

SENATE

Tuesday, March 03, 2015

The Senate met at 10.30 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]



APPOINTMENTS TO COMMITTEES

Madam President: Hon. Senators, in accordance with Standing Order 64 of the Senate, I wish to announce the following appointments to the respective committees:

Standing Orders Committee

Mrs. Raziah Ahmed, in lieu of Mr. Timothy Hamel-Smith and Mr. Garvin Nicholas, in lieu of Mr. Anand Ramlogan SC.

Committee of Privileges

Mrs. Raziah Ahmed, in lieu of Mr. Timothy Hamel-Smith.

Statutory Instruments Committee

Mrs. Raziah Ahmed, in lieu of Mr. Timothy Hamel-Smith as Chairman, Mr. Brent Sancho, in lieu of Mr. Emmanuel George, and Mrs. Christine Newallo-Hosein.

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Accreditation Council of Trinidad and Tobago for the year

2. ended September 30, 2007. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
3. 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 year ended September 30, 2008. [*Sen. The Hon. L. Howai*]

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, we are in a position to answer questions 33, 34, 64, 36 and ask for deferral of questions 35 and 37 for one week. Question 37, Madam President, there seems to be a bit of a divergence as to which Ministry and it is really the Ministry of Tourism that ought to be in the body of the question.

The following questions stood on the Order Paper in the name of Sen. Camille Robinson-Regis:

Ministry of Energy and Energy Affairs (Cost of Advertisements and Public Relations Campaigns)

35. Could the hon. Minister of Energy and Energy Affairs provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Energy and Energy Affairs in the Media for the period January 2011 to November 2014?

Ministry of Trade, Industry, Investment and Communications

(Cost of Advertisements and Public Relations Campaigns)

- 37.** Could the hon. Minister of Tourism provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Trade, Industry, Investment and Communications in the Media for the period January 2011 to November 2014?

Questions, by leave, deferred.

**Ministry of Tertiary Education and Skills Training
(Cost of Advertisements and Public Relations Campaign)**

- 33. Sen. Camille Robinson-Regis** asked the hon. Minister of Tertiary Education and Skills Training to provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Tertiary Education and Skills Training in the Media for the period January 2011 to November 2014?

The Minister of Tertiary Education and Skills Training (Sen. The Hon. Fazal Karim): Thank you very much, Madam President. For the period January 2011 to November 2014, the Ministry of Tertiary Education and Skills Training spent a total of \$1,829,860 on advertisements and public relations under Sub-head Goods and Services, 02; Item General Administration 001 and Sub-item, Promotions Publicity and Printing, 62.

Madam President, between January 01, 2011 and September 30,

2011, the total was \$695,368. For the fiscal period 2011 to 2012, it amounted to \$229,791. For fiscal 2012/2013, the figure was \$456,970. For fiscal 2013/2014, the figure was \$438,554. For the period between October 01, 2014 and November 30, 2014, the amount spent on advertising and public relations by the Ministry of Tertiary Education and Skills Training amounted to \$9,177.

Madam President, you will recall that the period under review is a four-year period and I wish to state that when one compares the equivalent four-year period preceding this administration, that is the former administration, a total of \$10,549,303.49 was spent and in fact you would recognize the period 2006/2007, in that year alone \$8.1 million was spent.

Madam President, I am pleased to present this information and to tell you that this compares in no way close to what was spent before in excess of \$10 million for the equivalent of the four-year period of which I am presenting. Thank you very much, Madam President.

Sen. Robinson-Regis: Supplemental please, Madam. I do not know if the Minister is examining the same documents that I have, which are the documents which were presented in the budget. Contrary to what the Minister said and I would like to find out if the Minister has an explanation for these figures, the actual in 2012 was \$507,049. The Minister quoted \$229,791. The actual in 2013 was \$609,157.

The Minister quoted \$456,970. In 2014, the Minister said it was \$438,554. The figure is \$1,166,000. Does the Minister have an explanation for this discrepancy? What I am reading is from the budget that was presented as the figures for Trinidad and Tobago.
[Desk thumping]

Sen. The Hon. F. Karim: Madam President, even from the previous occasion, on every response that was given from this side, there seems to be some idea of discrepancy being presented from my colleague on the other side. I wish to state categorically that these are the figures that I have received from the Permanent Secretary of the Ministry of Tertiary Education and Skills Training. And if there is any divergence between these figures and the hon. Senator would like me to review this, I will be happy to do so and to report subsequently. These are the figures that I have been given and which I present to this honourable Senate. Thank you very much.

Sen. Robinson-Regis: Madam President, the question is not whether I would like the Minister to review. The question is: what is the truth? Madam President, what I have here are the figures that came from the budget documents. Would the Minister have an explanation for the difference?

Sen. The Hon. F. Karim: Madam President, I wish to state once more that these are the figures. The question asked for the amount of moneys that have been spent on advertisement and public relations. These are the figures I have quoted from the relevant Subheads of the Ministry's accounts and this is what I am presenting as the relevant, factual and truthful information supplied to me as Minister of Tertiary Education and Skills Training.

Sen. Robinson-Regis: No, I do not have a new question. I am just concerned because the budget document states one figure and the Minister is giving another. I did get an undertaking from the Minister of Finance and the Economy that an examination would be made and, perhaps, I can await that. So I will go on to the next question. Yes, go right ahead.

Sen. The Hon. G. Singh: Madam President, I just wish to advise this honourable Senate that I have been advised by the Minister of Trade, Industry, Investment and Communications that he requires one more week, a deferral of question 36.

The following question stood on the Order Paper in the name of Sen. Camille Robinson-Regis:

**Ministry of Trade, Industry, Investment and Communications
(Cost of Advertisements and Public Relations Campaigns)**

- 36.** Could the hon. Minister of Trade, Industry, Investment and Communications provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Trade, Industry, Investment and Communications?

Question, by leave, deferred.

**Ministry of Planning and Sustainable Development
(Cost of Advertisements and Public Relations Campaign)**

- 34. Sen. Camille Robinson-Regis** asked the hon. Minister of Planning and Sustainable Development to provide the Senate with the cost of advertisements and public relations campaigns conducted by the Ministry of Planning and Sustainable Development in the Media for the period January 2011 to November 2014?

The Minister of Planning and Sustainable Development (Sen. The Hon. Dr. Bhoendradatt Tewarie): Thank you very much, Madam President. The Ministry of Planning and Sustainable Development has responsibility for the following areas: national framework for sustainable development; economic management; planning, coordinating, monitoring; priority setting and developing the nation's five growth poles; coordinating and monitoring strategic plans; national human development; the national innovation system; national manpower planning; population; national statistics; town and country

planning and urban development; technical co-operation (projects and programmes); and the Public Sector Investment Programme.

To facilitate the conduct of its operations, the Ministry is organized into functional/technical divisions which target the specific areas of its portfolio, namely: Town and Country Planning Division; Socio-economic Policy Planning Division; Central Statistical Office; National Transformation Unit; Technical Cooperation Unit; Project Planning and Reconstruction Division; and European Development Fund Unit, with supporting units being the Legal Services Division, Communications Unit, Human Resources Division, Accounts and Audit Division. At any given time, these units are engaged in the planning or implementation of projects or programmes leading to the achievement of goals related to the responsibilities previously mentioned.

Periodically, it is necessary for the Ministry to issue public notices in the form of advertisements (print and electronic) and inform the citizens of Trinidad and Tobago of efforts undertaken by the Ministry to improve their standard of life and quality of living and delivery of goods and services to the people of the nation.

Provisions for advertising and public relations are made in this Ministry under Vote 67/02/001/62—Promotions, Publicity and Printing. Within this vote, spending is split into three main categories,

namely:

1. Public relations and advertising aimed at developing public awareness, information and knowledge.
2. Public notices which inform the public of closing hours in special cases, uncollected/uncashed cheques lists, relocation notices.
3. Job vacancies, invitations to tender and the like, which we are mandated to place in the press for global and national attention.

Provision for information sharing is also made within the PSIP as part of Vote 67/09/05/06/A046—Media Relations, which in the previous year was coded as 67/09/005/06/A055—Communication Strategy.

The costs requested by the hon. Member are as follows for Vote No. 67/02/001/62—Promotions, Publicity and Printing; Job vacancy advertisements: \$63,479.43; PR and advertisements: \$93,974.44; Public notices: \$54,392.84, making for a total of \$211,846.71 for the period January 2011 to September 2012.

10.45a.m.

For October 2012 to September 2013, job vacancy advertisement, \$208,900; PR and advertisements, \$195,875; public notices, \$74,125, making for a total of \$478,900 for October 2012 to September 2013.

For the period October 2013 to November 2014, job vacancy ads, \$179,090.20; PR and advertisement, \$308,096.50; public notices, \$24,424; making for a total of \$511,610.70 for the period October 2013 to November 2014. The total for the period January 2011 to November 2014, when added up, is \$1,202,357.41.

Under the PSIP vote, the breakdown is as follows: for 2012—2013, \$1,256,230.65; and for 2013—2014, \$1,293,074.71; the total for the two-year period being \$2,549,305.36. Specifics regarding the PSIP votes, these votes were used to provide public information regarding the major projects undertaken by various units of this Ministry.

In addition, some international exposure regarding projects of potential investment in all sectors was sought using these votes. A breakdown is as follows: advertising and public information related to the National Spatial Development Strategy, including national consultations and development, this involved development and placement of reading materials, publications, electronic and print materials, and advertisements inviting members of the public to the consultations conducted in Trinidad and in Tobago, with members of the general public as well as private sector and the Government sector. The total cost there is \$611,380.65.

Publication in the *UK Guardian* newspaper, highlighting

Trinidad and Tobago's potential as an area of investments in key sectors such as finance, tourism, energy, agriculture, ICT and maritime services, that is to say, the diversification areas, \$225,000.

Publication, *Vision & Action (Making Sustainable Development Happen)*, focus on providing information to the public and key developmental programmes aimed at making their lives better, published in all three daily newspapers, \$374,000.

Information essential for public knowledge and information placed in the local daily papers, highlighting services and products for their benefits, \$45,850.

Quarterly publication for public information, regarding diversification and growth, aimed at bringing the issues related to diversification, economic and social development to the mind of the public; the cost covers development, printing and placement in daily newspapers, \$227,800.

International marketing of Trinidad and Tobago via the 2013 Commonwealth Heads of Government, CHOGM official publications, \$189,286.20.

Second quarterly publication placed as a supplement, *Diversification Becoming a Reality*, in all three newspapers, \$335,070.18.

Expenditure for Radio Tambrin in Tobago is related to a

national information drive, pertaining to the 2013 annual report on performance, \$2,070.

Third quarterly publication, *Working For and With All Our People*, \$218,764.43; fourth quarterly publication, *Countdown to Americas Competitiveness Forum*, \$320,083.90. The total of expenditure for these, under the PSIP, would have been approximately \$2.5 million.

Sen. Robinson-Regis: Supplemental please, Madam President. Minister, could you give me the grand total for the entire period?

Sen. The Hon. Dr. B. Tewarie: Well, I do not have it added up here, but roughly, it is about three—just one second—I think it is just over \$3million. It is \$1,202,357.41 plus \$2,549,305.36; that will be the total, yes.

Sen. Robinson-Regis: Minister, again, the total that we are getting from the documents is \$5,682,963, and that would include the actual, because the documents would be the actual figures spent, unless—I am really very concerned about the information. I mean, even recently Minister, you published a 20-page pull-out. I do not know how much this cost, but the figure that we have is \$5,682,963, and your figure is \$3,751,662.77, and this is very disconcerting that the figures in the budget, and the figures that you are giving to the Parliament, like your other colleagues, are totally different.

Sen. The Hon. Dr. B. Tewarie: Well, these are the figures—
[*Interruption*]

Sen. Robinson-Regis: Sorry, could I point out that it is the same Head 67 that you quoted, and these are the actual figures from the budget.

Sen. Howai: Madam President, if I may just be allowed to perhaps try and see if I could put an explanation which we will provide more details subsequently, which I have already asked the Permanent Secretary to put together for me.

At the time when budget was done, which would be somewhere around—we would have read the budget around September 09th, last year—the figures in the estimates of expenditure would have been prepared as early as August and, therefore, what would have been done is that they would have used the actual, up to perhaps about June, and then used what the budgeted numbers would have been projected to be for the remainder of the year, and added that up to come up with an estimate of what the figures would have been for last year, which, therefore, would be different to the numbers that you would get when the Appropriation Bill is passed, and when the accounts are closed in January. So there will be a bit of an estimate, based on the fact that the estimates of expenditure are done prior to the end of the year, and several months before the end of the year.

I recognize the point that the hon. Member has made and, therefore, I have asked the Permanent Secretary to go through and reconcile the figures for me, and I undertake to come back to this honourable House with an explanation on that, so that we could explain it properly, not just for the House, but for the nation as a whole. [*Desk thumping*]

Sen. Robinson-Regis: Thank you very much for that intervention, Minister of Finance and the Economy, but the concern we on this side have is that, even if what you are saying, and I understand what you are saying about the time, but then the actual, given that it is a little earlier than even what the Minister may have, should perhaps be less than the figures we have here. Because the actual, you know, for the period, because if you stopped in August, and they are stopping in, let us say October, they may have spent for three months. So it is really—as I repeat, Madam President, it is disconcerting that the figures do not seem to match, especially as these are the figures that, as a nation, we are using for the public's benefit.

Sen. Howai: Sorry, Member. If I may, just to say though, it would be 12 months. In other words, if we stop in June, that would be actual to June, and then we will take the budget for July, August and September, and add it to the June figure, [*Interruption*] yeah, so you would have—[*Interruption*]

Sen. Lambert: You do not understand this.

Sen. Howai:—so it will be for 12, but I will get the explanation and provide it.

Sen. Robinson-Regis: Sorry, sorry. Madam President, I did not want to repeat this, and I said this at the last occasion. Having served as Minister of Planning, I quite understand how a budget is done, Sen. Lambert and Sen. Coudray. All I am saying, very apparently, I understand how you do a budget, and that is why I am concerned about the difference between the two figures, [*Desk thumping*] because there are figures that are being presented to the national community as the budget figures—actual—and there are figures that are now being presented by the Ministers which do not match, and that is the concern. Having served as a Minister of Planning, I know how you do a budget.

Thank you very much. [*Desk thumping*]

Sen. Al-Rawi: May I ask the Minister just one supplemental question in this regard, perhaps both to the Minister of Finance and the Economy and to the Minister of Planning and Sustainable Development?

Sen. G. Singh: The Minister of Finance and the Economy has no question to answer.

Sen. Al-Rawi: Well, the Minister of Finance and the Economy has

volunteered as he is entitled to, to assist the Parliament as any Member can.

Hon. Minister, I read from—could you please explain, there being as you have put it, the actual figures coming in after date. The actual figure for 2013 as put to us by the hon. of Planning and Sustainable Development is \$1,202,357.41. The budget describes the actual figure for 2013—no question in mind here—as \$1,652,043. So, is the hon. Minister of Finance and the Economy telling us that the actual statement of the budget of Trinidad and Tobago, on which we debated the financial situation of this country, that these figures are wrong, because new figures have come in? And if so, hon. Minister, are you saying that we would need to have revised figures as a matter of urgency?—because we are not talking about 2014; we are talking about 2013, which is closed off conclusively in the books of Trinidad and Tobago, and this is a very serious situation, when one has regard to the fact that the estimated figure for 2015 is \$5,220,000. [*Crosstalk*] So hon. Minister, are you saying that the figures are wrong in the budget for 2013? [*Crosstalk*]

Sen. Howai: I just, if I may, well, it is just to say that the figures that we would have had in the estimates, I have to confirm whether, in fact, those were the brought-forward figures from the previous year.

Sen. Al-Rawi: It says actual.

Sen. Howai: Yeah, it says actual, but whether they were the brought-forward figures from the previous year's estimates that were simply repeated in 2014.

Sen. Al-Rawi: What does that mean, hon. Minister?

Sen. Robinson-Regis: You were wrong.

Sen. Howai: So, in other words, you would have had a figure in 2013 which would have been the estimate figures for 2013, because it was done prior to the end of the fiscal year. That estimate figure was brought forward into 2014 as the 2013 figure, so that there is consistency between the two books, right? But the number that would have been used in the closing of the accounts would have been the actual expenditure that would have been spent during the course of the year.

So that would be the two discrepancies, but as I said, what I will do is—I have already asked the PS to do the detailed reconciliation so that we could explain it properly to the House. Normally, when we do the estimates from expenditure—and that is why we come back and do the Appropriation Bill subsequently—is that we know when we do the budget, the figures are just estimates of where we think we will end up, and the Appropriation Bill is where the actual numbers are put forward for the information of the public at large.

Sen. Al-Rawi: Further supplemental. Hon. Minister—[*Interruption*]

Madam President: Hon. Senator—[*Interruption*]

Sen. Al-Rawi: Is there a point of order? I did not hear one.

Madam President: Please, take your seat.

Sen. Al-Rawi: On what basis, hon. President? [*Crosstalk*]

Sen. Maharaj: Standing Order 16.

Sen. Al-Rawi: I now hear Standing Order. You must say it quickly.

Sen. Maharaj: “Well, ge\ih meh ah chance, because yuh was talking too much.” [*Laughter*]

Madam President: Hon. Senators, I understand how excited you are to see me in this Chair today, but I do want to draw your attention to the original question No. 34, which speaks specifically to the cost of advertisements and public relations, and to advise that you may bring a new question on the new matter that you are now investigating, which is matters of the construction of the budget.

11.00 a.m.

Sen. Al-Rawi: Thank you, Madam President. May I just for clarification understand: have you ruled on Standing Order 16, Madam President? Just for clarification.

Madam President: Hon. Senator, prior to acknowledging either Senator, I indicated that we refer back to question 34, neither did I acknowledge the hon. Sen. Maharaj nor did I acknowledge you, I

simply asked that you take your seats so that I could speak to the question which is question 34. We would now proceed to question No. 64. Sen. Dr. Lester Henry.

Sen. Al-Rawi: Just for a further clarification, Madam President. Thank you for your guidance on this matter. There being the right of a Senator to ask questions following upon—[*crosstalk*]—excuse me?

Sen. G. Singh: You have to give notice. That is the requirement.

Sen. Al-Rawi: The Leader of Government Business knows decorum better than this. There being the privilege of Senators to ask questions coming out of the answers provided by Senators opposite, I being well within my parameters under the privileges of this Parliament, what I would like to understand, Madam President, is whether I am being pre-empted from asking a question as a result of something which has come out, not from the Minister of Planning and Sustainable Development, but from the Minister of Finance and the Economy's mouth, he having volunteered to address a very serious issue of actual now being estimate, and estimate supposedly being another estimate. These are the books of Trinidad and Tobago, Madam President. I just want to understand what the parameters are. [*Crosstalk*]

Madam President: Hon. Senator, actual versus estimate is a totally new question. Please, I would advise that you bring a new question on that matter.

Sen. Al-Rawi: On a point of privilege— [*Crosstalk*]

Sen. G. Singh: What is your point of privilege? What is the point?

Sen. Al-Rawi: Are you the Chair?

Sen. G. Singh: No, no, no, I am not the Chair.

Madam President: Hon. Senator, please take your seat.

Sen. Al-Rawi: I have a point of privilege, Madam President.

Sen. G. Singh: What is your point of privilege? [*Crosstalk*]

Sen. Maharaj: You are making up that point of privilege.

Sen. Al-Rawi: I have a point of privilege.

Madam President: Hon. Senators, there have already been six supplemental questions on question 34. Questions 1, 2, 3 and 4 basically ask the same question over and over again, which was this apparent disparity between estimates and actual. The Minister of Finance and the Economy volunteered to try to bring some new information to the Parliament, but the question has now evolved into anew matter, and I would ask that you bring your question, your concern in a new question, and we would now move on to question No. 64. Sen. Dr. Lester Henry.

Sen. Al-Rawi: Madam President—[*Interruption*]

Madam President: I have ruled, please take your seat. [*Desk thumping and crosstalk*]

Sen. Al-Rawi: Madam President, I would like to have your guidance

on the issue of privilege in this Parliament. [*Crosstalk*]

Sen. G. Singh: Bring a substantive Motion.

Sen. Al-Rawi: Listen, you are not the President.

Sen. G. Singh: Bring a substantive Motion.

Sen. Al-Rawi: You are not the President.

Sen. G. Singh: That is the procedure.

Sen. Al-Rawi: You are not the President.

Sen. G. Singh: You must bring a substantive Motion.

Sen. Al-Rawi: You are not the President.

Sen. G. Singh: You are getting out of hand. [*Crosstalk*]

Sen. Robinson-Regis: He is asking a question and he is entitled to do so. [*Crosstalk*]

Sen. Al-Rawi: Listen, we have a Presiding Officer.

Sen. G. Singh: Relax “yuhself”.

Madam President: Hon. Senator, when the Presiding Officer is on her feet, you are expected to take your seat.

Hon. Senator: That is right.

Madam President: So, let me remind you of that Standing Order first [*Desk thumping*] and also to point out that under Standing Order 18(1), which I shall read for you—sorry, 18(2):

“After the answer to a question has been given”—hon. Senators—“supplementary questions may, at the discretion of

the President, be put for the purpose of elucidating the answer given orally, but the President may refuse any such question which in his opinion introduces matters not relative to the original question...”

Be guided hon. Senators. [*Desk thumping*] Question No. 64. Sen. Dr. Lester Henry.

Sen. Al-Rawi: Madam President—[*Crosstalk*]

Sen. G. Singh: No man! She has ruled.

Sen. Al-Rawi: Under Standing Order 18 to the guidance of how we manage ourselves.

Madam President: I have ruled, hon. Senator.

Sen. Al-Rawi: On the new Standing Order I am raising, Madam President, you have not heard me yet. [*Crosstalk*]

Sen. G. Singh: You have ruled.

Madam President: I have ruled on this matter. We would like to move on in the interest of time, hon. Senator. Sen. Dr. Lester Henry.

Sen. Al-Rawi: Madam President, I am sorry to persist my rights under the Standing Orders. [*Crosstalk*] Madam President, the Leader of Government Business is being very disrespectful as the Leader of Government Business. [*Desk thumping*] These are privileges of the Parliament that we are talking about. [*Crosstalk*] Madam President, I have a question of you, that is all.

Madam President: Hon. Senator, is it too difficult to understand that I have ruled that your matter constitutes a new question?

Sen. Al-Rawi: Madam President, not on that, you have not heard me yet.

Madam President: We are moving on, hon. Senator. Please accept that this is the position of the President of the Senate.

Sen. Al-Rawi: Madam President, on Standing Order 18, I am entitled to ask as many Standing Orders as I wish. You may rule, I must accept your ruling, but I have the privilege under the Constitution of Trinidad and Tobago to ask anything within the boundaries of rulings. [*Crosstalk*] Madam President, I am addressing you. I am not finished yet, I am on my legs.

Sen. G. Singh: He is abusing this House.

Sen. Al-Rawi: I am on my legs still, Madam President. That is improper. You must at least give me a right of hearing, you have not heard me.

Sen. Maharaj: Standing Order 43.

Sen. Al-Rawi: Madam President, I have a Standing Order I am asking you to hear. Are you telling me you will not hear my Standing Order?

Madam President: What is that Standing Order?

Sen. Al-Rawi: I have said, Madam President—[*Interruption*]

Madam President: What is your Standing Order, Senator?

Sen. Al-Rawi: Under Standing Order 18(2), Madam President, I am asking whether the hon. Chair is telling this Parliament that number one: there is a limit to the number of questions that may be posed?

Sen. G. Singh: Yes, the Standing Order provides for that.

Sen. Al-Rawi: That is not so.

Sen. G. Singh: The Standing Order provides for that.

Sen. Al-Rawi: The second question which is the second limb of this: is the hon. Madam President saying to the Parliament and to the nation that matters which are volunteered from a Minister and take on a life of its own by way of answer cannot be clarified? Those are my two questions to you, hon. Madam President. For the record, I would abide by whatever decision you put forward, but I must at least have the privilege to ask the question, Madam President. [*Desk thumping*]

Madam President: Hon. Senators, Standing Order 18(2), let me read it again:

“After the answer to a question has been given supplementary questions may, at the discretion of the President,”—at the discretion of the President—“be put for the purpose of elucidating...but the President may refuse any such question which in his opinion introduces matters not relative to the original question...” [*Crosstalk*]

At my discretion, you have asked a number of questions already and they have evolved into a new matter in the opinion of the President of the Senate. Be guided accordingly.

Sen. Al-Rawi: Thank you very much for entertaining the Standing Orders of the Parliament. I thank you profusely.

Sen. G. Singh: And you abused the process.

Sen. Al-Rawi: I abused nothing, Sir. It is my right under the Constitution.

Madam President: Question No. 64. Sen. Dr. Lester Henry.
[*Crosstalk*]

**Revised Estimates
(Reasons for)**

64. Sen. Dr. Lester Henry asked the hon. Minister of Finance and the Economy:

Could the Minister explain the main reasons for the revised estimates of economic growth for 2014, from a predicted 2.5% to 0.5%, as announced by the Central Bank in December 2014?

Madam President: Order! [*Continuous crosstalk*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Madam President, perhaps, if I could bring us back to question 64 [*Desk thumping*], I would just read question 64 just to orient ourselves back.

“Could the Minister explain the main reasons for the revised estimates of economic growth for 2014, from a predicted 2.5% to 0.5%, as announced by the Central Bank in December 2014?”

Madam President, the initial growth estimate of 2.5 per cent for 2014 was predicted or estimated on a return to near normal levels of production in the energy sector. While some measure of natural gas curtailment was anticipated during the year, because of scheduled maintenance and infrastructural works by two of the major upstream producers, the operationalization of the works—both planned and unplanned—resulted in a larger shortfall in gas supply than originally envisioned. Throughout 2014 there were shutdowns of two major platforms, the Savonette and Dolphin, for reasons of operational safety.

On the refining side, refinery throughput at Petrotrin fell almost 25 per cent on account of the Cat Cracker in 2014, which was also shut down as a result of safety concerns. LNG production also declined marginally due to maintenance activities at Atlantic LNG.

Madam President, it is important to note that despite the difficulties in the energy sector, the non-energy sector continued to buttress growth via sustained expansions in activities throughout 2014. As a result, at year end 2014, real GDP was revised to 0.5 per

cent from the initial 2.5 per cent anticipated at the beginning of the year. This was revised further after the end of the year to 0.8 per cent. During this, the business community continued to express optimism and confidence about the future based on the business confidence index at the time.

In 2015, we expect oil production to increase by 4 per cent over 2014, and we expect a marginal increase in gas production due to the commencement of full production from the Starfish field. This will result in an increase in growth in 2015, and we have put the estimate of that at 1.5 per cent. This is in line with the estimates provided by the IMF following the staff visit which occurred a little over a month ago where they projected growth for this year, 2015, of 1.4 per cent. Standard and Poor's estimates a rate of growth of approximately 2 per cent on average over the next four years.

Thank you, Madam President.

Sen. Dr. Henry: Supplemental, Madam President. So, is the Minister admitting, once again, that this Government has been a dismal failure in terms of generating any positive economic growth in five years of being in office? [*Crosstalk and laughter*]

Sen. The Hon. L. Howai: No, the Minister is not admitting that. Madam President, as I said, output in the energy sector did contract because of that maintenance work, but over the past eight quarters

non-energy sector growth has been relatively buoyant at 2.6 per cent having risen to a high of 4.3 per cent in the first quarter of 2013, and maintaining the momentum throughout 2013 into 2014. So, I just want to point out that in fact the non-energy sector did in fact continue to grow and grow at a relatively strong pace in 2014. [*Desk thumping*]

Sen. Al-Rawi: Further supplemental. Hon. Minister, may I just ask: what is the date of the IMF projection that you pegged 1.5 per cent growth at?

Sen. The Hon. L. Howai: The IMF projection is following on the staff visit January 25, 2015.

Sen. Al-Rawi: Further supplemental. Hon. Minister, does that factor the Central Bank's revision downward in their bulletin dated February 26, 2015 which recasts our growth trajectory. I believe it is under 1.5 per cent?

Sen. The Hon. L. Howai: The Central Bank—I do not have that particular number at that time. It may have been 1.4 or is it 1.4 per cent—Central Bank?

11.15 a.m.

Sen. Al-Rawi: I thought it had gone somewhat lower. But I was just wondering, not to press you, other than to ask the statistical information, whether the revision downward, the forecasted position,

as you have informed the Parliament for 2015, being as it is, you have described it as 1.5 forecasted, whether that takes into effect the Central Bank's considerations which they put as the sharp decline in over 55 per cent of our revenue in the energy sector growth situation.

Sen. The Hon. L. Howai: Yeah, our figures would have been based on the Ministry of Finance and the Economy's projections, together with the—following our consultations with the IMF, who were here during the first week of January. As I said, their figures, the IMF figures for 2015 was put at 1.4 per cent.

Sen. Al-Rawi: Thank you.

Sen. Dr. Mahabir: Further supplemental, Madam President, on this very important matter to the hon. Minister of Finance and the Economy. Hon. Minister of Finance and the Economy, have you gotten any explanation from your economists working in the State as to why they have persistently gotten the growth forecast wrong since 2010 to now? [*Desk thumping*] Every single year they have gotten the growth, and, I think, if it is that they have gotten it wrong continuously for the last five years they should have had an explanation. I simply want to know, have they furnished an explanation to you of their errors in forecasting?

Sen. The Hon. L. Howai: Well, as I said, the issue for last year had to do with the fact that the downtime in the energy sector was much

larger than they had originally—yeah—than they had originally anticipated, and this is because the energy sector is, of course, such a large part of the economy that a significant downturn in the energy sector could have a large ripple effect across the economy as a whole. And as a result, the downtime in the cat cracker, for example, we did not project the cat cracker to be down for as long as it was last year because of operational concerns and safety concerns, and we did not expect as much of the unplanned downtime that had been experienced.

These things do normally happen, Madam President. If, for example, we were to look at 2008, and you look at the forecasts for 2008 by most of the leading forecasting agencies throughout the world you would have seen that most of them were not able to predict the downturn, and the very dramatic downturn that had happened, and this is because there are specific events that take place which are not immediately predictable, or not predictable at the time when the forecasts were being done. In addition, you would see that even towards the end of last year, when the price of oil also fell, most of the forecasting agencies at the start of the year would not have projected the reduction that occurred in the price of oil towards the end of 2014.

So, there are always estimates and there are always issues of forecasting errors. For example, I have been through the adjustments

which were made both by the US Federal Reserve, as well as the United Kingdom Central Bank, the changes and the differences that occur as a result of their forecasts, and the differences that occur between the actual performance and their resulting forecasts. So these happen. These are forecasts we expect that, based on all the knowledge that we have at the time and all the knowledge that we have at the moment, we do not expect that there would be any significant downturn in the energy sector in 2015. In fact, we project that, based on a normal level of maintenance and the production of Starfish, that we should see some growth in 2015.

Sen. Dr. Henry: Further supplemental. I wonder if the references that the Minister made to other countries, and so on, did he come across a 400 per cent error in estimation. From 2.5 to .5 is a rather significant drop in estimated growth. Would the Minister know that outside of the energy sector—if our energy sector is contracting then the only thing left that drives growth is Government spending, \$64 billion budget. So what is the Government admitting that nothing is really happening in our energy sector under their stewardship, and, basically, the production of all our major commodities that we earn foreign exchange from, in any significant way, has been woeful for the past four and a half to five years?

Madam President: Hon. Senators, I would permit the hon. Senator

to answer the question, but I wish to advise that question time has expired, so please wrap up your oral response, Minister.

Sen. The Hon. L. Howai: Thank you, Madam President, and thank you for the opportunity to briefly close. I would say, yes, I have seen very large variances, particularly in 2008 when we had the global financial meltdown that none of the forecasting agencies had estimated. So, you know, Madam President, the hon. Member asked me a question which I am answering, right. But what I will say is that the non-energy sector continues to show growth, and as I would say that growth in the non-energy sector has been able to offset the difficulties which we experience in the energy sector.

I would also want to correct the point that was made, that the performance, in terms of the performance of the energy sector, I think the hon. Member may have said horrendous, and I am sure the hon. Minister of Energy and Energy Affairs, if he had the opportunity, he would have used quite a significant amount of our time correcting all the negatives, you know, and pointing out all the initiatives that are taking place in the energy sector. [*Crosstalk*] I would just want to say very briefly, hon. President—the Members are disturbing me. [*Laughter*] I just want to say that the non-energy sector has shown growth of 2.6 per cent over the eight quarters to the third quarter of 2014. I am sure when the final numbers for 2014 are out for the last

quarter you would see also that the growth has continued in a very robust way in the non-energy sector. [*Desk thumping*]

Madam President: The Minister of Food Production. [*Desk thumping*]

STATEMENTS BY MINISTER

Utilization of Caroni Lands for Rice Cultivation

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Thank you very much, Madam President. It is a privilege to rise in this august Chamber once again, especially under your presiding stewardship at this point in time, to deliver a statement on the decisions taken by the Government of the Republic of Trinidad and Tobago as it relates to the Ministry of Food Production, as it concerns the utilization of some of the lands owned by Caroni (1975) Limited by the Ministry of Food Production for rice cultivation, and the implementation of a policy to allow for the access of service dogs used by the visually impaired and disabled persons in the Government buildings, and granting of concessions to appropriate individuals for the procurement of equipment for the maintenance of service dogs for the visually impaired. [*Interruption*]

Sen. Robinson-Regis: That is coming under Food Production?

Sen. The Hon. D. Maharaj: Yeah.

Madam President, under the Ministry of Food Production's

Action Plan 2012—2015, rice is highlighted as a key staple to be targeted for increased local production. One of the main approaches taken to ramp up its production is to increase the land area under rice production by utilizing all available potential rice-growing areas. The process of identifying parcels of land naturally suited for commercial mechanized rice production is based on the criteria such as size of parcel, flat topography, access to water for irrigation purposes; identified parcels are then surveyed, laid out in suitable orientations, parcel size, advertised for interested parties to cultivate rice on a commercial scale.

Madam President, arising out of this process a number of parcels of land ideally suited for rice cultivation were identified, advertised and allocated between 2011 and 2012. During one of the scouting exercises for land for rice cultivation, the Ministry of Food Production identified approximately 500 acres of land located in Felicity, Chaguanas. However, this parcel of land, though naturally suited for rice cultivation, was previously allocated to the Ministry of National Security in 2006 for the establishment of Support and Service Battalion of the Trinidad and Tobago Regiment and Military Hospital. To date, however, no action has been taken with respect to further development of the land and it remained underutilized.

Madam President, in an effort to bring this arable land into

fruition, I am pleased to report that the Government of Trinidad and Tobago has approved this parcel of land located in Felicity, Chaguanas, to be utilized by the Ministry of Food Production for rice cultivation. When brought into commercial rice cultivation, this 500-acre parcel of land can produce 2,834 tons of paddy, or an equivalent of 1,700 tonnes of rice valued at approximately TT \$6 million. This will indeed have a significant impact on the local rice industry, both directly and indirectly, through various activities associated with bringing these lands into full commercial rice production.

Madam President, overall, some of the Ministry of Food Production's achievements with regard to rice, thus far, include the:

- establishment of a Rice Development and Coordinating Committee, comprising the major stakeholders in the rice industry;
- resuscitation of 300 acres of fully mechanized rice farming in the Plum Mitan area;
- distribution of 580 acres of land for rice cultivation under the Government's Commercial Large Farm Programme;
- importation and distribution of over \$1 million pounds of commercial certified seeds from Guyana;
- supplied pumps to farmers to assist in irrigation during the dry season and in flood relief during the wet season;

- implementation of the Rice Development Unit on 200 acres in El Carmen. This area is to be used for commercial production of certified rice seeds; and
- the preparation of 1,300 acres at a cost of \$8,000,800 for rice farmers under the Rice Land Preparation Programme for returning rice farmers.

These achievements have led to a 22 per cent increase in the production of rice, [*Desk thumping*] from 2,250,410 kilograms in 2010 to 2,913,500 kilograms in 2014. During the course of this year, 2015, the Ministry of Food Production and the Rice Development Unit plans to:

- Introduce mechanized nursery planting system on 1,000 hectares, starting in June, 2015. This will greatly increase the productivity of lands while reducing weed-control problems;
- Implement system irrigation channels to harvest water from rainfall;
- Engage in land levelling through double-puddling techniques;
- Engage in rice farmers extension service programmes to assist farmers by organization of planting and harvesting in schedules to ensure that harvesters available can

service the farmers effectively;

- Establish demonstration plots for growing rice at El Carmen and throughout farmers' field areas to encourage farmers to adopt new technologies.

Madam President, the Ministry of Food Production has also sought to address water issues highlighted by rice farmers, and others last week. We have been working closely with WASA and farmers to rectify the situation. The Ministry of Food Production's Engineering Division at Centeno has been facilitating the abstraction of water from the Caroni River to the Guayamare River to service all farmers downstream from the weir. As it stands, the Engineering Division will continue to supply water pumps to farmers possessing a valid abstraction licence free of charge. This means that farmers will be directly responsible for obtaining their abstraction licence intended for their own commercial agriculture product operation. We understand that the current insistence on abstraction licences is a part of a wider plan to regularize all water supplied to the agricultural sector under the responsibility of individual farmers by WASA.

Since July last year, the Ministry of Food Production representatives held eight meetings with farmers groups from Jerningham, Bejucal, Caroni and Plum Mitán, to name a few. These meetings involved informing farmers of the abstraction licence, its

importance and the rate applied to the abstracted water. Consultations were also held with farmers on the necessary steps to obtain an abstraction licence. The Ministry of Food Production understands the dire need for water by these farmers, and efforts are being made to fast track the granting of these licences, these abstraction licences, in collaboration with the officials from WASA.

11.30 a.m.

Furthermore, there have been reports that the rate structure for the used abstracted water has been increased. However, while there have been discussions, to date, the current rate for the use of abstracted water has not been increased. It remains at 10 cents per cubic metre. The quantities used are determined by the personnel of the engineering division who calculate this from the pumping hours and output volumes.

Access of Service Dogs Used by the Differently Abled

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Madam President, the Government of Trinidad and Tobago has also approved the implementation of a policy to allow for access of service dogs used by the visually impaired and disabled persons in government buildings and granting of concession to appropriate individuals for the procurement of equipment for the maintenance of service dogs. This programme is the first of its kind

in the Caribbean. Issues related to dogs generally fall within that grey area that must be addressed, and this administration has been doing so. As a matter of fact, in 2013, the Ministry of Food Production, heeding the calls from the public, implemented a system that allows for the first time for the importation of all cats and dogs without quarantine.

Madam President, this administration also truly recognizes differently-abled persons as equal citizens in this nation, who ought to have equal access to the services available to all citizens, in keeping with the first two pillars for sustainable development as identified by the Government, namely the people-centred development and poverty eradication and social justice.

In particular, research shows that the visually impaired persons employed in Trinidad and Tobago Blind Welfare Association have limited mobility throughout the country and limited access to government offices and private businesses. Technical advice for this policy, to allow access of service dogs used by the visually impaired and disabled persons, was provided by the Trinidad and Tobago Guide Dog Association and students of the University of the West Indies Optometry Department. Research conducted by these groups revealed that service dogs can also be trained as assistance dogs, which can be used for the visually impaired, the hearing impaired,

persons with physical disabilities, children with autism, persons with epilepsy, and persons with diabetes.

This group advised the Ministry of Food Production that a successful guide dog programme would include but not be limited to the following elements: import and upkeep of Labrador retrievers deemed by experts to be the most suitable type of dog for assistance dogs. This upkeep includes: food, water, shelter, regular visits to the vet and so on; equipment for the dogs and trainers such as harnesses; sensitization sessions for persons with disability on the use of assistance dog; dog owners willing to breed Labradors and other dogs deemed appropriate; persons willing to act as foster parents for the programme; persons interested in becoming a potential dog trainer of dogs selected; contracted experts and experienced trainer in the field.

Based on advice received, the following measures were approved by the Government to facilitate a successful guide dog programme: the policy permitting for the access of service dogs used by the visually impaired and disabled persons into government building to come into effect 60 days after approval of Cabinet, during which time the Ministry of Food Production will roll out a national orientation and awareness programme targeting, but not limited to the stakeholders including visually impaired persons, guardians of the visually impaired, Trinidad and Tobago Blind Welfare Association,

Trinidad and Tobago Guide Dog Association, Permanent Secretaries and other senior public officials, Customs and Excise.

Also, the waiver of the 15 per cent value added tax and 40 per cent customs duty on the importation of service dogs for use by the visually impaired and disabled persons, the waiver of VAT and customs duty on the equipment required to train service dogs to include guide dog harnesses, dog leashes and collars, waterproof boots, portable crates, kennels, dog beds and training aids.

Madam President, the Ministry of Food Production welcomes the Government of Trinidad and Tobago's approval of these two initiatives. We remain committed to stimulating the increase in food production while acknowledging the importance of social justice and people-centred development. I give you the assurance that Madam President that this People's Partnership will continue to work towards making Trinidad and Tobago a more food secure nation. Thank you.
[Desk thumping]

**SELECT COMMITTEES
(APPOINTMENT TO)**

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Madam President, I beg to move the following Motion:

Be it resolved that this Senate agree to the following

Select Committees
(Appointment To)
Sen The Hon. G. Singh (cont'd)

appointments:

1. On the Public Accounts Committee:

Mr. Garvin Nicholas in lieu of Mr. Anand Ramlogan SC.

Mr. Brent Sancho in lieu of Mrs. Raziah Ahmed.

2. On the Public Accounts (Enterprises) Committee:

Mr. Kwasi Mutema in lieu of Mr. Embau Moheni.

3. On the Public Administration and Appropriation Committee:

Mrs. Christine Newallo-Hosein in lieu of Mr. Emmanuel
George.

4. On the Joint Select Committee (Group 1):

Mrs. Christine Newallo-Hosein in lieu of Mr. Emmanuel
George.

5. On the Joint Select Committee (Group 2):

Mrs. Christine Newallo-Hosein in lieu of Mrs. Raziah
Ahmed.

6. On the Committee on National Security:

Mr. Kwasi Mutema in lieu of Mr. Raziah Ahmed.

Mr. Brent Sancho in lieu of Embau Moheni.

Brig. Gen. Carlton Alfonzo in lieu of Mr. Gary Griffith.

7. On the Committee on Human Rights, Diversity, the Environment
and Sustainable Development:

Mr. Garvin Nicholas in lieu of Mr. Anand Ramlogan SC.

8. On the Committee on Parliamentary Broadcasting:

Mrs. Raziah Ahmed in lieu of Mr. Timothy Hamel-Smith.

9. On the Committee on Government Assurances:

Mrs. Raziah Ahmed in lieu of Mr. Timothy Hamel-Smith.

10. On the Committee on the Legislative Framework to Govern
Financing of Election Campaigns:

Mr. Garvin Nicholas in lieu of Mr. Anand Ramlogan SC.

11. On the Committee on the Legislative Proposal entitled the Draft
Houses of Parliament Service Authority Bill, 2014:

Mrs. Raziah Ahmed in lieu of Mr. Timothy Hamel-Smith.

Mr. Garvin Nicholas in lieu of Mr. Anand Ramlogan SC.

Mr. Brent Sancho in lieu of Mr. Emmanuel George.

Question put and agreed to.

ADOPTION OF CHILDREN (AMDT.) BILL, 2014

[Third Day]

*Order read for resuming adjourned debate on question
[February 03, 2015];*

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, those who spoke on Tuesday, February 03, 2015: the Hon. Clifton De Coteau, MP, Minister of Gender, Youth and Child Development, mover of the Motion; and Sen. Stuart Young. On Tuesday, February 24, 2015: Sen. Rev. Joy Abdul-Mohan; Sen. the Hon. Marlene Coudray; Sen. Faris Al-Rawi; Sen. Dr. Victor Wheeler; Sen. Diane Baldeo-Chadeesingh; Sen. Elton Prescott SC; Sen. Dr. Kriyaan Singh; Sen. Shamfa Cudjoe; Sen. Dr. Dhanayshar Mahabir and Sen. Anthony Vieira. Senators wishing to join the debate may do so now.

Sen. Helen Drayton: Thank you, Madam President. I am in full support of this Bill which gives the Authority, the Children's Authority, responsibility for matters with respect to the adoption of children. The Bill of 2000 has been around unproclaimed for 14 going on 15 years, and it is long overdue. Certainly that is an understatement and even if both Houses were to pass this Bill into law, we can only hope that sufficient progress has been made with the operations of the Children's Authority because aspects of the laws governing that institution have not yet been proclaimed.

Now, I know a lot of excellent work has been done with respect to the Children's Authority and improving the staffing and systems

and procedures, much to the credit of the intervention of the hon. Prime Minister. A lot of that work has been implemented by the hon. Minister. I certainly want to give you another challenge, I do hope that we would see the full functioning of the Children's Assessment Centre and also halfway houses, and if that is accomplished it would certainly be the first time in the history of the governance of this country that a government would have actually built institutions for children, other than institutions of incarceration, and of course, we know that they have built schools.

The Act of 2000 and this amendment Bill give effect to the United Nations Convention on the Rights of the Child, but only part of it because, in November 2014, which is about just about three to four months ago, the United Nations, of which we are a member, agreed that all members should pass and enforce laws banning child marriages, and resolve to end the practice which affects about 15 million children every year. Let me say that every time a children's Bill is brought to this Senate, I am called by ladies of various religions, and they simply say to me, Sen. Drayton, just keep that matter alive and in the forefront of the public's mind—and I certainly do so.

The committee of the 193-nation General Assembly that deals

with human rights adopted by consensus a resolution urging all states to take steps to end child marriages. So here is hoping that a Bill will be forthcoming to repeal all laws which give sanction to the marriage of our children from age 11 years.

The effects of this Bill before us will facilitate or should facilitate a smoother and more efficient process for the adoption of children—this is necessary. I urge that we must adopt this Bill with any necessary amendments coming out of our deliberations at the committee stage.

Now, worthy of note is the provision that allows the Children's Authority to waive the probationary period of six months before an application for an adoption order can be made. Let me say that unless one is in a position where children who they love came into their care—as was my case—it may not be easy for some people to appreciate this provision. These children end up without parents due to fatal accidents, terminal illnesses, other tragedies and many come out of very abusive environments. A quicker process should be possible for the adopter where there is evidence that the applicant can care for the children's welfare emotionally, physically and financially. That would be in the best interest of these children.

The Bill, if or when it becomes law, would allow for more

rational process for the adoption of children by foreign adopters or citizens overseas in cases where the Children's Authority feels that it is in the best interest of the child. However, I want to point out that we have a major weakness in the protection of our children who are adopted by foreigners. We are not a signatory to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions. We should seek to address that immediately. I know that we are a signatory to the Convention on Abduction and therefore, human trafficking, but I think we need to address the matter of protection with respect to intercountry adoptions.

11.45 a.m.

There are just a few matters which I would like the Minister to clarify or to comment on. In this Bill “‘child’ means a person under the age of eighteen years who has never been married;”. Under the Children's Authority Act and the Children Act, the definition of a child is a person under the age of eighteen years and, therefore, I wonder what happens to a child who is married at 11, 12 or 13 and becomes a widow or widower. The law of 2000 says that a person under 25 is not permitted to adopt children, yet they can marry at 11 years, and certainly by age 25 they could have children in double digits.

Now, I understand the need for applicants to be emotionally, physically and financially capable and, as I said, I speak from experience, but I think that there are too many laws concerning children that are contradictory. I want to say that I understand that children matters are also extremely sensitive matters and also very complex matters, and one wants a degree of discretion, a degree of flexibility, but I think we need to be specific and we need to be consistent with who is a child and who is not a child. So that every single Bill I have seen since I am in this Senate in one aspect to another, there is a contradiction and, as I said, I am inclined to believe that more acute attention should be paid to ensure there is harmony across the package of children legislation.

Another example in this Bill:

“‘guardian’ means a person with guardianship as defined in the Family Law (Guardianship of Minors, Domicile and Maintenance) Act;”

Under the Children’s Authority the definition of guardian includes a person appointed by a will or by order of a court to be the guardian of a child or who is in the opinion of the court has the charge of/or control over the child. So then, while all these definitions are not exclusive to each other, I recommend that we examine the issues and

try to harmonize the definitions as closely as possible.

With respect to section 13, I will read briefly what it says:

“(1) Before an adoption order is made in respect of a child who has been in the care and control of an applicant—

(a) for...three years preceding the application; or

(b) for substantially all or most of his”—entire—“life,

no person shall remove that child from such care and control of the applicant against the applicant’s will except with the leave of the Court or under any written law or upon the arrest of the child...

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars and imprisonment...”

And the question I want to pose here is, what if the child has been with the applicant for under three years? What are the consequences if the person who tries to remove the child, because adoption has not yet been conclusive, that parent, it might very well be the other parent. So, that parent might not have been a criminal, or one who would harm the child, but out of grief, love, in a moment of deep reflection and weakness took the child. So, I just want a little clarification on that matter— to what extent there is discretion here, particularly with

respect to imprisonment for nine months, and it is \$5,000 and imprisonment. It is not and/or.

With respect to overseas adoption, section 35, it says:

“Where a child is...the subject of adoption proceedings outside of Trinidad and Tobago, it shall not be lawful for any person to permit, cause or procure the care and possession of that child to be transferred to a person resident abroad who is not the (parent, step-parent,) guardian or relative of that child unless—

- (a) an order has been made in respect of that child under section 36; or
- (b) the requirements of the Emigration (Children) Act are satisfied.”

Now, I am not clear what this is saying and probably it is just the way it is worded. The word “parent” is used in the singular and therefore I think it is a bit ambiguous. The child who is the subject of adoption proceedings may be under the care and control of one parent, and it is the other parent who is trying to get the child. So, that when you say, “with the exception of a parent”, I am not too clear what is meant by this.

So, I am also assuming that clause 35 is conditioned by clause 13. So, I am asking the hon. Minister to clarify these few matters. As

I said, I could wholeheartedly support this amendment Bill. It is necessary. It is more than long overdue, and we certainly can deal with any matters arising, or any need for amendment at the committee stage.

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

Sen. David Small: Thank you very much, Madam President, for the opportunity to join in this debate. If you would permit me, I may be a bit late, but I wish to offer my congratulations to you on your elevation, on your appointment. I certainly, just like my colleague Sen. Dr. Mahabir, would miss our informal interactions at lunch, and where we discussed many matters. It always struck me, Madam President, if you would permit me, you have always been pragmatic and you have been very humble and I think that those are traits that would endure you well to the position you hold, and I wish you all success.

I also, Madam President, with your leave, would like to extend my congratulations to the new Members of the Senate who were appointed. I was unavoidably absent on that day, so that I would like to offer my congratulations to all the newly appointed Senators on the Government side, because I think that is part of the protocol.

We are here to talk about a Bill that deals with adoption. And I

as a parent myself, twice over, I understand the challenges in managing children and bringing them up, and making all of the things that you can do to make sure they have a comfortable and a happy life. I always maintain that children are a blessing in my life. They give me stress, they cost me, but they are a blessing. [*Laughter*] And as one particular member on the Government side mentioned to me last year, I took it in jest, where he mentioned that the best form of contraception in Trinidad and Tobago is something called the SEA exam. [*Laughter*] I really, now, based on my current experience, agree wholeheartedly. I am having a tremendous amount of fun staying up late nights.

Madam President, I still say though, that even though children are the future of the country, they have needs; physical, spiritual and, of course, financial and other things. But, there is no experience that tops in my experience, no experience that feels better than the unadulterated love of a child. No pun intended. I think that this is where it is a matter that touches the heart of people, that people understand that children represent the next generation, represent our future. Hopefully, in some good time in the future they would take care of us, but it begins with us making sure that we take care of them, and that is very, very important.

I would join with my other colleagues in indicating that I really believe that this Bill is long overdue, and rather than rehash the history, I am happy that it is here. And I intend to support this Bill, because, while I have a few comments and a few things that I would like to add, I think that the intent of the Bill is correct. I think the Minister with responsibility for bringing this Bill should be commended [*Desk thumping*] and I believe that in parts of the mandate that we accept here as being Members of this Parliament, we are here to do and put things on the Table, in the legislation to make life better for the future generations of this country, and I think this is an important element of that, protecting children.

Now, Madam President, I have a few queries about the Bill itself, but, generally, I understand there are some concerns. I have an issue with transparency and understanding how things work. I believe transparency is critical. And, I looked at the Bill and while I have no huge challenge, I ask, exactly what is the criteria being used to determine adoption? Exactly what is it? What is the listing? What is the waiting? Is it in a publicly accessible place? Does the FOIA apply to decisions of the board as it relates to the scoring relative to the criteria? Because, when people make an application for adoption and it is not accepted, is there any recourse for them to understand, at

least, where they failed, rather than just saying they failed. Where did they fail? If there is a criteria and a waiting, and then someone can say, based on this criteria and on this rating you did not score well here. There can be an opportunity for redress, but, as it is, it may be available hon. Minister, but I could not find it.

And I really stress on transparency. I recalled I took note that the hon. Minister of Energy and Energy Affairs made a statement in the other place regarding Trinidad and Tobago's accession to the Extractive Industries Transparency Initiative Trinidad and Tobago now, a full member, and it makes our oil industry and energy industry, in terms of the production of the product, the revenues that are generated and the application of those revenues very transparent. Certainly, much more transparent than it ever was in the history of Trinidad and Tobago. [*Desk thumping*] And, I say that, I laud that, I support that, and I think that type of initiative that makes information available to people— you can go on the EITI website, click, download the report, print it at your leisure, and then, not only the report, but the supporting data. Forgive me for being a data person. I am a data person, so I enjoy the data.

Madam President, I have a few observations. When I did, as I am wont to do, I looked around to try to understand—the issue of the

criteria is important to me. I looked at several other places, the US is an interesting place, because every state and every locality has different rules. And then I looked at the UK and several other places, and here are some of the criteria, just a random selection, and I am just going to read it into the record, some of the things that apply in other places:

- Appropriate checks on the prospective foster or adoptive parents for substance abuse or domestic violence;
- Requiring that potential adopters receive training in early childhood, child and adolescent development;
- Providing that reunification with the birth parent not be allowed where said parent has committed a sexual abuse or a serious offence—the agency should require fingerprint based checks of the National Crime Information System for prospective foster or adoptive parents, and similar checks of any other adults living in the home.

This is a key issue, because in Trinidad and Tobago we have the extended family phenomenon, and while the prospective adopter may be totally appropriate, we need to understand what those arrangements are and make sure that everybody in the household pass

some kind of test, because you may have other people in the household who are not necessarily who you would want to have children around. It may be not implementable, but I want us to deepen our thinking about how far this could go.

Another criteria I tried to understand, what are the provisions to ensure the child's health and education record be supplied to the prospective foster adoptive parent? I assume this is done, but I just ask the question. And, interestingly, arrangements for the prospective foster or adoptive parents to have a full medical exam as part of the assessment, including assessments of whether they are of unsound mind. Just interesting, the things that other jurisdictions look at to try to make sure that when they place a child with a foster parent or with an adoptive parent, they try to cover significant bases, to make sure the child is in a safe and comfortable position as possible.

Madam President, I now rush quickly to a couple of clauses in the Bill.

12.00 noon

I noted—before I begin, I want to further support the position taken by my colleague, Sen. Drayton, regarding the Convention. I think that the Hague Convention of Protection of Children and Cooperation in Respect of Intercountry Adoption— it is my

understanding that Trinidad and Tobago is not a signatory. I was surprised to find that out, and I am not sure if there may have been a reason why we are not. Perhaps the Ministry of Foreign Affairs has a particular reason why we are not. But I just found it interesting that in the legislation we have provisions for adoptions and we are not taking a position here on this which would pay in the protecting of those children.

I found some of the language interesting but we cannot, I would always be the first to say, Madam President, that you will never get 100 per cent solution. I am a person, if you get a 70 per cent solution I think we can try to tweak it as best as we can and move forward. We will never get it perfect the first time, but I believe we should try to do as much as we could to get it as close to perfection as possible.

So, Madam President, when I looked at the Bill, there was a particular, there was a section that, I have it here, forgive me, clause 7, regarding the issue of, it was raised by my colleague Senators, and I think that this clause regarding the religion of the child and the religion of the adopter, I think, I understand where it came from. I even think there is a level of reasonableness in it. However, I think it also adds a layer of complexity that may be unnecessary, because in effect it places an additional condition upon would be adopters. And

while I would be the first to say that religious freedom means the freedom to exercise your individual religious belief, it does not mean ability to impose your beliefs on others.

So that this clause as structured, I think administratively, practically there is likely to be difficulty. And you could actually have a situation where it narrows the pool of potential would be adopters. So I would like the Government to look at it and put some—I would like to hear any additional comment the Minister may have on that.

Madam President, I move to, I think it is clause 8 of the Bill. I have a concern about the waiving or reducing of the probationary period, because I ask again about the criteria. Because I ask the question, is it implied that the standard criteria for qualifying as an adopter still applies? I assumed so. This is where the legal people have to guide me, but it is not immediately addressed to me if the—and first to begin, what are the criteria, and then, does it necessarily apply in this situation? It is not immediately clear to me and I would appreciate some clarification if possible.

Madam President, similarly, in clause 9 of the Bill I ask the same question, is the criteria, the implied criteria, is it implied, forgive me, that the standard criteria for qualifying as an adopter still applies?

And I ask the question, what if the applicant has been arrested and charged with a serious offence? What is the situation there?

Clause 13 of the Bill, forgive me, I have no plan to be controversial or sound callous, and this actually may be, my question here may be completely irrelevant because this practice may be the norm. But I ask the question, having chosen to give up one's parental rights, does it necessarily follow that that person needs to be informed of every move made by the Board in relation to the child as of right? I can certainly see the administrative challenges involved in this, including keeping track of the person if they move from one place to the next or if they migrate or if they simply do not want to know. And I am asking, perhaps we should consider it if it should work the other way around where the former parent asked to be informed of such activity.

I am not sure what the norm is regarding this, but for me, again, and I go back to my constant push about the administrative challenges. It places a burden on the administration of the system rather than focusing on the child you are focusing now on keeping track of the former parent and keeping them informed. I am not saying it should not be done. If this is the norm I accept it, but I think from my read of it, I think it places an additional burden on the system

that may not necessarily be so.

Okay, clause 14 of the Bill, again I ask the same question, is it implied that the standard criteria for qualifying as an adopter still applies? Perhaps this is irrelevant, okay. And I ask, is it that because the former parent is now interested in resuming his responsibility that they automatically get a pass. Just automatically they decide, well, they want to resume that they automatically get a pass or do they have to go back and be qualified like everyone else? The way it is structured it is not immediately obvious to me and I would appreciate some understanding. I could be wrong, but I tend to ask these wonderful questions every so often.

Oh! This next issue, I am definitely going to be controversial. [*Laughter*] I did not plan it, and I do it deliberately, Madam President, because often there are issues that we skirt and I, unfortunately for me, it is not that I try to take every issue upfront but I believe that there is an issue out there that, you know, we recognize that it is not necessarily being dealt with face on.

Madam President, I do not start the day trying to but the issue I will raise whilst not specifically dealt with in the Bill, may arise, as was noted by my learned colleague, Sen. Mahabir, because the Bill is silent. I referred to the matter of adoption by gay persons or couples.

At present the Bill is silent and it is very likely that gay persons or couples could adopt with this current process requiring the requisite approval simply say nothing.

There is an argument that the reform of adoption laws would increase the number of children placed in new homes, because it would add to the pool of potential adopters. It could be said that heterosexual marriage is still recognized as the most stable background for raising children. But in this day and age, we and our laws must take cognisance of the fact that there are many different family arrangements going on in the country. And I did, as I am wont to do, some research and it is just interesting when you do the research because I like to be possessed of data. So if I share information I would like to make sure it is database. So I did some work to try to understand what the thinking is out there in the scientific community. This has nothing to do with anyone else's beliefs. It is always important to at least have the data.

According to, overall and I want to quote from the American Psychological Association conducted a study in 2005 and I quote from it. It says:

“Overall, results of research suggest that the development, adjustment, and well-being of children with lesbian and gay

parents do not differ markedly from that of children with heterosexual parents.”

That is one study, that is one view and there are several others that I actually have but I am not going to read all that in it, because they all essentially go along that same line.

This is an issue that is in the public domain. The Bill is completely silent on it and we may not have to deal with it now but I suspect that at some point in time, going forward, we may have to deal with it and we should begin to start to prepare ourselves to deal with it or at least think about how we are going to craft and deal with it. I do not, by my contribution today, hope to cause an avalanche of such applications, but I believe it is an issue that is out there and the Bill does not deal with it, and because the Bill does not deal with it, does not mean it does not exist? It exists. And I believe that if it exists it is going to come to the front at some point in time and we should at least try to possess ourselves of information and data to understand what is possible, what can work.

I have a couple of other comments, Madam President, if you would permit me. I know I am doing pretty good for time. [*Crosstalk*] I tend to be, you know, I try to make the best use of time. Madam President, I went to the *ttconnect* website and I saw applicants

25 years, the normal procedure, but again the criteria is not necessarily available and I ask the question: why does a male applicant have to satisfy special circumstances?

There are male citizens of this country who are single and who will likely make excellent parents. Why is it structured in the way it is currently structured? Just a question. I ask also there are many children who are living in institutions who have not been fostered or adopted with no proper way of integrating them into the society. We owe it to these children to develop laws that allow them the best opportunity to become productive members of society, and I think there is a big gap.

We have a societal problem in the country that is manifesting itself in a series of unpalatable and very unsavoury activities because we have a generation and some youth who have not been able to experience that proper or correct or right or whatever word you want to profound it, having that sound basis of family life and understanding how to behave and conduct themselves. And it may not necessarily be their fault that they act out, and it is up to us to try to see how we can protect them.

Madam President, I just have one other observation because I think somewhere in the Bill that I looked at, it made reference too,

that the Authority may place a child with a foster parent or in a community residence. Where are these community residences? I am not sure about that. They probably exist and I am not aware. So I am reading it, and I think it is under Part V, making a child available for adoption and the last line of that, of subsection (2) says:

“...may place the child with a foster parent or in a community residence.”

I am not aware of a community residence. What is it? Where is it defined? And I understand the thinking. I will support you with the thinking, but I do not want us to put things here that we cannot support.

So that, those are my few questions, Madam President, I believe that the legislation is a piece of legislation that is long overdue. I reiterate that as a parent. I believe that it was one of the best things you can do with your life to try to make sure that you protect children and you try provide for them in the best way possible. You try to make sure that you do right by them. Probably my kids suffer because they do not get all of my time, yeah? And I believe that this is something that is very important for Trinidad and Tobago, we face a struggle now where we have enough young people who are not properly adjusted, who are acting out and to the extent that we can

make provisions for those, for as many of those as possible to make sure that they are given the opportunity, a fair opportunity to experience life in a similar way to most of the other members of society, we should do it.

So in context, Madam President, I wish to thank you for the opportunity to be able to contribute to this Bill and I thank you very much. [*Desk thumping*]

Sen. Avinash Singh: [*Desk thumping*] Thank you, Madam President. I thank you for the opportunity to join in this debate at this point in time, and the debate has really gone on to be very interesting, very pertinent and that of a very important Bill.

This Bill seeks to amend the Adoption of Children Act, 2000 and after paying careful attention to the presentation and contributions of all the hon. Senators that went before me, most of the issues were well ventilated and I dare say that all parties share principle, common grounds and support the nature of this Bill.

Madam President, I will go directly into the Bill. When researching for this Bill, and the issue of adoption and how it will affect our nation as it relates to the mere definition of a child — in fact, the definition of a child was so hard to follow while cross-referencing and making reference to other legislation as it

relates to a child. For example, in this Bill, a:

“‘child’ means a person under the age of eighteen years who has never been married;”

The United Nations Convention on the Rights of the Child, Article 1, and:

“...a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

Madam President, the age of Majority Act, Chap. 46:06, section 2, here in Trinidad, the reduction of age of majority went from 21 to 18. And section 7 in the same Act:

“A person who is not of full age may be described as a minor instead of as an infant, and accordingly in the Act ‘minor’ means such a person as aforesaid;”

12.15 p.m.

If we were to turn our attention to the Hindu Marriage Act, Chap. 45:03, section 11(1):

“The age at which a person, being a member of the Hindu faith or religion, is capable of contracting marriage shall be eighteen years in the case of males and fourteen years in the case of females.”

Further, the Muslim Marriage and Divorce Act, Chap. 45:02, section 8, indicates that:

“The age at which a person, being a member of the Muslim community, is capable of contracting marriage shall be sixteen in the case of males and twelve in the case of females.”

As we move further, the Emigration (Children) Act, Chap. 18:02, a:

“‘child’ means a person under the age of sixteen...but does not include a child who is not a citizen of Trinidad and Tobago;”

Madam President, I think you get the point without me getting into much more details, but to the average citizen, I think, culturally, persons are viewing from the point of a mutually accepted age, under 18 you are a child; over 18, you are an adult. And I think today, Sen. Helen Drayton also indicated some of the points that I have mentioned with respect to age and how we deem a child, which brings me to the next issue where adoption is concerned.

Currently, the Act recognizes persons 25 years and older as being eligible to adopt, similar to here in this august Chamber. Madam President, as we would all recall, I was just 25 and I was appointed here in this august Chamber, and this law requires persons 25 and older to be Senators. My personal view is that—as in the other place—18 years and older should be eligible for appointment as well

as being able to adopt a child. More so, the current Act also requires applicants for adoption to be at least 21 years older than the child to be adopted.

So let us explore the current situation as it relates to starting a family. I will use an example, if you permit, Madam President. Let us say a Hindu boy age 18 meets a 14-year-old girl and decides to get married under the Hindu rites. So am I to understand that the husband must wait seven years until he reaches age 25? Or the girl must wait 11 years until she reaches 25, as the applicants to adopt a child? And that child would have to be four years and under to be able to be adopted by that couple.

Madam President, in a Hindu marriage, having a child or having children is wealth and prosperity to the entire family and in most instances a newly-wed Hindu couple tend to have children in their early stages of family life. So in that seven-year or 11-year wait time for either the husband or the wife to be eligible and attain that 25 year age to be eligible to adopt that child, this Hindu family, in that period of wait time—and in my estimation—could raise over six children of their own.

I can go into a similar situation and a similar example for a Muslim couple, but I trust, through you, Madam President, hon.

Members understand the point. I do not see this current law as facilitating Hindu or Muslim couples wanting to start a family at an early period in their lives and being able to adopt a child.

Current legislation also makes it more difficult where the sole applicant is a male. The court must be satisfied that there are special circumstances to justify the application. While I have every confidence in most single fathers in this modern era of society as having the ability to father, care and provide for his child or children, there are so many cases where maintenance is owed to the caretaker of the child in separate cases and, upon research, an article struck me and I would like to share some of the contents with you, Madam President.

It was published only a few days ago in the *Trinidad Guardian* newspaper, entitled: “I still love my son”, published Saturday, February 28, 2015. The article—I would not go into all the details. I am sure all the Members would have read it, but it just gives you an idea of what takes place in our current society, and situations. Here we see a gentleman, after escaping imprisonment for failing to pay \$35,000 in maintenance for a child that was—well, assumed to be his own, but later in the article as you go through you would realize that had not the lawyer intervened, this guy probably would have ended up in jail or behind bars. But the lawyer would have advised him to take

a paternity test which showed that he was really not the biological father of the child, and the child was 14 years.

The article also indicated how this father felt, and I would just like to read one line, and this gives you an idea as to how most people in today's society think. He goes on to explain the scenario in which he indicated that while growing up and while having this child under his care, he thought that the child was his own, but he went on to say:

“I always knew my son to be my blood, but then I got a lash from reality.”

So this is some of the general mentality and the purpose in which society today recognizes the fact that a lot of people think like this gentleman, so we have to try to educate the population now to culturally adopt this new dynamic situation in our present legislation where adoption is an alternative and a better chance for a child to have a family-type environment. The article also indicated the issue of paternity fraud that is rampant and the lawyer who represented him from the Single Fathers Association, went on to say, had he not intervened—in fact, how many persons would have gone to jail on this same issue and did not take that paternity test.

But, moving on, Madam President, over 42 Articles were identified by the United Nations as it relates to the Rights of the Child,

and the general purport of all is geared towards the best interest of that child: the well-being, the freedom, the protection, the respect, health, education, love, and care, all in a nurturing family environment. Article 11 of the Convention guides governments in taking steps to stop children being taken out of their own country illegally, and particularly parental abductions or kidnappings.

In this Bill, clause 27 will expand and broaden the scope for nationals and residents wanting to adopt a child within and outside of Trinidad and Tobago, and further give the opportunity to non-nationals, or residents, after attempts by nationals or residents to adopt a child have failed.

Now, Madam President, our nation's children, and by extension, a child, is priceless and only God knows the destiny and future of that child. Who knows where a child would end up in today's society? I certainly did not plan on becoming a politician, nor did I know I would become a Member of this prestigious arm of the State, but history would have it that a 25-year-old farmer from Felicity can stand here and address you, Madam President, [*Desk thumping*] with the blessings and the opportunity from a sober leader, Dr. Rowley, who understands the true nature—[*Desk thumping*]—[*Interruption*]

Hon. Senator: You were going good.

Sen. A. Singh:—of listening to the young people and listening—
[*Interruption*]

Hon. Senator: Sober, with a capital “S”. [*Desk thumping*]

Sen. A. Singh: With a capital “S”. [*Crosstalk*]—who really and truly
understands the nature—[*Interruption*]

Hon. Senator: “Yuh was going good, yuh know.”

Sen. A. Singh: Madam President, I seek your guidance.

Hon. Senator: Why “sober” causing so much discomfort?
[*Crosstalk*]

Sen. Al-Rawi: The word “sober” causes discomfort.

Sen. A. Singh: Yes, the word “sober” really causes some discomfort
to my colleagues opposite. But, Madam President, as I was saying—
who really and truly understands or listens to the young people and
giving us a chance to take responsibility for our own lives and our
country.

This leads me to the point where a person contravenes this
section dealing with overseas adoption under the Emigration
(Children) Act, section 8:

“Any person”—found—“guilty of an offence under this Act is
liable on summary conviction to a fine of two thousand dollars

and to imprisonment for six months.”

And the Adoption of Children, section 35(2):

“A person who contravenes the section commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.”

Madam President, the sale of children, child prostitution and child pornography, adoption for financial gain are very serious offences and, therefore, in my opinion, these fines and terms are too minuscule. The lives of our children cannot be comparable to \$2,000, neither \$10,000 nor six months or two years imprisonment. I propose extreme fines and terms for any violations.

Under the Sexual Offences Act, Chap. 11:28, section 10—I will just get that document—there are very stiff penalties for any person in violation of these offences, and some of them include—if you will just permit me. [*Browses through papers*] Section 10 of that Sexual Offences Act indicates:

“An adult who has sexual intercourse with a minor who is the adult’s adopted child, stepchild, foster child, ward or dependant in the adult’s custody, is guilty of an offence.

(2) An adult who commits an offence under this section is liable on conviction to imprisonment—

- (a) if committed with a minor under fourteen years of age, for life;
- (b) if committed with a minor fourteen years of age or more, for twenty-five years.”

So these measures here are just some of the extreme measures, I think, in my opinion that can be also used when one violates any of the sections of this Act in moving forward.

Article 16 of the UN Convention, Right to privacy:

“Children have a right to privacy. The law”—of the land—
“should protect them from attacks against their way of life, their good name, their families and their homes.”

In fact, clause 19 that seeks to amend section 24 of the Act proposing in-camera proceedings in respect of an application to free a child for adoption, or an application for an adoption order. In my opinion, this clause is in violation of this right to the child of freedom and privacy.

Article 23, Children with Disabilities, indicate that children with any kind of disabilities have the right to special care and support, as well as the rights in the Convention, so that they can live a full and independent life. So I concur with my colleague, Independent Senator, Dr. Singh, where he also raised the issue of persons with

disabilities being accommodated in this Bill. Madam President, recent developments in central Trinidad influenced my intention to raise Article 24 of the Convention: Health and health services:

“Children have the right to good quality health care—the best health care possible—to safe drinking water, nutritious food, a safe and clean environment, and information to help them to stay healthy.”

And it has also indicated that rich countries should also help poorer countries in achieving this.

I would like to simply refer to a press release by the Water and Sewerage Authority, dated February 25, 2015, and this is in relation to safe drinking water. I know now the situation probably would have been rectified, but the issue I wish to raise is that of one that existed even at my own home. I woke up that morning and went to brush my teeth with the scent and the taste of diesel fuel in my pipe.

Now, the problem here—and the release would have indicated that the plant was safe and all the measures would have met world standards and so on, but it also went on to say that customers served by the Caroni Plant who may be experiencing some of the kerosene-like smell, they were advised to allow the pipes to run clear and to clean their storage and so on.

Madam President, in this country, as a farmer, I will tell you it is very easy to go to any agro shop and purchase any chemical, any pesticide to be used on the farm.

12.30 p.m.

Sometimes these chemicals and pesticides and so on are very dangerous and harmful in effect and nature, some things like—the Ministers could attest, the Minister of Food Production could attest—Lannate, Amine, Round Up, Gramoxone, Super Gramoxone. These chemicals are so easily readily available over the shelf and sometimes these agro shops do not even require to see someone's farmer's badge to sell these items.

My intention here is just to indicate a situation. Let us just say some person goes into an agro shop, purchases some of these concentrates—Gramoxone, Amine, Round Up, Lannate—and puts that into the water stream or the storage in WASA, whether they have mechanisms in place to mitigate that matter or not, we saw that kerosene-like substance was able to reach some of the schools, the pipes, even in the storage at my own home. So this concentrate, put into that water source, will have the effect, and some of them, Madam President, are colourless, no odour and very dangerous.

Some of these chemicals if placed in that water source and

diluted, even in the large-capacity tanks, would have the effect of bringing very, very serious harm to our children and very, very serious harm to anyone who consumes that water. So this is just a point here to stick a pin in WASA moving forward in terms of really putting mechanisms in place to avoid situations like these from occurring.

We would have seen the hon. Minister drinking out of the taps in Warrentville Hindu School. So, this is really to be geared towards making sure our children in schools and all public offices are safe, are safe for all of us to consume where WASA is concerned. [*Desk thumping*]

Madam President, another issue that also attracted public attention only a few days ago was this gas leak in Couva. That is also an issue that has also sparked some public awareness, and if you would permit me, it was published in the *Trinidad Guardian* newspaper, March 02 2015, just yesterday. Here we see where residents complained of having nauseating gas fumes and all these effects and this is in direct violation of Article 24, and we are here really for the interest of our children, our nation, in moving forward. We will all remember all the series of environmental pollution that struck our coastal shores, and so many others that I will not go into,

but they would have certainly affected our children in these communities, and violation of these rights of the child can be attested to.

When the hon. Minister wraps up I hope he can provide us with some current statistics and our current status where adoption is concerned, because for now I can only refer to an article which was already used by my colleagues and I will not go into details, in which you, your goodly self, Madam President, under a different portfolio, would have given us, or shed some light, with respect to our situation as of December 2014, and you would have indicated in that article the issues surrounding adoption in Trinidad and Tobago. Just the underlying fact of this entire article, it is very sad to know that only 1 per cent of that 822 children available at that point in time would have been geared towards adoption. So this is where we, as legislators, really need to force our Ministries, force our Ministry of Education, Ministry of Health, to educate the population on the advantages of adoption.

The last issue, Madam President, which I intend to raise, it really deals with the birth certificate of a child before, during and after the adoption process, and I will use an actual scenario with the hope of getting at least some sort of clarification. Hopefully, the hon.

Attorney General can address this concern that I have, in his contribution, because it is a very pertinent and legal issue—and no better person than the guardian of our law of our land.

Let me assume that a child born to biological parents and having that birth certificate with all the relevant information, and that child is the only child to those parents, and sadly for some unforeseen circumstance those parents got into an accident and they die leaving behind this child who now becomes an orphan and the State cares for that child. The parents while alive would have vested their estate in the name of this child. Subsequently, the State frees this child for adoption. When the child is reintegrated with a suitable and qualified adopter, my question simply—and this is just for my public education—is whether the changes to the certificate would disqualify that child, who was the legal rightful heir, to their biological parents' estate.

Madam President, this situation is not fiction, but I am sure it has happened in the past and it may happen in the future, because we all know the circumstances surrounding property and estates that belong to parents. Upon reaching that age of 18 we see it in society; the situations have reached the courts, the High Court, where children end up fighting for property and all these things. So, this issue was

really one that I slept on. It came to my mind and I said I would have brought it and hopefully get some legal clarification towards what would happen to that child, if that child would still be entitled to the possessions of the biological parents if that child was the only child to those parents, and if the new adopted parents would have control or any interest in that property or heir. I think my colleagues on the Opposition Bench, as well as the Independents, clearly raised many concerns in this Bill that require the attention of the Minister, but all committed to the support and the principle of this Bill.

So, Madam President, in closing, adoption is meant to serve the best interest of children, especially where the original family structure has broken down. It also provides an important pro-life alternative to abortion, allowing pregnant women who do not think they are ready to be parents to confidentially choose life. Our intention here today, as legislators, is to provide orphans with that family relationship that God intended for all of mankind.

We envision that all these children free for adoption can gain a loving, stable permanent family which will promote the social and economic well-being of a nation, because every child adopted is less likely to grow up in poverty, and more likely to have an education and a place in society.

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

Madam President: Hon. Senators, I propose that we take the lunch break now. The Senate is now suspended until 12.40 p.m.

Sen. G. Singh: No, no, one.

Madam President: Sorry, 1.40 p.m.

12.38 p.m.: *Sitting suspended.*

1.40 p.m.: *Sitting resumed.*

Madam President: Senators wishing to join the debate?

The Attorney General (Sen. The Hon. Garvin Nicholas): Thank you, Madam President. Before I commence my contribution on this innovative and important Bill before us today, namely the Adoption of Children (Amdt.) Bill, 2014, please permit me the opportunity to congratulate you, Madam President, on your recent appointment as President of the Senate. [*Desk thumping*]

Permit me also to say that in my role as Attorney General, I intend to work in the interest of the wider community by consensus as far as is practicable. That is to say, not in favour of any one socio-economic, academically qualified, geographically located, ethnic, religious or politically aligned group, but for the benefit of all citizens of this great Republic of Trinidad and Tobago. [*Desk thumping*] It is for this reason I listened attentively to all the contributions made by

the hon. Senators on both, or should I say all sides of this honourable Senate. Where contributions were not easily followed because of the understandable exuberance that can accompany some contributions, the *Hansard* was consulted to identify the key areas of concern.

Madam President, the most refreshing theme that ran through all of the contributions was that there was a much overdue need to move this legislation forward in the interest of the many children who require a stable and loving home environment in which to be raised. It is for this reason that I will urge all Senators of this august Chamber to approve the Bill in its current form which has been described by at least one Independent Senator as an excellent Bill.

There can be no doubt that the continued strengthening of the family unit can only redound to the benefit of our twin-island Republic. There is additionally no doubt that legitimate concerns have been raised by hon. Senators as to the safety and well-being of adopted children. These are concerns I share not only for adopted children, but for all children of Trinidad and Tobago.

It is my earnest belief that all children need to be protected from harm. It is my belief that a significant barometer of our humanity is the way we look after our children in general. The key to the survival of the human race in general, and Trinidad and Tobago in

particular, is the way we treat and nurture our children. It can never be right that the most vulnerable among us are not protected to the full extent of our potential. Crime, delinquency and the general erosion of the social fabric are as a result of the mistakes made over generations with the upbringing, protection and guidance offered to our children, and in my view it is time to reverse this.

This Government has endeavoured from day one to find solutions to the problems many may be reluctant to deal with. With the introduction of revolutionary and dynamic legislative measures, it has promoted the welfare and development of each and every citizen. We have strived to ensure that the most vulnerable among us are safeguarded through the implementation of the necessary legislative measures, like the Adoption of Children (Amdt.) Bill, 2014.

This adoption Bill is only one pillar in the overall initiative and strategy, but as all hon. Senators have agreed, it is an important and necessary one. Permit me, therefore, to deal with some of the concerns expressed by hon. Senators, and I will deal, Madam President, first with the last Senator to speak, Sen. Avinash Singh. Sen. Singh spoke of the concerns about clause 16—well, of section 23 of the Act—which, of course, deals with the whole issue of marriage and the age of adoption.

I just wanted to assure Sen. Singh that section 23 of the Act is actually being repealed by clause 16 of the Bill so that there are no concerns to be dealt with in this regard.

1.45 p.m.

My esteemed colleague, Sen. Faris Al-Rawi, in his contribution on the debate in the Senate, voiced concerns regarding what he considers to be an infringement of the rights and privileges of the citizens of Trinidad and Tobago, and in particular, the rights of parents and their children as it relates to proceedings for adoption under the Act. This concern is founded on the basis that the parent Act was not passed with the three-fifths majority as is required for the passage of legislation affecting fundamental rights. Reference was made specifically to sections 16 and 17 of the 2000 Act, among others, to highlight these concerns. It is my intention to provide the clarity on this matter and assuage the concerns of my colleague.

Let me say at the onset that it is the Government's opinion that this Adoption of Children (Amdt.) Bill does not require a special majority. It is undeniable that our Constitution in sections 4 and 5 preserve our fundamental human rights and due process rights.

Section 13(1) of the Constitution provides for the enactment of legislation to have effect even though inconsistent with sections 4 and

5 of the Constitution unless the Act is not shown to be reasonably justified in a society that has a proper respect for the rights and freedoms of the individual.

Section 13(2) of the Constitution provides that the legislation mentioned in subsection (1) must be enacted with a three-fifths majority vote in both Houses of Parliament. It must be noted that not every amending or enacting legislation requires constitutional majority. Our Constitution provides guidance on specific circumstances which mandate the necessity for this constitutional majority in sections 13 and 54.

Further, there is a presumption of constitutionality when an Act is enacted by Parliament regardless of the status of its proclamation. It is presumed that Acts made by legislators are valid and that they do not intend to enact a law that is ultra vires to the Constitution. When a situation occurs to question the validity of the law, the burden is on the petitioner or the person questioning the constitutionality to prove contra. Therefore, enacting legislation is not required to have had the parent legislation passed by a constitutional majority. The Adoption of Children (Amdt.) Bill can therefore be considered independently on questions of its constitutionality, separate and apart from the constitutionality of its parent legislation. Having said that, it is the

position of the Government that the Act was properly passed.

Precedent has further dictated, as seen in the dicta of Baroness Hale in the Privy Council matter of *Suratt v the Attorney General of Trinidad and Tobago*, 2007, 71 West Indian Law Reports 391 at page 414, where it was stated:

“It cannot be the case that every Act of Parliament which impinges in any way upon the rights protected in ss 4 and 5 of the Constitution is for that reason alone unconstitutional. Legislation frequently affects rights such as freedom of thought and expression and the enjoyment of property. These are both qualified rights which may be limited, either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it. It is for Parliament in the first instance to strike the balance between individual rights and the general interest.”

This legislation has, indeed, sought to strike the balance between individual rights and the general interest through the careful and tactfully drafted provisions of this amendment Bill.

There are some provisions of the Bill which affect section 4(a), (b), (c) and (h) of the Constitution. For example, clause 7 which repeals section 11 of the Act and replaces it with a new section which

requires the Authority, which replaces the board, to have regard so far as is practicable to not just wishes of the parents or the guardians as to the religious upbringing of the child but also as to the wishes of the child in relation thereto.

Clearly, this proposed amendment shows greater respect for private and family life than the Act in that it shows respect for the right of the child which the Act did not provide for. Indeed, it goes even further in that the clause now recognizes the right of the child, unlike the Act, to freedom of religious belief and observance—section 4(h) of the Constitution—and does not violate any of the fundamental rights and freedoms but rather secures the fundamental right of freedom of religious belief.

Clause 8: the proposed amendment by clause 8 provides that the Authority may waive or reduce the six-month probationary period before the making of an application to the court for an adoption order where one of the applicants is a parent, step-parent or relative of the child or has been a step-parent or relative of the child. The adoption Act had limited the category of persons who could apply for the waiver or reduction to relatives of the child. Accordingly, the Bill now recognizes the status of step-parents, past and present. It recognizes their right to family life and does not restrict or infringe it.

Madam President, we as a Government continue to pursue compliance with the highest international standards and obligations under this United Nations Convention on the Rights of the Child, and confirm our commitment to safeguarding the welfare, care and protection of our nation's children by instituting the necessary legislative measures, as seen in this amendment Bill, by ensuring that recognition is paid to the family as the fundamental and stable environment for the growth and well-being of a child.

The proposed amendment to section 12(2)(c) of the Act by replacing the word "custody" with "control" is, in my opinion, an enhancement of the recognition of the right to family life. The Bill proposes to delete from section 12(3) of the Act the requirement for the Authority to give reasons to an adopter where it decides not to allow the child to remain in the care of the adopter. This proposed amendment is, again, merely a tidying-up provision in that the requirement to give reasons remains in section 12(4). It merely removes a duplication, and no question of unconstitutionality arises.

The proposed amendment to section 12(5) does not infringe sections 4 or 5 of the Constitution. It merely gives to the Authority more flexibility in respect of the time when it may remove a child from the care of the adopter. Instead of compulsorily having to do so

within seven days, it may do so within 21 days.

The proposed amendment to section 12(6) of the Act does not infringe sections 4 or 5 of the Constitution. It merely clarifies the period when the adopter may apply to the court for an adoption order. The proposed amendment to section 12(7) is similar to that of section 12(5) and does not infringe sections 4 or 5 of the Constitution for the same reason.

Clause 9 of the Bill proposes to amend section 13 of the Act. It repeals and replaces section 13(1) by reducing the time period within which a person can, with the leave of the court, remove a child from the care and control of an applicant against the applicant's will. This provision, although it affects the right to liberty and family life, strikes the right balance. First, the provision for the leave of the court or an authorizing written law means that removal will be by due process of law. Moreover, by providing for the leave of the court, the person who wishes to remove the child is given access to the court, and the legislation is ensuring that the rule of law prevails—for example, to prevent any breach of the peace which may take place by removal against the applicant's will; accordingly, the right balance is struck by the proposed amendment.

The clause amends section 13(2) of the Act, which deals with

an offence and consequences for removing a child from the care and control of the applicant, but the amendment has no implications for sections 4 or 5 of the Constitution.

Clauses 10 and 11: the amendment to section 14 of the Act proposed by clauses 10 and 11 of the Bill does not affect sections 4 and 5 of the Constitution and, in any event, like the Act, seeks to give effect to the best interest of the child which will materially affect any constitutional balance, being for the benefit of the child.

Clause 12: the proposed amendment by clause 12 to section 5 of the Act does not require a three-fifths majority. First, due process is observed in that provision is made for an applicant to the court declaring that the child to be freed for adoption. Secondly, the placing of the child with a foster parent or community resident is discretionary and not compulsory. However, the Authority will have to act in accordance with certain judicial guidance and the welfare of the child.

Clause 13, the right to information: the constitutional right to information has also been called into question with this clause. Clause 13 of the Bill seeks to amend section 16 of the Act to insert a new subsection 3A to restrict the duty of the board to disclose to a former parent only the information specified in sections 2 and 3. In other words, if the amendment is passed and becomes part of the Act,

the former parent will have no right to any information except what is specified in sections 16(2) and (3).

Section 16 then goes on to deal with the situation where no such declaration was made. Section 16(2) and (3) sets out the specific information that the board is mandated to provide to the former parent or guardian. The language of section 16 is necessarily restrictive. It would be unreasonable and impractical that the former parent or guardian should have an unchecked right to all information about the child and his adopted parents at all times. It seems to me that such a situation would defeat the very purpose of the adoption.

Section 31 of the Act clearly states that an adoption order gives parental responsibility to the adopted parents and, therefore, extinguishes that of the former parent or guardian. Section 32 of the Act then provides that an adoption order puts the child in the position of a child born to the adopters. In other words, the combined effect of sections 31 and 32 is clearly to remove any rights, duties, obligations and responsibilities of the former parent or guardian in relation to the adopted child.

Further, even the birth record of an adopted child is protected under sections 32 and 33 until he attains the age of majority. Based on the purpose intended to be achieved by the Act, it could not have

been the intention of Parliament to imply a right to information to the former parent or guardian about the adopted child and his adopted parents.

Clause 14: the amendment to section 17 of the Act proposed by clause 14 deals with orders which the court as it thinks fit may make. This proposed amendment does not collide with sections 4 or 5 of the Constitution though it engages them. However, the court would be expected to make appropriate orders bearing in mind the liberty of the person and, again, the welfare of the child.

Clause 15 of the Bill proposes to amend section 22 of the Act by repealing and replacing it with a new section, the only material change to which is that the court is no longer required to ensure that the child has legal representation in applications for an adoption order and this was—a lot was made of this. This touches on the right to protection of the law but the amendment does not infringe the right because it is still open to the court in the exercise of its discretion, where appropriate, to ensure that the child has legal representation. The new Bill does not prohibit legal representation.

2.00 p.m.

Sen. Prescott SC: Minister would you care to—thank you very much. Would you care to expand on the thinking behind it, there was

an entrenched right, that is to say, the Adoption Act gave the right to the child, and we have taken it away. I know you say it does not mean that a court does not take it into account, but could you tell us why we thought it necessary to remove it?

Sen. The Hon. G. Nicholas: Well, I could not tell you why it was necessary to remove it, but what I can tell you is that there is no effect, and that is because, of course, with the common law in general, the court always has the opportunity to ensure that where necessary, the child is given legal representation. So it has absolutely no effect.

Sen. Prescott SC: I do not wish to take it much further, but there was a time when a Parliament saw the need to write it into the laws. I thought you needed to be a bit more expansive on why we should removing it.

Sen. The Hon. G. Nicholas: Well, as I said, I do not know if the Minister would speak more on it, but legally, there is no effect. So the child is not placed at a disadvantage in any way or form.

Clause 7 of the Bill proposes to amend section 24(2) of the Act, by providing grounds when the court may make an adoption order. This engages the right to family life especially in relation to the dispensing of consent. However, by the provisions of guidelines for dispensing with consent, section 24(4) of the Act, and the requirement

that before the court makes an adoption order, shall be satisfied that the welfare and the best interest of the child will be promoted by the adoption, and due consideration being given to the wishes of the child, and the other matters referred to in section 25 of the Act, the right balance is struck.

As said in *S v L 2003, SC UK, SC 20*, at paragraph 43, the court should ensure that:

“Such decisions have a legitimate aim, namely to protect the welfare of children. If the provision is interpreted in the manner I have explained, such decisions also meet the requirements of necessity and proportionality. They will be made only where the court is satisfied that there is an overriding requirement that the adoption should proceed, for the sake of the child’s welfare, and that nothing less than adoption will suffice.”

The court will be expected to apply the law so as not to infringe the constitutional rights of anyone.

The amendment, when construed on the basis of the ordinary principles of statutory interpretation, is not incompatible with fundamental rights and freedoms enshrined in the Constitution. It does not necessitate a special majority.

Clause 21 of the Bill seeks to amend section 33 of the Act, by providing for adoption orders to contain a direction to the Registrar General, to make certain entries in the Adopted Children's Register. This provision engages the fundamental right to private life, not only are the provisions in the general interest, including the interests of the adopters, the child and other persons concerned in the adoption process having proper official records kept, but clause 21(7)(b), provides a measure of privacy, in that:

“the Registrar General shall not, except under an order of the Court, furnish any person with any information contained in, or with any copy or extract from,”—certain—“registers or books.”

In fact, clause 21(7)(a), provides that certain:

“...registers and books shall not be open to”—the—“public inspection and search;”

This amendment does not necessitate a special majority, as again, a balance has been struck.

Clause 22: the new sections 33A to 33C, which clause 22 of the Bill seeks to enact, while they engage the right to family, the right to private and family life, strike the balance, especially the new section 33A, which clearly states that:

“...a certificate in respect of the birth of an adopted

child,...shall bear no overt indication that the child was adopted, except such code as has been approved by the Registrar General to distinguish the type of entry which is being certified.”

While there are many provisions of the Bill which engage the provisions of sections 4 and 5 of the Constitution, the Bill strikes the right balance, and does not require a three-fifths majority. However, while that is so, those who implement it, such as the Authority, must do so in a manner that is not disproportionate or arbitrary.

Other noteworthy points: many other colleagues have also made notable suggestions for amendments such as the need for parents seeking to adopt any child, must be subjected to a drug test before doing so, and this has been considered. However, it is to be noted that the involvement of the Children’s Authority in the adoption and screening process of adoption, will remove the risk of children from being placed in environments where there is any threat to their safety and welfare.

I would also like at this time, although the regulations are still in draft, the draft regulations which are now before the CPC, actually outline the provisions for the adoption. If I could draw your attention to clauses 3, 4 and 5. Clause 3(1) says:

Every person who wishes to adopt a child, shall first make an application to the Authority on the form as approved by the Authority.

- (2) An application under sub-regulation (1), shall be accompanied by a photo identification, the names and contact information of three referees, a police certificate of character, issued within six months before the application; a medical certificate of fitness as set out in the form approved by the Authority as to the physical and mental health of the applicant, provided that where the applicant is the natural father or mother of the child, he or she shall not be required to submit a certificate, unless requested by the Authority so to do; any other information as considered necessary by the Authority.

Clause 4 (1), paragraph (4)(1):

Upon receipt of an application, the Authority shall conduct such investigations as necessary, in order to determine whether the applicant should be placed on a list of suitable persons.

- (2) The Authority may remove a person from the list, if the person is found to no longer be suitable.
- 5(1) Assessment of application, where an investigation is

conducted, pursuant to regulation 4, the Authority may:

- (a) verify the applicant's information;
- (b) conduct interviews as necessary to access the suitability of the applicant;
- (c) conduct a background check on the applicant, members of the household of the applicant, persons in visiting relationships and other visitors to the home of the applicant as the Authority sees fit;

So it goes very wide.

- (d) inspect the home of the applicant;
- (e) verify the criminal records of the applicant, any other members of the household of the applicant and— again— persons in visiting relationships, and other visitors to the home of the applicant as the Authority sees fit;
- (f) carry out any other investigation that the Authority considers necessary.

Stark statistics have also been mentioned by my colleagues which was further propounded the need for this legislation. Out of the 26 children in foster care, only three in Trinidad and Tobago are in the

process of being adopted. This fact gives even more relevance to this Bill before the Senate, as the Government is seeking to improve the process and easier facilitate the adoption process.

The operationality of the governing body, namely, the Children's Authority, has also been questioned. Comments have been made that the budgetary allocation to the Children's Authority is very low, limiting their operationality. The Minister and Ministry of Gender, Youth and Child Development, under the guidance of the hon. Prime Minister, has worked arduously to ensure that the Children's Authority [*Desk thumping*] is quite capable of the performance of their functions as outlined in this Bill. I am sure that the Minister will say more on this.

I have been duly informed that there is a stringent hiring process of staff. The staff of the Children's Authority has increased from 40 to 102, qualified and trained personnel to carry out the multiple functions of the Authority. Medical doctors, social workers, psychologists and IT professionals comprise the staff. The Government proceeded to put the structures in place, to enable the Children's Authority to commence its operations. The Children Act, 2012 was enacted, and a committee was appointed by Cabinet in 2012, to accelerate the operations of the Authority.

The hon. Prime Minister, Mrs. Kamla Persad-Bissessar, being a noted champion and advocate of our children, took the proverbial bull by the horns, and placed implementation of the new child-protection system, at the top of the children's agenda in our country. [*Desk thumping*] To this end, the hon. Prime Minister initiated the establishment of the Child Protection Taskforce in December 2013. A key aspect of the mandate of the taskforce was to ensure the commencement of the Authority's operations.

I would like to commend the hard-working Minister and staff at the Ministry of Gender, Youth and Child Development, and all stakeholders and Senior Counsels, [*Desk thumping*] who have provided comments. These key actors have all played an important role in ensuring necessary legislation like this, comes before the Senate.

Before I forgot, there was also another issue that Sen. A. Singh had, in fact, raised. Well, there were two issues, one, Sen. A. Singh spoke to the need of children for proper health care, water, education and the like. Sen. A. Singh would be pleased to note that under this Government, over the last four and half and a bit years, that—
[*Interruption*]

Sen. Robinson-Regis: Under the guidance of the Prime Minister.

Sen. The Hon. G. Nicholas:—under the guidance of the Prime Minister, [*Desk thumping and interruption*] the hon. Prime Minister—
[*Interruption*]

Sen. Al-Rawi: It is champion to remember that.

Sen. Robinson-Regis: Kamla Persad-Bissessar SC.

Sen. The Hon. G. Nicholas:—Mrs. Kamla Persad-Bissessar SC—
[*Desk thumping and interruption*]

Hon. Senators: MP. [*Crosstalk*]

Hon. De Coteau: Siparia.

Hon. Senator: M-R-S.

Sen. The Hon. G. Nicholas:—there have been health centres built through the length and breadth of this country. At the moment, one is even being constructed in the constituency of the Leader of the Opposition. [*Desk thumping and interruption*]

There have been state-of-the-art facilities, the children's hospital, the Tobago Hospital, [*Desk thumping*] under the guidance of the hon. Prime Minister—[*Interruption*]

Sen. Al-Rawi: The sun will set tonight.

Sen. The Hon. G. Nicholas: May, yes. [*Crosstalk*] Under the guidance of the hon. Prime Minister, Mrs. Kamla Persad-Bissessar SC, MP, the Minister of the Environment and Water Resources, has

provided water in communities [*Desk thumping and interruption*] that were neglected for decades, to ensure that children have clean—
[*Interruption*]

Sen. Cudjoe: Oily water! [*Laughter*]

Sen. The Hon. G. Nicholas:—no, there may be distractions, and some very unfortunate events, that seek—[*Interruption*]

Sen. Lambert: Sabotage!

Sen. The Hon. G. Nicholas:—to sabotage, maybe by accident, but in general, water is being provided to the homes of children to ensure, all children, not just adopted, all children of Trinidad and Tobago, to ensure that they do not have to walk long distances to “stan’ pipes” to get water before they go to school, so that they can have showers, so that their hygiene—[*Interruption*]

Sen. Cudjoe: Thank you WASA.

Sen. The Hon. G. Nicholas:—thank you WASA, you are welcome. Thank the hon. Minister. [*Desk thumping and interruption*]

In terms of access to education, Madam President, some 87 new schools have been built in the last four and a half years. [*Desk thumping*] I believe it is some 89 schools are also under construction. We no longer or we will not make the comment of describing children who live in rural communities as “douen” or “lappe”, or any such

derogatory term. [*Desk thumping*]

2.15 p.m.

Because, you see, with all the old talk that goes on—
[*Crosstalk*—no, I am addressing Sen. Singh—this Government has
gone beyond the call of duty [*Desk thumping*] to ensure that our
children, who represent our nation's future, are looked after at all
levels; whether it be the provision of health care, water or education.
[*Desk thumping*]

The other question that Sen. Singh had was with regard to—the
hon. Senator asked the question, Madam President, that where parents
of a child passed away tragically, and that child became an orphan and
then was subsequently adopted, what would happen to the estate.
[*Crosstalk and laughter*] It is really quite straightforward. You see, if
it is that at the time of the parents' death, the child was still living with
the parents or was part of the family, then if an estate is left for the
child, the child takes control of that estate, and if the child is
subsequently adopted, then the child will move with his possessions.

If it is, however, that the child—you did not ask this, but I
would go further—is adopted and the rights have passed—the rights
of the original parents have now passed to the adopted parents—then
there is a severing of ties. If it is that the original parents would want

to in any way benefit the child, they would have to leave property by way of will, as you would for any other child or person. So, I hope that clarifies that situation for you. I think I may have dealt with all the issues.

So that in conclusion, Madam President, this Government continues to pursue a holistic strategy for the development of our nation. It is in fact a policy—[*Interruption*—do you want me to go through the holistic strategy?

Sen. Robinson-Regis: I did not hear what you said.

Sen. The Hon. G. Nicholas: I said “holistic”.

Sen. Robinson-Regis: Holistic?

Sen. The Hon. G. Nicholas: Yes, “holistic strategy for the development of our nation.” It is in fact a policy of sustainable development that is one which meets the needs of not only the present generation, but the future generations of our country. The children are in fact our future, and it is therefore critical—[*Interruption*—yes, I thought I would let you know because clearly you are in doubt—the children are our future and therefore critical that their rights be protected. Ensuring the rights and protection of children was a key policy enunciated in our manifesto, and it is a promise on which we continue to deliver.

We as a people and as a nation have a duty and an unwavering obligation that we must continue to fulfil to our children. This legislation provides the framework for the easy facilitation of adoption and ensures that those children entitled to adoption not be deprived of that opportunity.

It is our duty as a Parliament to continue to provide the legislative and regulatory framework so that our children are safe and assured that their futures are secured, that they can enjoy their daily lives, play games and have dreams of their future in a safe family environment.

As such, Madam President, let us as a nation stand together as our great Prime Minister, Mrs. Kamla Persad-Bissessar has said: “It is a time when we must all as citizens, close ranks, united in our determination to take every possible action to protect the lives and well-being of our nation’s children.”

Madam President, with these few words, I thank you. [*Desk thumping*]

Madam President: Hon. Senators, I wish to congratulate Sen. Garvin Nicholas on his maiden contribution in this Senate in his capacity [*Desk thumping*] as Attorney General of the Republic of Trinidad and Tobago.

The Minister of Gender, Youth and Child Development (Hon. Clifton De Coteau): Thank you, Madam President.

Sen. Robinson-Regis: I beg to move.

Hon. C. De Coteau: I know it is the microwave age, Sen. Camille Robinson-Regis [*Laughter*] but I am from the old school. I like to take my “wine” slowly. [*Laughter*]

Madam President, I thank you once again. [*Crosstalk*] I do not want to fast-forward my presentation, but I know that Sen. Avinash Singh was quite pellucid in his definition of what is a child, and I remember quite clearly he said a child is someone under the age of 18. I rest my case. I do not want to go down into the social media into that. I rest my case. I am an educator.

Madam President, I thank you once again for allowing me to be present in this august Chamber and, in so doing, to respond to some of the issues raised. I know they were effectively dealt with by the AG during the debate on the Bill before the honourable Chamber, the Adoption of Children (Amdt.) Bill, 2014.

I would like to take the opportunity to thank all Senators of this honourable Chamber, and I place on the word “honourable” Chamber, although I was a bit in a state. You know, I was a bit flabbergasted earlier when I came, because I know it is indeed an honourable

Chamber, especially when Sen. Avinash Singh said: “Listen, the age to be in this honourable Chamber is from 25.” I was a bit taken aback, you know, when I heard the little emotional outburst. I do not want to go into it more, but I must say that while I admire the sartorial elegance of Sen. Faris Al-Rawi—I really admire the gentleman—I was a bit taken back. You know, what is happening—you know, I was an educator for 46 years. It happens like a new teacher comes into a class and they are testing the teacher.

Madam President, I do not know if you were being tested, but I know that the sartorial elegance of the gentleman—I do not know if the decorum at that point showed this afternoon was in keeping with that sartorial elegance. All I am saying is that we are talking in terms of the Adoption of Children (Amdt.) Bill, and if I should be very literal about the translation, we are dealing with the children out there, and we are the icons and we are the exemplars and they are looking at us. So that when they are getting on in the society, we have to blame them.

Sen. Al-Rawi: Standing Order 31(5), Madam President.

Hon. C. De Coteau: Thank you, Madam President.

Madam President: Overruled. Continue. [*Laughter*]

Hon. C. De Coteau: Madam President, some people when you are

sharing blows they do not like to get a little touch of it. [*Laughter*] I would like to take the opportunity to thank all the Senators again in this honourable Chamber.

Madam President, let me turn to some of the issues quickly raised by the esteemed Senators in the Chamber. The issue of why the Bill is only now before this Chamber, I must say has been comprehensively addressed by my Cabinet colleague, hon. Sen. Marlene Coudray, and I think that I want to compliment Sen. Anthony Vieira because he really went into detail, without being political, of the delay, and from time to time, we heard it here— about 14 years or 15 years “oh my”, it is a lifetime. The longevity of this Bill, you know, taking so long to come out of that embryonic stage is really, really historical. So today is indeed a historical day for us hoping that we get through with this. [*Desk thumping*]

I wish to reiterate that the Adoption of Children Act, 2000 does not stand on its own. It forms part of the package of children legislation which will be introduced in an entirely new child protection system in Trinidad and Tobago. This new child protection system and the several pieces of legislation connected to it, including the 2000 adoption Act, will be administered by the Children’s Authority as a cohesive whole and not separately.

These pieces of legislation extend to the Children's Authority Act, Chap. 46:10; the Children's Community Residences, Foster Homes and Nurseries Act, 2000, the Adoption of Children Act, 2000 which the Bill before us is seeking to amend, and the Children Act, 2012. Each statute depends on the operation of the other and each in turn depends on the operation of the Children's Authority. Madam President, thus an adoption order under the Children's Authority Act for a child in need of care and protection can only be made if both the Children's Authority Act, Chap. 46:10 and the 2000 Adoption of Children Act are fully implemented.

Madam President, likewise, children in foster care and institutional care can only transition to adoption if all three Acts are working together—this is the Children's Authority Act, the Children Community Residences, Foster Homes and Nurseries Act, 2000 and the Adoption of Children Act, 2000; and, equally important, the new Children Act, 2012 will be feeding into the new child protection system. And, the children being in need of care and protection by the court under the Act must have the option of adoption available, and in that case all four Acts have to be working together with the Children's Authority at the centre.

Madam President, we have a scenario where the Children's

Authority needs to be fully operational to administer the first three Acts, and significant portions of the Children Act, 2012 simultaneously. This is correctly reflected on its website.

Madam President, a close examination of all four statutes would reveal the need for significant infrastructure and skilled staff. The infrastructure required, which is now in place, includes assessment centres, places of safety, a registry system, an investigation unit, a critical response unit, a foster care unit, a licensing and monitoring unit, a legal unit and an adoption unit, among others. The staff required for these units to carry out the functions of the Authority in accordance with section 5 and the Children Act has increased from 14 when the Government came into power. I know the AG said in toto, but the records now show 107.

In a small society such as ours where several agencies require significant numbers of social workers, and where the pool of such workers is finite, the hiring of such staff is understandably a fairly lengthy process. The Authority will be able to commence its operation and the hiring process will continue post-start-up. The several policies and procedures for operating the various units have also been developed and the staff has been trained. A child protection unit in the Trinidad and Tobago Police Service to work hand-in-hand

with the Authority has also been established with some 60 police officers.

In addition, the three sets of regulations, Madam President, requiring affirmative resolution, have been recently debated and approved. The Bill therefore is synchronized with this process and will coincide with the Authority's commencement. Indeed, Madam President, the Bill could have been brought before, but it would not have been possible to implement the parent Act until the infrastructure and the staff were in place. The Government had to ensure the smooth commencement of the Authority and the time and effort devoted to making this happen will be worth it, and demonstrate the will of the Government to act on behalf of our children.

2.30 p.m.

Madam President, I wish to address Sen. Baldeosingh's concerns that a goal—[*Interruption*]

Hon. Senator: Chadeesingh.

Hon. C. De Coteau: Chadeesingh. Thank you. That a goal—[*Interruption*] I am tempted to respond but I would not. I would not. No, I would not. I would not. I would not. At another place we are allowed such behaviour. In the Monday night forum I will deal with you. I wish to address the Senator's concern that a goal or method to

reduce the number of children in orphanages was not identified in my earlier contribution in the Bill before this House, and to state that her concerns are addressed in the package of children legislation.

The Children's Authority Act clearly recognizes that children should no longer be sent automatically to orphanages or other institutions. That used to happen before, "vaps"—send the children to these institutions by "vaps". That places the onus on the Children's Authority to ensure that each child taken into its care is appropriately and adequately assessed, and a treatment plan is formulated for each child by a team of experts, as identified at section 14 of the Act. Section 14 also requires that team of experts to make recommendations to the Board on the child's placement. Madam President, what used to happen before, I said it earlier, they come, they say, "Listen, you go St. Michael's, you go St. Jude's, you go here", without any proper assessment.

So, we had people graduating from one, the primary to the secondary to the tertiary; from St. Michael's and St. Jude's to YTC, then to either Carrera or to the "University of Arouca". That is the kind of graduation system, but with this assessment thing in place now it would be treated differently. The Authority has already hired psychologists, social workers and a medical doctor, who will

comprise members of that team. A range of placement options will be available under section 25 of the Act and include reintegration with parents under supervision, foster care, fit persons, adoption and institutional care. Adoption will clearly be one of those options and will be encouraged. It is instructive, Madam President, that section 25 does not expressly mention institutional care, and this, therefore, is obviously to be a last option which could be made by the court under a general power conferred by the section to make any other order.

The policy that the child should be assessed and placed appropriately is clearly incorporated in the Children's Authority Act, and that means that fewer and fewer children will therefore be placed in institutions. Further, Madam President, the Children's Community Residences, Foster Homes and Nurseries Act, 2000, specifically requires the Children's Authority to evaluate every one of the 800 or so children already in institutions, and to evaluate the suitability of a child's placement in that institution.

A clear procedure for doing so is set out at section 25 of that Act. Section 25(4) then provides that if the Authority is of the opinion that the community residence, in which the child has been placed, is not suitable, having regard to the needs of such a child, the Authority shall make an application to the court for an order under section 25 of

the Children's Authority Act. That therefore provides for moving children out of the institutions or orphanages if they are inappropriately placed. The Children's Authority has already commenced the pilot testing of these procedures under section 25, as it relates to one institution.

Madam President, I turn now to section 11, and the concerns raised regarding the obligation of the Authority to have regard to the wishes of the parent or guardian of the child under the existing section 11, and, further, the Bill's proposal to widen the section to include the wishes of the child. The concern was expressed as to whose wishes should have priority if the wishes of the parent or guardian and the child, and, of course, the adopters, are in conflict. Madam President, it was felt that such a situation could present difficulties. The question was posed whether this will prevent the child from being placed with adopters suitable in all other respects. Firstly, the notion of religious upbringing and the wishes of the child is not confined to section 11. Section 25 of the parent Act also requires the court to be satisfied that due consideration is given to the religious denominations of the child and adopters, and also to the wishes of the child, having regard to his or her age and understanding.

The intent of sections 11 and 25 appears to be clear. They are

both governed by provisions that oblige the Authority and the court, respectively, to take the issue into consideration. In the case of section 11, Madam President, it is to have regard as far as practicable, and in the case of section 25, it is to give due consideration. The mandatory requirement is to have regard, that is, it must expressly be brought up and considered. It may or may not govern the placement depending on the age of the child and the child's wishes. In 2000, the framers of the legislation would have considered religious upbringing, a sufficiently important facet of family life and a child's identity in a multi-religious society such as ours, to take into consideration the wishes of the parent or guardian under section 11, and to give due consideration to the denomination of the child and the adopter, and the wishes of the child under section 25.

The proposed amendment to widen section 11, to take account of the wishes of the child is simply seeking to bring section 11 in line with sections 10 and 25 of the parent Act, and in line also with section 6 of the Children's Authority Act, which mandates the Authority to serve the best interest of the child. That section, Madam President, sets out a long list of criteria which the Authority is obliged to take into account in determining what is in the best interest of the child. The right of the child to be heard and the reasonable preferences of

the child, depending on his age and maturity, are two such criteria under section 6 of the Children's Authority Act. Indeed, the best interest principle is the thread running through the Adoption of Children Act, 2000.

Madam President, there may be many instances where the adopters may be of different religious persuasion but are very willing to bring the child up in the religion of the parent or guardian. We know of many homes where siblings belong to different religions and happily coexist, and this causes no problem, absolutely no problem. In that case, the section would have been given effect to the extent that the enquiry was made, "Would you be willing to bring up the child as a Christian, or Muslim, or Hindu, or Orisha", notwithstanding that you belong to another faith. In the case of a baby or very young child, it may be more practicable for the child to be brought up in the religion of the adopter despite the wishes of the parent or guardian.

Madam President, we are also aware of children living with their parents and at the age, say 13 or older, have joined another religion. Adoption will become an integral part of the child protection system, and, increasingly, in this context, older children will become available for adoption. If one looks at some of the adoption websites in the United States, many 16- and 17-year olds in care are expressing

a preference still to be adopted. The religious upbringing of the child is a consideration that must be taken into account, and it will be guided by what is in the best interest of the child.

Sen. Abdul-Mohan, I must say, my good friend. I was the principal of her two brothers at St. Stephen's College and we have a healthy respect for each other and the family. I went on several hikes with her father when he was more able, all up Paria and those places. I am not compromising the position. Sen. Abdul-Mohan raised the issue of the need for continuous assessment to ensure that the match between the adopter and the child continues to be in the best interest of the child. Madam President, the entire adoption process is geared towards minimizing the need for post-adoption support, but it is recognized that in some instances post-adoption support will be required. Firstly, the assessment by the Authority of a person wishing to be approved as an adopter will be a rigorous one. This will entail background checks and psychosocial assessment. Pre-adoption training will also be a requirement. The matching process thereafter will also be as careful and as robust as possible to minimize post-adoption difficulties or breakdown.

The probationary period, if not waived, will enable the Authority to determine whether the adoption should be recommended

to the court. The court would also have judicial oversight. Nonetheless, post-adoption services and support will be offered by the Authority to the new adoptive families, and periodic checks will be facilitated on the Child Protection Information Management System managed by the Authority. Madam President, this is a computerized case management system which tracks and monitors the child from his or her entry into the child protection system up until he or she attains the age of majority, 18.

However, Sen. Vieira's concerns that continuous assessment of adoptive parents after a child has been adopted could have problems because you are putting them on a different scale to the parents are noted. We note that. Such support will only be offered and, therefore, will be voluntary, and will be particularly important where the adopted child has special needs. In England, for example, very comprehensive legal provisions are made for post-adoption services. Madam President, the issue of constitutionality of the parent Act and other provisions proposed by the Bill, I must say, has been comprehensively dealt with by the AG in his maiden—in his debut contribution, and I want to compliment him for that. [*Desk thumping*].

Madam President, I would only wish to touch on the specific

question of the deletion of section 22(2) of the parent Act, which was raised by Sen. Al-Rawi and mentioned by Sen. Prescott. Section 22(2) imposes an obligation on the court to ensure that the child who is to be the subject of an adoption order has legal representation. This deletion is also to be found in the 2000 Adoption of Children Bill introduced in the Parliament. It is not clear why the administration at that time proposed the deletion in the 2007 Bill. However, this Government agrees that the deletion—since it is felt that the subsection imposes unnecessary restriction on the courts exercise of its adoption jurisdiction. Further, the subsection lacks clarity and certainty in that no guidance is provided as to how such legal representation is to be sought by the court and to be provided.

The Government is of the view that section 88 of the Children Act, 2012, which makes provision for a Children's Authority, has a great deal of clarity and certainty, and gives the court a discretion to request the Solicitor General to assign a children's attorney to represent and safeguard the interest of a child in any court proceeding. Because section 88 extends to both criminal and civil proceedings, it will clearly also apply to section 22 of the Adoption of Children Act, 2000, and obviates the necessity for the very uncertain section 22(2). In this regard, I must thank Sen. Al-Rawi for the amendment he

proposed at the committee stage of the Children Bill, 2012, and the proceedings under section 88 of the Bill be extended to civil proceedings, and which the Government accepted. It can clearly now apply to proceedings under section 22 of the parent Act.

Madam President, several Senators raised the issue of the proposed repeal of section 23 of the 2000 Act. That section imposes restrictions as to the age of adopters. The Government is of the view that no restriction as to the age in a matter of adoption should be imposed since this is likely to cause some injustice and may have produced injustice in the past. For example, imposing a minimum age of, say 25 years, will deny a person who is very close to that age, but who is a suitable prospective adopter, in all other respects, the opportunity of providing a safe and loving home to a child in need of care and protection. It is the Government's view that the Authority should have the discretion to determine this question in order to eliminate possible injustice. The Authority will necessarily exercise the discretion in a responsible manner. This can also explain why the 2007 Adoption of Children Bill, introduced by the then administration, also proposed the repeal of section 22.

Madam President, Sen. Mahabir has made reference to clause 17, and proposes an amendment to clause 17(b). Clause 17(b) of the

Bill proposes to amend section 24(3), to allow a married spouse who is separated and living apart, and where the separation is likely to be permanent, to make an application on his or her own without the need to get the consent of the other spouse.

2.45 p.m.

The parent Act requires the consent of the two spouses irrespective of the circumstances of separation, and only the court can dispense with this consent under section 24(4). While the two subsections appear similar, section 24(3) deals with giving of consent of the two spouses, while section 24(4) deals with the dispensing of consent by the spouse who cannot be found or is incapable of giving consent or where they are separated and living apart and the separation is likely to be permanent. The proposed amendment seeks to make the application less difficult for a spouse in such circumstances.

Madam President, reference to section 12(5) was also made by several Members who sought clarification as to why the Bill proposed to extend the period from seven to 21 days, where the Authority gives notice not to allow the child to remain in the care of the adopter. The intent of the amendment is to cater for those instances where the child is not at risk of harm or is being harmed or at any sort of risk. No

fault may lie with the prospective parents and a longer period may be necessary to find a suitable foster home or other form of suitable alternative accommodation for the child and to counsel the child if this is required.

Madam President, the Authority will, of necessity, have to remove the child immediately. For example, in cases where the child has been harmed or is at risk of harm, the proposed amendment simply recognizes what might be the reality. For example, no notice may be given by the prospective adopter who still thinks that they may be capable of looking after the child because a bond has already been formed.

Madam President, the issue of surrogacy has been raised in particular by Sen. Mahabir, Sen. Cudjoe and Sen. Kriyaan, who was temporary at the time—Kriyaan Singh—and an amendment has been tabled by Sen. Mahabir in this regard.

Madam President, as we are aware, the issue of surrogacy is very, very complex. It is a form of infertility treatment and positions vary between religions, personal beliefs and national legislation. It presents legal, ethical and emotional issues. Labels have been attached to different types of surrogacy such as commercial, altruistic, gestational and others. In some countries such as France and

Germany, surrogacy is not permitted at all—not at all. In France, the commissioning parents of a surrogate child are legally prevented from adopting even if the surrogate mother is willing to give up the child. Even where it is regulated, different countries may take different positions. Thus commercial surrogacy is legal in India, but illegal in some other countries. Altruistic surrogacy alone may be legal in some countries. Surrogacy can take place using any of the following: the commissioning mother's ova and commissioning father's sperm; the commissioning mother's ova and donor's sperm; the surrogate mother's ova and the commissioning father's sperm; the surrogate mother's ova and donor's sperm; the donor's ova and the commissioning father's sperm; and the donor's ova and the sperm or the donor's embryo.

Madam President, each of these outlined above has legal implications. See, for example the 2005 Irish report of the commission on assisted human reproduction which is available online and it is a very, very detailed thing. Surrogacy remains unregulated in Ireland, and so the existing law prevails. However, there are currently cases on appeal in Ireland challenging the legal position that the birth mother is the legal parent in a case of gestational surrogacy.

At present, the legal position in Trinidad and Tobago flows

from the existing law. A surrogate mother in Trinidad and Tobago will be the legal parent of the child—that is the child’s birth mother. The commissioning parent or parents, they only become the legal parents pursuant to adoption. In the absence of legislation regulating surrogacy, Sen. Mahabir’s amendment, while it attempts to deal with the difficult issue—and he must be commended for this—will fetter the discretion of the Authority.

It may be that the Authority would have formed the view after going through its process of the determining suitability, and the commissioning parents are not suitable adopters. If the surrogate mother resides in a country outside of Trinidad and Tobago, then the Trinidad and Tobago commissioning parents will be guided by the laws of the country where the surrogate mother resides.

Madam President, those parents may become legal parents under laws regulating surrogacy or they may be allowed to adopt. Hon. Senators, surrogacy is indeed an issue that needs consideration, but it requires careful consideration and wide public consultation before a definitive position is taken.

Madam President, having regard to Sen. Mahabir’s proposed amendment that clause 8 be amended to delete the words of “cohabitant” and the words “step-parent” and “step-parent or”, it is

this Government's considered view that the clause should remain unchanged. Clause 8 seeks to amend section 12 which provides for a probationary period of six months and gives the Authority the discretion to waive or reduce this in certain circumstances.

I say that it is the view of this Government that the clause should remain unchanged because the Authority is not obliged—the Authority is not obliged to reduce or waive the probationary period with respect to any of the categories identified at section 12(2), including a cohabitant or step-parent.

The intent of the section and that of clause 8 which seeks to amend it, is that the Authority only has the discretion to waive or reduce the probationary period with respect to the categories of persons identified, and where it is satisfied it will be in the best interest of child to do so.

Further, Madam President, cohabitants have been granted legal rights to maintenance and property under the Cohabitational Relationships Act since 1998 once certain conditions apply. And indeed, the term “cohabitant” under section 12 of the parent adoption Act takes its meaning from the Cohabitational Relationships Act as seen in the definition section. As for this appearance, the Authority's discretion to waive or reduce will still apply.

Madam President, another issue that has arisen relates to the circumstances under which the court may dispense with the consent of a parent as set out at section 24(2). It is true that some parents are unable to care for their child due to no fault of theirs such as poverty, and are also unwilling to give the child up for adoption. A parent may also be ill and unable to care for the child, but is still not willing to give the child up for adoption. That is the right of the parent.

The Children's Authority Act is designed to deal with such cases and categorizes such children as children in need of care and protection. The Government's policy is to rehabilitate those families and to find alternative solutions where the inability to take care of the child is not the parent's fault.

Madam President, we may be speaking here also of children with abilities or children whose parents are in prison, but who may turn their life around upon release. Further, the language of unreasonable withholding of consent is to be found in adoption legislation in many countries and is designed to deal with very specific circumstances which when all other things are considered by the court, the consent is found to be withheld unreasonably. The formulation proposed by Sen. Mahabir, while well intended, is somewhat broad.

Madam President, I want to refer to important raised by Sen. Kriyaan Singh that persons with disabilities who wish to adopt should not be discriminated against. It is evident from a perusal from the online international literature that this is the subject of several scholarly papers. For example, according to Prof. Elizabeth Bartholet of the Harvard Law School and one of the leading experts on adoption in the United States, persons with disabilities regularly encounter barriers erected by discrimination and bias.

In the United States, the American Disabilities Act 1990 and the Rehabilitation Act govern these issues and specific reference is made to adoption. Sen. K. Singh suggested that there should be some provision in the parent Act to ensure that persons with disabilities are not discriminated against. In Trinidad and Tobago persons with disabilities can seek redress under the Equal Opportunity Act. Since disability comprises—[*Interruption*]

Sen. Drayton: To you, hon. Minister, could you explain why we are not a signatory to the Hague Convention with respect to country adoption? I looked through some legislation such as Canada and their children's adoption Bill and there are whole sections on that to protect their children. So—

Hon. C. De Coteau: Madam President, I think—when I laid the Bill

before this august body, I did say that the matter we did not sign and the matter is before the Cabinet for consideration. I did say that.

Madam President, if I may continue. In Trinidad and Tobago, persons with disabilities can seek redress under the Equal Opportunity Act, since disability comprises one of the prohibited ground and the adoption can come within the area of goods and services. Since it is the service that is being provided. However, more importantly the Children's Authority has trained social workers who are sensitive to this issue and will be capable of making these determinations free from bias.

Sen. K. Singh also presented the flipside of this, ensuring that children with disabilities who are adopted have the best care, the best therapy, and the best medication, if needed, and parents should be responsible for such a child beyond the age of 18, based on the nature of the disability. This again is critical. The adoption unit, which is a legal requirement under the Children's Authority Act, will ensure proper monitoring in all such cases.

Madam President, I would like to conclude by saying that this Bill is important to the commencement of the operations of the Children's Authority and the effective implementation of the new child protection system. It was ventilated by all in this august

Chamber that it is long overdue. Notwithstanding the fact that it is long overdue it means that we are going to rush headlong into it without giving due consideration to all the suggestions made. It has far-reaching implications for the care, protection and welfare of the children of this country. I therefore wish to urge the Members of the hon. Chamber who have ventilated their thoughts and their expressions and their feelings on this particular Bill to fully support the Bill.

Madam President, I thank you and I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

3.00 p.m.

Senate in committee.

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

Clauses 4 to 7.

Question proposed: That clauses 4 to 7 stand part of the Bill.

Sen. Al-Rawi: Madam Chairman, before the question is put with respect to clauses 4 and 5, and because this does not actually constitute a clause of the Bill, but was addressed in the debate, and

quite capably by the hon. Attorney General in his contribution to the House, is it convenient that we were to consider—because of the architecture of the Bill—the issue of the three-fifths certification, section 13 certification for the Bill itself, at this point? Or would it be that we would come back to it later? The reason I have suggested the enquiry at this point is because it forms the matrix of some of the other clauses which are yet to come. Technically, it would be a new clause and it could come at the end of the Bill, but it may be a bit artificial as it may arise in several other instances after.

Sen. Nicholas: Madam Chairman, the issue has been dealt with at length and the Government's position is that a three-fifths majority is not required.

Sen. Al-Rawi: Thank you, Madam Chairman, through you to the hon. Attorney General, I had resisted interrupting and I thought that perhaps Sen. Prescott had stymied or curtailed—not that I speak for him—further interrogation on just a very few issues hon. Attorney General, but I do not want to indulge the House unnecessarily. Whilst I understand that you have given a statement of the Government's position, I wondered if you could just lend some clarity to a few issues which I have. I thought that the response given, I welcome and thank you for the response, clearly some good research went in.

Hon. Attorney General, you looked at Surratt No. 1, which is the majority judgment of the Privy Council concerning the case of Surratt and the AG which dealt with whether there was constitutionality in the Equal Opportunity Bill. That issue concerned me. Using Surratt No. 1 as authority for this position concerned me insofar as Surratt No. 1 is distinguishable in the very dicta of Baroness Hale at the beginning, and certainly I think it is Lord Bingham as well, when they looked at the issue of the need for judges of the tribunal to be treated in parity was a different argument before the Court of Appeal then.

My concern is, relative to this Bill, I understand the Government to be relying upon the due process point, the proportionality point, and those two are the main backbones of reliance. However, I am deeply concerned about the express removal of certain rights in the parent Act and also in the Bill. The Bill itself has an express removal of right to legal protection.

I do accept and I thank you for the explanation that there is a due process consideration. However, I think it safe to say that insofar as Surratt No. 1 can be distinguished from the issue before us—which is the removal of certain rights as opposed to the parity of judicial officers in the same way that *Hinds v The Attorney General* was

treated in that Jamaican case that went to the Privy Council—

insofar as those two are distinguishable and insofar as I think that we are all agreed that it would be better to avoid unnecessary litigation, there being a real opportunity for some aggrieved parent who is done out of a parental right to say, “well, look I now want to challenge the Act itself, the 2000 Act”.

Insofar as we would all agree out of an abundance of caution to put in the three-fifths certification—because I think it a unified purpose that we all support this Bill and we just want to get it right—would the Government still be minded not to err on the side of caution, there being a real risk that Surratt No. 1 is distinguishable in its construct from the type of rights involved here?—

in particular, the removal of legal representation in this Bill, and in the parent Act insofar as the derogation of rights there, we are being asked to rely upon the implied rights. And there was a dissenting judgment in the Privy Council in Surratt No. 1; the movement between that case then, as decided, and then coming forward now, causes me some concern in tracking the kind of rationale that the Privy Council has given recently.

So, that is my concern, and put into summary, would it hurt us to have the three-fifths majority insofar as we could potentially all

agree? But, I would like to hear, with your permission, Madam Chair, the views of the other attorneys and other members insofar as it is a critical issue of constitutionality.

Sen. Nicholas: The short answer to your question is, yes, the Government is prepared to proceed. Your concern with regard to legal representation, again, that has been properly dealt with. There is no right that has been taken away. The right for legal representation remains, the court has the authority and the jurisdiction to deal with it in the appropriate circumstances.

Sen. Al-Rawi: But, under its inherent jurisdiction—you see, my concern hon. Attorney General is that section 22 which we propose to amend by deleting the specific gift that Parliament gave when we dealt with it in the year 2000, was that the child shall have legal representation on this particular issue.

What we are now inviting consideration on is the implied representation that under the inherent power of the court, that the court would of its own volition ensure that it wears the *parens patriae* position and looks after the interest of the child. While that may be so, it falls squarely from a—as Baroness Hale said in *Surratt No. 1*, we are looking not so much to the legislation itself, as the constitutionality of it. My mind is, if I tell you where my mind is, my

mind is trying to avoid argument at all, and I think that the certification would certainly take it out of the picture clean. Because, all of the other pieces of legislation passed in that package in 2000, all of them involved a three-fifths majority. The only bits of legislation, for instance, the 1946 Act which we will now be repealing, they, of course, do not have the three-fifths majority because they were saved law prior to the republican Constitution.

So, I am concerned that, with the removal of an express right in section 22, that we are entering into the realm of infringement of a section 5 right of the Constitution.

Sen. Nicholas: Hon. Senator, I do hear you, I read you, because you have made a similar case with your contribution. However, we believe that at this time it is best to proceed without the three-fifths majority. And I say so because, in addition to causing a lack of clarity with regard to legal representation, I think the House is very much minded that this legislation needs to move forward quickly.

If it is that we go the route of a three-fifths majority just as an “in-case provision”, then we stand the risk of it being further delayed for no real reason in terms of legal outcome, and as such, and whilst that is not the primary—

Sen. Al-Rawi: It is still a concern, yes.

Sen. Nicholas:—concern, we must understand that—again, I dealt with the issue at length, bearing in mind what you had said, you have repeated it. My position and the Government’s position continue to hold. I do understand your concerns, but I do not believe that it is, at this time, necessary to delay moving forward on that point,

Sen. Al-Rawi: Could I invite you to consider, Sir, through you, Madam Chair, that any amendment that the Senate makes today, any amendment at all, would have to go back to the House.

Sen. Nicholas: I am aware of that.

Sen. Al-Rawi: So, if we were to treat with this inclusion by way of insertion of a new clause, giving certification to this Bill—the section 13 certification and the parent Act—that it would not detain the House more than two seconds for—even if we change a word “or” to “and” here, it is still going to have to go back to the House.

So, we could meet that caution very squarely. Hon. AG, may I also remind, perhaps, just by way of reflection, we pass legislation in serious matters. Let us look at the amending legislation to the Indictable Proceedings Act, section 34 litigation. Notwithstanding the declarations of constitutionality that we all put in, it still went to court. So, my intention is really to avoid all of that, because in my humble opinion, I think that there is no more fundamental a right than the

right to your child and the right that your child possesses in the broader sense.

But, I do not want to go on, I just wanted to state the position on the record clearly. We wish to support the legislation. I would prefer to do so cautiously, leaving the least possible amount of room for challenge to the Bill. I am sure that other Senators may wish to speak on the point itself. Thank you.

Sen. Vieira: Thank you, Madam Chairman. I think this is such a fundamental issue, and I understand the need for this Bill to go forward. I think we all want to see this Bill go forward. But, as responsible lawmakers, this issue, I think, really should have some ventilation, and it seems to me it might be better to deal with it now than to go through the whole Bill, clause by clause, and then find that a certain position is taken.

So, even if it is just for putting on the record the views of the various Senators on it, I think it might be appropriate to accommodate Sen. Al-Rawi's request for us to consider this point, and perhaps even put it to a vote. And, I would like to say something on it if you do accommodate that request.

Sen. Prescott SC: Madam Chairman, I too am supportive of the view that we should take this bull by its horns now rather than later. But, I

do wish to—sorry, the question of the majority and the certification—to ask the Attorney General, through you, whether it is the intention of the Government side that there should be no amendments taken here. If that is not so then perhaps we can defer this question to see what other amendments are cast up during the course of the committee stage. And we may find that there is an urgent need to look at all of it and to send it to the other place.

So that, either we deal with the certification issue immediately and put it to a vote as is being suggested—I hope the Standing Orders permit it—or we defer further consideration of that issue to see what amendments are thrown up. And forgive me, the premise being that the Government side is prepared to accept recommendations or amendments.

Madam Chairman: Hon. Senators, there is no amendment before us, as Standing Order 53(2)— [*Interruption*] The amendment we have is this one circulated by Sen. Dr. Mahabir, which does not speak to this matter.

Sen. Nicholas: Madam Chair, if I may, I hear my colleagues and I do not want at all to suggest that the Government is not prepared to take any amendment. We are here to listen and to come to consensus which is workable and practicable, and in that light, maybe the

suggestion by Sen. Prescott that we defer this matter with regard to the certification until the end, and let us go through and see what needs to be done.

Sen. Al-Rawi: As you please. Madam Chairman, just for guidance, in the five years that I have sat in this Parliament, I have never been stymied in raising an issue in committee stage. I just want to know if you would want me to go through the formality of putting a written amendment on a serious issue. If so, well then, I would of course oblige.

But, I understood that we have always engaged in a practice of raising an issue for the benefit of the law and not really for anything else, so I just want to know that we are not going to take that unnecessary strict approach.

3.15 p.m.

Sen. G. Singh: I think, Madam Chair, the suggestion of the hon. Attorney General is to proceed in accordance with the recommendation of Sen. Prescott and then at the end we then determine how we proceed.

Sen. Al-Rawi: Much obliged. Thank you.

Sen. Dr. Balgobin: Hold on. Let me just—thank you, Chair. Just for my own sanity here, let me just try to understand what we are

doing here. So we are saying that we are going through all of the amendments and then we are going to decide whether we feel a three-fifths majority is required or not?

Sen. G. Singh: Yeah.

Sen. Dr. Balgobin: You are saying yes and some people are saying no, so what is it? [*Crosstalk*]

Sen. G. Singh: You see, the point is that if you are at this stage there is a lack of clarity and it is suggested that at the end of it all, there may be the clarity required. So we are going through the amendments.

Sen. Al-Rawi: And also from a strict procedural point of view, and I only raise this because of the architectural issues in the Bill itself, strictly speaking new clauses and insertion of new clauses come at the end of the committee stage. So I had raised it from that point of view. I am perfectly fine once we consider the issues broadly and I am happy to move along with the position that is suggested by Sen. Prescott and the hon. Attorney General.

Sen. Prescott SC: May I, on clause 7, please, Chair. May I just firstly read the clause? It says in:

“7. Section 11 of the Act is repealed and the following section is substituted:

‘11. The Authority, when placing a child with an

adopter, shall have regard so far as practicable, to the wishes of the parent, guardian or child, in relation to the religious upbringing of the child.”

And section 11 of the parent Act says:

“The Board”—now read Authority—“in placing a child with adopters, shall have regard so far as is practicable to the wishes of the child’s parents or guardians as to the religious upbringing of the child.”

So that there is a “see” change in what is being recommended by way of substitution. And so I wish to invite Members to consider that the “languaging” of the proposed section 11, insofar as it says:

“...to the wishes of the parent...”

Regard should be happening to the wishes of the parent—ought to reflect that there are usually two parents and that the wishes of both should be encouraged. It may be that there are people who will interpret the wishes of the parent to mean the wishes of the parents. But the framers of the legislation in 2000 were very clear that the wishes of the two parents ought to be addressed.

There may be circumstances, and it is clear in Trinidad and Tobago that there will be where only one parent has any interest or in any circumstance that there is only one parent alive. But there is

language that one can use. So I am recommending that we look again at the use of the word “parent” and allow for both parents to be reached or to have their wishes taken into account.

Secondly, the new proposed section 11 says it must also have regard to, and I read it again:

“...the wishes of the parent, guardian or child...”

And the use of the word “or” suggests that if you get the knowledge of the wishes of one of those three groups of persons, parent, guardian or child, you would have satisfied section 11.

But indeed one cannot treat the child as not being someone whose wishes you ought to hear. So that it might be that we could say, “and the child”. So either all three groups are to be included or at the very least the child and the parents. Their wishes are the ones that should be approached and taken into account.

Sen. Al-Rawi: Just to complete a thought raised by my learned senior, he having taken my same concern forward. May I also refer you to what is in the existing section 10 of the Act by way of assistance of language, which is, I think is appropriate for qualification as it relates to the child. Section 10 of the Act uses, as a qualifying phrase after:

“...having regard to the age and understanding of the child.”

So 10(b) speaks to:

“so far as is practicable ascertain the wishes of the child and give due consideration to them having regard to the age and understanding of the child.”

I thought that was a very useful qualification of language as it related to the consideration of the wishes of the child. Certainly it is a codification of what the common law is in any event, but because we use this qualification of discretion of the child throughout the rest of the Bill, I thought that we are now linguistically and therefore architecturally in amending section 11 by repealing and replacing.

We are using the word “or” which is disjunctive and is a more appropriate expression and that we had lost the qualifying discretionary factors as it relates to the child’s mental capability and maturity to participate in that decision making process.

Sen. Prescott SC: Chairman, if you would permit me just to add something, and this is really for the ear of the hon. Attorney General. When I had made the reference to the language, “the parent”, I omitted to say that in the Children’s Authority Act, section 6(1)(a) the term is used, but it is less ambiguous in 6(1)(b). Because 6(1)(b) said:

“...recognise and give effect to the right of the parent to be heard...”

So that one imagines that any parent would be heard because the parent has stepped forward. I do not think the same sense can be gathered from the proposed section 11. Thank you very much.

Sen. Al-Rawi: Agreed.

Sen. Nicholas: With regard to the issue of the parent, I think it is normal drafting that the single includes the plural. So that should not be an issue. With regard to the “or”, I am being advised that “or” includes “and”. It is “and” that does not include “or”, and therefore there is not an issue there either.

Sen. Prescott SC: Hon. Attorney General, through you, Chair, does the Government intend that the wishes of the child shall be taken into regard as a mandatory provision?

Sen. Nicholas: Well, I think in all family circumstances, especially in family law with regard to divorce and those sorts of proceedings, not only the wishes of the child but the best interest of the child is always taken into consideration. We have to determine, I suppose, the age of the child at the time of the adoption. The child may not be in a position to express a view. So it cannot be necessarily mandatory and therefore it will have to be based on the circumstances at the time. And I think that is what the legislation is actually trying to accomplish.

Sen. Prescott SC: So pressing it a bit further. Those who assisted in framing this are thinking that there may be circumstances where having regard to the age and the ability of the child, the understanding of the child, that it may not be necessary to seek that child's wishes. If that is so, we can language it differently.

Sen. Nicholas: No, well, it may not be possible to determine the wishes, but where it can be determined then the legislation allows for it to be determined.

Sen. Al-Rawi: AG, I think we actually agree. What I understand Sen. Prescott to be doing and to say in his usual elegant way, understated elegant way, is first of all, the clause as is proposed to be redrafted uses the word "shall". So it is obviously in keeping with the clarification which you have given which I am grateful for that "or" includes "and", but "and" does not include "or". So it says you shall do it. If that is the case and we shall take in, then may I suggest that insofar as the rest of the language of this Act as is proposed to be amended clearly sets out that the court is to have so far as practicable, due consideration having regard to the age and understanding of the child that it may be an appropriate qualification marker to include in this particular section.

Sen. Nicholas: Well I want to suggest that:

“...as far as is practicable”—actually deals with that.

Sen. Al-Rawi: That is in clause 10 above.

Sen. Nicholas: That is in 11.

Sen. Al-Rawi: “Ah!” I see. Forgive me. I see the words there.
Thank you, hon. AG.

“...so far as is practicable to the wishes of the parent...”

I too join—

Sen. Nicholas: “Guardian” as well.

Sen. Al-Rawi: Yeah, to the child’s parents, guardians, yeah, parent, guardian, I am reminded that the Interpretation Act puts a singular as including and the male as including masculine including feminine, singular including plural.

Sen. Nicholas: Absolutely.

Sen. Al-Rawi: I would have preferred, but you have explained “or child” in relation to the religious upbringing of the child. Is there any room for “regard to the age and understanding of the child”?

Sen. Nicholas: But “as far as is practicable” covers all of that. The question is why—

Sen. Al-Rawi: As it ought to. Why put it, if it is implied in as far as practicable. I accept that. Then why in the rest of the Act do we use as we have in section 10 as:

“...far as is practicable...having regard to the age and understanding of the child.”

Elsewhere, throughout the Act, littered throughout the Act is the—as far as practicable rubric and also the qualification of regard to the maturity and capacity of the child.

And AG, let me explain, perhaps I could just offer why it is I am raising it. I am raising it so that I do not have someone argue that “Parliament” in its wisdom, specifically, intended to remove the qualifying remarks here and it is not used elsewhere, as happens in construction arguments all the time. So I am just looking for consistency in approach.

Sen. Prescott SC: May I make a suggestion that they are—

Sen. Al-Rawi: Sure.

Sen. Prescott SC:—your parliamentary staff might want to take into account. In section 6 of the Children’s Authority Act, they say the following, 6(2):

“When determining what is in the best interest of a child, the Authority shall take into consideration—

(cc) the right of the child to be heard;”

Could it be that we might want to consider further amending our new section 11 to say, subject to section 6 of the— or something

like that, to have some regard to what is being said in section 6 of the Children's Authority Act.

Sen. Nicholas: Okay, I am being advised that all of this is actually understood, because the Children's Authority is guided by—is it section 6?—6(2).

Sen. Prescott SC: I am happy to hear how we are thinking because—probably I am trying to say that and I am not quite getting it over. I am saying 6(2) must be guiding, and I am wondering whether we should not say in section 11, subject to 6(2) or something like that, but let the framers of legislation who are better able, tell us what is correct.

Sen. Nicholas: So it is already governed by that, and therefore there is no need to continue—

Sen. Prescott SC: To emphasize it.

Sen. Nicholas:—to emphasize it throughout the legislation.

Sen. Prescott SC: I am guided.

Sen. Al-Rawi: Thank you. May I say that this very discussion as a tool to parliamentary interpretation helps significantly? Thank you for allowing the ventilation.

Sen. Nicholas: Thank you.

Sen. Al-Rawi: May I just before that final point, Sen. Prescott had

jumped to clause 7. We propose by clause 6 to repeal Part II of the Act entirely. And just for the benefit of the record, sections 3 to 8 which was Part II of the Act, would have done the whole provisions for the establishment of the Board, et cetera, procedures of the Board, functions of the Board, et cetera. Insofar as the Board is now replaced by the Children's Authority itself, what concerned me here, and I do not know if there is no reason for concern or otherwise, what concerned me here is that the Board in its operation had a fixed number of persons and those persons had a fixed capacity arrangement for doing certain aspects of the Board's work. The Children's Authority is differently built.

The Children's Authority is comprised of a certain number of members and then there are other people incorporated out into that. So I just wanted to make sure that we were not having a construction incongruity. Let me explain what I mean by that. A difference between the board's constitution and fit-out of certain offices for performance versus the Children's Authority establishment and fit-out of performance by certain officers, because when I read the Children's Authority side by side with this, I wondered if all of the roles and responsibilities in the Act could be covered by the manner in which the Children's Authority itself was populated for its board. It is a

different construct.

3.30 p.m.

Sen. Nicholas: So that the Children's Authority establishes the Adoption Committee which sets out in great detail what they are allowed to do and how they—

Sen. Al-Rawi: Excellent. So the Act itself sets the Children's Authority which has a subset board which can handle safely, without incongruity, the operationality of this.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you very much. Thank you, Madam Chair.

Question put and agreed to.

Clauses 4 to 7 ordered to stand part of the Bill.

Clause 8.

Question proposed: That clause 8 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, may I ask a question?

Madam Chairman: Let me point out, too, that there is an amendment that has been brought with respect to clause 8 by Sen. Dr. Mahabir.

Sen. Al-Rawi: Before we get to clause 8, perhaps for your guidance, through to the hon. Attorney General and the hon. Minister, there is throughout the debate the issue of the appropriateness of the offences

prescribed in the legislation and how unduly low some of them are pegged and how incongruous. There is some lacking of harmony in relation to the matrix of offences, be it under the Sexual Offences Act, the Children's Act, whatever the legislation may be. Insofar as that is the case and insofar as some of the sections are crossing over now bits of the Act, for instance, section 12 of the Act we would have had offences created, I am wondering if—would we be looking to that issue later as to the appropriateness of offences? We are actually only in this Bill going to amend one aspect of offences, perhaps not as high as we should, after discussion. But the question is: would we have an opportunity later on to consider offences in general?

Madam Chairman: Senator, we dealing with clause 8, are we not?

Sen. Al-Rawi: Yes, Ma'am. Sorry, for clarity, Madam Chair, I asked the question in terms of treatment in general. We could, of course, mark the spot and come back to it along with the three-fifths point after. I am asking for guidance on how we propose to deal with it.

Sen. Nicholas: Just with regard to your concern with regard to the level of penalty—

Sen. Al-Rawi: Yes, Sir.

Sen. Nicholas: Because this only deals with adoption, those penalties are specific to the adoption and it is considered to be appropriate.

There are, of course, other offences that can take place, such as kidnapping and the like, which are dealt with in other places and with appropriate punishment.

Sen. Al-Rawi: Okay. I will mark the spot and come back, as Madam Chair has suggested, to the relevant point. Thank you, hon. AG.

Sen. Prescott SC: Madam Chair, may I be heard on clause 8?

Madam Chairman: Sen. Prescott SC.

Sen. Prescott SC: Thank you very much, and if I could have the attention of the hon. Attorney General. Clause 8, insofar as it addresses section 12(3) and proposes a new subsection, takes away a mandatory provision that existed in 12(3), that is to say, if during the probationary period the board made a decision not to allow the child to remain in the care of the adopter, it will require by law to give reasons for its decisions to the adopter, and that mandatory provision appears to have been withdrawn and “shall” has been replaced by “may” in the new (3)(b). And you know, lawyers become very panicky when they see these freedoms being allowed to bodies that are created by people. You may know of a reason and I would like to hear it.

Madam Chairman: Senator, the essential difference is the use of the word “shall” as opposed to the use of the word “may”.

Sen. Prescott SC: In the case of (3).

Sen. Nicholas: In the parent Act, Sen. Prescott, at 12(3), it says:

“At any time during the probationary period—

(a) the adopter may give notice in writing to the board.”

Sen. Prescott SC: Yes. I am sorry. I hope I am not misunderstanding you, but I am focusing on that part where the board has made a decision and in the substantive Act, the parent Act—

Sen. Nicholas: Could you tell me specifically which—

Sen. Prescott SC: Clause 12(3)(b). May I read them both to you?

Sen. Nicholas: Yes, please.

Sen. Prescott SC: The Adoption of Children Act, the parent Act, says:

“At any time during the probationary period the adopter may give notice in writing to the Board of his intention not to adopt the child or”—and this is the part—“the Board may give the adopter notice in writing of the Board’s decision not to allow the child to remain in the care of the adopter. The Board shall give reasons for its decision to the adopter.”

What is being changed in the amendment Bill is this—and I am going over now to the Bill at clause 8, the reference to 12(3). It is really just—

Sen. Nicholas: Just give me one second.

Sen. Prescott SC: Sure.

Sen. Nicholas: So that 12(4) is retained.

Sen. Prescott SC: In which case I need some edification. It appears to me that the Adoption of Children Act at (4) intended to treat with a period outside of the probationary period, otherwise it would have been simply repetitious.

Sen. Al-Rawi: Correct.

Sen. Prescott SC: 12(3) says, during the probationary period you shall give reasons; 12(4) says, “you shall give reasons”, but it does not say when. So poor me, I said, well, these must be two different times.

Sen. Al-Rawi: Correct.

Sen. Nicholas: But this actually covers all times.

Sen. Prescott SC: Which, (4)?

Sen. Nicholas: Yes.

Sen. Prescott SC: So once again you are asking other people coming somewhere down the road to go and read the *Hansard* to hear what the Attorney General said in March 2015 in order to understand what 12(4) means. 12(4) is not being amended. It always meant outside of the probationary period, so it could not suddenly be expanded.

Sen. Nicholas: And therefore 12(3) reads:

“At any time during the probationary period—

(a) the adopter may give notice in writing to the Authority of his intention to adopt the child; or

(b) the Authority may give the adopter notice in writing of the”—

Sen. Prescott SC: Of the decision.

Sen. Nicholas: And it will flow, and then at the end of, where you have “decision not to allow the child to remain in the care of the adopter”, and (4) will kick in:

“Where the Board makes a decision not to allow the child to remain in the care of the adopter it shall give reasons for its decision.”

So that the reading of the new Bill is actually clearer because it tells us that when the decision is made, reasons shall be given.

Sen. Prescott SC: It sound very brilliant, eh.

Sen. Al-Rawi: Hon. AG, the point is, the avoidance of argument. So if I were to put forward my own shared view on this perspective for your consideration, I accept that you are saying that the new Act not yet implemented, not yet repealing the existing law when it is now reread in its sanitized, fit-out version, the position, as I understand you to be saying. is that 12(3)(b) must be read as subject to 12(4). That is

what I understand you to be saying.

The question which arises is—and again it comes from litigation experience in construction claims as to what Parliament means—that Parliament specifically removed the duplicitous language first existing in 12(3), where 12(3) said, when you are doing it during the probationary period, you must give reasons. And then 12(4) had the same requirement that you must give reasons, but it appeared to create a category of events. One category was during the probationary period, which is what 12(3) seemed to have related to, and stood alone on, and then 12(4) appeared to be full stop in relation to the larger operation. Does it assist us?

May I point out that—would it assist your argument that 12(2) deals generally with probationary periods and 12 itself? Are we to be comforted by the fact that perhaps the argument is really the original 12(3) was duplicitous because 12(4) and 12(3) both fit into 12 and 12 itself deals with probationary periods. So that 12(4) does not really relate to any other period to provide reasons save the probationary period. Is that the argument?

Sen. Nicholas: Well, I may say very categorically that my—I was almost prompted to say my learned friend—colleague understands and clarifies it very well.

Sen. Vieira: I think we are also talking about two different things. 3(b) really is:

“At any time during the probationary period—

(b) the Authority may give the adopter notice in writing...”

So (b) is the requirement that, “look, you are not going to be allowed to have the child remain with you. I am giving you a notice, so you are notified.” But (4) is that you give reasons for that decision. So one is notice, the other one is reasons.

Sen. Al-Rawi: Thank you for the clarification.

Madam Chairman: Sen. Dr. Mahabir?

Sen. Dr. Mahabir: Thank you very much, Madam Chair. I am kind of losing my direction with all the legal arguments going around. But my position, as stated in my written amendment, is really to address a matter that I consider to be of importance, given the fact that currently we are told that there are really a small number of children who are in the pipeline to be adopted in Trinidad and Tobago, but we do have a number of fertility clinics—I know in the Caribbean, Barbados has one—so that surrogacy is not a hypothetical construct in our region. It is something that is part and parcel of our society and I simply looked at what was stated with respect to the involvement of third parties.

You see, it states clearly that no person other than the Authority shall make arrangements for the adoption of the child. Then the Act proceeds to place a penalty:

“For the purposes of this Act, a person who takes part in the arrangement of an adoption is liable on summary conviction to a fine of ten thousand dollars.”

So that there is a penalty associated with respect to a third party involvement. But given the phenomenon that we are seeing, that Trinidad we know is a secular society—we are not governed by any religious law; we are secular—the fact of the matter is, surrogacy is complex. It may have religious connotations, but it is a medical reality. Since it is so and since we must legislate for the current period and for the near future, I simply tabled the amendment in the context of having the Government—I heard the Minister as he was winding up indicate that it is complex, but because it is complex does not mean that we cannot at this time legislate.

3.45 p.m.

And again to the hon. Attorney General, how difficult will it be for us simply to say, unless the Government says it wants to have nothing to do with surrogacy at all because it is too much of a political issue. My amendment is simply this:

All adoption arrangements relating to surrogate motherhood shall be approved by the Authority.

So that if you wish to have an arrangement in this regard, it should be reviewed by the Authority—I am sure the Authority will be staffed by competent technical people—and the Authority will indicate, yes, we will or will not approve the adoption. In that way, some of the problems we are seeing abroad in the information era, problems which exist in Australia get to Trinidad very quickly. It is called contagion.

Some of the problems we are seeing, I think the Act can anticipate and certainly give the authority. Because as it currently stands, Madam Chairman, what I am seeing is that it is really going against the law in Trinidad and Tobago and I do not know if the Government wishes that to be its policy. It is going against the law for anyone to enter into these kinds of surrogate arrangements.

So in that context, again, I would like to hear the Attorney General and the Minister on this point.

Sen. Nicholas: Sure.

Madam Chairman: Hon Senators, I think that we had agreed that we would take new clauses at the end, and we are currently discussing clause 8 which is the amendment to section 12 of the Act. So if we could confine our observations in order so that we do not go—

Sen. Nicholas: Madam Chairman, I am prepared to deal with it now if that is okay with you.

Madam Chairman: Certainly, Senator.

Sen. Nicholas: The hon. Sen. Dr. Mahabir has raised very important points. The reality is that the international scientific community is moving at a pace and not everything that is being done is wholeheartedly accepted as Government policy. I mean, for instance, there is cloning, there are all sorts of really good reasons for cloning, but we have not embraced those scientific advances as Trinidad and Tobago Government policy. Surrogacy falls within that category. We understand it to be good in some circumstances. I am not saying that I am saying that Government policy is that surrogacy is good—do not misunderstand me—but it is out there and at this time it does not form Government policy, and therefore, we cannot sanction it in a Bill.

Sen. Dr. Mahabir: Is it against the law then because it involves a third party?

Sen. Vieira: May I say something? Sen. Dr. Mahabir's point is well taken and he is being very forward looking. The difficulty I have with the proposed amendment is this, it would give the impression that surrogacy is permitted under our law when, in fact, we are still to work out whether this is an enforceable or unenforceable contract

because it is a contract. So I think we have not reached the surrogacy stage yet, but you have laid the foundation for us to consider it. I do not think it is appropriate to put it in.

Sen. Dr. Mahabir: We have not reached it in law, but we have reached it in practice and I think we need to recognize that. It is going on. What I am simply indicating is whether we should now incorporate it into the law. But you see, the concern I had was an issue as to whether given what exists with respect to the criminality of a third party, whether that is going to be also in keeping with the text of the law that is going to be considered to be a criminal act punishable by two years or \$10,000.

Sen. Nicholas: Sen. Dr. Mahabir, I would want to embrace Sen. Vieira's point where we would not want to imply that Government policy has changed in this regard.

Sen. Al-Rawi: And it is usually the subject surrogacy of an entire piece of legislation by itself. It has to be well-thought-out. Now to do it on a piecemeal basis, whilst it is a very laudable perspective and certainly one which I am sure is going to come at us soon enough, I am very cautious about making up policy on the trot and not figuring out the ramifications of it. It is usually the subject of an entire stand-alone section of the law.

Sen. Nicholas: Which was the point of my colleague.

Sen. Vieira: Now while we are on same point, I had in the debate talked about the concern about lawyers, social welfare workers, religious persons trying to get involved to help a child and finding themselves running afoul of this clause as worded. Now, I am quite prepared to let my concern be dealt with in regulation, that is, if there are no amendments to be made. I would not like to derail it on that basis, but if amendments are going to be made to the Act, I would ask that it be given consideration.

Madam Chairman: Sen. Drayton.

Sen. Drayton: Sen. Al-Rawi, I fully endorse what he has said that surrogacy is a—you know, yes, it is a process of adoption, but it is an entirely different situation and I think it needs to be looked at in a totally different light from this adoption.

Sen. Nicholas: Thank you, Senator.

Madam Chairman: Sen. Dr. Mahabir, would you like to address your proposed amendment for clause 8?

Sen. Dr. Mahabir: I withdraw those given the explanation given by the hon. Minister in his winding up.

Madam Chairman: Thank you.

Sen. Prescott SC: Madam Chair, may I be heard once again on

clause 8, please, at risk of being accused of malingering? Section 12 of the parent Act spoke to decisions being made during the probationary period, and therefore, I was of the view that section 12(4) should be caught up within that umbrella, that period. If a decision was made not to allow the child to remain in the care of the adopter, section 12(4) said give reasons for your decision. It may be that it was meant to say “outside of the probationary period”; it did not say that. Now, as amended or as proposed to be amended, I am not certain that we are making clear that decisions taken outside of the probationary period require reasons to be given, or—[*Interruption*]

Sen. Al-Rawi: Outside the law.

Sen. Prescott SC: Beg your pardon? Yes, thank you. Outside of the probationary period and prior to the adoption order require reasons to be given. I am very much in the corner of those who say that you make decisions affecting people’s lives, you must give reasons. Hence my persistence that the Attorney General could point me to some legislative provision that deals with that period between the expiry of the probationary period and the adoption order. And if not, can we consider introducing some language that speaks to that period and requires reason to be given?

Sen. Al-Rawi: AG before you answer, having thought about it, it is

tickling my mind as much as it appears to be tickling Sen. Prescott's mind, and the reason is to be found in the language of section 12(6) of the Act. So the existing section 12(6) speaks to:

“If at the expiration of the probationary period no notice has been given in accordance with subsection (3)...”

So it makes a distinction between reasons during the probationary period, but what if the Authority finds itself in the circumstance of passing the probationary period? Six months has passed, it now says, well I want to give a subsection (3) or I want to give notice to the adopter that I am not going to allow the adoption. There is nothing to take care of the reasons in that period.

So (4) coming after (3), but before (6), speaks squarely to the need to give reasons during a probationary period event. After the expiration of the probationary period, but prior to the making of an adoption order, it would seem logical that the Authority still has a point of time where it can decide, well look, I am no longer, new circumstance has come up. I think we just want to err on the side of caution and at least even by way of explanation to understand that if a decision is made of a type equalling to a section 12(3) notice after the grant of a probationary period that reasons are given.

If the answer is the Authority just cannot give a notice any time

after the expiration well, then, that could take care of it, but my point was fettering.

Sen. Nicholas: I was just reading it over to be clear based on the advice I was given and, of course, what was being advised is that there needs to be certainty at the end of that period and if it proceeds then the court will be in a position to give reasons.

Sen. Al-Rawi: But suppose the Authority just says, well six months has passed, we are just at the cusp of making an adoption order, we found out something and we want to give notice, here are the reasons. It is that kind of circumstance so that you are not forced to now present an order. What concerned me later down in the Act is, what if no adoption order is made, applied for; what if no application is made by the former parent or person to become the former parent and the child is now stuck in limbo, are we now stuck with the point where they must go to court to have the court say something? Can we pull a trigger an—it seems to me to be logical to say at any point prior to the making of an adoption order, the Authority may give notice to the former parent, may give notice to the parent, or to the adopter—sorry—that it does not intend to proceed with the adoption and in such event it must give reasons. That takes care of everything.

Sen. Nicholas: There needs to be a time frame. You see, there are

specific timelines that are placed in order to allow for certainty and I think that is best way to move forward.

Sen. Al-Rawi: Okay. My obligation is to raise it to think about it.

Sen. Nicholas: Absolutely.

Sen. Al-Rawi: I am not quite certain to be frank with you. It just has not jelled right, but thank you, hon. AG.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Sen. Dr. Mahabir: Madam Chairman, the concern I had really was with just one word. It says that:

“(3) Where a person is convicted under subsection (2), the Court may order that person...return the child...”

But I was simply thinking that when someone has removed a child and the person has no authority to remove the child from his or her home, then as soon as an individual has been charged for removing a child, we simply in the interest of the child—because the objective of the law is really to act in the best interest of the child, to return the child to the home where the child is accustomed, but I leave that entirely for the hon. Minister and the AG to—

I know we are going to the Magistrates' Court and the case may be tried within a three-month period, but, Madam Chair, my concern is where is the child during that period? It is going to be traumatic for the child to be removed and in limbo. And so, in the interest of the child, I am putting out for the Government to consider that as soon as the person is charged we simply return the child to the home to which he or she is accustomed.

Sen. Al-Rawi: Sorry. Could I, Madam Chair, get some clarity from Sen. Maharaj?

Sen. Dr. Mahabir: Mahabir.

Sen. Al-Rawi: Mahabir, forgive me.

Sen. Maharaj: We all look alike.

Sen. Al-Rawi: We do all look alike, all of us in Trinidad and Tobago. I will tell you what is troubling me and I do not think I have got it yet. As I understand it, the section is built such that there is an application, the child has been in habitual care and custody of the applicant, nobody can come along except with the leave of the court or the consent of the applicant and remove the child. If somebody removes the child, then where a person is convicted under subsection (2)—so you have to go through a whole process of trial, et cetera. The child is now elsewhere, not in the care of the applicant. The court may order

the person to return the child to the applicant, the parent, guardian or the Authority.

Is Sen. Dr. Mahabir's concern the physical location of the child in the period between the taking of the child and the conviction? So, is it the need for conviction that causes concern, or is it that—well, because conviction may take a process, it may take years to get to conviction.

Sen. Dr. Mahabir: Yes.

Sen. Al-Rawi: Is it that we want to look at this, where a person is charged under subsection (2), the court may order?

4.00 p.m.

Sen. Dr. Mahabir: You see, Madam Chairman, this is my issue. Here is a child who is under the continuous care of another individual and the child is accustomed to that individual caring for him or her. The child is living in that home. And now we are looking at a situation where another person comes and removes the child from the home in which the child is accustomed and that person has been charged for removing the child without due process or the person has no authority to remove the child. The person who is charged would have the child under his care, but a good prima facie case has been made for him—has it not?—for him to be charged, because if there

are not sufficient grounds for him to be charged, there is no case for the person to answer.

But the person has been charged and the concern is the conviction process can take a while, where is the child in that interregnum? Where is the child in that period? And my concern is for the welfare of the child. My own position is that in the best interest of the child, which is the objective of the Act, is that this child be placed under the care of the individual or individuals with whom he is accustomed while we are pending the outcome of the court case. I would like to see charged—and in the interest of the child and only in the interest of the child.

Sen. Al-Rawi: May I suggest that the word “charged” as opposed to “convicted” is a material difference in this regard and to invite the fact that in any event, you would still be at the court because it is the court who may order that. I think it is actually a good fillip to use the word “charged” as opposed to “convicted”.

Sen. Nicholas: You see, I hear all sides.

Sen. Prescott SC: May I, before you commit to those others?

Sen. Nicholas: Sure.

Sen. Prescott SC: I imagine that this can happen in a situation where one parent has intervened and removed the child from the care and

custody of the other, and I am sure the court has the power. But can it not make an interim order that restores the child to the environment in which it had been and had become accustomed as is required by the Children's Authority? So we probably need to say so specifically. That is all I think.

Sen. Nicholas: Well, you could not tell the court what to do.

Sen. Prescott SC: But we have the power to make interim arrangements.

Sen. Nicholas: The court has that power generally and you see, it becomes very difficult if you say at the point of charging—remember, at the point of charging, the person is innocent until proven guilty. Now, the court could well look at all the circumstances and make the interim order as suggested by Sen. Prescott and that is the court's jurisdiction so to do.

Sen. Prescott SC: So shall we say it in the legislation?

Sen. Al-Rawi: AG, the mischief that we are painting here for consideration, not casting it one way or the other but to think it through. The mischief that we are painting here in the language is conviction implies that a court may hear an argument or may be persuaded that it cannot deal with an interlocutory application for the custody and care and control of the child, because the legislation

makes it clear that the restoration of that applicant's rights to care and control of the child can only happen after conviction.

Sen. Nicholas: No, the legislation does not say that. The legislation speaks to what happens after conviction but it does not limit what happens in-between.

Madam Chairman: Sen. Vieira.

Sen. Vieira: This is dealing with the criminal aspects so where there is a charge involved and a conviction involved, a court may make an order. But, in a situation where you have a child picked up and all of that, I have no doubt that there will be applications under the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Children's Authority.

Sen. Nicholas: Absolutely.

Sen. Vieira: So it does not preclude a court making an order under the civil jurisdiction. I would not want to interfere with this as it is cast because you have that protection already.

Sen. Nicholas: Thank you for that intervention, Sen. Vieira.

Sen. Al-Rawi: I am grateful for the clarification in snapping it back to subsection (3) coming after subsection (2). Subsection (2) caused me some concern while we are on the issue of the criminality. We are dealing with an offence which is possibly an egregious offence.

Now, AG, I did hear you speak to the fact that this legislation coordinates with other pieces of law. I was concerned about the harmony in terms of offences, be it kidnapping, be it whatever else. And I was looking at—[*Crosstalk*] I am over that point. I am on a further amendment into the point, Sen. Lambert. Thanks for raising it. So what I am on about now is: are we satisfied that the breach of this criminal provision—as Sen. Vieira has very usefully clarified for us. Are we happy with an offence of this type being dealt with by way of prescription of a fine of \$5,000 and imprisonment for nine months? It seems to me to be out of sync with the severity of offences and the manner in which we treat them in other pieces of law. I do not know if I am—

Sen. Nicholas: That is because it is considered to be different.

Sen. Al-Rawi: I heard Sen. Singh quickly pop the word “policy” out there, I am not quite sure if I am ready to accept that that quickly.

Sen. Nicholas: Well, you see, this is not considered, for instance, kidnapping and as such it is dealt with—

Sen. Al-Rawi: But, AG, that is a dangerous statement, you know, because on the *Hansard* right now stands, this is not considered kidnapping but we are being suggested by the hon. Minister himself to look to other pieces of law to deal with a kidnapping situation,

because where a person contravenes, anybody could take a child, and this thing does not deal with a former parent or a person who had care and responsibility for the child previously. This is now any person who contravenes subsection (1) that is taking the child out of care.

Sen. Nicholas: You see, this speaks specifically to before an adoption order so that 13(1):

“Before an adoption order is made in respect of a child who has been in the care and control of an applicant—”

So it is really dealing with somebody who has applied, who is going through the adoption process.

Sen. Al-Rawi: Well, take it further: “...no person shall...”—not the adopter, not the applicant—“...no person shall remove that child...” and if that person, whomever that person maybe, if that person removes the child, that could be kidnapping if it is a stranger.

Sen. Nicholas: And then kidnapping will then kick in.

Sen. Al-Rawi: Yeah, but to have this law which treats with taking the care and custody of a one year old, somebody pops up and says, “Well, look I have testamentary disposition from court X in Zimbabwe” or in Iraq or wherever else we may come from and says our law, this law, the adoption law says that all orders in those courts are to be obeyed here, and then that person rolls up and says, “Well, I

am taking the child”. And this law now says, well, you cannot necessarily take this child away from me until after conviction, and this law is not to be viewed as kidnapping. That is a serious problem. It is lacking in harmony and it is to invite a more recent piece of law to construe an older piece of law. And the rules of interpretation are that the newer legislation reads down the older legislation. So are we constructively amending the Kidnapping Act or other pieces of law by producing new law which affects it? That is a real issue.

Sen. Prescott SC: Hon. Attorney General—Madam Chairman?

Madam Chairman: Senator.

Sen. Prescott SC: Could you also look at section 6(2)(c) of the Children’s Authority Act which speaks about—regard being had to:

“the length of the time the child has lived in a stable, satisfactory environment, and the desirability of maintaining the status quo;”

Our laws seem to be very concerned that children should not be uprooted and left in uncertainty for any length of time. So it may not be related in the minds of everyone here but there may be cause for us to consider that from the moment you remove a child from a stable environment, what should be of concern is maintaining the status quo until conviction. So you order the child to be returned to the environment from which it came even though you may have all of the

rights that you think you do, and when the court has ruled in your favour, you may have the child.

Sen. Nicholas: Okay. Well, how this is envisioned to operate, the child is taken, removed; there is a charge. The court, then, has the opportunity to place the child back in the original position. The adoption legislation deals specifically with where that child is deemed to have been inappropriately taken, then it sets out the specific actions to be taken by the court. But it does not preclude bringing an action to return the child to the original position under any other law and that is the point.

Sen. Prescott SC: Pardon me, we are now speaking of the parent—the victim parent, if I may use that—picking up himself or herself to engage attorneys to bring some kind of action when, in the situation that we are now considering, a criminal act has been allegedly committed, the State has become involved; the parent does not have to go find any attorney or spend any money, the police have already acted, they have taken the man, they have charged the kidnapper.

Sen. Nicholas: What if the person is inappropriately charged?

Sen. Prescott SC: Well, where is the child? That is the question. Where is the child?

Sen. Dr. Mahabir: Hon. Attorney General, that is the point. Where

is the child? The child ought to be in the environment in which he is accustomed.

Sen. Prescott SC: Yes, from which he has been removed.

Sen. Dr. Mahabir: It is in the interest of the child.

Sen. Nicholas: Not necessarily.

Madam Chairman: Let me hear Sen. Drayton, please.

Sen. Drayton: Hon. Attorney General, just to ask a question here. Would the regulations give more specific support to this particular clause?

Hon. Senator: To the court?

Sen. Drayton: No, the regulations underpinning, you know, removing the child.

Sen. Nicholas: It would not. The short answer is it would not. It has to have the grounding on the law.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you. I think we are missing a salient point in this section and I agree with Sen. Prescott. Let us look at the purpose of this section. This section is saying a child is in a stable environment, he has been substantially, most of his life, with these people or three years at least, and here comes someone who forcibly grabs this child and runs with him.

Sen. Nicholas: Allegedly.

Sen. Vieira: Allegedly. Now, that is what this section is saying. You do not have the right, no matter how strongly you might feel about your entitlement to this child, to just go and pick up this child and run with him.

Sen. Nicholas: Right.

Sen. Vieira: If you felt you had a right, the section says you can go and seek the leave of the court. You may have a right under some other law. So the section, to my mind, does not pose a problem at all. What it is saying is that if you disregard the opportunity to go to court or to prosecute your case under another law, you could face a criminal conviction. In the meantime, as regards where the child should be placed, the court has an overarching jurisdiction and the best interest of the child will have to be considered. I do not have a problem with the section at all.

Sen. Nicholas: Thank you, again, Sen. Vieira.

Madam Chairman: Hon. Senators, the question is that clause 9 now stands part of the—

Sen. Al-Rawi: AG, just so that we perfect the *Pepper v Hart* rule, right? The reason why the Government is comfortable and that we should all be comfortable, if I may just understand it on the record. Is

it that the reason that we are comforted is that we are not disturbing the discretion of the court at any point in time to make such other orders or as it may deem fit with respect to the care and control of the child whether prior to conviction or not? Is that the case?

Sen. Nicholas: Correct.

Sen. Al-Rawi: Okay. Sen. Vieira, that is what you meant, right?

Sen. Vieira: Yeah.

Sen. Drayton: If I may?

Madam Chairman: Sen. Drayton.

Sen. Drayton: I want to share Sen. Vieira's view as well. You know, looking at 9 where it says:

“...no person shall remove that child from such care and control of the applicant against the applicant's will except with the leave of the Court or under any written law or upon the arrest of the child.”

It implies to me that if the child is taken for some reason or the other, that the natural course will be for the court to restore that child to the safe and familiar place of environment, you know, while due process takes place.

Sen. Al-Rawi: You see, it would have helped tremendously if the new subsection (3) said without prejudice to any other action which

the court may take and then it goes on. So, I understand that position.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

4.15 p.m.

Clause 10.

Question proposed: That clause 10 stand part of the Bill.

Sen. Al-Rawi: May I ask with respect to clause 10? Clause 10 proposes to repeal section 14, and substitute a new section 14. This notification, is it understood? Do we need to state that it should be in writing? So:

“Where a person has made an application to the Authority to adopt a child and the Authority is of the opinion that the adoption of that child by that person would not be in the best interest of the child, the Authority shall notify the person accordingly.”

I would have been happy if the notification was in writing, and if there were reasons. You see, if we look to clause 12 which we just amended in clause 8, we prescribed notice in writing, eh.

Sen. Nicholas: Okay. I am being advised that the regulations deal with this.

Sen. Al-Rawi: So why in the rest—*[Interruption]*

Sen. Nicholas: It will be in writing.

Sen. Al-Rawi: If I just draw your attention to clause 12 which we amended earlier. The Authority must in these circumstances here where it is giving notice, it says clearly in the law, you must give notice in writing. So am I going to invite an ingenious argument by an attorney saying for the Authority, well, I gave you notice. I called you, and I told you. There is no requirement like any other section in here that says it must be in writing. I gave you notice.

Sen. Nicholas: Well, it does say, accordingly.

Sen. Al-Rawi: I am just raising the argument that could be raised here. Elsewhere in the Act it says, “notice in writing”, and here now which is a repeal and replace section, we are saying you must give notice. It is to include the words “shall notify the person in writing accordingly, and give reasons for its decision to that person”.

Sen. Nicholas: I think the Authority would be well aware that not giving notice in writing, would open it to judicial review proceeding.

[Laughter]

Sen. Al-Rawi: May I ask what is the difficulty in putting in the words “in writing”, to match the architecture of the rest of the Act would be? Let me put it to you this way, hon. AG. If at the end of this exercise, because we have not made a single amendment yet,

right? If at the end of this exercise we consider that no amendments are made, could I give you the undertaking to relook at it and see whether—an implied position there? I am concerned about the song and dance that people may give in relation to whether notice should be in writing or not, because you may very well get reasons and they come very late, but it is the fact of your notice in writing. So, I mean, we had a debate the other day quite interestingly in this Parliament, the hon. Minister could speak to it, which sought to draw distinction between Notice with a capital “N”, versus notice with a common “n”.

Sen. Nicholas: Quite ingenious, I know. [*Laughter*]

Sen. Al-Rawi: Quite ingenious it was, but it implied that there was a material distinction between the two. So I am sort of concerned about common “n’s” and capital “N’s”.

Sen. Nicholas: I do not think it is the same situation here, Senator. I think we can proceed.

Question put and agreed to.

Clause 10 ordered to stand part of the Bill.

Sen. Al-Rawi: Madam Chair, may I ask a genuine question? I mean nothing pejorative by this, hon. Attorney General, hon. Minister. Is it perhaps the intention that no amendments will be taken? [*Crosstalk*] I do not mean it pejoratively. I just want to know, but I am sort of

concerned that that is a genius issue just raised.

Sen. Nicholas: No, that is not the position of the Government.

Sen. Al-Rawi: Okay. May I then for the record, ask to come back to that clause perhaps later, in light of what may happen afterwards? Thank you very much.

Madam Chairman: Hon. Senators, I have Members' comments on clauses 11 to 16? Can we take them as a group?

Sen. Al-Rawi: No, no, no Ma'am. May I suggest that we must go through this clause by clause?

Madam Chairman: Okay.

Clause 11.

Question proposed: That clause 11 stand part of the Bill.

Sen. Al-Rawi: Again, clause 11 introduces a new 14A. The person referred to in 12(3)(b) and 14, may appeal from a decision of the Authority to a judge of the High Court. Are we intending here for this High Court to be other than the capital "C", Court, which we have defined in the definition as being the court with jurisdiction for family matters? Are you intending now a civil judge of the High Court, not in the family division to deal with this?

Sen. Nicholas: The definition on the court, is the Magistrates' Court.

Sen. Al-Rawi: No, Sir.

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Sen. Nicholas: I am advised.

Sen. Al-Rawi: It includes.

Sen. Nicholas: It includes the Magistrates' Court.

Sen. Al-Rawi: Right, the new court that we have—*[Interruption]*

Sen. Nicholas: So if you are appealing—*[Interruption]* It has to be the High Court.

Sen. Al-Rawi: But I was trying to understand hon. AG, and thank you for the explanation—4(b) of the Bill by deleting the word “court” wherever it occurs and substituting in its place the word “Court”, capital “C”, and we had defined court as being the court with jurisdiction in family matters. I see. So the concern here is that because that petty jurisdiction, the Magistrates' Court may be there, that you wanted to make sure the appeal was at the High Court?

Sen. Nicholas: That is correct.

Sen. Al-Rawi: I see. Thank you very much.

Madam Chairman: Sen. Drayton.

Sen. Drayton: I had jumped to clause 13. Oh, you are on clause 11? Oh, sorry.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed: That clause 12 stand part of the Bill.

Sen. Al-Rawi: May I ask through you, Madam Chair, with respect to this, two questions, because of the articulation of this law with the Children Act, which has not yet been proclaimed, but which is still an Act of Parliament, intended to come into operation. In that Children Act, we speak of not parent or guardian, but we speak of the person with responsibility for the child, because we broadened the definitional approach to the pseudo parent, if I could use that expression.

We also in that Act made it a requirement to take care of independent legal advice, concerns or *parens patriae*'s concerns, as it relates to the child, by creating the position of the Child Advocate, if we remember from the Children Act. I was wondering how that fits in with the amendments proposed to section 15 of the Act, where we are still talking about parent or guardian, because the application to the Authority, the Authority considers, and is to be satisfied in the case of each parent or guardian. Is that guardian definition broad enough to include persons with any other form of responsibility for the child? If I do not have a testamentary disposition or order of the court, or some other mechanism constituting a guardian in law, and I am not a parent, I am the neighbour in the village who took in the child who is

orphaned. Is it, and perhaps you can just remind me, is it that the definition takes care of this? Perhaps your team has the Family Law (Guardianship of Minors, Domicile and Maintenance) Act. If you could just, out of caution, confirm that. Maybe—[*Interruption*]

Sen. Nicholas: Can we come back to that?

Sen. Al-Rawi: Sure, we can come back to it. And hon. AG, could you also consider the new subsection (2A) which is proposed to be put into this by this clause, by clause 12(c). Clause 12(c) proposes the insertion of a new subsection (2A):

“Where a child who has been in the care of the Authority, has been declared by the Court to be freed for adoption, the child shall remain in the care of the Authority, which may place the child with a foster parent or in a community residence, until such time as the Authority places the child with a suitable adopter.”

Did we want to be as narrow as that? Is it not the case that the Children’s Authority has the discretion to make recommendations for the child to be placed in some other place other than a community residence or in foster care?

Sen. Nicholas: I think this one says “may”. So that:

“Where a child who has been in the care of the Authority, has

been declared by the Court to be freed for adoption, the child shall remain in the care of the Authority, which may place the child with a foster parent or in a community residence,..."

—but it also allows the Authority greater discretion.

Sen. Al-Rawi: So I was wondering whether the words “or such other place as may be suitable”, ought to be put in inside of there. Now, I could understand the prescription that we have regulated foster care. We have regulated community residences, but perhaps your technical team, hon. AG, knows better than I do, because of their familiarity, whether there is any broader discretion to go somewhere else. So I was wondering whether we would be fettering the recommendations of the Authority.

Sen. Nicholas: These are the two places that the Children’s Authority has the authority to place children.

Sen. Al-Rawi: Okay. So that is in keeping with that?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you, hon. AG.

Sen. Vieira: My understanding of (2A) is that, it is saying, you are using the word “care” in the context of “care and control”. So, a child that has been in the care of the Authority has been now declared by the Court to be freed for adoption, but between that time and the

adoption order being made, the child remains in the care and control of the Authority, and the Authority could leave the child in a community residence, it could put it with somebody else, a foster parent, until the adoption process, but until such time, care and control vest with the Authority. Is that my understanding?

Sen. Nicholas: Yes, that is correct.

Sen. Al-Rawi: Okay. So the legal responsibility as opposed to the physical aspect there?

Sen. Vieira: Correct.

Sen. Al-Rawi: Okay, thank you.

Sen. Vieira: And on the point with the guardianship, I just wanted to point out that under the Family Law Act, guardian is not defined. It talks about guardianship and there is a distinction between—legal guardianship is where you have a court order, but guardian, in fact, where you do not have a court order, but you are, in fact, the person taking care of the child. So guardianship is dealt with under family law. It is dealt with in the Children's Authority Act and in the Children's Act, guardian is defined as:

“...in relation to a child, young person, or youthful offender, includes any person who, in the opinion of the Court having cognizance of any case in relation to the child, young person, or

youthful offender, or in which the child, young person, or youthful offender is concerned, has for the time being that charge of or control over the child, young person, or youthful offender;”

So it is a question of fact.

Sen. Al-Rawi: Could you go back to the Family Law definition, hon. Senator? Could you read it for us? What is guardianship?

Sen. Vieira: In guardianship?

Sen. Al-Rawi: Yes, please?

Sen. Vieira: Okay. So in the Family Law Act:

“‘guardianship’ means guardianship of the person or minor and includes the rights of control and custody of the minor, the right to make decisions relating to the care and upbringing of the minor and the right to exercise all powers conferred by law upon the parent or guardian of a minor;”—and—

“‘guardian’ means a person with guardianship;”

But what we are really talking about here, and it is more clearly dealt with by the words “legal guardianship”. So there is the “legal guardianship” which has all the powers and trappings of the court, but then there is the “guardianship” in fact.

4.30 p.m.

Sen. Al-Rawi: Okay. So we are satisfied and I am. Thank you for finding that section that being a person with guardianship is broad enough not be an excluded de jure guardian only, that it may be a de facto guardian. Excellent. So long as it is that, I am perfectly fine with that. Thank you.

Madam Chairman: Hon. Senators, is it that we are going to return to clause 12 or are we satisfied with clause 12?

Sen. Nicholas: I think we have dealt with it.

Sen. Al-Rawi: We are satisfied. Thank you.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Madam Chairman: Hon. Senators, I propose at this time to take the tea break so we shall suspend committee stage and return at five o'clock to committee stage.

Sen. Al-Rawi: Thank you, Ma'am.

4.31 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Chairman: Senators, we have resumed.

Clause 13 ordered to stand part of the Bill.

Clause 14.

Question proposed: That clause 14 stand part of the Bill.

Sen. Al-Rawi: Sorry, Madam Chair. Forgive me, I just caught up that clause 13 was amending section 16. Just an enquiry, not necessarily an amendment. Hon. AG, the insertion of a new subsection (3A) which clause 13 proposes:

“(3A) Nothing in this section shall be construed as permitting the Authority to divulge to a former parent, any information except the notifications required under subsections (2) and (3).”

Was this one of the rights that you contemplated in the three-fifths consideration later?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Okay, thank you. Thank you, Madam Chair. Sorry, just a moment.

Madam Chairman: Sen. Al-Rawi:

Sen. Al-Rawi: Yes, Ma'am, thank you. Clause 14 amends section 17 of the Act, and I was wondering with respect to the amendment to 17(3)(b). We speak here subject to any direction of the court:

“The revocation of an Order made under section 15...”— shall
be:

“(a) to extinguish the parental responsibility given to the
Authority under that section;”—this is the one that is
being amended.

“(b) to give parental responsibility to the parents making the
application;...”

I wondered if that parent is not a singular and plural concern there. Is
it correct to use the word “parent” there? Firstly, is it too restrictive in
that it may be a guardian or some other person? So, should it be “the
applicant” as opposed to “the parent”? And, secondly, if it was
parent, is it in fact the former parent which is a defined term versus
parent?

Sen. Prescott SC: Sorry, I am whispering to my friend that the
section 17 does appear to be dealing with the former parent, if you
look at 17(1), and it may be that is what was intended in (3) here. So
it is an error and we could just stick it in. We do not need to go
downstairs for that.

Sen. Nicholas: Yeah, to the parent making the application.

Sen. Al-Rawi: But the point is that it may be someone other than the parents making the application.

Sen. Nicholas: It was the former parent.

Sen. Al-Rawi: And former parent would make sense because then that would take care of the various types of applicants. [*Interruption*] Yeah, but who we are returning the right to is the important point. So, we are saying to the parent. Sen. Lambert, I have raised it because the definition of “former parent” is broader than “parent”. “Former parent” means anybody who had care and control and not just a biological parent.

Sen. Nicholas: No, so the parent is correct.

Sen. Al-Rawi: The parent? Sure?

Sen. Nicholas: Because it was the parent who would have given up the right.

Sen. Al-Rawi: You see, that is the point. We have amended the former parent and put in a definition which says “former parent” as opposed to “parent”. First time we are putting in that term.

“‘former parent’ means a person who had care and control of a child prior to any application to adopt the child;”

So that is broader than just biological parents. When we are revoking the right and retuning now—similar to a deed, you are returning the equity back to the legal ownership now—here we have:

Subject to any direction of court, you extinguish the parental responsibility to the Children's Authority and you give parental responsibility to the—it cannot be parent because we now have three types of parents in this legislation: one is natural parent, two is parent, and three is former parent. So we have to be specific, and I would think that we mean former parent, because it may include a guardian or somebody who had care and control within the definition of guardianship.

Sen. Prescott SC: Madam Chair, this is addressed to the Attorney General and the parliamentary staff. We have in this Senate occasionally gone away with an assurance from the Government that in situations like these where it is likely that a word is missing is not meant not to change the substance of the amendment, and assurance that they will consider it and if indeed they think that it was simply an oversight they put the word in. So, if you are thinking that it is possible that it means “former”, for myself, I would not object if you

give an assurance that you would look at it, satisfy yourself and put it in.

Sen. Nicholas: We have that assurance as well?

Sen. Al-Rawi: Sure, just bear in mind the extreme caution is that the court, we do not want to stymie the court in saying that only the biological parent can receive the child when that person may not be the correct person.

Sen. Nicholas: Well, 17(1)(b) does refer to the former parent. So we know who we are dealing with.

Sen. Al-Rawi: I feel confident that the word is intended to be “former”. It may have just been omitted in terms of the splicing into the wording there.

Sen. Nicholas: I am very, very grateful for the Senators.

Madam Chairman: Is it the intention, hon. Senators, to have the word “former” inserted?

Sen. Nicholas: Yes.

Madam Chairman: Then we would have to take that as an amendment.

Sen. G. Singh: I think we said it will be considered and, therefore,

we can give the assurance that it will be considered. If it is necessary, in looking at it, then we can insert it as if it were an oversight.

Sen. Al-Rawi: We had this debate as to that before, but we have done it before.

Sen. G. Singh: Yeah, we have done it before.

Madam Chairman: If it is the wish of the Senate committee, then we are guided.

Sen. Al-Rawi: Thank you, Ma'am.

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Clause 15.

Question proposed: That clause 15 stand part of the Bill.

Sen. Al-Rawi: Madam Chair, clause 15 amends section 22 of the Act and section 22 is the one in the original law, which included the child having legal representation as a specific requirement. What concerned me here is in moving the right to legal representation, because it was described as “shall”, I felt that we were fettering or derogating a section 5 right of the Constitution and, in those circumstances, I had thought that the three-fifths majority was

necessary from that point of view in the Bill, let alone from the argument that it may be necessary in the original Act as contemplated. I have heard the hon. Attorney General give some very cogent reasons as to why we should be comforted that the three-fifths majority is not necessary. Our own point of view from an Opposition's perspective is that there would be support in both Houses for this kind of amendment if considered but, of course, my view not being the only view here, I would very much wonder if it is an appropriate juncture to hear, perhaps, from some of the other Senators so that we could come up with a consensus view on the position and, perhaps, Senators Prescott and Vieira may have a point of view.

Sen. Prescott SC: Thank you for identifying me.

Sen. Al-Rawi: I am only asking. [*Laughter*]

Sen. Prescott SC: Madam Chair, I do wish to speak, whether or not I have the support of my colleague, Sen. Al-Rawi.

Sen. Al-Rawi: Thank you, Sir. I did not mean to suggest that I was speaking for him, so I want to be clear on that point.

5.10 p.m.

Sen. Prescott SC: But I am concerned that we are removing a very clear provision in section 22(2) that says the child shall have legal

representation and it is the court's duty to ensure it. I am prompted to say, look again at section 6 of the Children's Authority Act, in speaking to the business of the Authority and what it should regard as the criteria for determining the best interest of the child. They include in section 6(2)(cc):

“the right of the child to be heard;

(cd) the right of the child to representation and a fair hearing;”

We know that there are practical considerations as to whether a child is of the level of understanding and may speak to his own interest, but that is on a side. The important thing is, maintain that right for the child to have legal representation. In the absence of a very positive statement from you, Minister, and/or the Attorney General, as to why it has been removed, I think we will be hard done by if we just walked away and said, “There is no need for the court to ensure that the child has legal representation”. So, I would like you to reconsider and reintroduce subsection (2) of 22.

Sen. Nicholas: The Government has actually considered all the views expressed and, at this time, we believe that it does not infringe the right of the child. The child will have the opportunity to legal representation if the court sees it fit and, therefore, there is really no legal impediment to moving forward.

Madam Chairman: Sen. Vieira.

Sen. Prescott SC: I just want to make a soft suggestion, therefore—
sorry.

Sen. Vieira: No—

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: May I consider amending clause 15 to say:

The Act is amended by repealing section 22(1)...

And then we would not make a fuss if you slipped it in there as a typo.

Sen. Lambert: It is not necessary, you know. It is not necessary.
That is the Government's point of view.

Sen. Prescott SC: I am not hearing Sen. Lambert clearly. Could he
put his microphone on, please?

Sen. Lambert: Your input is recorded but the Government is seeking
to alter it.

Sen. Prescott SC: I thank you very much, Senator.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Just as a suggestion. I will wait for the AG. I am very
mindful of what Senators Al-Rawi and Prescott are saying, because
we have a body of authority in the criminal jurisdiction about an
accused's right to legal representation, but there is also a body of
authority that says, in the civil jurisdiction, things like before tribunals

and stuff, there is no right to legal representation.

Sen. Prescott SC: Which is correct.

Sen. Vieira: Right. So, it is not something that you could just assume you have a right to now. I also recognize the constraints faced at present with this Bill and the amendments, and I am just wondering whether, in the regulations, that could not be provided for, because I do not think that this is a make or break section, but the principle of a child having legal representation is certainly something we would support, and it could be that it will be dealt with in the regulations. Just a suggestion.

Sen. Nicholas: We will give the commitment that if it could be dealt with in the regulations it will be dealt with in the regulations, knowing full well that it would be dealt with anyway in the court. But we will, if it is possible, deal with it in the regulations. That is a commitment.

Sen. Al-Rawi: Hon. AG, we certainly had the benefit, very gratefully so, of you spending some time on this point in your contribution. The circumstance here is that we have an expressed right that the child shall have legal representation and we are removing that expressed right. It is on the record that we have said the court has jurisdiction of this matter. We do have the Children Act, not yet proclaimed, which prescribes child advocates to operate in certain circumstances.

Section 5 of the Constitution is very clear about derogation of the right in respect of legal representation. You may not have a right to a speedy trial, but you certainly have a right to receive independent advice if it is there. So, it is not whether the right exists, the fact is that we are, in this case, taking away a right.

Sen. Nicholas: Would you like to read into the record the actual right?

Sen. Al-Rawi: Sure. Well, the right that is being taken away and the right that exists is—

Sen. Nicholas: No, the right in the Constitution.

Sen. Al-Rawi: No, I am coming to that. That is the implied right. That is the fallback provision right. What I am dealing with is this circumstance, we are removing an expressed right in the Act—

Sen. Nicholas: We know the expressed right was in the Act.

Sen. Al-Rawi: Right.

Sen. Nicholas: But we want to find out what is the expressed right in the Constitution.

Sen. Al-Rawi: Sure. And I will put that forward in just a second, but here is what concerns me, because I was very interested to see the support that Surratt No. 1 provided, but I took the opportunity to pull up the case and to reread it because I was not quite sure if it would

apply without distinction. The case on the circumstances of Surratt No. 1 dealt with whether the tribunal under the Equal Opportunity Act had the same powers as—it being described as a court of record, whether it should be treated in the same way as the Judiciary is treated with under the Constitution, and that not having been provided for by way of a three-fifths certification, whether it was unconstitutional. The Privy Council, in reversing the High Court and the Court of Appeal of Trinidad, held that, and as you put it on the record, the four and five rights, it is not every right that is abrogated, but the case was very interesting to say that because it was a right which was not in existence in the Constitution, it is a new form of event that they were creating. This is the manner in which they escaped putting the three-fifths majority. In this case here, and you asked, quite correctly, which is the right.

So, we have here in the section 5, “Protection of rights and freedoms”, right to be brought promptly before the Judiciary, not to deprive a person charged with a criminal offence, right to presume innocence, the right to fair and public hearing by independent impartial tribunals, reasonable bail, et cetera; deprive the person of such procedural provisions as are necessary for the purpose of giving effects to rights and freedoms. So the section 5 right, albeit, in

general description, certainly does include one of these rights, but even if I step away from the Constitution, the concern is, in my mind, how do we take away a right, let alone the other rights which exist apart from this section, is a broader discussion there, without this particular point. And I am—

Sen. Nicholas: If I may?

Sen. Al-Rawi: Sure.

Sen. Nicholas: So, what we have is the Constitution not giving a right to legal representation, per se. We had the right given in legislation, but rights in legislation can be taken away in legislation, because it is not an enshrined right in the Constitution. We have not taken away the right. We have not expressly said—*[Interruption]*

Sen. Al-Rawi: In a disproportionate fashion—

Sen. Nicholas: We have not expressly said that the child is not entitled to legal representation. We have simply not stated in the Bill that the child is entitled to legal representation. But, in addition to that, the common law and the courts exist and operate in a manner that will always give the child legal representation where the court feels that it is required. So that we have in no way, whatsoever, infringed on a right under the Constitution.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Attorney General, I agree with your reasoning, and I just want to read into the record, because we are looking at the Constitution now. If we look at—it is under section 5—5 makes it clear, you cannot:

“deprive a person who has been arrested or detained—
of”—his—“right to retain and instruct without delay a legal
adviser of his own choice and to hold communication with
him;”

So, arrest and detain, you have a legal right under the Constitution to a lawyer.

“(d) authorise 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;”

So, the right is a right for legal representation to guard against self-incrimination. I do not see that happening in the circumstances of this Act. (e) is the closest section. What does (e) say?

“deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations;”

But you know what? (e) does not say, the right to legal representation. So, when I look at (e), in the context of what preceded with (c) and (d), it seems to me that they did not give the right to legal representation under this.

So I do not think that there is an abridgement or abrogation of the constitutional rights in the clause, but I do think we should, as a matter of best practice, provide for it, and that is what I am saying. I am prepared to accept the undertaking that it would be provided for—

Sen. Al-Rawi: Or, on the record, is it the intention, specifically, that because the Children Act would operate in this circumstance, that the child advocate, as a creature of that Act, will provide that balance and proportionality?

Sen. Lambert: You have answered it correctly—[*Crosstalk*]

Sen. Nicholas: In fact, Senator, you were thanked for your intervention by the Minister while he was making his presentation, for your intervention at the time.

Madam Chairman: Sen. Drayton.

Sen. Al-Rawi: Okay, so if that is on the record as the supporting leg for it, it takes away—it feeds the due process and proportionality point.

Sen. Nicholas: But that is an additional leg.

Sen. Al-Rawi: Okay. Thank you, hon. AG.

Madam Chairman: Sen. Drayton.

Sen. Drayton: I just wanted to comment but I am not sure that the Children's Authority legislation provides for representation for children if and when it is necessary.

Sen. Nicholas: The court will provide for it in any event.

Sen. Drayton: Yes.

Sen. Al-Rawi: Thank you.

Question put and agreed to

Clause 15 ordered to stand part of the Bill.

Clause 16.

Question proposed: That clause 16 stand part of the Bill.

Sen. Prescott SC: Madam Chair, may I just raise an enquiry that I had raised before in my contribution?

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: I have not grasped yet the reasons for the age gap that has now been removed under section 23. I am not certain that it is not otherwise provided for elsewhere. There does appear to be a body of views that support that there ought to be an age gap, some say 25 years, some say less. So, is this an opportune time for me to ask for an explanation of why we are removing this restriction on making

adoption orders?

Sen. Nicholas: As you would recall, the Minister actually dealt with this in his presentation. Essentially, it gives the opportunity for more people to be considered as adopters in different circumstances, but, of course, the regulations would guide the qualifications at the end of the day, and, as I read out during my contribution, as to the suitability of an adopter.

Sen. Vieira: May I also say on this, when I looked at section 23, 25 years, 21 years older, it is an arbitrary figure plucked out of the air. If you consider it, when you attain your majority, you reach the age of 18, you can vote. You are treated as an adult in every form or fashion, why restrict you? At the end of the day the question is whether this adult or that adult is a suitable adopter, and the age is de minimis.

Sen. Nicholas: Yeah. Correct.

Sen. Al-Rawi: And in any event we leave it to the discretion of the court, so we have that supervision. I had an initial concern on the removal of the restrictions in adoption, which is what 23, as repealed, is being put away, being thrown out, but I felt comfortable that the court had jurisdiction over the issue and that they could provide for it adequately. Thank you.

Sen. Prescott SC: May I just place on the record, please, Chair.

Madam Chairman: Sen. Prescott.

Sen. Prescott SC: May I just place on the record that for all that we have heard, it would trouble me that a 21-year-old man could adopt a 15-year-old girl.

5.25 p.m.

Sen. Nicholas: And the regulations and the adoption committee would look at all of those circumstances.

Sen. G. Singh: There is a whole sifting process and a filtration process. So, I do not think—if you are to take your argument that way, it might be similarly for a 20-year old woman to adopt a 15-year old girl. So that therefore the filtration process would eliminate things like that.

Sen. Vieira: But you could also have a situation where a family member 21 years has been the provider and caregiver right through and to put it this way you have to—[*Crosstalk*]

Sen. Al-Rawi: A first cousin, like a brother.

Sen. Nicholas: Or an older sibling.

Sen. G. Singh: Parents die and he is left—

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Clause 17.

Question proposed: That clause 17 stand part of the Bill.

Sen. Dr. Mahabir: Madam Chair, clause 17? Well, okay. We are, Madam Chair, speaking about the powers of the court under section 24(2), where the court may make an adoption order where the court finds that the parent is withholding his consent unreasonably. You see, I think this is a very serious subsection because we are, in my opinion, giving the court powers to override the rights which belong to the parent in making an adoption order. My concern was with 24(2)(c) where the parent is withholding his consent unreasonably. Now it may be very clear to the lawyers and practitioners amongst us what unreasonable withholding of consent means, but, to me, it is very vague.

As someone reading the law not trained in the law, someone who is withholding his consent unreasonably is someone whom the court can override. But I would like to know exactly whether this is going to come under regulations because it is already in the main law. Because you see for me, unreasonable meant that this parent is unable to care for the child and yet withholds his consent and he is really frustrating the adoption process which is in the best interest of the child. If it is that this is the meaning of unreasonable, then it would be a guide for the court. Similarly, when we look at 24(2)(g), we say:

“(g) is a person whose consent ought, in the opinion of the court, to be dispensed with.”

What is guiding the court? Maybe it exists elsewhere. Maybe it has to come in regulations, but, for me, what should guide the court is that, if we are going to dispense with the opinion of this parent, then it has to be that this particular parent is deemed to be an unfit parent. In that case we have to define, in regulations or elsewhere, what unfit means. But as it reads to me, simply we are giving the court a wide latitude in defining what is unreasonable with respect to withholding his consent, and we are giving the court wide latitude in the person whose consent ought to be dispensed with. Now, I am not very comfortable with this unless I know that the court will be guided by some objective criteria, either in regulations where the regulations will spell out what unreasonableness means and what dispensing of the opinion—of where the consent ought to be dispensed with, or is it that we are going to try to actually tighten up these particular phrases to give the court further guidance as to how it is going to override the rights of parents with respect to the adoption order.

Sen. Nicholas: I may? I know Sen. Vieira could probably articulate it much better than I can, but the court actually has an inherent jurisdiction in identifying unreasonableness and reasonableness. It is

a huge body of law and—

Sen. Al-Rawi: And precedence.

Sen. Nicholas:—yeah—that deals with these issues.

Sen. Al-Rawi: Sen. Dr. Mahabir, perhaps if I could assist, I am sure, with others. This is the law in relation to children and has been around for centuries. There is an objective standard which the court applies and the family courts have, in particular with the pilot programme of the Family Court, both in its high court and in its magisterial jurisdiction, and even the High Court other than the Family Court, they have been incredible in the development and protection of the child and in how it would remove parental rights and children's rights. So just to give you the assurance as a practitioner in those courts that I feel very, very comfortable that the due process and the objectivity in the requirements, in the hands of the court, are good mechanisms to give us what we want. So just to lend from some professional experience.

Madam Chairman: Sen. Vieira.

Sen. Dr. Mahabir: Just to continue. Is it that this particular guidance for the court, does it come from custom and tradition or is it that there is some written law elsewhere to which they would naturally follow and they are guided by that?

Sen. Al-Rawi: The danger in prescribing the law is that you stymie the development of the law. So what the courts do is that they leave a flexible growth. There are Family Proceedings Rules in the court as we have civil proceedings, et cetera, but the idea is to allow the law to develop as society changes, that it can develop and move.

Sen. Vieira: I absolutely agree. Let me also add that I think it is one of the most important provisions in the Bill. This is one of the most important features of the legislation because it addresses the situation we have where there are many children in institutions, but only two or three eligible for adoption. Now, we are not talking about taking children from their parents in their natural family setting. We are talking about children who are growing up in institutions whose parents refuse to free them for adoption. And if you have a parent—as you see down below—has abandoned, neglected, deserted—may be incapable of giving consent, might be in a coma. He might be with dementia or Alzheimer's or he cannot be found or he is being unreasonable. As Sen. Al-Rawi correctly pointed out, there is a whole body of case law about reasonableness. This is an important provision. They are not coming willy-nilly to grab and oppress a parent. The court—there are two levels of scrutiny—the Children's Authority and the court. In both instances the compass they are using

is, what is in the best interest of the child, and they weigh everything. So, I “doh” want to touch this at all. We need this provision.

Sen. Al-Rawi: May I raise one important observation in the new line that is in the new subsection (2)? It says here:

“Notwithstanding subsection (1), the Court may make an adoption order where the Court finds that the parent...”

If you jump back up to 24(1)(a)(i), what we are talking about is really a different class, it is a broader class than just the parent. We are talking about a parent or guardian of the child in respect of whom an application is made.

So when we come in the new language to the new subsection (2) to say that the court finds that it is the parent in this circumstance, I am concerned that “parent” may not fit. Parent is not defined in the Act. Guardian—the former parent is defined in the Act, but we do not have a definition here. It is broader than just parent. So, I do not know if your technical team has an explanation, through you hon. Minister and hon. Attorney General, through Madam Chair?

Sen. Vieira: We are talking about parent now?

Sen. Al-Rawi: Should I repeat quickly? Parent—is parent too narrow? Should it be “parent or guardian”? Because 24(1)(a)(i) refers to both.

Sen. Vieira: No. I think it is parent because the adoption—remember that when you make an adoption order the effect of the adoption order is to sever the ties between the biological parents.

Sen. Al-Rawi: Suppose both are dead and they are in the custody of a guardian?

Sen. Vieira: But then it is—you are making an adoption order. Well I suppose you can get—yeah. It would be nice if you all can deal with both here.

Sen. Al-Rawi: The reason that I have raised it, is that in 24 above we treat them separately. If we had said, we have a definition for former parent in the Act—which is great. It has anybody with responsibility for the child. But we have no definition for parent as including a person with responsibility for the child. If we did, business fix.

Sen. Vieira: Yeah. Well you know—on the question of definition of parent, that was a remarkable point. I looked through. There is no definition of parent anywhere; nowhere in our legislation. I have been through all the Acts. You have a dictionary definition of parent which is a person who is a father or a mother; a person who has a child; or one that begets or brings forth offspring. But parent could also be a person who brings up and cares for another; raises and nurtures; a guardian and a protector.

Sen. Al-Rawi: This Act uses the term “natural parent” as well in other sections as well. So, we have three classes of parent.

Sen. Nicholas: Actually, as you quite rightly say, there is a distinction between natural parent and parent, and the parent is the wider—

Sen. Vieira: It includes guardian. So—

Sen. Nicholas: Well done. [*Laughter*]

Sen. Al-Rawi: AG, I just want to be careful that should we be saying parent or guardian of the child in respect of whom—the parent or guardian. If we said or guardian, there is no difficulty there because it takes care of the guardianship provision.

Sen. Nicholas: We can move on with just parent.

Sen. Vieira: No. I think you could interpret parent here in the wider sense as someone who is not necessarily the biological, but is also the caregiver, the guardian, the caretaker of the child.

Sen. Al-Rawi: I would not detain the House unnecessarily.

Sen. Dr. Mahabir: Madam Chair, another one.

Madam Chairman: Sen. Mahabir.

Sen. Dr. Mahabir: Yes. Madam Chair, there is another concern I have and that is with 24(3) at (b). I am looking at:

“An adoption order shall not be made upon the application of

one of two spouses without the consent of the other.”

And 24(3) it says:

“An adoption order shall not be made upon the application of one of two spouses without the consent of the other, unless they have separated and are living apart from each other and the separation is likely to be permanent.”

My reading of this, Madam Chair, is that we are looking at the separation of the spouses, but we are not considering at all whatever contact, even a permanent separation, involves with the child. It could be that parents have separated and they are living apart and the separation is likely to be permanent, but that one of the parents still has—or both parents still have contact with the child.

So what I was suggesting was that 24(3) at (b) should read as follows:

...the spouses have separated and are living apart and the separation is likely to be permanent, and the spouse has had minimal contact with the child and the court is satisfied that the spouse is unlikely to play an active role in the future care of the child.

You see, the way I have read it is that we are focusing only on the separation of parents, not at all on the contact that the separated

parents may have had with a child. I am envisioning a situation where parents have separated, but both parents—and they are living apart, and the separation is permanent, likely to be permanent, but they still have contact. And if they have contact with the child, both of them, then I think it certainly will not be fair to simply say that we will dispense simply based on the separation with the right of that parent to give his consent.

Sen. Nicholas: Senator, this deals with people adopting. So that if there is a couple that is living together, then it is expected that they would make the application together. If it is that they are living apart, then we cannot force them to make the application together. Therefore, it is envisaged that where the intention is that they are living apart permanently, that it is in those circumstances that the application is made by one parent and therefore, frees the other parent of any such burden. If there is in future any contact, I mean that is neither here nor there.

Sen. Al-Rawi: In the best legal term may I ask this question of the same subsection (4)—(3) and (4)? Would amending subsection (3) to say:

“An adoption order shall not be made upon the application of one of two spouses without the consent of the other unless they

have separated and are living apart from each other and the separation is likely to be permanent.”

Then we have the existing (4) which says:

“The court may dispense with the consent required by this section if it is satisfied that—

(b) the spouses have separated and are living apart and the separation is likely to be permanent.”

What is the difference between the circumstance in (3) and (4)?—which therefore speaks to why (3) is to be amended as it is? Does (4) not qualify (3) in any event?

Sen. G. Singh: The question of consent, and (3) deals with the question of the adoption order.

Sen. Al-Rawi: So if (3) said:

“An adoption order shall not be made with respect to two spouses unless...”

the other one gives—unless both give consent. Which is what it said before. And (4) comes in to say, well you may dispense with consent if they are not living together. In other words then, why was (3) amended at all? It is unnecessary.

5.40 p.m.

Sen. Vieira: How I read that section, is that the ideal is that two

spouses—now, we are talking about cohabitants, he is not talking about husband and wife, the ideal—

Sen. Al-Rawi: A spouse is a spouse at law, that is not cohabitant.

Sen. Vieira: No. Spouse includes cohabitant as well as husband and wife, but if you said—

Sen. Al-Rawi: Not in the Interpretation Act.

Sen. Vieira: The ideal though, would be that the couple would both want to adopt together. So, you would want to get the consent of both prospective adopters, but it may be that they have separated or they are living apart, so you cannot get the two giving their consent, because the reality of the situation is only going to be one raising. So, this law is giving some flexibility to say, look, you may have been a couple but you can still go ahead with the adoption even though you are no longer going to be a couple. But the court would prefer a couple, but if the court is satisfied that you are separated and it is likely to be permanent you are not precluded.

Sen. Al-Rawi: I agree, which is why (4) existed to qualify (3).

Sen. Vieira: In the Adoption of Children Act?

Madam Chairman: Hon. Senators.

Sen. Al-Rawi: Well, it does not seem that there is a reason for it.

Sen. Prescott SC: Chair, I am sorry, but in light of what fell from

Sen. Vieira's lips, may I just invite attention to the definition section on the Adoption of Children Act, which says:

“‘spouse’ means the husband or wife of a person, or a widow or widower of a deceased person;”

So, it contemplates marriage only.

Sen. Al-Rawi: Correct.

Sen. Prescott SC: I think Sen. Al-Rawi was on the ball and I am sure there is understanding on the other side that the two provisions are—one of them is superfluous, and there should not be any great difficulty in simply withdrawing the new provision in the Bill.

Sen. Nicholas: Yes, subsection (3) does not need to be amended at all.

Sen. Prescott SC: I do not know if you call that an amendment, Attorney General, subsection 24(b). That might be a victory of sorts for us. [*Laughter*]

Sen. G. Singh: What is the position of the policy position? Articulate the position, Mr. De Coteau.

Mr. De Coteau: Chair, the policy position here is that it allows the “single married” person to apply as a single person.

Sen. Al-Rawi: Okay. So, there is a distinction between (3) as amended and (4), in that (3) allows for the circumstance of not

needing to have the court consider whether consent is required or not, that they can produce it under (3) itself. Is that it?

Sen. Nicholas: Yes, correct.

Sen. Al-Rawi: Okay, thank you for putting that on the record, hon. Minister.

Madam Chairman: Sen. Dr. Mahabir, your amendment to clause 17, are you—

Sen. Dr. Mahabir: That is withdrawn.

Madam Chairman: Withdrawn.

Sen. Dr. Mahabir: Yes.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clause 18 ordered to stand part of the Bill.

Madam Chairman: Do Members have comments on the other clauses?

Sen. Al-Rawi: Yes, Ma'am.

Madam Chairman: Which one?

Sen. Al-Rawi: Clause 19.

Clause 19.

Question proposed: That clause 19 stand part of the Bill.

Sen. Al-Rawi: Quick question, through you, Madam Chair. Clause

27 of the Act is proposed to be amended by including a new subsection (3):

“Proceedings in respect of an application to free a child for adoption...order shall be held *in camera* and not generally published.”

Is there any reason why all other proceedings, for instance, section 15, freedom of the child for adoption proceedings, should be heard other than in camera? Because this one prescribes in camera proceedings for only the adoption order.

[Attorney General confers with Parliamentary Counsel]

Sen. Al-Rawi: Is it two?

Sen. Vieira: One is the free and the other is the adoption.

Sen. Al-Rawi: Could you just put it on the record for me, thoroughly? I want to catch it early.

Sen. Nicholas: It is on the proceedings in respect of an application to free a child for adoption.

Sen. Al-Rawi: Oh, I see. Hon. Minister, I am looking at the track change version, the proceedings to free were referred to in the track change. So, I apologize. So, it is in the Bill and not in the track change. Thank you, I withdraw that comment.

Question put and agreed to.

Clause 19 ordered to stand part of the Bill.

Clause 20 ordered to stand part of the Bill.

Clause 21.

Question proposed: That clause 21 stand part of the Bill.

Sen. Al-Rawi: Just an observation on clause 21. Could I also ask the hon. Minister not to go back to it, but to flag for future point while you are reflecting on the regulations? If there could be, with respect to the new 29, the offence prescribed here is really very low—\$3,000—as for the publication, if, perhaps some tight management through regulations could be added, and when you are looking at offences in general, it would have been good to see that offence amount go up in 29. Relative to clause 21, which amends section 33 of the Act, I wondered whether there was a conflict between the 33(3) and 33A. 33A comes in as a new section in clause 22, the one coming after, but 33(3):

“If, upon an application for an adoption order, it is proved to the satisfaction of the Court that—
the adoption order shall contain a further direction to the Registrar General to cause the entry of the birth of the child...to be marked with the word “adopted”, and to record in the entries referred to in subsection (2)...”

If you flip over to clause 22, 33A, the new 33A:

“Notwithstanding any other written law, where the Registrar General issues a certificate in respect of the birth of an adopted child, the certificate shall bear no overt indication that the child was”—being—“adopted, except such code...”

So, how do we marry the two? (1) says you must put the word “adopted”, which is an overt indication of adoption, and 33A says, use a code.

Madam Chairman: So, you are repealing (3)?

Sen. Nicholas: One is the sealed entry and one is the—

Sen. Al-Rawi: Could you just put it on? Your mike.

Sen. Nicholas: There are two entries, one that is sealed and one that is actually the birth certificate.

Sen. Al-Rawi: But, does it say so? I understand that is how it is intended.

Sen. Nicholas: Yes.

Sen. Al-Rawi: To make in the adopted children’s register:

“If, upon an application for an adoption order, it is proved...that—

the adoption order shall contain a further direction to the Registrar General to cause the entry of the birth...in the

Register of Births...” Right?

Sen. Nicholas: Yes.

Sen. Al-Rawi: So, the Register of Births—just for clarity—can have the word “adopted”? But the adopted children’s register, is this what you are saying in 33A. In clause 22 it says—

Sen. Nicholas:—to make in the adopted children’s register. So it is in the adopted children’s register that it would be recorded.

Sen. Al-Rawi: Right. So, maybe the thing lies in 33A. Maybe the concern that I have is in 33A:

“Notwithstanding any other written law, where the Registrar General issues a certificate in respect of the birth of an adopted child, the certificate shall bear...”

So, if I follow it, there are two certificates for this child, one is the certificate of birth and one is the certificate of adoption. Is it?

Sen. Nicholas: If I am to understand—

[Attorney General confers with Parliamentary Counsel]

Sen. Al-Rawi: Okay, the Register of Births—just two questions. Is the Register of Births going to have the word “adopted”?

Sen. Nicholas: No.

Sen. Al-Rawi: Right, stop. Look at the new clause here. The same section 33 that we are now putting in my clause 21:

“the adoption order shall contain a further direction to the Registrar General to cause the entry of the birth...in the Register of Births to be marked with the word “adopted”...”

But, my question to you just now was, is the Register of Births going to have the word “adopted”? Your answer was “no”. But the language here says it is the Register of Births that must have the word “adopted” on it.

Sen. Prescott SC: Chair, may I intervene?

Sen. Nicholas: So that to put on the record, the Register of Births for adopted children would be sealed.

Sen. Al-Rawi: And accessed via the court application. Right? And the one that is open to the public has the code. Right? So, the new 33A by clause 22:

“Notwithstanding any other written law, where the Registrar General issues a certificate...of the birth of an adopted...the certificate shall bear no...”

So, this is the other public record. Right? I just want to be abundantly clear that we were not mixing it up.

Sen. Nicholas: Yes.

Sen. Al-Rawi: Thank you very much.

Question put and agreed to.

Clause 21 ordered to stand part of the Bill.

Clause 22 ordered to stand part of the Bill.

Clause 23.

Question proposed: That clause 23 stand part of the Bill.

Sen. Al-Rawi: Just one query, Madam Chairman. Was there any conflict with section 34(3) as has been amended in this new amendment to section 34? So, 34 says, and I am reading from the track change version:

“An adopted person who is at least eighteen years of age and...whose birth record”—or adoption record—“is kept by the Registrar General,... may make an application in the prescribed manner to the...”—Registrar General.

Parliamentary Counsel: It is to the court.

Sen. Al-Rawi: It is to the court. So, the track change version is wrong? Okay. One second, eh. Okay, thank you very much. Thank you, Madam Chair.

Question put and agreed to.

Clause 23 ordered to stand part of the Bill.

Clause 24.

Question proposed: That clause 24 stand part of the Bill.

Sen. Al-Rawi: May I ask—sorry, in 34A, Madam Chair, there is a

reference to the Marriage Act, that is the degrees of—“prohibited degrees of consanguinity or affinity”.

Madam Chairman: Are you on clause 24?

Sen. Al-Rawi: I am not sure, Ma'am. Perhaps I missed 23. I just wanted to know if the Marriage Act referred to there—oh, I see, it is 45:01. It is not the Hindu Marriage Act or the Muslim Marriage Act, it is just 45:01. Right?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Okay, thank you, Ma'am. Thank you for permitting that.

Question put and agreed to.

Clause 24 ordered to stand part of the Bill.

5.55 p.m.

Clause 25.

Question proposed: That clause 25 stand part of the Bill.

Sen. Al-Rawi: Sorry, sorry, sorry. Clause 25, the words:

“...or are likely to be made,”

Could I have some better understanding of what this is intended to convey.

“The court may make an order, subject to such conditions and restrictions as it thinks fit, authorising the care and control of a

child for whom adoption arrangements have been made or are likely to be made, to be transferred to...”

Sen. Vieira: Well it may seem to me that what that is saying is that the prospective adopter does not have an order as yet but he is in the process of applying for it and an order is likely to be made.

Sen. Al-Rawi: All right. So it is intended to broaden the discretion of the court. If so, yeah?

Sen. Nicholas: Yes.

Sen. Al-Rawi: Okay. Thank you, to both Sen. Vieira and the hon. Attorney General.

Question put and agreed to.

Clause 25 ordered to stand part of the Bill.

Clauses 26 and 27 ordered to stand part of the Bill.

Clauses 28 and 29.

Question proposed: That clauses 28 and 29 stand part of the Bill.

Sen. Al-Rawi: Just on clause 29, Madam, just an enquiry, maybe a typographical error. Relative to 29, 29 has a clause (f). If we look at section 40 of the Act:

“The Minister may make regulations—”

It has, (a), (b), (c), (d), (e):

“(f) for prescribing anything which, save as is required to be prescribed under section 21, is required to be prescribed under this Act;”

When we looked at section 21 of the Act itself, 21 speaks to:

“Where an application for an adoption order is made in respect of a child placed by the”—Authority—“the”—Authority—
“shall submit to the court, a report on the suitability of the applicants and matters prescribed by section 10, and shall assist the court in any manner...”

So, I did not see that there was anything to be prescribed under section 21 of the Act at all, and I just wondered why it was referring to that. So if I were to read it, 21 says a report, right? So there is a Report “for prescribing anything which, save as is required to be prescribed under”—the report.

But you do not prescribe anything in the report.

So this is:

“The Minister may make regulations—

(f) for prescribing anything...required to be prescribed...under this Act;”—except the report.

Parliamentary Counsel: Except the matters that were prescribed in section 10 and prescribed is—

Sen. Al-Rawi: Exactly, I thought that it was supposed to be a reference to section 10 was my point.

Sen. Nicholas: Yes, it is referred to in section 21, back to 10.

Sen. Al-Rawi: Okay, so we are relying upon 21 making a reference to 10.

Sen. Nicholas: Yeah.

Sen. Al-Rawi: I could live with that. Not well, but—

Question put and agreed to.

Clauses 28 and 29 ordered to stand part of the Bill.

Clauses 30 and 31 ordered to stand part of the Bill.

Question put and agreed to: That this Bill be reported to the Senate.

Senate resumed.

Bill reported, without amendment, read the third time and passed.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you very much, Madam President, my apologies. Madam President, having regard to the fact that we had an early start and it seems that consistent with the sentiments expressed by the Leader of Opposition Business in the

Senate and also the coordinator of the Independent Bench, an early start to the Senate proceedings means that we can do a lot more work and we can also leave earlier in the afternoon period. [*Desk thumping*]

Having regard to that, Madam President, I beg to move that this Senate do now adjourn to Tuesday, March 10, 2015 at 10.30a.m. in which the Government will pilot the Partial Scope Panama Agreement and also the National Trust Bill which is a very short Bill. We hope to accomplish— that is an Act to amend the National Trust of Trinidad and Tobago and also an Act to give effect to the Partial Scope Trade Agreement between the Republic of Trinidad and Tobago and the Republic of Panama and for related matters. Those two Bills will be dealt with next Tuesday.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.03 p.m.