Family Court project and this Bill indeed, is a one-stop shop where family and juvenile matters would be dealt with by one division of the High Court, which is the Family Court.

Mr. President, please allow me to quote from a document dated Friday, December 03, 1999. It is the Proposed Law Reform Package. The author was the Attorney General and Minister of Legal Affairs, Hon. Ramesh Lawrence Maharaj and I quote:

> "The existing pieces of children's legislation are antiquated...As a consequence of these outdated laws which deal with our children, and the absence of other laws to deal with other social issues...The difficulty experienced by families with respect to the resolution of disputes in the existing formal and adversarial system…"

He went on to say:

> "...the absence of a legal framework with respect to counselling, mediation and advice; and options available to families as part of the court process so that families and children can be saved from the tiring effects of the court process;…"

He was proposing the Family Court here along with other Bills.

He went on to say that the Family Court would reduce delays; it would remove inconvenience and expense; it would be more efficient and effective; and it would be more informal with emphasis on advice, counselling, mediation and the resolution of disputes.

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

During my research, I wanted to know whether it is the norm to have family courts in First World Countries. In England, it is said that the family court cases are dealt with in family courts. It is believed that it gave the families an advantage. The cases were heard more quickly and they were dealt with by personnel who were better trained, sympathetic and more caring to the family. Indeed, the human resources in these courts had the opportunity to become specialists. When I read that, I realized that the Family Court project that was started on May 12, 2004, had introduced personnel who were suitably trained to deal with family matters.

I was excited with the fact that there were social workers, counsellors and persons who dealt specifically with lawyers, judges and so on with the family services. When I looked at the logo for the Family Court project—I am not sure how many Senators have seen this logo—[*Logo in hand*] it says:

> "The Family Court Logo integrates the concept of the support of children by adults, the support of families by the society and the role of the court in this service as depicted by the scales of justice."

This is a well-fitted logo.

Mr. Vice-President, there are family courts not just in the United Kingdom, but there are family courts in Hong Kong, India, the United States of America and Australia. What is mentioned about these courts is that they are specialized courts that are efficient, fast and they provide cheap justice delivery. That is very important.

Mr. Vice-President, the Family Court that is proposed for Trinidad and Tobago, I am very pleased to note that clause 4(5) states that there will be no term of imprisonment for a child under the age of 14. Children do not belong in jail. They simply do not belong in jail. Having listened to Sen. Dr. Kernahan, I was very concerned. I do not know if the Senator read the document on the project, or if she listened attentively to the hon. Attorney General, because he did mention that there will be social workers, psychiatrists, sociologists and counsellors and so on.

4.00 p.m.

We appreciate that there are concerns in terms of children committing certain crimes, but with the help of all of us, be it Members of the UNC and indeed, on this side, we are sure that we can move along, we can improve and reduce the crime, reduce the suffering that young persons may have in terms of crime, but we need that cooperation. We need the cooperation of everyone in this honourable Chamber and maybe, just maybe, this would be reflective in the wider public, and hopefully there would be a reduction in crime.

This approach that we have in terms of the project and this Bill, I see it as a very excellent Bill, because family disputes, family issues should not be dealt with in the same environment where common criminals are dealt with. You have to be more caring, there has to be more concern, how we treat with issues relating to family. As Trinidad and Tobago gets closer to achieving developed nation status, our laws, especially those affecting the family, and even more so, our laws pertaining to children, must be reflective of the norm and the accepted norm in developed nations. I truly believe that it is always the right time to do right. Now, after five years of the pilot project in the family court, I believe that this is indeed the right time.

The hon. Sen. Seetahal SC mentioned secrecy in the court system in terms of family courts. Please allow me to read from an Internet document dated Wednesday, May 24, 2006. What it says here is that:

> "The family court hearings could be thrown open to public scrutiny, under plans to boost confidence in the way divorce and child custody cases are handled."

It went on to say that:

> "The hearings are usually behind closed doors, often because judges are concerned to protect the identities of the children involved."

I also have another document here in terms of secrecy, which says that:

> "The family court system is indeed conducted in secret so as to preserve the sensitivity of the cases."

Mr. Vice-President, I am, as I mentioned earlier, in full support of this Bill. I believe that this is the right approach. I am hoping that—as was the case in 1999, when the hon. Ramesh Lawrence Maharaj SC would have piloted that Bill—those on the Opposite side, would see it fit and do the right thing. I am not sure what sort of influence he has on them right now, but I am hoping that his influence is still there and they would do the right thing and support this very important Bill, so that we can better take care of our family, take care of our children, and hopefully, Trinidad and Tobago would be a better place.

I thank you.

Sen. Lyndira Oudit: Thank you very much, Mr. Vice-President. At the onset, let me say to Sen. Melville, through you, that in principle and rationale, I feel that the Bill is in fact, a move in the right direction, especially in light of the reported success of the pilot project that started in 2004.

This Bill is very necessary and very welcome, but in its present format, is very limited, it seriously is limited. Not only are there some corrections or adjustments to be made, but certainly some additions or inclusions that would help this piece of legislation to become more comprehensive and more wholesome.

Sen. Dana Seetahal SC referred to the language used in the definition of the term "child". In the explanatory notes in clause 4, it identifies that this Bill refers to and covers jurisdiction to any child under 14 years. Then it goes on in Part I of clause 3, and it says, the “child” is referring to a person under the age of 18 years.

Again, in explaining the "juvenile" we see that the age reverts to 14 or under 14 years. To avoid discrepancy in the authority of the court, I feel that some clarification or consistency must be in the language. Sen. Seetahal SC spoke of

this and referred to certainty of law and I feel this suggestion should be taken seriously by the Attorney General in revising this current piece of legislation.

Sen. Jeremie SC: Senator, if you would give way.

Sen. L. Oudit: Sure.

Sen. Jeremie SC: Every suggestion made by Sen. Seetahal SC has been taken on board, and I would address it in my closing remarks.

Sen. L. Oudit: Certainly, thank you. On a similar note, as far as the language is concerned, the preamble identifies that this Family Court has a strong focus on customer service and that it would be a single intake point for customers seeking access to family justice. My recommendation here is that we refer to the word "client" rather than "customer". We are not purchasing or buying any goods or service, which is what a "customer" refers to. So, I think for simply the language, there is no purchase necessary here in a family court, so we should replace the word "customer" with the word "client".

Clause 11 addresses the appointment of a children's attorney, including a senior children's attorney, according to the Judicial and Legal Service Act. However, I believe that some expansion of this area is critical, because of the direct involvement of this attorney with those children.

While clause 11 in the legislation certainly attempts to guide the frames of reference, under which this children's attorney would operate, for example, three years in the case of the children's attorney or seven years in the case of a senior attorney, it also asks for knowledge of family law, et cetera, an appropriate temperament, but certainly there is need for more guidelines to set out the person who, above all, in this legislation, is acting in the best interest of the children or the clients, because it is a children's attorney.

This is not somebody who is dealing with adults who are oftentimes in a position to help guide the communication process. Many of these children are under the age of 14 years or 18 years, as the case may be, so we have to always remember that this children's attorney's first and foremost, responsibility is to the children. Oftentimes in particular cases, this children's attorney may not always agree, not even with the parents or the other court attorneys.

Again, we have to remember that the children are first and foremost, the priority of the children's attorney. As such, this attorney must be protected in carrying out the duties in order to better serve the interest of the children and there

should be guidelines through which the attorney must access data, including police records, medical records, medical data, counselling records, therapist's information. This is all the information that a court attorney will require.

So, the independence of the children's attorney must clearly be identified and outlined in our legislation. As such, even the limit of how far other parties in the matters should be towards the attorney, it is important that we understand just how far the entire court is limited as far as the attorney is concerned.

I believe, that the role of this children's attorney is very unclear in the legislation, and I again refer to what Sen. Seetahal SC said, and I take what the Attorney General said, that he is going to consider what she recommended. I do believe that the children's attorney should be mandated to act impartially and remain professional.

In addition, a children's attorney needs to seek professional and fair support, unfettered by any other consideration other than the best interest of the child. Clause 11(5) of this Bill does indicate that:

> "the Children's Attorney shall not,…be subject to the direction…of any other person or authority."

It does not in principle or form, outline the statement of purpose, the role of the children's attorney, the extent of the responsibility, the function of this office, or even the limitation of this role. I refer to the Australian legislation that was referred to by my colleague, Sen. Dr. Kernahan. When you look at the Australian legislation, it is very clear the limit of responsibilities of a children's attorney. I would like to read here, it says:

"It is not the role of a Children's Attorney to:

(1) conduct disclosure interviews;

(2) to become a witness in the proceedings; or

(3) to conduct therapy or counselling with the child."

We must be very careful that the attorney assigned to the children recognizes the boundaries under which he or she operates. So, this attorney should guard seriously against stepping beyond the boundaries of the professional arena. The sensitivity of many of these cases certainly calls for this type of internal introspection.

There is in similar legislation, the term 'honest broker" that is referred to any children's attorney. This guides the relationship of the attorney with the child, as

the attorney is seen as someone who is independent and impartially negotiating on behalf of the child or children in question.

The Bill before us, in several areas, speaks of a temperament suitable for dealing with children, in the case of the court masters to adjudicate in family or juvenile matters or in the case of children's attorney. This term, by its very nature, is highly subjective and a very qualitative state of being; it is very difficult to measure and is oftentimes very misleading when it comes to intent, purpose and motive.

What does this mean? Does this mean that this person is calm, soft spoken, of pleasant disposition, or is generally nice? What do we mean by a temperament suitable? This is a very vague term, as a critical pre-requisite for such an individual holding such a critical position, and so this temperament should not have so much of a weighting.

Having said that however, I recognize that this may be in fact, a potential state of being, that the legislation strives to ensure and if it is used for mere description, it may suffice until an alternative term is determined. In Part IV, clause 9(3), this legislation does provide for the Judicial and Legal Service Commission to prescribe the training and experience requirements of court masters.

I submit here, at this time, that the very same should be mandated for the children's attorneys as well, simply because of the direct relationship of children to attorney. Further, this legislation should include the ongoing nature of such training and if possible, the frequency and type of training to be considered appropriate, and that way, when we say suitable temperament, it is not something that we hope for at the time of appointment, but rather it is something that can be groomed and developed over time.

4.15 p.m.

In reviewing this legislation, there should be, I feel, some sort of inclusion in the reviewing or termination of appointments of all of these officers, including the court masters, the children's attorneys, senior children's attorney; there is nothing in this legislation that talks about revoking the appointments of these individuals.

In order to determine the revocation of such appointments, it is constantly required that the best interest of the children must be taken into consideration and if at any time there is need to discontinue such services or even to alter the existing arrangements, legislation should cover if court appointed lawyers or clients—even in a negative or destructive arrangement—need to be reassigned. This matter regarding such change in representation could be relisted and a simple

order sought from the court discharging the appointment of one and appointing another if needed. There should be also the inclusion of whether or not one attorney represents one child or whether one attorney is so authorized to represent several siblings at one time, bearing in mind the difficulties and challenges that would be posed, should one attorney have several siblings in one case to deal with—you have different ages, developmental levels, you have a difference in cognitive abilities, emotional state and that sort of thing. So, this is very important that we recognize this piece of information that should be included.

In support of what my colleague, Sen. Dr. Kernahan mentioned, I would like to state that in clause 4(5) this interpretation of, "no term of imprisonment shall be imposed by the Family Court in relation to any juvenile matter", I feel that this Bill needs to be relevant and very valid to today's world. Though it is not pleasant to admit, it is not the time in our country's development for us to bury our heads in the sand and to not recognize that every day, every month, whenever we have news of crime you do have a reduction in the children's ages and while Sen. Melville determined that prison is no place for a child, many would also argue that many children ought not to be criminals, but the reality is that we do have young offenders where heinous and brutal crimes are committed. So, when we look at today's piece of legislation I would have to ask, is this Bill simply for victims? [*Desk thumping*] Is this a Bill that deals only with the victims of crime? Certainly, there is nothing here that deals with young persons who are the perpetrators of crime and this is very important. This legislation must be relevant in today's world.

The Attorney General, Sen. The Hon. John Jeremie SC referred to the history of this particular Bill, but we must be real; today's children are not only the victims. Unfortunately, many of them are the perpetrators and we have to deal with this in the first piece of legislation dealing with the Family Court. If this legislation is to be valid to this country, to this time and to this citizenry, we must make serious provisions dealing with all criminals regardless of age. What must also be considered is that young people are particularly vulnerable to peer pressure, the attractiveness of gang culture, drug culture, and so this here, the Family Court should be authorized, the Family Court should be empowered to deal with all perpetrators of crime. If not, then certainly this Family Court, in dealing with young criminals—not just the victims—will be seen as a toothless bulldog. It is not going to be seen as a solution but rather it will be used as other offenders do use some of the criminal cases where they go through the system

because they realize that if you know that there is no imprisonment and you go before this court and legislation says, "there is no imprisonment" then what is the fee? What is the fine for committing a criminal act according to this if it comes before the Family Court?

So, in terms of imprisonment here, it does not state it in the legislation but certainly a term of imprisonment may very well be at a juvenile detention centre. Now, we may not have juvenile detention centres at present, but certainly legislation is not passed or brought before a Parliament for the present time only and it is the hope that if it is that this legislation comes into being and we change the terms or the terminology where we say that there should be some form of imprisonment, I take the point, children do not belong in the traditional criminal prisons where they become hardened—as my colleague says here—criminals when they do go in there and they join the ranks of the seasoned criminals, but certainly in time to come the legislation will have to call for juvenile detention centres to accommodate imprisonments, terms of imprisonment for juvenile criminal offenders. I think that is something we need to look at, certainly not now but it is there.

I have a serious concern with the limited scope of Part III of this Bill. Part III basically is a prerequisite in my mind for what is to be a successful outcome of this particular Family Court, not only before it gets there but during the proceedings as well as after. Too often the very social services that are in positions to assist and to treat with to avoid situations from becoming explosive and more volatile, even before it gets to a Family Court, even these services are themselves the victims of understaffing, inadequate facilities, equipment, training and resources.

So, simply to list them here in Part III—five lines. This legislation identifies in five lines a simple listing of the social services that are required and this is highly inadequate in ordering a more supportive network that is absolutely critical to a Family Court. Without question, social and mediation services will always be ongoing, it will always be an ongoing need, but these agencies need to be so organized that dedicated personnel must be assigned to support the cases of the Family Court.

This brings to mind the question of safe houses, shelters and other spaces. When violence comes from within the family and when the family itself is a source of violence, especially to the children, do you keep the children in the same place during the court cases or do you require external safe houses, areas of protection? If this Family Court is to follow on the heels of this reported success

of the pilot project, then certainly network systems must be in place to give the necessary support to all involved. This legislation should outline the relationships guiding these services as well as the parties involved, including which one of these social services provides a report to the court attorney. Who provides it? Who is there to liaise? Who is there to come forward and act as witnesses? These things need to be included in the legislation and not simply put in Part III where you allow six lines that are dedicated to something or agencies that are so critical to the success of this Family Court.

There is nothing in this legislation that talks about a mediation centre or a contact facilitation area. It is reported in the pilot project report that was presented by Justice Michael de la Bastide and I would like to read here where he says—and this was read at the Commonwealth Law Conference in 2005.

There are hearing rooms. It provides the less formal environment than other courts and:

> "Parties…often appear without an attorney, even before the High Court judges when a party is represented by an attorney who is present, the…magistrate will…often address his client directly and will often get the client to respond to questions posed by the judge."

The attorney's role is much less dominant.

This is in the report of the pilot project. Now, certainly a hearing room is absolutely critical and absolutely necessary, but I think it is a bit disturbing when you hear that the magistrate will often get the client to respond to questions. How does a magistrate get a client to respond to questions where the attorney's role is not even seen as significant?

So, we have to be careful—you have emotional, psychological and sensitive natures, not only of the process or even of the case in front of the judge but as well as the children's psyche and in many cases these children require a person of trust or familiarity to liaise with the magistrates or even other clients to guide the communication process, and it should not be left only up to the children, the abused party or victims as the case may be to answer. There should be some guidance in the communication process, not only for now but in time to come. Instances may very well come where persons incriminate themselves even further without the presence or even without the input of a court appointed attorney.

This piece of legislation does not have anything and I think it is absolutely essential that legislation guides a mediation centre. Like I said, it came out in the

report of the pilot project, but it is not included in the legislation. I think this is absolutely essential that we do identify a safe and secure area as a mediation centre.

There is nothing as well in this legislation about children or clients who are mentally challenged or physically disabled. Is there going to be specialist personnel to be additionally assigned? Do we have Braille equipment? Where is the sensitivity to any limitation? It is hoped that this area could be examined and outlined when they are reviewing the section under social services.

My final point refers to inter-country legislation as it speaks to this document. Is this piece of legislation in its current format sufficient to deal with situations where for example a party or a child resides in another country? The International Child Abduction Act is mentioned in the Schedule, but this is only for child abduction. It does not refer to any matter which falls under the purview of divorce or adoption. So, I ask this in light of the number of citizens of our country who have migrated and who may be citizens still but residents of other territories. Would we have to bring this legislation back to this Parliament to deal with specific instances?

In closing I would like to say that there must be the recognition and the understanding of the devastation that is really caused by violence and domestic abuse within families and I urge this Senate to get this right. I urge this Senate to get this piece of legislation right the first time. While we know it is a Family Court to be run according to the established procedure as for all courts, we must acknowledge the need to enhance and add structures, systems and facilities to better cater to the requirements and needs of those individuals seeking the services of such a court and we have a grave obligation to ensure the appropriate and effective action is always taken, especially when there are allegations of violence and abuse.

Nations are after all built on families. So, this pilot project as referred to and started in 2004, certainly was a step in the right direction, but this particular legislative step is critical if we have to build on the success of the pilot project. So, let us modify, accommodate and negotiate in this place, so the place outside there is going to be a more supportive environment for our children and our recommendation is that this Bill goes before a Joint Select Committee for fine-tuning, and as Sen. Seetahal SC said, for dotting the i's and crossing the t's.

I thank you.

Mr. Vice-President: Hon. Senators, we will take the tea break now. This Senate is now suspended until 5 o'clock.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Prof. Ramesh Deosaran: Thank you. Mr. President, my approach will be one, not to repeat some of the important points made by all previous speakers including the hon. Attorney General, but I will refer to them briefly if only to affirm and lend my support to some of what they have said.

I also want to extend my congratulations to the managers of the pilot project and to Miss Donna Boucaud, who was the Family Court Manager for the period during the pilot study and all those who have tried to supervise, monitor and evaluate the work before this Bill coming to us.

Mr. President, let me preface, as well, my remarks by trying to reflect the sentiments that have been echoed in this honourable Senate today, in your presence as well as in your absence. I really want to refer to those and leave my reference to specific clauses to later on, because what was said has impressed me and is so relevant, that I believe it should not be allowed to pass unnoticed.

There are three types of citizens in this country today and I am not speaking about East Indians and of African descent and so on. In terms of civil society, there are the lawless, the downright lawless in our country; there are those who are lawful, law-abiding, but they are in retreat, behind gated communities, behind heavy burglar proofs, staying indoors quivering with fright. The third group of citizens is that group, who are not only law-abiding, fearful of both the law and God, but they have a very deep passionate interest and love for this country. You will hear them here, there and everywhere, including in this honourable Senate, stretching their hands forward with every sinew, in all sincerity, to try and save this country from the road to hell it seems to be heading into.

Those are the most frustrated ones, unfortunately, because in spite of what they try to do with children, with neighbourhoods, to assist those responsible for national security, it seems to be of no use. That third group is a very unfortunate group because it is through love of country that they will not leave; it is through love of country that they remain so frustrated and bewildered as to why things are not getting better; in spite of all the expenditure, including the one on the Family Court, things seem to be growing worse and worse.

It appears to some extent that those in authority, including some of those responsible for this particular Bill, are not expressing the appropriate concern

about the public sentiment. It is as if crime now is being fought on two fronts, press releases and public relations, and press conferences, but perhaps there is a glimmer of hope. I am not saying so because the hon. Attorney General has just returned. This Bill does make a promise, except to say once again, we have had such pledges, such instruments before us time and time again. But it seems as if the more money we spend and the more plans we adopt, the question still remains especially for that third group of citizens: Why are things not improving? Will things improve with this Family Court system? What assurance can we have? What contributions can we make as legislators to help the process and the project succeed?

I feel very sorry for that third group because I have gone all over the country several times, telling people I do not want to hear about migrating. It is a word I do not like, but I must tell you with sorrow in my heart, the thought has even passed my own mind, recently. It has come to that. I feel no confidence in going before the groups I speak to, whether it is the church, teachers and so many other groups I have spoken to, and tell them I do not want to hear about leaving this country. You have a responsibility through your vote, through your voice and through membership in your party groups, but I wonder and I wonder.

So what we need—and the police should start to initiate this process, the Cabinet should start to initiate a fresh process of the restoration of public confidence, and if this Family Court Bill could help in that direction where your constitutional mandate under sections 75, 85 and 53, where you are responsible for managing this country; where you are responsible for making laws for the peace and good order in this country, you will be fulfilling your constitutional mandate.

I do not want to hear about crime is everybody's business and you must look after yourself, those are secondary messages. The primary basis for running this country is through the electoral process and the mantle of governorship that you have assumed willingly, both the Opposition and the Government, to execute your duty, primarily being law, good order and peace and that is missing.

So I do not think the public wants to hear about the GDP anymore, anything about integrating with other countries, when the burden of crime and violence in this country and gated communities is so heavy upon the hearts and shoulders of your law-abiding citizens. I am looking forward to give my support to this Family Court Bill, but that is the context in which the grief has also to be expressed.

The Attorney General said that this Family Court, after the pilot study, is unlike any other court here or abroad. I like that description because we could not deal with family matters and other peripheral matters with the court system as it is.

Mr. President, I remember sitting where Sen. Basharat Ali is some years ago and a distinguished attorney, Gerald Furness-Smith was sitting next to me, and he, in those days, it was the late ‘80s—I became an Independent Senator in the 1986 term. I had just moved a Motion for government, at that time the NAR government, to review its policy on the death penalty—because it was raised by two speakers this afternoon—and I argued the case for final decision by the Government as to whether they want to have it or not, and if at that time the Privy Council was showing some gerrymandering on the issue, we have a Parliament and a Constitution that could have brought some remedy one way or the other. Mr. Gerald Furness-Smith got up and said at that time, "The criminal justice system is on the verge of collapse, if it has not already collapsed." Why are we not taking these things seriously enough?

The Attorney General also made an important point, because at least it shows a recognition of the problem, the challenge, that is, the adversarial environment in some cases is very unhealthy for justice. He was expressing the preference in the particular Bill for a more conciliatory arrangement which this Family Court Bill offers. But then as you move lower down both in the Bill and from his own statements, I suspect that the very principle of conciliation in that familial manner; the very premise and philosophy behind this Family Court system could easily be subverted by two elements at least. I know as I move into these points with further explication, I know I would lose my audience. I know I will lose my audience, but I need to make it for the record.

The adversarial system gets kidnapped, thwarted, frustrated by the role of lawyers and trying every trick in the book, every technique invented or discovered to thwart, delay—of course, they have to win their case, but there is a code of ethics in the Legal Profession Act which tells you there is a limit to what you can do as an attorney. That is why I said I will lose my audience because the lawyers hearing this will feel I have something against them. That is not so.

The Family Court arrangement tries to remove itself from the rigidity, the sterility, the hostility to use his words, that we see every day in the courts. Those elements combine to present something close to the collapse, especially of the criminal justice system. But where you put a provision in the Act or the Bill, where you can still have an attorney accompanying one or the other party, you are

asking for trouble. I know I will lose my audience, because you will say there are rights to be defended and you want to prevent people from incriminating themselves. I understand all of that, but what is the evidence? Apart from that, you have in the arrangement, in the structure, you have Masters; you have somebody who will preside over the family dispute or the divorce.

You know, there are hundreds of textbooks selling all over the world about how to arrange your own divorce, and there are standard forms. You do not need lawyers for these things any more.

Sen. Jeremie SC: Online.

Sen. Prof. R. Deosaran: Online. I detect a glimmer of hope again, from the Attorney General. I think he understands part, if not all of what I am saying. But that is the approach we have to take now and the citizens must get aroused enough to make the demands because there is no more resistant group; there is no group as defensive, robustly—and they will use all the slogans in the world about innocent before guilty; about it is better to free ten persons rather than have one person wrongfully accused. All those things will arise. But a country must awake and support the Government, where they find the Government is doing something robust, and in the interest of the country along the lines I have just spoken, including this particular Bill before us.

I am aware, Mr. President, there are issues, as Sen. Seetahal SC identified. I agree with her; we were discussing it before. I will not repeat them, except to say I agree with them.

There are issues about whether the drafting is complete or not, but the substance and the intention of the Bill to me, should remain paramount in our minds and what we can do to push the legislation through, we should not lose the opportunity.

5.15 p.m.

Mr. President, the other element that bothers me in terms of disturbing the intention of the Bill, and based on what the hon. Attorney General has just said, is another occasion when I will lose my audience. Why do we have to insist, in every such legislation, including the one brought by the hon. Minister of Health, the Ambulance Emergency Bill, that you must appeal a ruling made in the particular system, in this case, the Family Court?

You will tell me, "Well, the Privy Council made a ruling," but a Privy Council making a ruling does not solve the problem; it merely shows that the legal and

judicial system would protect itself. That is what is happening. When the Privy Council says that it wants everybody to have an appeal, that is dressing up the profession with the splendour and majesty it usually does. [*Interruption*]

Sen. Jeremie SC: Sen. Prof. Deosaran, the provision with respect to the appeal is mandatory, because we are not creating a court; remember we are creating a division of the High Court. Family matters, traditionally, have a right of appeal all the way up to the Privy Council, as a matter of fact, so we could not take away that right without infringing on a constitutional provision.

Sen. Prof. R. Deosaran: That is the point I am making, because they are also telling you something else, that you cannot create another court outside of the High Court arrangement. Maybe I have not been convincing enough. I am trying to say that a society must now rise up and make systems and structures that it finds itself most necessary.

We have laws that are millions of miles away from what the country and the people expect and deserve. All this cycling of issues, rolling up from the ground level right up to the Privy Council, and facilitated by such rulings, that is the matter that we have, in a jurisprudential sense, not in a legal sense. That is why before you left in your last session, I used the word too much "legalism". The law is standing too much in the path of justice; that is how I should put it; because with all the Privy Council is saying and doing, it takes years and years to have a case finalized. It costs a lot of money to have your case determined finally. So the Privy Council is as guilty, in my own scenario, as anything else. They have become obstructionist against the people's will.

That was why I said that I would lose my audience, because these views are heresy. I might need a security guard, or borrow one from the Attorney General to drive me home this evening. [*Laughter*] But these things have to be said in order to change an agenda for the future, because we cannot live forever and forever with the Privy Council's jurisdiction and try to make public policy and subvert the powers of an executive so persistently; that is what is happening.

The Privy Council, either implicitly or through case law, or whatever name you want to call it, is encroaching on the Executive authority, the elected authority. There are two sides to the story. Some people are very happy when the Privy Council rules against the Government, so that is where the dilemma arises. If a government is responsible and faithful to the electorate, that is the condition that the Privy Council should not see to implement or dictate policy, especially in a matter like the death penalty.

These are issues that need further elaboration; perhaps in a university seminar or something. But the question has to be asked: Are the laws serving their purpose in the public interest, beyond case backlog and beyond the role of attorneys who seek delays one after the other?

Other countries in Europe are quick to revamp their judicial system, you know. One of the judges from the Caribbean Court of Justice, I will not call his name, had some experience in other jurisdictions. He presented a paper, which I got published in a journal that I edited, *Caribbean Journal of Criminology and Public Safety*. I published his paper where he made a case that our system should be reviewed for different reasons and borrow some from what the European and the French system have. It is time you do that; because this particular Family Court Bill, I believe, is welcomed. But when you think about what is threatening this country and when I listened to Sen. Dr. Kernahan, passionate, but quite sensible and relevant to the times in which we live—[*Desk thumping*] passionate but quite relevant—I sat there and said, "You know what, I will have to comment on some of the things that she said, to make it really a debate, and not to push my own agenda, necessarily, and also respond to the Attorney General."

When the Attorney General said that this court was to assist parties to find their own solutions, I bet you with some, not all, some of the attorneys who would be present there, will see that does not happen in a hurry. It might happen, but certainly not in a hurry. Of course, I use the word "some" advisedly, because this present company must necessarily be excluded.

I want to make the point and put it on the agenda, so that we could start thinking, at least, and not become like robots because, "The judge say so," and "The Privy Council say so," and we narrow ourselves and chain our minds to yesterday's experience, in the face of what is happening today to us; so aptly described by Sen. Dr. Kernahan. There is blood in the streets. You do not realize what Mr. Reyes, the Deputy Police Commissioner said, and the figures confirmed it? They are not breaking into your house only and stealing your goods and jewelry, they are killing you and axing your head. So what are they going to do about that? Hear what the Privy Council says, “whether the amnesty is valid or not” and send us spiralling backwards, remaining helpless as a sovereign country doing nothing? Are we moving to amend the laws or the regulations and principles that govern an amnesty? Suppose it happens another time?

He said, "We are taking a holistic approach." My view is that this particular Family Court Bill should be part of a more dynamic package of legislation called a White Paper on Legal and Judicial Reform; and I will tell you why, one reason,

because we have limited time. The public is very disenchanted with the criminal justice system. The wider public is very fed up, frustrated, bewildered by the laws as they are and have been for so many donkey's years; especially laws that have to do with self-defence, persons trespassing on your property, and a number of other such which have been on the books for so long and need to respond to the existing situation in the public interest. [*Interruption*]

Sen. Jeremie SC: Thank you for giving way, Senator. I have two points; one, I hope you would not delay passage of this Bill until that White Paper. That is the first point. The second point is that there is in existence, as we speak, a Criminal Courts Committee, which I set up under my last tenure. It is still working, and I have real hope that it would produce a result similar to the one produced in relation to family matters. It struck me, as I was preparing for debate on this matter, that was something which was of critical importance at this point in time.

Sen. Prof. R. Deosaran: That is what I am saying, and I do not want to repeat myself. Every glimmer of hope must be appreciated. I keep saying, for the second time today, that I hope your return to this country, to the office that you hold, continues to bear fruit, and what your intention is continues to be manifested. As I have called upon the Parliament, with respect, and the country, those things should be properly supported. I will support this particular Bill. I will support the White Paper, if the elements in it, the contents are appropriate.

Mr. President, another thing I believe we could do, not now, but I am just, perhaps, teasing out this other idea, is that the contents of this particular Bill speak to mediation, reconciliation and so forth. We have a Community Mediation Act, which I am sure my colleague, Sen. Seetahal SC, would remember. I made that proposal to Hon. Patrick Manning and Mr. B. Panday. It was accepted, carried to Cabinet and it became law. Sen. Seetahal SC helped quite judiciously in implementation and trying to shape up the idea of the proposal; so I have an interest in it.

When I heard the remark that the mediation would not work, because it had grown outdated, to some extent it is true; circumstances have changed. The more immediate challenge facing this country is law and order and the enforcement of laws. [*Desk thumping*] That is what it boils down to.

Many of us are enamoured and have knowledge of restorative justice, rehabilitation shaming, forgiveness, all those good Catholicisms; yes, but you cannot exercise those things if you live in a disorderly, unlawful and murderous country as what we have now. [*Desk thumping*] That is why there has been some ambivalence in the expressions we have heard this afternoon over this Bill.

I do not think anybody in their correct mind would reject the Bill outright, but they are dutifully seizing the opportunity to remind the country and the authorities what should be the first priority in the horrible bloody circumstances that we as citizens face in this country today.

None is safe; you might think you are safe, but the probability is changing. The probability is changing. Ministers, Prime Minister, you have bodyguards, you have this and that, but they kidnapped a President down in Honduras the other day, [*Desk thumping*] and the thing is coming home. The thing is coming closer and closer. With the kind of sophisticated weaponry available now, bodyguards will not help you. But let me stop at that point. I am merely expressing a sentiment that is shared by the entire population: PNM, UNC, COP, everybody on a line.

When Sen. Seetahal SC made her contribution it was falling within that third group of citizens: Lawful and very passionate about this country. When Sen. Dr. Kernahan made her views, with great passion, it was in the same light; Sen. Lyndira Oudit, the same way. Sen. Melville was a little more restrained, understandably; she cannot criticize the Bill, otherwise it would be a little difficult; but all those who have spoken, including the Attorney General.

What bothers me, hon. Attorney General, you said that this court, the fixtures, the physical environment, was so nice and accommodating, it appealed to people's sense of justice, rectitude and balance, why not make all your courts like this? [*Laughter*] If the answer comes from this as evidence, the pilot work, then you have the answer here. So we look forward to your intervention again.

You reminded me of the White Paper, that it might lead whatever you were doing, quite nobly, into a White Paper or something of that kind. The point I am making is that you need a more holistic articulation to match the needs of the community with the institutions available to look after public safety. That gap is horrendous.

5.30 p.m.

Policing is miles away from public safety. The legislation is miles away from what is happening to the people in the country. It is not your fault, because these things grow incrementally. What we are witnessing today is an evolution that started years ago, and left unattended to and accommodated by very fanciful fashionable statements about restorative justice, and rehabilitation, which are necessary, but the priorities today are not those elements.

About 90 per cent of the teachers in this country speak about family life and children as the Bill speaks, about 90 per cent of the country have stated and without asking for their names that the manner in which the Government has taken away the use, the judicious use, the discreet application, the restrained utility of corporal punishment, the way you have done it, you do not have to debate whether you like it or not, the manner in which it has been done by the UNC government at the time, has these teachers distressed, resentful and they have told me repeatedly that they have been demoralized by the way they have been treated. No consultation, no phasing out. It was culture shock to the teachers.

Do not spread the propaganda, because you have the use of a whip or strap, you will brutalize everybody. That is not the point, that is propaganda. Almost all of us here, including myself, were given a stroke or two, to prepare our home lesson, to wash our feet before going to school, to brush our teeth, to read the passage assigned to us yesterday.

There is no fear of authority now in the schools. There is no fear of authority as has been discussed here today for parents. Because the violence is being committed by people who get younger and younger every day. One person charged with a matter facing the country today about a certain motor car being driven to a police station and a woman murdered one person charged is just 17 years old and you have a clause here saying a child is defined as 18 years. Well, Sen. Seetahal SC properly dealt with that. I do not want to, as I said, go into details.

But I think time is passing us as we have been passed out one by one as well, by the criminals, and it is as if we are standing still. I do not sense the urgency, apart from periodic press conferences, press releases, but if Deputy Commissioner Reyes knows that with robbery and larceny they are taking your lives as well, well, where is the response? Is it that the bicycle police will help that? I certainly hope so. I hope they bring some relief.

But since you remind me, to support the Bill and when your project report comes, I will lend it support, but with the greatest respect, I want to remind you, hon. Attorney General, before you left for London, you promised this country that the death penalty will soon be back. We wait with bated breath. We wait with bated breath, and that is a matter, according to Sen. Melville, you should plead with the Opposition to lend you support, because if they do not, they will pay a heavy political price. So the road to me should be clear. I ask the question, through you, Mr. President, what are you waiting for?

Sen. Jeremie SC: Sen. Prof. Deosaran, this is a sensitive matter, but what I can say is that work is far more advanced than it appears to be, the press has been carrying speculative reports on it, I will not confirm that for obvious reasons. As you say, I have been away for a while, but I give you the assurance that the Government's commitment is to enforcing all our laws in as timely a fashion as possible.

We have certain constraints in relation to the Privy Council, those matters I can safely say are in hand at this point in time. So the Privy Council is not a hindrance in relation to at least the immediate future, and there is an immediate future. That is all I can say on that today.

Sen. Prof. R. Deosaran: I think we are still grateful for your answer, but the same point I keep making, time is of essence, because I will do like calypsonian Luther and say, how many more must die. Duke, I am sorry, Luther sang about justice.

Related to the point I was making in terms of the White Paper, you have these mediation centres, you now have a Family Court outfit, I think it will be a sensible thing not only for reasons of economics, but for judicial administration in the context of familial arrangements, reconciliation to try to get these two close by in one complex, and move toward establishing across the country, I think that is a very good idea to centralize these Family Courts across the country and link them to the existing mediation centres wherever they are and create a complex for something like community and family justice.

What these things do in the respective community is to signal to the lawful communities that there is something going on in my community and they will gang together positively to fight the other types of gangs. It will send a message of hope and consolation and community justice could therefore be manifested one with the other.

There is a clause that says where there should be no sentencing for somebody under the age of 14.

Sen. Seetahal SC: No imprisonment.

Sen. Prof. R. Deosaran: All right, no imprisonment. I better leave that there, I perhaps mistook it for sentencing, because I was talking about community sentencing and cleaning up yards and painting houses like the boy scouts usually do.

Sen. Dr. Kernahan, as I said, I made reference to some of the things that she said and I think she has really expressed public sentiment.

To set up the pilot study, I was impressed, in fact, I was amazed in the Budget 2004/2005, it is said in the evaluation report by the Family Court pilot project that about 54 per cent of the Judiciary's budget was spent on this project. It shows you the importance attached to it, it shows you the value that we expect from it. So we look forward to the result and I hope that the evaluation done previously, we want a similar evaluation published for the benefit of Parliament, as well as the country, to show that it is not only a matter of money well spent, but the purpose for which it is established is being fulfilled that is, reducing the level of offences, disputes, conflicts that are enumerated under the jurisdiction of the particular Court.

In the year 2005—2006, there was a United Nations project that wanted to evaluate ten non-government organizations or organizations that were looking after crime prevention and family stability. And I was asked to do an evaluation of the Family Court—and I am always grateful for the permission granted to me by the then Chief Justice, Satnarine Sharma—and we spoke to all the officials. In fact, I was amazed at the number of staff on contract, over 100, during the pilot stage.

This is the report [*holds up document*] for the United Nations Office for Drug Control and Crime Prevention. But just to give you an idea, it was a happy experience, because as we interviewed the officers and we looked at the concept and we looked at the facilities, we felt, yes, this is a move in the right direction. When you went inside the building, you felt that you were in one of the best hotels in the world. These are some of the pictures that we took in terms of the premises.

So you are right because the environment does have a way of shaping attitudes and behaviour. That is why the very lawless amongst us and those who do not line up in Trinidad, when they go to New York and London, they really know where to find their place quickly, and the answer is simple. It is so simple, sometimes I wonder why does it escape us.

It was mentioned by Sen. Oudit, by Sen. Dr. Kernahan, and I want the Attorney General to take it seriously as the legal advisor to the Cabinet. You see these two related matters about responsibility and consequences for irresponsibility, that has been missing from public policy in its application for too long.

So most professionals who have children under their charge, teachers and so forth, I do not want to call too many names, but even parents, the hon. Minister of Local Government will know how long I have been talking about parental

responsibility, and accountability, but, as usual, it ends up in a controversy saying that some parents are poor, some are not educated well, whose children are they? And that leads us now to a matter relevant to the Family Court Bill.

To what extent should a government look after the family and the children of a family? Because I have heard it said in this debate that some children have no brothers at home, no fathers, no mothers, so what you want them to do? The inference is to go and rob and steal and get killed. How could a government intervene in such a scenario? Whose responsibility should it be, could it be, or it must be in the very first instance, of producing such—what you might say—an unfortunate creature that is a danger not only to others, but to himself or to herself? Because we have not sent the message clearly and loudly enough about people being held accountable for their irresponsibility, so just like the necessity for law and order, the necessity for being responsible for your action must also be clearly echoed because things have gone too far.

I know the Government is charitable, it has spent about $5 billion in the last five or six years or so on social programmes. What is the benefit? And you know why, the major reason is because you have not put checks and balances and a proper level of accountability on the moneys and the programmes that you have developed, bringing us back to square one.

So in the report, we found a very good project with great promise. I will not burden you. If anybody wants to read it—in fact, it will be published in the next two weeks for public consumption by the University of Trinidad and Tobago, with the nine other assessments like Rape Crisis Centre, Families in Action, Servol, we evaluated 10 of them; this is one, it will be published and submitted to the ministries and the public at large.

So what these practitioners have to do, should do, in this Family Court system, is to have the appropriate training as the Bill describes.

5.45 p.m.

You see, I am always reluctant to put too many lawyers in matters of this kind. Whenever you want conciliation, conflict resolution, mediation— you can have them for other cases; fraud and so on; lawyers are necessary; I do not want to be misunderstood, but in such matters to which I have just alluded, you had better keep lawyers far away. That is the best advice I could give, otherwise the expectation will not arise. Families have changed. If you have a Master of the Family Court that you speak about or—

Mr. President: Hon. Senators, the speaking time of the hon. Senator has expired.

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. D. Seetahal SC*]

Question put and agreed to.

Sen. Prof. R. Deosaran: Thank you, Sir, and thank you, Senator.

The family is changing not only around the world but more swiftly in the Caribbean. I would not give you a sermon on families in Kerala or in the 18th Century, how they lived and how the definition of family was so different. I do not have to go that far back, except to make the point that there are variations in family and any Master of the Court or lawyer going in there with a fixation that a family only means mother, father and children in a house, living happily together, will be missing the point, because on one hand you might have an ideal which Marx called an Anglo-Saxon ideal, and on other hand you have the cultural and social realities of your own local community or in the Caribbean.

The Caribbean has, what is traditionally called, a matrifocal arrangement, especially with respect to families of African descent, and there has been a contention in the literature briefly as to the difference between extended and nuclear family and which ethnic group is more preponderant in what regard. Of course, there might be a controversy, especially when it comes to sensitive matters of taking care of children, property disputes and husband and wife arrangements. But the practitioners in the courts must know this too, apart from knowing what statute A and statute B says, because once again, by strict application and a sterile implementation of the laws, it might defeat the very purpose for which the court is established, to understand the nuances and the complexities that belong almost inherently to family arrangements and domestic disputes.

I remember when he was Commissioner, Hilton Guy, at a conference we were together said, without going further, that the law for restraining orders has brought more damage and murders than before the restraining order legislation was invoked and he explained why. He said, "I am not saying whether it is good or bad; I am just counting the figures, because some men felt unfairly treated. The allegation is that"—and he looked at the records—"the lady brought a fellow overnight in the house and take out a restraining order". Such grievances and the perception of unfair treatment arose because the legislation did not understand the role of emotions and the complexities I am talking about in domestic disputes.

But there are several other examples which I will not elaborate, except to say that as has been pointed out—I think Sen. Seetahal SC did or Sen. Oudit did—the kind of training that you are calling appropriate should be spelt out and their functions should also be spelt out to ensure the fullest compatibility of the training with the challenge, and we see none of that here, because it also says the Judicial and Legal Service Commission, in their opinion, would find somebody with the appropriate temperament.

You know how difficult it is to assess somebody's temperament? Because there is no art to tell the mind's construction on the face to begin with. So you are sitting and looking at somebody who could pretend, as they do in the witness stand, to fool the jury. Other people set up their faces to look the appropriate temperament.

So we have to spell out the details a little bit more and perhaps if you want to do a test run, have it so, but bear in mind that there are legitimate concerns over these issues, especially as you are having a—soon enough you will have same sex unions in this country, you know, and property disputes—not legally; no, no, I am talking in practice. There are women and men living in—and happily too. I do not have a moral judgment about that. I am telling you a case might come before this Family Court as a dispute not to legalize the union, but it will come; two of them walk in and you will have trouble distinguishing. But you must deal with the case appropriately.

The question of the matrifocal home is important, because in this country—and here again I must say the hon. Minister of Local Government knows the research. About 50 per cent of the children in our secondary schools come from single parent homes. This is not a moral issue; 50 per cent of them, single parent homes. I have the report here and the ministry has it too. In some schools there are more, 60 and 70 per cent, but in total it is 50 per cent.

It is interesting to know how come in some schools, 65 per cent of the children come from single parent homes whereas in some schools—if I should use the words, prestige schools, only 20 per cent and 18 per cent? So it tells you how poverty is being recycled and social stratification is being recycled by the way the educational system is structured and the fallout from those things come into the Family Court system; it will come: School dropouts. Who are the school dropouts? So it is not a moral issue as much as it is a resource issue, the extent to which single parent homes could look after their children, and that is the point Sen. Dr. Kernahan was making. Could there be assistance appropriate while also looking at the question of responsibility?

We have found an epidemic of teenage pregnancy on the East-West Corridor. How could the Minister of Health look after that? Where is the presence of responsibility? Even if these things happened long time, there were single parents long time. In some research done in 1958 by Hyman Rodman in Mayaro, you had such a high proportion of, not only single parents, but concubine relationships, one man with two or three common law relationships, and so on. It is now becoming the other way as well. But it is not a moral issue, in my view and I do not want to make it a moral issue, because there is a gender interpretation of these things, about the freedom of movement and association.

The issue is, why is there such a disproportionate number of delinquent children coming from such homes? Is it a lack of discipline? Is it a lack of resources? What is it? Parenting? So the answer has to be— because in those days I spoke about, poverty did not lead to crime. Poverty was poverty, yes, but with discipline, respect, order and going to church and washing your gym boots for yourself with a corn hocks and studying under the lamp shade. But it tells you what has happened to the modern society and the challenges it presents to a government in terms of public policy.

If you look at the data, one of the categories that this court has to look after is children being beyond control and running away from home. Well, the survey we did with all the juvenile homes a few years ago, showed that about 80 per cent of the children there have committed these two offences and the police had to put them there—running away from home and being beyond control. Those are parental issues; those are no criminal acts, but once you run away from home you end up being in a gang, and if you are a female, you end up being subjected to gang membership and being patronized, abused and exploited by gang leaders, so one thing is connected to the other.

Now, the persons whom you put as practitioners in these courts, must know what the data tells you, and do not go in there with an ideology, what you might call a middle-class ideology necessarily, which is not necessarily bad, but you do not go with a fixed view of how things ought to be. You must have the intellectual capacity and the professional versatility to respond to the particular family before you or the particular abused woman before you accordingly, without offending them. That is why somebody raised the question about questioning people who come before this court in an undue fashion, because it requires sensitivity.

With respect to some specific clauses, let us take the clause about children's welfare, especially clauses 3 and 4 where there is room for looking after the children's welfare. Do you know one area of children and category of children

that remains dispossessed and unnoticed in terms of public policy? And I wish the Attorney General would lend some attention to this, because it has implications for crime, violence, imprisonment, a people coming before the Family Court. A few years ago, as well, we did some research on the prisons in this country—six of them; one in Tobago too. At that time there were 4,500 prisoners, over 90 per cent of working class; the vast majority of African descent; a high proportion of Christians and Catholics and so on, so you begin to see the profile and you have to ask the question, why, to know where to enter in terms of healing the breaches. But these 4,500 prisoners, most of them male—the vast majority male—left behind 8,000 wives and children especially, unskilled mothers, young children: 4, 5, 6, 7 years old, uncared for, because that person in prison was the chief breadwinner. You need a public policy in that respect if you have the welfare of the children as part of your provisions here, because they are, what you call, high risk. Their entire situation is high risk and the mother or father—the father especially—going to jail will appear more as an incentive to continue that pathway than anything else.

So you are fighting a tough battle, both one of recovery and one of prevention and I think that is a serious policy issue that must be looked at, because that child in Laventille, for example, if you trace carefully—I am not talking about press conferences and speeches about the child and the priest; it is a whole theatre show in the church now when somebody gets buried. It is like theatre, all weird pronouncements that have little or nothing to do with healing and preventing. But that single child in Laventille, the question is: how many more like her are there? Do we care to find out or are we just moaning and groaning about the passing of this single child? I do not want to say there is more to it, and so on; I am not going to go that far, except to go the numerical route and ask: how many more of them are there?

You see, I am always sympathetic to the Government in these kinds of social legislation, because you are dealing with moving targets. You really do not know the numbers. Some of it is your fault. You do not believe in these kinds of research; you believe in opinion, newspaper headlines and editorials. That seems to guide you more than hard core research. You see, what we found out is that there is so much smoking and drinking in the schools—

Mr. President: The speaking time of the hon. Senator has expired.

Sen. Prof. R. Deosaran: Could I get one minute?

Mr. President: You have got 30 seconds.

Sen. Prof. R. Deosaran:—but more of it takes place at home than at school. So the target is not only the schools, you have to target the home when it comes to heavy smoking and heavy drinking.

Thank you very much. [*Desk thumping*]

6.00 p.m.

Sen. Dr. Sharon-ann Gopaul-McNicol: Mr. President, the debate today deals with the Family Court Bill, a very important Bill indeed. Let me first commend the Government of Trinidad and Tobago for piloting this Family Court and the Bill which brings all juvenile matters and all family matters in a Division of the High Court to be called the Family Court. It is indeed a good initiative and from all reports the pilot has been a relative success thus far.

However, there are concerns about the overall structure of the Family Court and to this end, I want to discuss today, the seriousness of a family court and the difference it could make in the life of a child and in the lives of families, if the Family Court is managed well. It is not just a place to adjudicate or pass judgment, but a place to redirect the life of families, in particular, that of a child. I take this very seriously.

Let us examine the Bill in its five parts clause by clause in the context of our families and our communities. We look at the Preamble to the Bill. Page 5, second paragraph, attributes success of the Family Court to the constant monitoring and evaluation process of this Family Court. It is not my intention to not recognize the strength of this initiative, but as a clinical, forensic school and child psychologist who myself specialized in assessment and evaluation, I would be remiss if I did not point out my concerns with respect to the modus operandi of this Family Court.

A major concern is regarding the evaluation process and the assessment tools that are currently used in the Family Court. I reviewed in the past, several reports that were written by professionals and I remain concerned about the assessment tools used that at times may result in the misassessment of children in the Family Court. Where children are concerned, mental health workers use a lot of tests to come up with the appropriate diagnosis. You either use IQ tests, personality tests, visual motor tests, vocational tests, et cetera. We must examine the use and relevance of these tests and assessment tools that are used to place children, in particular, children with all forms of disabilities in programmes or assessment tools that are used to formulate diagnosis and intervention for such children and their families.

So my colleagues I would like to ask you to just indulge me for a moment as I speak on this issue from the context of biases and assessment measures that are currently used in the Family Court. Having done extensive work in this area and having recognized the reality of assessment tools that are bias in terms of the misdiagnosis, I ask the Attorney General to take very seriously the recommendations being proposed. In the Family Court, test results are critical to the direction, to the sentencing of a client, a child, so it must not be taken lightly. This is why I want to take some time to address these assessment tools that are used currently in a family court especially with respect to children.

I do hope my feedback sheds light on the inherent flaws in the testing industry here in Trinidad and Tobago and by extension how these flaws affect the decisions made in the Family Court. Let us keep in mind that if the assessment of a person is flawed, automatically, the diagnosis would be flawed and if the diagnosis is flawed, automatically, the treatment intervention proposed would be flawed and likewise, the results that we hold would be compromised in the long run.

So within the field of cross-cultural psychology, the earliest and recurring controversial theme concerns the assessment of people from backgrounds that the tests were not standardized on. This remains to this day, a vexing problem in cross-cultural psychology because of the bias against people from backgrounds in which the tests were not standardized. One thing is quite clear that these tests are not likely to disappear as a practice in the United States. But here in Trinidad and Tobago, it is beyond an ethical issue. It is a legal and moral one. We should not be using tests and instruments carte blanche without adjusting the tools to fit our culture.

The issue is not whether the tests are appropriate or not, that are currently used in the Family Court. The bottom line is all psychosocial tests used in the Family Court were not standardized on our population here and therefore, they are not suited for use with this population and should not be used in their raw present form. In fact, a discussion of equity and multiculturalism principles in relation to standardized tests of any kind, raised many troubling questions about its selection and placement purposes and its use with persons from certain cultural groups, worldwide.

It is the view of cross-cultural psychologists and those of us who are knowledgeable in cross-cultural assessment, that in a multicultural society non-discriminatory assessment would require an informed understanding and appreciation of the cultural influences on one's social and intellectual behaviour.

Furthermore, it would also require an understanding of the mechanisms by which such factors function to promote or constrain the deployment of cognitive processes. As such, no one measure can fulfil these multiple expectations of assessment. Rather multiple forms of assessment need to be developed that take into consideration the following: A sample content that is functionally equivalent for the groups targetted for assessment. The assessment tool should be sufficiently diagnostic, so as to uncover strengths and weaknesses of the existing areas of the person being assessed, as well as the emerging potentials of the individuals in question.

The assessment tools should be sensitive to the socio linguistic patterns that persons bring to the assessment environment. The assessment tools should more precisely inform prescriptive pedagogical or rehabilitative interventions. The picture that emerges from both the theoretical and empirical research and culture, cognition, personality and behaviour is one that suggests that culture permeates the daily life of a people and as such, plays a pivotal role in human development. You cannot separate it, but these tests do just that and are therefore not suited to the needs of our people. The issue is that thinking does not exist outside of the activities in which people engage and the cultural practices that support and maintain desired patterns of cognitive development. Therefore, it is critical to note these four forms of cultural equivalence in testing are critical.

Functional equivalence, that is, the extent to which the test scores mean the same thing among different cultural groups and measure psychological characteristics that occur equally frequent with these groups.

Conceptual equivalence, that is where the groups are equally familiar or unfamiliar with the content of the test items and therefore attribute the same meaning to them.

Linguistic equivalence, that is whether the test developer has equalized the language used in the test so that it signifies the same to different cultural groups.

Psychometric equivalence, that is the extent to which tests tap the same things at similar levels across different cultural groups.

In summary, the person must be trained in understanding ethical issues in personality assessment, so clients are not misdiagnosed. It is well documented that in cross-cultural research, failure to consider these issues can result in committing the cultural equivalence fallacy which is, that Eurocentric focus as a perceptual set in which European and European American values, customs, traditions and characteristics are used as exclusive standards against which people

and events in the world are evaluated and perceived. Therefore, permeating every question of these tests is whether the answers are right or wrong. The unfortunate thing though, is that clients and children in the Family Court system are placed in programmes based on these very faulty assessment measures.

Thus the more intelligent individual is the one who can apply Eurocentric values most effectively and expediently, as far as these tests are concerned. Therefore, those who see alternative answers because they do not have access to a Eurocentric world view as many people in the region do not, are penalized and are deemed less capable or less intelligent or psychologically dysfunctional.

Please note that I am not asserting here that these tests are not relevant in the assessment enterprise as a whole. What is being asserted here is that in the development of culturally relevant tests, the item equivalent assessment measure that social scientists like Dr. Armour-Thomas and I as well developed, we attempted to equate a person's cultural experience to every item of every test by matching the questions on the test to the person's culture. Of course, you will not get a score when you engage in this cultural equivalence exercise. Psychologists who consider themselves more than just psychometricians must be prepared to do just that if culture-fair assessment is their goal. It is critically important to have culture-fair assessment in the Family Court because we could misdiagnose our children and our families.

A democratic society committed to equity and multiculturalism requires that fair and non-discriminatory measures be used to assess people's social and intellectual competencies regardless of their background characteristics. The poor child from a deprived community should be treated equally fairly in his or her assessment experience in the Family Court. This is not the case currently simply because these children are not familiar with some of these Eurocentric world views that are so endemic to the psychological assessment industry in our current society. When judgments about personality and intelligence, parallel culture, race, language and class and when such judgments are used to make professional and educational placements of dubious quality, the principles of equity are doubly compromised for such persons.

Many psychologists are fully aware that the disclaimant they stick in these reports to sort of get away with using these bias tests, in no way deters or encourages any employee or any court decision maker to interpret the test with caution, which is what a disclaimant says: Just interpret it with caution even though the test is bias. Unfortunately, it is interpreted exactly the way the psychologist interprets it and then used as the employee or court personnel deems

fit. I am hopeful nevertheless, that genuine respect for cultural pluralism would lead to the development and the use of measures that have greater psychodiagnostic and prescriptive utility than those that currently exist in our society. A just and humane society demands no less for its people.

I must say though, as I close on this matter of assessment and bias in assessment, that I am clear that the current tests that are used in this current Family Court for the assessment of persons are not appropriate in their current forms. I refer you, my colleagues to the many books published on cross-cultural assessment by locals in Trinidad who lived abroad and whose works are currently used here in Trinidad and yet are ignored. Regarding the cultural assessment and biases in cross cultural assessment here in Trinidad, these texts may prove helpful in eradicating these biases. So in the future, I hope we set in motion an avalanche of discussion on this very issue. We have a wonderful potential in the Family Court but we are getting at the wrong information.

There is a book on working with West Indian families that speaks to the assessment of families in the context of the legal environment. There is a book on assessment and culture that speaks to all areas of assessment in the context of our society. There is a book on assessing intelligence which speaks to the potential of children in the academic environment and again relevant to our society. There is a book on the multicultural approach to treatment and intervention, again, relevant in our society. We must begin endorsing these kinds of books and tools.

Let me continue examining the Family Court Bill of 2009. If you look at the Preamble on page 6, the first and second paragraphs refer to the value of the pilot project. You will note that it states that the intent of the Bill is to make the services of the Family Court available at several locations throughout Trinidad and Tobago. This is the major concern at this time with this pilot project which was intended to serve primarily the Port of Spain areas and the immediate environs. But again, it was doing so well, relatively speaking, that it has become bombarded with requests from all over the country by people who want to benefit from the Family Court, which is good, but we have to immediately move forward to expanding the Family Court around the country because it is currently burdensome and cumbersome and has compromised this wonderful pilot Family Court project.

6.15 p.m.

If you look at the preamble on page 6, (c) speaks of one intake procedure. As it stands right now, this is the psychosocial intake, but I recommend, where children are concerned, a multi-systems intake, which includes the input from teachers, religious leaders, et cetera. Many times in the court no one asks the

teacher for his or her input, yet the child spends more than half of his or her waking time in the classroom, so please include in these evaluations the classroom teacher's feedback.

On page 7, Part I, clause 3 and Part II, clause 4(4), I noted that we fluctuate between defining a child—as my colleague Sen. Dana Seetahal SC said—and a juvenile as under age 18 to under age 14. We need to be clear as to how we consider a child, a minor, a youngster and a juvenile in this society. There is no need for me to develop it further because I think the Senator did a great job in explaining to us the differences. From the developmental standpoint, children under the age of 18 are juveniles and legally we must clear this up in the Bill.

Page 7 and clause 3(1)(a), we define "family matter" as:

"any cause, matter or legal proceeding—

(a) concerning maintenance, guardianship, wardship, access, custody, care, adoption or welfare of children…"

I would like us to add specifically, under this definition of "family matter", the education of children as it pertains to the regular attendance of children in schools. Many children are barrel children, meaning that their parents live abroad and that they are cared for by family or friends and their parents send barrels of clothes. Many of these children do not attend school every day and many times are found to be "hustling" in the day. We must mandate that their guardians ensure that they get their formal and informal education. I would like that to be emphasized and included in the Bill.

I would also like to include in our definition of "family matter" the question of discipline. I would like us to explore teaching parents alternate ways to corporal punishment in the homes. On page 8, Part II, clause 4, I really like the idea that the Family Court will exercise jurisdiction for all family matters and juvenile matters.

Page 9, Part II, clause 5(1), in the appointment of Family Court Masters, I would like us to take into consideration, in addition to recommending that the Family Court Masters should possess the requirements of the prescribed training and experience, that they should also possess the requirement of the correct formal education. If the person is educated as a child psychologist, for instance, let us ensure that the person is in fact a child psychologist and not a marital or family psychologist. There are significant differences in the execution, decision making, diagnosis and treatment plan, depending on the training and experiences of the individual. The correct education and training are critically important for the Family Court matters.

Likewise, when the Bill states that the Family Court Master should possess the appropriate temperament to adjudicate family and juvenile matters, I trust, as my colleague said earlier, that we are not just defining temperament here, as well as on page 12, clause 11(3), as the person who has tolerance and patience in dealing with children, but that we are clear that such a person must have the sensitivity, the knowledge of children at varying stages of human development; that such a person should have the experience in working with children; that such a person would have been formally educated in child development, child behaviour and childhood cognition. I recommend that such a person also have experience in understanding the psychosocial factors that affect the child.

Mr. President: Senator, we have a procedural matter to deal with.

PROCEDURAL MOTION

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, in accordance with Standing Order 9, I beg to move that the Senate continues to sit until 8.30 p.m.

Question put and agreed to.

FAMILY COURT BILL

Sen. Dr. S. Gopaul-McNicol: Thank you very much, Mr. President. I recommend that such a person also has experience in understanding the psychosocial factors that affect the child so that we can understand the child in relation to his or her environment. I would also recommend that such a person take into consideration the acculturation, stress and various changes that children undergo when their parents migrate to other countries leaving them in the care of neighbours and relatives.

Some of these changes are physical in that the child may have to move to a new home with more people and less space. Some changes are biological such as nutritional changes. Some changes are economic; less money is available, oftentimes resulting in extreme poverty. Some changes are social since the children have to function within new social networks. Some changes are psychological, which could affect their mental health and result in culture shock, living in a new environment. Oftentimes such children are physically with the new family but emotionally with their family of origin.

It is wise to use the *West Indian Comprehensive Assessment Battery* to determine where a child or family is in their acculturation to a new environment or a new situation.

Page 11, Part III, subsection (c) addresses the Family Court Social Services Division. I recommend that this Unit should house experts in cross-cultural assessment and treatment and that we are not taking wholesale the foreign models of assessment and intervention to use on our families. Models that take into consideration the child in the context of his community, his social development, support systems, et cetera, are critically important.

Page 12, Part IV, clause 10(2) reads:

> "Any publication of a judgment or ruling of the Family Court shall be done in such a manner that the parties to a family matter, juvenile matter or the children to whom the matter may relate, cannot be identified."

This is good, but you may want to know that in small societies such as ours where psychologists are quite known, they must be careful when making home visits because that in and of itself is revealing. Do not get me wrong; it is a good idea to make home visits because it is wise to observe and note the behaviour of a child in his or her key environment such as the home, the school and the community, but we must be very careful in doing so.

In other words, I am saying that the Family Court must take into consideration all of these things, including all of the support systems the individual has, since strong social support systems help in a child's adjustment. The role of a family court is not just to pass judgment on a child, but to redirect and to redefine the life of that child and family and offer support and guidance utilizing all of the community's support systems that can help the child to redirect his or her life.

The Family Court is about helping to bring into consciousness the problems that family members experience and to help guide the solutions and possible options. It is not just about arbitration, it is about redirecting families socially, psychologically, educationally, religiously, legally, et cetera. It is about parent and child relationships, the self-esteem of the child, the social relations of the child and the educational goals. It is about mending and healing families.

It is a serious court. It can help to make or break our family structure in the society if not given proper guidance, proper recommendations, proper supervision and so forth. Family Court is about helping couples to adjust to the new roles in modern 21st Century. It is about helping men to adjust to the working woman and to cope with the modern woman; all of which lead to family problems that land people in Family Court. It is about teaching parenting in a new era. All of these changes lead to conflict in families and it is the duty of these institutions like our Family Court to assist families through this process. It is a much broader institution than even the High Court.

Family Court must seek extended family support and must use a social support unit to teach effective communication among relevant parties. Family Court must be instructive and help couples to understand how the North American influence of the media has affected and continues to affect their family lives and how to cope with this and with their children who are learning to be more assertive through viewing these foreign media.

The Family Court, therefore, is about cultural teaching to help families redirect and cope with the stresses in their lives; with the fact that their business is now in the public fora because in Family Court their business is open to the public and this can be embarrassing to families in our society who have been raised with the concept that their business must stay in the home. It is about teaching alternative ways to corporal punishment so that our children will be disciplined without being abused.

I recall being a consultant in the US in the Family Courts where we set up a system where parents learned alternative ways of disciplining children so that they did not have to resort to corporal punishment. It was contingent upon parents attending those classes and those kinds of social programmes that many of the West Indian families in the United States were able to stay away from the legal system; their children were not taken away from them because the judges recommended that they first take these social and parenting classes. They can be done here as well.

It is about teaching alternative intervention strategies as well. Family Court is about responding effectively to a crisis. This means that at times decisions in the Family Court will require an immediate intervention because the assessment reveals an impending crisis, a life-threatening, risky behaviour or information that a clinician is legally compelled to report; for example, an assessment that revealed that the client is at a severe risk for suicide or homicide. If this comes out in the evaluation, appropriate steps have to be taken right there in the Family Court to minimize the likelihood that the client would take his or her life or that of another person. Are you getting a sense of the broad-based nature and the importance of the Family Court?

Mr. President, before concluding, I want to mention, in general, the standards to consider for an expert witness in the Family Court, which is critical in Family Court. He or she must possess the relevant education, training and experience to conduct assessment involving these issues. He or she must understand that there must be no conflict of interest that would undermine the validity and the reliability of assessment and intervention. The instrument selected for assessment must have current predictive validity and reliability.

I would also like to discuss the rights of children in the Family Court. Even children have their rights and should understand why the assessment is being conducted. We do not just shift people along and say we are going to assess them. It must be explained. What are we attempting to get at? What tests are being used? What are the procedures? Are the tests relevant? In other words, you are not just going to subject an individual to more and more tests without their understanding the relevance of the test to which they are being exposed. If a person has cancer, you would not subject them to all kinds of tests that have nothing to do with their situation.

Even children have the right to understand this. In other words, they should be told ahead of time what to expect. Family Court must ensure that this is done in clearly defined language; not using psychological and legal jargon that could be confusing to the average person. The child and even the parent must have the right to accept or to refuse therapy even if this is the recommendation. It is incumbent upon all of us, especially those in the Family Court, to impress upon the families the importance of therapy and the importance of these interventions, but we cannot make it contingent upon the person's sentencing to the extent where it is forced upon them. It is incumbent upon us to impress upon them its importance.

6.30 p.m.

I would also like to make reference to the competence of the appointed Family Court Masters. Professionals must be clear and restrict their practice to their areas of competency or expertise. They must operate within the boundaries of their competence, based on their education, training, supervisory experience or appropriate professional experience. This is important, especially in our society. We have people who function as psychologists and in other disciplines who are not appropriately trained. It is done and with the blink of an eye and we overlook things like this. This is very serious. We are making decisions for our children and the lives of our families in the Family Court. Therefore, we must have competent people who make these decisions.

Lastly, I would like to emphasize the importance of the Family Court, where we must take into consideration all the relevant Bills before making a determination. The Children’s Authority Bill, the Domestic Violence Act of 1999 and the Marriage Act must all be taken into consideration in making determinations in the Family Court. In like manner, we must protect our children from human trafficking and all other vile acts that have affected family life and that are now the focus for all of us and what we are facing everyday in the Family Court.

Mr. President, clearly what you heard me say today is that the Family Court is a critical and important institution among us. I again commend the Government for its effort in piloting this court and in bringing the Bill forward and I hope sincerely that we can improve the current standards of the Family Court, which will bring even greater success for all for us and that we could expand it throughout Trinidad and Tobago.

In my view, the Bill is an important Bill to ensure the protection of family life and our children in particular. This Family Court, however, is not there yet. Notwithstanding this, I want to see the extension of this project throughout Trinidad and Tobago.

I would like to take this opportunity to thank you for allowing me to participate in this debate.

Sen. Corinne Baptiste-Mc Knight: Thank you, Mr. President, for the opportunity to participate in this debate on the Family Court Bill. This is an extremely important piece of legislation. I see it as one of the pillars of the package of children legislation. As such, I would do my utmost to support this Bill, but as has been pointed out, there are a few areas where it can be strengthened. Given the time, I will not go into any detail, particularly on matters that have been dealt with by colleagues speaking before me. I will remain faithful to the text before us.

The first area I want to look at is on page 8, clause 1(2)(c). I understand the Attorney General to have said that the purpose of this Bill is to create a separate division that would be totally responsible for family and juvenile matters. I am wondering how this separation of the division will work if a clerk of the peace or clerk of the court, meaning Family Court, refers to the Deputy Registrar of the Supreme Court? Is this a mistake or should it be the Deputy Registrar of the Family Court?

As I go through the rest of the Bill, I note that there is no mention of any registrar or deputy registrar for this court, but there are functions that I am advised normally apply to registrars, specifically concerning the Family Proceedings Rules 1998 and the Civil Proceedings Rules 1998. There are functions for registrars. Who will perform those functions within the context of the court as established here? I would like to get that clear.

Now, I would just like to touch, very briefly, on the matter of domestic violence and to extend on what my colleague, Sen. Seetahal SC said, to the extent that I understand that domestic violence is more than physical and sexual assault

and there are areas of domestic violence that are definitely family matters. I would like the assurance, that under clause 4(3), nothing here pre-empts these matters from being dealt with here as family matters within the Family Court.

Moving on to clause 4(5), I agree totally that no juvenile, no person under age 14 should be incarcerated, but I fully understand that where a child's environment and the lack of nurturing, have produced the sort of abhorrent behaviour that brings a child to court for a very serious matter, this child cannot be rapped on the knuckles. No, one cannot rap it on the knuckles because that would be abuse. This child is sent back out into the world.

I am fully aware of the fact that this court will be working very closely with the Children's Authority, but the Children's Authority is a work in progress. During the whole progress of the Children's Authority and the lifetime of this court as the project, not one single safe space has been provided by Government for problem children of this nature. We still have seven-year-olds and 10-year-olds in remand at YTC. We still have 13-year-old and 14-year-old girls in the women prison at Golden Grove.

What exactly is the point of instructing a master, I believe that is what they are called, that imprisonment is not an option and you give this honourable gentleman or lady no option? We have got to think in terms of what is in the best interest of the child. To me, this means that some activity has got to start between now and three months' time, to provide some safe space where such children can be sent; where they will be totally rehabilitated; and where every care, every aspect of nurturing, caring and rehabilitation that these children need, would be provided. I think that it is very important that the options being suggested to the court be identified somewhere. You cannot say do not incarcerate. There has got to be some expansion. What do you do with these people? The short answer is provide the safe space.

Mr. President, let me continue on Part II. I notice that the Judicial and Legal Service Commission will appoint such number of persons as family court masters and later as children's attorneys. Who decides the number necessary? Nothing here gives me any clue as to who is responsible to determine the number of masters. If you have no registrars, no deputy registrars and no marshals, you need a lot of masters if the thing is going to function at all. Please identify who has the authority to determine the number of each category of judicial officer that is required to make this a workable entity.

I do not think this is going to be very difficult. This is a project that has been going for the past four to five years. Somebody must, as we speak, be in charge. Somebody must know a number. If one prefers, one could put a number, but that number, again, is going to be determined by another aspect that is missing from this Bill, as I see it, or should I say, as I have not seen it.

Where and in what locations would this court sit? At what time would this court function? Does it function 24 hours, which would be the best thing, but it is not our culture? Somewhere we have to determine when and where. Do we have one court? Do we have one court in each region? There has got to be some arrangement of that sort, otherwise how do we know what sort of budget this court needs for it to function? If the correct budgetary arrangements are not made, we are wasting time here, because that is crucial. You need enough masters. I do not know whether there is a rule for another type of judge in addition to the master, because I cannot see a court functioning on masters and attorneys alone. I would need to have a little clarification on that, hon. Attorney General.

Part III deals with administration. I had just a cursory look through a couple of the reports and I get the impression that, currently there is a function, which is that of manager of the operation.

6.45 p.m.

Now, what makes this court unique is the manner in which it interfaces with the public, the Judiciary, the social services and mediation services, et cetera. This has to be properly managed, and it cannot be done by a court officer. Who is going to be in charge of the court office? You need to identify the person who is going to be in charge of each office at each location to ensure that the court functions in a fashion that would provide maximum benefit.

Mr. President, when I looked at Part VI of the Bill, and I suspect that it is my lack of legal knowledge, but 9(1) says:

"In any family matter before the…court…all…relevant rules…shall apply."

What happens in non-family matters? It also deals with juvenile matters? What rules will be applied then? Is it that the rules in 9(2) will now have to be established to do everything which deals with the court? It might just be my lack of legal understanding that causes that problem.

I have the same problem in clause 11 which I had earlier with the masters. Who decides the number of attorneys? I share the concerns raised by Sen. Seetahal SC that if these attorneys are answerable to the Solicitor General, could

they really be totally independent in terms of the children that they are supposed to be representing? Rather than just have a senior attorney, should we not at this stage give some thought to the Children Ombudsman, who will head up that function and really be the person to ensure that everything will be done to protect the child involved?

We have to face the fact that when a child reaches before the court, you cannot accept that any adult in that child's life has been or is capable of making proper decisions on that child's behalf. There needs to be an independent person who is dedicated and who would seek the best interest of these children. I think it is important that the actual functions of the functionaries be identified in some place.

The last area of concern I have has to do with the resources. You need resources particularly in clauses 5, 8 and 11. If the resources are not stated clearly as something that has to be given to the court—without passing "go" and getting $200—again, we are wasting time. It must not depend on whether the Chief Justice has enough money to apportion. The Family Court must be given a proper subvention to allow it to function.

I do not see in the Bill who would identify the needs of this entity, and that is why I come back to the thought that perhaps we should look at the reports and check carefully the function and functioning of the Family Court Manager, and see if we do not need to specify that post within the Bill.

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

Sen. Wade Mark: Mr. President, thank you very much. This Bill is being introduced and debated against a background of a virtual disintegration of our society manifested in a breakdown in family life; an unprecedented rise in crime and delinquent behaviour among segments of our youth population; widespread teenage pregnancy; the rampant illegal drug trade and money laundering activities; a high incidence of dropouts in the education system; substance abuse; a growing trend of functional illiteracy; domestic violence; an absence of self-esteem among our young people and so many other negative manifestations of the disintegration process, but we are dealing with the family, and the family constitutes the primary unit of society and the principal source of nurturing and care for individuals. It is also the instrument for the transmission of values, culture, mores and information.

I will demonstrate that the Bill before us in its current form will severely infringe on parental rights and children's rights. I want to also appeal to the Attorney General that Bills ought to be people-friendly. I will show again—this is the second time that I am going to raise this issue. I did not get any response, but I

am going to get one shortly—that the hand of the private sector in the drafting process seems to be once again at work. It was in the Ambulance Emergency Bill, and I am seeing elements of it in this Bill. I would tell you as I go along why I raised this point.

I do not believe that the office of the Chief Parliamentary Counsel is involved or was involved in the drafting of this Bill. [*Interruptio*n] I am just saying that I do not believe that they had a hand in this. I have been here for a little while and I know their skills, craft and ability. This is a private sector driven drafting.

Sen. Jeremie SC: That is your view.

Sen. W. Mark: It is an opinion that I am expressing.

Sen. Jeremie SC: Sen. Mark, your opinion must be founded in some facts. The point is that I have been in this process for four years, not as long as you. I read the Bill and I did not see the hand of the private sector drafting in it. As a matter of fact, I have my two officers from the Chief Parliamentary Counsel with me, and none of them told me about the involvement of private sector draftsmen in it. This is a recent thing that I have discovered since I have returned to the Office of the Attorney General. In time—it cannot change overnight—I intend to ramp up the resource in the Chief Parliamentary Counsel's Department so as to make it unnecessary for client ministries to go outside to have their work done.

Sen. W. Mark: So, in other words, it is being done at the moment and you are trying to address it. It may not be in relation to this Bill, but I am saying that is my sense—I understand what you are saying.

Mr. President, I want to indicate some of the areas that I would like to address. With respect to the Preamble, I do not understand the value of the Preamble and I am going to deal with that matter in a short while and the relevance of it. I want to deal with the role of the Attorney General in this legislation and the role of the Chief Justice. I also want to deal with the privatization of the public service and the undermining of the Constitution of the Public Service Commission. We are being surreptitiously dragged into the subversion of the Constitution and I want to deal with that.

Now, I also want to deal with a report. You know, it is very unfortunate that the Legislature is debating a very important matter of this nature and our hands are tied. Here it is the Attorney General and the Government had the benefit of reports coming from the monitoring committee of the efficacies of this particular piece of legislation, re the Family Court pilot project, and we do not know the

successes or the failures. We do not know the cost or the benefits, but we are being asked to support a measure without having documentary evidence on the project and its value. We were told by the Attorney General that he would make it available. I would have thought that a copy of that report would have been on my desk. I do not have it, so I went on the Judiciary website and downloaded five pages of a document entitled the Family Court. It is dated 2004.

Sen. Jeremie SC: Senator, will you give way?

Sen. W. Mark: Yes.

Sen. Jeremie SC: The short point is, as I told you across the table, I was pretty certain that there were reports on the website. I am glad to know that you were industrious enough to find those reports. In any event, I undertook to give you the reports, but when you say that you want it now, is it between the time I debated the Bill at 2 o'clock and 7 o'clock? I thought you had grown a bit. You have been generous and giving way and so forth—

7.00 p.m.

Sen. W. Mark: You see, I have been generous, I gave way and you are trying to insult me in the process. I am being very generous this evening, gracious, which is unusual. I have welcomed you back but not totally and openly.

Mr. President, I want to go back to the report. This has been a very expensive Family Court pilot project. I have done a rough analysis of the cost, based on information picked up here and there, and to establish the court, it cost the taxpayers close to $105 million or thereabouts. That is what I understand, maybe the Attorney General in winding up, will be able to tell us the full cost.

In terms of recurrent expenditure, it was $2 million a year, and this court has been operating for about four and a half to five years. I have roughly estimated a cost of about $223 million to $230 million for the four and a half years that this court has been in existence. It has been a very expensive project. As I said, these are preliminary figures and I do not have all the facts, but I have thrown the figure, so that at the appropriate time the Attorney General would be able to come with a more detailed account of this particular matter.

I have seen for the first time, the parties making up the various committees, whether it is the actual monitoring committee, the evaluation committee, or the committee that really led this drive for the pilot. So, I have information of all the players involved in this exercise.

One of the points that were raised and I am going to deal with it immediately, on page 2 of this report, it is indicated by the framers, the shakers and movers of this pilot, that there is need for the Government to bring a Bill to Parliament to amend the Supreme Court of Judicature Act, to increase the number of the High Court judges by, well they are saying three, but I have noticed that there is in fact, a Supreme Court of Judicature Act before us, where the Government is seeking to increase the number of puisne judges from 23 to 33, and the Court of Appeal, I think from nine to 13. Maybe that is all in line with attempting to ensure that we have sufficient judges to deal with matters that will definitely go before the courts when this matter is established, properly speaking.

In principle we have always supported the establishment of a family court. We brought legislation in September 2001, but because of the developments that you all are aware of that took place, we did not have the opportunity to go through with that Bill in September 2001. Here we are, several years later, dealing with this matter, which as I said, in principle, we have always been in support of, but there are limitations in this particular piece of legislation that we would need to address and of course, the Attorney General would need to strengthen, in order for this particular measure to work, properly speaking.

I would have preferred the preamble to have a certificate dealing with the need for a special constitutional majority. I would have liked that. [*Interruption*] No, I understand your arguments; I understand where you are coming from in terms of your argument. I would also bring some new arguments for the Attorney General's consideration.

I have looked at the various clauses in this Bill and I would like for instance, for the Attorney General to tell me what is the relevance of the preamble to this legislation? I do not understand the importance of it. Why do we need to take up so much space in the law to tell us about the success of a pilot? I have never seen this in legislation. This is why I cannot believe this to be the work of the Office of the Chief Parliamentary Counsel. This is private sector driven legislation.

Sen. Jeremie SC: [*Inaudible*]

Sen. W. Mark: No, take a note now. For several years, I have said that on a number of occasions, and I have never seen from the Chief Parliamentary Counsel’s office, such weak drafting. I would like for the Attorney General, in his winding up, to tell this Parliament what is the significance and relevance of the preamble. I see no significance except to praise persons and so on, who might have been involved in this exercise. There is no need for this.

I have also seen this whole concept—and we would talk about it a little later—of temperament. Some of my colleagues have raised this issue. How can a chief justice, or a judicial and legal service commission, or an attorney general determine the temperament of an individual? That is subjective. You are not a psychologist; you are not a psychiatrist. How are you going to put into legislation this concept of temperament? You have to delete this completely from the legislation. It makes no sense. That is one area I would like you to address, hon. Attorney General.

Again, when we go to clause 3 of the legislation, I am seeing this question about juvenile, the question of child. I think Sen. Dana Seetahal SC was making the point that we need to be very clear what we mean by these things. Are we going to leave "juvenile" very broad and wide and open, or is "juvenile" under clause 3 of this Bill, being used for the purposes of this Bill and this Bill only? If that is so, it should be so stated in the legislation.

The Attorney General said in his opening, under this particular section, which deals with juvenile matters, summary offence, and a preliminary enquiry under the Indictable Offences (Preliminary Enquiry) Act, that he intends to, or the Government intends to, shortly introduce legislation to abolish preliminary inquiry or PI, as we have known it in Trinidad and Tobago.

I want to serve notice to the Attorney General of this country and to the Government of this country, that you will bring your legislation, but we will tell you here and now, that the United National Congress has extremely grave reservations and profound concerns about any attempt by the Government to abolish preliminary inquiries in this country.

Too many people in this country have gone scot-free, no case submission, because of poor quality evidence at preliminary level rather than face a judge and jury. I do not understand how we can be told here today, that it is the policy and the intention of the Government to abolish PI. I do not know where that is going, but I can tell him from now on, the United National Congress has extremely grave reservations and profound concerns about this particular line that he sought to advance here this afternoon. We think it is retrograde, it is dangerous, it is backward and we are not prepared to entertain that in the manner—[*Interruption*] I know, we will deal with that when you bring the substantive legislation.

Sen. Jeremie SC: [*Inaudible*]

Sen. W. Mark: Well, you know that is what politics is about. It is a civilized form of warfare.

Sen. Seetahal SC: Tell us why.

Sen. W. Mark: No, he said this is not the debate for it.

Sen. Seetahal SC: Can I, through you, Mr. President, ask Sen. Mark, since I have a deep interest in that subject and since you have touched upon it, and the Attorney General, mover of the Bill, touched upon it. I would just like to know why, because since St. Lucia and other countries, forward thinking, have abolished it, I would just like to know why he is opposed to it?

Sen. W. Mark: Sen. Seetahal SC, we will have a sufficiently comprehensive press conference to inform the nation as to why the rationale for this position that we have taken on this matter.

In Part IV of the legislation, we see again, where the Government is proposing that under clause 4(5), that there would be no term of imprisonment in the Family Court in relation to any juvenile matter. This is a matter we have to debate very carefully because we do not believe if the Government even decides to go that route—where are the institutions to ensure that these children, 14 years and under, would be taken care of? We do not see the facilities for young offenders in this country. They are very poorly maintained and many of our youths who enter those areas, leave sometimes worse off than when they entered.

Again, Mr. President, if you are going to go that route in terms of saying no term of imprisonment shall be imposed by the Family Court in relation to any juvenile matter, we would like the Attorney General to provide us with the evidence and the information as to what kinds of new institutions are going to be set up to take care of our youth who run afoul of the law.

We go to clause 5 of the Bill. We are seeing in this clause 5(2), that:

> "The Chief Justice may also assign to the Family Court, such Masters, who by reason of their special training experience and temperament are suitable to adjudicate family matters and juvenile matters."

What is temperament suitability? How can the Chief Justice properly assess and evaluate one's temperament? Could temperament be used as an escape clause to allow the authorities to victimize and discriminate against persons whom they do not support or do not like? Again, I am pointing out to the Government that in legislation we cannot be subjective in that sense.

7.15 p.m.

I am saying to this Government that there is need for us to delete that because it is repeated throughout the legislation and we need to address that matter.

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

We go to clause 5 and it reads:

"(4) Notwithstanding subsections (2) and (3), the period of assignment of a Family Court Master to the Family Court, shall be subject to the discretion of the Chief Justice, having regard to all the circumstances."

Why is this provision in the legislation? Why are we burdening the Chief Justice with this particular burden? Why is the Chief Justice given that kind of authority and power to determine the tenure of the Family Court Master? It does not make sense. We do not believe that the Family Court Master should become the puppet or plaything of anyone and in this instance, it is the Chief Justice. Therefore, we want to have this particular clause redrafted in order not to give the Chief Justice that kind of authority. We believe that the Family Court Master should have tenure of office and his/her tenure of office should not be dependent on the discretion of any Chief Justice in the land. That is an area—we believe it is dangerous language in clause 5(4) and we believe it needs to be re-crafted and, of course, redrafted.

Now, when we go to clause 6, we see something in clause 6(1) that speaks to certificate for an attorney-at-law. What is that? There is nothing in the interpretation section of the Bill that speaks to that issue of a certificate for an attorney-at-law.

Sen. Seetahal SC: What clause is that?

Sen. W. Mark: That is clause 6(1), line 7. I do not know what it means, I am not a lawyer. This is not people-friendly legislation. This is legislation for lawyers! [*Laughter*] So, only lawyers could interpret this and the law is such today that it must be people-friendly. Any ordinary fifth standard student would be able to read and understand, but when you say a certificate for an attorney-at-law, who understands that? I am saying that we need to have some definitions so that we could understand it better. [*Interruption*]

The hon. Minister who used to be in the banking business probably knows about certificates. I do not know, but I believe that there is need—I am just dealing with the ordinary man out there and putting myself in his place. That is how I have to deal with legislation. I cannot deal with legislation for myself. I have to deal with legislation for the ordinary people in Trinidad and Tobago. I would like the Attorney General to take that point on board.

Again, we believe that when we look at the legislation, this again tells me that the hands of the private sector have once again invaded the Office of the Attorney General. [*Interruption*] I do not know, I am just saying that the language is not familiar. I am not familiar with the language. I know from the Chief Parliamentary Counsel experience they craft and they draft their legislation in a particular style. This is drifting away from the style that I have grown accustomed to from the Chief Parliamentary Counsel's office, and this is why it tells me that something is amiss. Something is amiss, that is all I am saying!

Sen. Dr. Saith: Maybe there is a new chief.

Sen. W. Mark: Yes, maybe there is a new chief, I do not know.

We go to clause 8(1), Part III of the Bill, we talked about what it shall include, a Family Court Social Services Division. We understand today that there is a severe shortage of probation officers in this country. So, where are these persons or officers to come from to actually staff the Family Court Social Services Division? We have not been told. Where are the mediation officers? How many mediation officers have been trained? Do we have sufficient? I am asking, I do not know.

Clause 8 reads:

> "(2) The Family Court Administration Department shall be staffed with an appropriate number of suitably qualified persons."

That is all it says. This is where I ask the question, is the Government attempting in this legislation to subvert the Public Service Commission and are we unwitting parties to that subversion of the Public Service Commission? Why could the Government not put in the legislation the following:

> "The Family Court Administration Department shall be staffed with such public officers as may be required."

Why we did not say that? Why did you put in your legislation to "be staffed with an appropriate number of suitably qualified persons?" Do you know what that means? It means that the Government, through, maybe the Attorney General's office, will be responsible for this legislation, will now have the power, as we noticed in the Bill that was passed recently—the Emergency Ambulance Services and Emergency Medical Personnel Bill—where the Minister has the power to appoint people. When you say "appoint", what do you mean? Appointment is employment.

We are dealing with a dangerous development here. We are giving Ministers—politicians—the power to employ people. That was never envisaged in the Constitution. It is either we amend the Constitution, repeal the Constitution, throw it out of the window but do not bring legislation to the Parliament to undermine and to subvert the Constitution of the Republic of Trinidad and Tobago. This is what clause 8(2) is about. It is about contracting out the jobs in the public service to their friends and their families and to the boys and the girls.

Sen. Narace: Mr. Vice-President, on a point of clarification, I think I duly explained in the Emergency Ambulance Bill what was meant by Minister—

Sen. W. Mark: I do not think—[*Inaudible and crosstalk*] Mr. Vice-President—

Mr. Vice-President: You gave way.

Sen. Narace: Thank you very much. All of this talk about the boys and the friends, he understands that the Minister takes a note to Cabinet and he understands how the process works, so please, let us not—

Sen. W. Mark: I am not dealing with the hon. Minister on a personal level. He will be here and he will be gone just now. He is just passing through, we know that. What we are concerned about is the future.

[MR. PRESIDENT *in the Chair*]

Therefore, all I am saying is that there must be transparency, there must be openness in these matters and we cannot as lawmakers be party to any attempt—I was explaining, Mr. President, under clause 8(2) of this legislation, there is an attempt by this administration to privatize and to farm out jobs through contracts rather than to allow people to be employed by the Public Service Commission.

You know the last report of the Public Service Commission in 2007 showed that the Government of Trinidad and Tobago had employed through contract, close to 3,750 people. That was at the end of 2007 and I have not seen their report for 2008 as yet. All I am saying is that we must be careful in this Parliament that we are not being used surreptitiously to undermine the Constitution of the Republic of Trinidad and Tobago and if the Government wishes to amend the Constitution by abolishing the Public Service Commission, let them bring legislation and abolish the Public Service Commission, but do not slip into legislation, measures that are designed to undermine the Public Service Commission. That is the point I am making and it is all part of the Government's policy to privatize the public service of Trinidad and Tobago.

We are saying that is not something that we would want to entertain at this time in the legislation, so we have an amendment that we are going to propose and I want to tell the Government the amendment that we are proposing. We are saying that:

> "The Family Court Administration Department shall be staffed with such public officers as may be required."

So, we are protecting the public service. We are here to protect and advance the public service of Trinidad and Tobago and not to dismantle it, undermine it or subvert it. We are here to protect public officers. [*Interruption*] No, we have been consistent. You remember I was former Minister of Public Administration and Information. [*Interruption*] No, I never subverted it! We never brought legislation like the kind that you have brought here. Never!

Mr. President, may I continue?

Sen. Browne: You may. [*Laughter*]

Sen. W. Mark: I go to clause 10 of the legislation and I want to follow up on what Sen. Dana Seetahal SC raised earlier. If for instance, we know that there are matters that would require, let us say, hearing in camera, we know that there are matters that the court could instruct not to be published because of the sensitive nature of the matter. But I do not believe that we can carte blanche, give for instance, legislative powers to a court to just not allow the public to be aware of all the proceedings at the level of the Family Court.

I think that is the point that Sen. Dana Seetahal SC was making, because from my perspective this seems to be infringing on press freedom, the right of the media to publish. Because what is happening here is that the court is issuing orders saying you cannot publish X and Y and I am saying, that could apply to some cases in the Family Court, but that cannot be applied or be applicable to all cases. If we go into all cases, I am suggesting that the Government is infringing on the rights of the citizens of the country and especially the media.

We go to clause 12 of the Bill; hear what it says:

"In any family matter or juvenile matter the Family Court may—

(a) appoint a guardian *ad litem* of the child; and

(b) make an Order requesting the Attorney General to assign a Children's Attorney as the attorney to safeguard the interest of the child and perform such other functions as the Family Court may think necessary."

This is where I raised the issue of the role of the Attorney General. The Attorney General is a politician. We must understand this! He is a politician first and foremost and he is committed to his party and to his Prime Minister. I have no problem with that! But when you come in legislation to give the Attorney General—a politician—the power to assign a children's attorney as the attorney to safeguard the interest of the child, we part ways.

7.30 p.m.

I do not believe that the Attorney General—and it is not him, Mr. President, may I make it clear. I am not concerned about the current Attorney General or a future Attorney General. I am not referring to this Attorney General. I am saying any Attorney General should not have that power to assign—[*Interruption*]

Sen. Jeremie SC: Would you give way, Senator?

Sen. W. Mark: You will be brief?

Sen. Jeremie SC: Yes. Sen. Mark, every single Attorney General this country has ever had, has had the power to assign counsel in respect of civil matters. That is the extent of my intervention.

Sen. W. Mark: But, Mr. President, this is not just to appoint counsel. This is not to appoint counsel.

Sen. Jeremie SC: Lawyers then. [*Laughter*]

Sen. W. Mark: Mr. President, I am suggesting that if there is any role for anyone here, it is for the Director of Public Prosecutions.

Sen. Jeremie SC: In a civil matter.

Sen. W. Mark: It is not for a politician. Even if you do not want the DPP to be there because he deals with criminal proceedings—because right now we do not have a Solicitor General for the last how many years and that is another matter I will deal with at the appropriate time—I do not believe that the Attorney General should be given that responsibility. I believe that should be given either to the Judicial and Legal Service Commission, so that the independence of that body and the process could be retained.

As I said, I am not dealing with the current Attorney General. I am dealing with, for instance, the rights of people, and therefore, what you will have taking place here is that the Attorney General will have to follow the guideline as established in this legislation and the guideline is saying among other things, training, experience and temperament. So this is an escape clause to select who

you wish, who you want and who you like and I am saying, that should not be in the hands of the Attorney General. We want to propose that be in the hands of the Judicial and Legal Service Commission under the control of the Chief Justice, and there is a team of people who we believe will have more independence and more balance in assigning these children's attorneys. I am sure they are going to be trained in that regard. Therefore, we do not believe that the Attorney General should have this power as we said.

Mr. President, we go to clause 15 of the Bill. I want to go through this very slowly because this is the part that is very worrying and violates the Constitution of the Republic of Trinidad and Tobago—not what the Attorney General spoke to earlier.

Clause 15(1) reads as follows:

> "Any person who refuses or fails, without sufficient cause to attend at the time and place mentioned in a summons served on him by the Family Court…"

This is a Family Court; this is a court that is saying that it is not imposing any jail sentences on people. But I will tell you what they are imposing: money, fines. They are saying any person and any person who attends… Let me continue:

> "Any person who refuses or fails, without sufficient cause to attend at the time and place mentioned in a summons served on him by the Family Court…"

So you refuse, you fail to come.

> "and any person who attends…"

So you are served and you attend. But when you attend, they say if you leave the Family Court without the permission of "Massa", "Massa" must tell you when to leave—[*Interruption*]

Sen. Jeremie SC: Who is "Massa"?

Sen. W. Mark: Well, I do not know who is the "Massa" here. The "Massa" seems to be the Family Court Master.

Sen. Jeremie SC: The judge will—[*Inaudible*]

Sen. W. Mark: Well, whoever. Mr. President, whoever the judge is.

> "but leaves the Family Court without the permission of the Family Court Master commits an offence and is liable on summary conviction to a fine of ten thousand dollars."

Mr. President, I do not know if the Attorney General has read this provision carefully.

Sen. Jeremie SC: Of course.

Sen. W. Mark: But how can you tell a citizen whose constitutional—let me just read the Constitution for you:

> "…and anyone who infringes on sections 4 and 5 of this Constitution in legislative form requires a three-fifths majority."

Hear what this legislation is doing to me as a citizen of this country. I now have the freedom to walk in and go out, nobody could stop me. They are now restricting me through this legislation. This is what this is doing.

Mr. President: Hon. Senators, the speaking time of the hon. Senator 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. W. Mark: Thank you very much. Under section 4(g) of the Constitution as I read it here, there is something called freedom of movement.

Sen. Jeremie SC: In a court.

Sen. W. Mark: I am saying freedom of movement. You are now imposing that on me. You are saying that I must seek and be granted permission in order to leave by a judge. I am saying that if the judge is saying I cannot leave without his permission and I decide to leave, you are going to fine me $10,000? No, no, no, no, no!

Mr. President, I would need clarification on this matter because I believe this is breaching my freedom of movement, and I am saying to the Attorney General—[*Interruption*]

Sen. Jeremie SC: [*Inaudible*]

Sen. W. Mark: I do not know why you are getting a bit warm under the collar. I am raising a very important constitutional point. You will take note and at the appropriate time, you will respond. So if you are restricting the citizens' movement, my argument is that you are violating my right as a citizen.

Sen. Jeremie SC: You do not know law.

Sen. W. Mark: You do not have to be a lawyer to understand your rights, you know.

Sen. Dr. Gopaul-McNicol: That is right.

Sen. W. Mark: Mr. President, we go on to subclause (2):

"Any person who refuses without sufficient cause to answer to or to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Family Court Master commits an offence and is liable on summary conviction to a fine of ten thousand dollars."

Mr. President, you have a right to be silent. You have a right not to be incriminated and I want to quote the Constitution for the hon. Attorney General here. You cannot bring legislation here to infringe people's rights and make it into a joke. Let me tell you what section 5(1), page 17 of the Constitution says:

"Without prejudice…but subject to this Chapter and to section 54, Parliament may not—

(d) authorize a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination and, where necessary to ensure such protection, the right to legal representation;" [*Desk thumping*]

Mr. President, what the Government is doing in this legislation, is saying that if I go to the court and they ask me a question and I refuse to answer, where I am entitled not to answer the question because I could be self-incriminating myself—and the Constitution prohibits Parliament to make any law that is going to violate this particular provision of the Constitution—you are telling me that I must answer and if I do not answer, I commit an offence and am liable on summary conviction to a fine of $10,000. How can you bring legislation like that and expect us to support it in its current form? Bring a certificate. Attach a certificate and say you need three-fifths majority and then we could talk.

Anyway, Mr. President, I am just indicating the law. I am looking at the Constitution and if the Attorney General is of the view that everything is hunky-dory and there is no problem, that is his business.

Sen. Jeremie SC: [*Inaudible*]

Sen. W. Mark: Mr. President, let me continue, please. Clause 15(3) says:

"Any persons who refuses or fails without sufficient cause to produce any books, plans—" [*Interruption*]

Sen. Dr. Saith: Jobs.

Sen. W. Mark: Yes, I am telling you that, plans without reasonable cause.

> "or documents in his possession, or under his control and mentioned or referred in the summons served on him commits an offence and is liable on summary conviction to a fine of ten thousand dollars."

So, Mr. President, there is something called property. My documents, my books, my plans in my possession constitute my property, and I have a right under the law, to the protection of the law and to the enjoyment of property under section 4(a). So we are arguing here that some of these provisions that are contained in the legislation violate the rights of ordinary citizens. This is a situation in which the ordinary individual would go to court and the ordinary person who goes to court could be subject to this kind of punitive measure and I am saying to the Government, you need to take these things on board because you can really terrorize people on this particular front.

It goes on in subclause (4) to say:

> "Any person who at any sitting of the Family Court wilfully insults any Family Court Master or wilfully interrupts the proceedings of the Family Court commits an offence and is liable…"

I do not know why they say "wilfully insults". What is that? What does that mean in legislation? But you can be fined $10,000 on this matter.

So, we are saying that there are some provisions in the legislation that require strengthening and redrafting. That is what we have advanced. We believe this particular clause 15, subclauses (1), (2), (3) and (4), inelegant language. It is clumsy legal drafting and I do not believe that legislation in the form that we have in clause 15—[*Interruption*]

Sen. Jeremie SC: Senator, would give way?

Sen. W. Mark: Just now. Mr. President, clause 15. I am saying that the language and how it is couched, tells me that the private sector person who might have drafted this, needs to understand language and grammar. I am saying we need to re-craft, redraft, revise this clause that we are dealing with—that is clause 15 and I am dealing with all the subclauses.

Sen. Jeremie SC: I will be short. Thank you. Senator, I used to have a friend, Morris Marshall, who died some years ago and the only way he could describe it when people refused to hear him was by saying that, "stick break in their ear". Now, the point is, I have checked with my parliamentary counsel and they have said to me, "AG, there is a file here. This matter was handled entirely in-house." Okay? So I am just saying that for the ultimate time and I need to defend my staff.

7.45 p.m.

Sen. W. Mark: Mr. President, if the Attorney General is saying that the matter is being handled completely by his office, I withdraw. I made it very clear; I do not believe that the Office of the Chief Parliamentary Counsel could have drafted this. If he is now putting on record that it came from their office, Sir, and I am of the view that it is private sector driven, I withdraw my statement. No insult was intended to my colleagues. As a former Minister of Public Administration, I always defended, and I still, Sir, defend, public officers. I will defend them against you as well, because I know you have them under attack.

I know all of them who are sitting there; they worked under me as well, Mr. Attorney General. You are just borrowing them temporarily until I return. [*Laughter*] [*Desk thumping*] I know all of them; so to tell me look at them there, I know all of them. I know them, Mr. President, so they are no strangers.

I know that my time is coming to a close. I just want to indicate to the hon. Attorney General that in principle we were the drivers behind this process in 2001. The hon. Attorney General reminded us that it started in 1979. He also indicated to us that the first piece of legislation introduced was done in 1986 by Russell Martineau, but from 1985 or 1986 it was done by the Chambers' administration, but since then we have only had promises.

We actually brought legislation in December 2001, but it lapsed. So, in essence, we are in support, in principle, of the Family Court. We cannot be against the Family Court, because we have always supported it. I have told the hon. Attorney General that there were some deficiencies and inadequacies in the legislation and we would want to have this referred to a special select committee or, if Sen. Dr. Saith so wishes, we go to the open floor and try to tighten the legislation. At the end of the day, you want the legislation to work in the interest of the people. That is what we want. We do not want the rights of the people, in any way, to be infringed or breached or undermined.

So wherever there are areas that are grey, let us bring sunshine into the legislation. [*Laughter*] Let us ensure, at the end of the day, we have legislation that is people-friendly, that is workable, that can bring justice to families that would enter the court. At the end of the day, all of us, as lawmakers, would be happy that we have good legislation which can work and bring happiness and joy to families who are in dispute, and they can go to the various divisions of the court that deal with family matters and can get justice, equity and fair play.

I thank you.

Sen. Gail Merhair: Mr. President, I thank you for the opportunity to speak. I rise in support of the legislation before us, the Family Court Bill.

Before I begin my contribution, let me refer to something that Sen. Mark had been saying throughout his contribution. I can assure you, Sen. Mark, that I am a very thick-skinned person and very rarely people say things that could probably get under my skin.

My colleague, Sen. Mark, is quite an eloquent speaker. He has, in fact, coined very many phrases that have amused me from time to time, but in so doing today, the phrase "private sector driven" and "the hand of the private sector" seemed to imply that there was something wrong with things that came out of the private sector. [*Desk thumping*] I would like to put on record, hon. Senator, that persons who sit in this honourable Chamber, as well as in the other place, quite a number of very dedicated and committed ladies and gentlemen have, in fact, come from the private sector. [*Interruption*]

Sen. Mark: Mr. President, I just wanted to tell my hon. colleague, that when I raised the issue of private sector driven, I was just advancing the point. It is not to say that we have a problem with the private sector draftsmen. [*Laughter*] No, no; I want to elaborate on it. I do not want her to go away with the impression that we are opposed to the private sector. All I was advancing was that if the private sector was involved in the drafting of legislation, and the hon. Attorney General has admitted that something was taking place in the office, that he was going to address shortly, it is either we are told openly that it is being done or we are not told.

All I am saying, hon. Sen. Merhair, is that we have no problem with the private sector. We believe the private sector plays a critical role in the development of Trinidad and Tobago, [*Laughter*] so we have no problem with the private sector.

Sen. G. Merhair: Mr. President, I thank Sen. Mark for trying to clear up that misconception, but please bear in mind that these honourable debates are televised. I hasten to think what some of the general public might think about the private sector with such comments being made. Be that as it may, Sen. Mark, thank you very much for clarifying that point for me.

Let me begin by admitting, like everyone else, that this piece of legislation has been long in coming. I am not too proud though that it took so long to come before us. Today, seeing that places like Australia passed their Family Court Bill in 1975, India in 1984, and the fact that the United Kingdom has made significant

strides with their bill, even up to last year, providing rules and regulations in the protection of our children and coming up with a more transparent approach in the protection of our children, we in Trinidad and Tobago are at our threshold in our legislative process. It is with this aim that we seek to achieve maximum protection to one of the most vulnerable groups in our society, that is our children.

I was privileged in 2005, together with other private sector groups, to visit and tour the Family Court facilities. It was, in fact, an initiative of former Chief Justice Michael de la Bastide, and it was pioneered by former Chief Justice Satnarine Sharma. Let me tell this honourable House how pleased and impressed I was at the level of organization of the Family Court at the pilot stage.

It is my only wish that, perhaps, some of the members who sit in this honourable House would be able to tour the facilities and experience first-hand, not only the ambience, but the setting, the level of service and the commitment of those individuals, as we were privileged enough to walk through that facility.

In 2005 when I was invited with other Members to go to that facility, it was a low point in Trinidad and Tobago, where kidnappings and crime was at an all-time high. A lot of us felt that there was nowhere else to turn, that the Government was not doing anything and there was no hope. I must add that visit to the Family Court said that there was a light at the end of the tunnel and something was happening and it was, in fact, right.

I would like to place on record the nation's highest and sincerest appreciation for the former Chief Justice and the members of the court of that committee who saw it fit, at that point in time, to pilot and put in place the Family Court, for the outstanding job they did in pilotting the programme at the court which sits on Cipriani Boulevard in Port of Spain.

At the conclusion of my tour at the Family Court facilities I was very impressed with the fact that when you walked into the room there was modern technology. It was a conference type facility, a boardroom, very nice chairs; it was not an adversarial type situation. It meant that the judge, as well as all members there, had the facility of a laptop. They had photocopying facilities; they had the Internet, fax machines and all the necessary gadgets. There was not going to be anything that would take place to say that this matter had to be adjourned or put off, because they needed a photocopy of a document. Nothing like that happened at that point in time. The concept meant a dedicated building, which meant that persons felt less intimidated. It was designed to provide a more friendly and soothing atmosphere for the handling of family disputes.

On the floor above, I think it was the third floor, there were social services and mediation services. The building, which was rather amazing, accommodated children and a nursery where the children could have been left when a matter was being adjudicated in the court. That meant that children were not and did not get involved in the dispute between parents. They were placed in a very nice area and they were well taken care of. They did not have to attend court with their parents or guardian, which I think is remarkable. They did not get involved in divorce proceedings.

The fact that it was held in the conference type setting, meant that the environment did not bring out the worst in people; it meant that they were discussing and not arguing, and not trying to get into all sorts of financial issues. It meant that you are getting a divorce, you have to split certain things up, you have to see about the children, but it did not mean that anybody was going to be fighting or quarrelling or anything like that.

Another variable that I felt was very important in the Family Court was the fact that there was a family law library. What I think a lot of people do not know is that the library is outfitted, not with all the latest books, but with all the latest—what was placed in there was well protected. I think there was some technological device with which they were treating all the documents and papers with a certain type of solution to ensure that they were kept in a vault, in a protected environment, and they would not fade or become not useful with the passage of time. I think that was quite admirable.

The mediators and social workers were on full-time staff. There was also live audio digital recording and the introduction of the Gems Case Management Information Software. Mr. President, again, at that point, I realized that our nation had come such a long way in the administration and dispensation of justice, if only it was at the Family Court.

I would like to add, hon. Attorney General, just like Sen. Prof. Deosaran, that if this works well, there is no need why we cannot see it in other sections of the Judiciary, where we attempt to make sure that justice is not only swift, but fair.

In short, I was impressed with the Family Court Committee that was able to achieve such high levels of excellence and innovation in the local Judiciary. The fact that they were able to create a Mediation Committee and a Monitoring Committee, which both function as subcommittees, speaks volumes for the attempt to get it right the first time.

In reviewing this piece of legislation, a couple of things come to mind. If we are to model our system along the Australian type system, they, in fact, have a Family Law Council which is composed along the lines of the Family Court Committee. I am not certain and, perhaps, the hon. Attorney General could guide me, if it is the intention of the Government to put the Children's Authority in there or if they are going to leave it out in terms of what duties and functions they are going to perform; if it is a whole piece of legislation or if we would somewhere get to the Family Law Council.

In some cases, there are not only going to be children that people are going to be disputing; they may be also disputing pets. I know it is a long stretch of the imagination, but in Trinidad and Tobago we always follow the American type, the Canadian type and the UK type system, so sooner or later we will be disputing things, other possessions that are not children, so we may want to take that into consideration.

We would like to make the recommendation, Attorney General, in terms of the Family Court Bill and other legislation related to family matters, that all those pieces of legislation would come into play. Would there be a working of legal aid in terms of the Family Court? That is something that we should consider.

Secondly, I would wish the Government to consider, in the not too distant future, a new form of a less adversarial trial, as implemented under Division 1(a) of Part V of the Australian Family Law Act. Under this Act, the new model introduces that no affidavits are filed before the trial and that parents only complete a questionnaire. The judge, rather than the parties or their lawyers, decide how the trial is conducted. The judges themselves control the cases and keep everyone concentrated on the matters and disagreements about the children's best interest.

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Parents and guardians also speak directly to the judge and not through their attorneys, and the judge identifies the issues to be decided and the evidence is heard, and finally, the judge is assisted by the evidence from a family consultant and I think it goes in line with what some of my other colleagues were saying where you take information from family counsellors and not only the lawyers who are representing the families to get a holistic view of what the family is all about before giving children to certain guardians.

The legislation, I think, is moving the Judiciary in the right direction in terms of dealing with the family matters and the fact that the court has its own dedicated buildings allowed for the easing of tension for the period in which the individual's

life is already filled with stress and divorce and these type of matters are already stressful and traumatic environments. And I think we need to have more family courts.

Divorce, as Sen. Prof. Deosaran indicated where we have 50 per cent of children within our schools from single parent homes, it obviously means that for the majority of children, their parents have to go through that type of process where they either get divorced or go to court to decide who has custody of the child and it means that you do not need people going into a High Court situation or magisterial court situation with other criminal elements. You need to bring them in a civil society and I think it will speak volumes if we are to move forward as a society and really and truly impress upon the minds of people, as Sen. Dr. Kernahan indicated, that many people come from different parts of Trinidad and Tobago and some from the more vulnerable parts. It does not mean that we should treat them any less. This court is for everybody, no matter colour, creed or race and it stands with our National Anthem that this court is for everyone, and not because somebody comes from a different part of Trinidad and Tobago it means that they should be treated—

If we treat people with respect, they will respect others and with that, Mr. President, I congratulate the Government on this Bill and I thank you for the opportunity.

ADJOURNMENT

The Minister in the Office of the Prime Minister (Sen. The Hon. Dr. Lenny Saith): Mr. President, I beg to move that the Senate be now adjourned to Tuesday, July 07 at 1.30 p.m. at which time we will do the Motion on Land Acquisition and a Bill to amend the Metrology Act, 2004.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.03 p.m.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Gail Merhair:

Embassy of the Republic of Trinidad and Tobago
(List of Items)

135. Could the Minister of Foreign Affairs provide the Senate with a list of the items bought and disposed of by the Embassy of the Republic of Trinidad and Tobago in Geneva during the period 2007/2008?

The following reply was circulated to Members of the Senate:

The Minister of Foreign Affairs (Hon. Paula Gopee-Scoon): The list of items purchased by the Embassy of the Republic of Trinidad and Tobago in Geneva for the period 2007/2008 is as follows:

Items bought during the period, 2007/2008 are listed below:

Item
4 Standing Lamps
2 Calculators
1 Shredder
1 Dishwasher
1 Coffee Maker
1 Coat Rack
1 Executive Chair
1 Visitor Chair
2 Beds (complete)
1 Wardrobe
1 Vacuum Cleaner
1 Microwave Oven
1 Ironing Board
1 Iron
1 Kettle

Item
1 IBM Desk Top
5 Portable Air Condition Units
1 Book Case
4 Lamps
1 Desk
1 Chair
1 Coffee Table
1 3 pcs Living Room Set
1 7 pcs Dining Room Set
1 Side Board
1 Table Lamp
2 Freezers
1 STHIL Blower

Items disposed of during the same period, 2007/2008 are listed below:

Item
1 Novamatic Refrigerator
2 Standing Lamps
1 Double Decker Bed
1 Student's Desk and Shelf
1 Chest of Drawers
2 Mattresses