

SENATE

Tuesday, June 21, 2016

The Senate met at 10.00 a.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**JOINT SELECT COMMITTEE****(APPOINTMENT TO)**

Madam President: Hon. Senators, in accordance with Standing Order 79(2), I wish to make the following appointment to the Senate Sessional Committees for the First 2015/2016 Session of the Eleventh Parliament. Statutory Instruments Committee, Mr. Rohan Sinanan in lieu of Mr. Hafeez Ali. House Committee, Mr. Wade Mark in lieu of Mr. Vasant Bharath.

PAPERS LAID

1. Annual Report of the Central Bank of Trinidad and Tobago for the year ended September 30, 2015. [*The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation (UTC) for the year ended December 31, 2015. [*Sen. The Hon. F. Khan*]
3. The Consolidated Financial Statements of the Petroleum Company of Trinidad and Tobago Limited for the year ended September 30, 2015. [*Sen. The Hon. F. Khan*]
4. The Administrative Report of the Tobago House of Assembly, 2015. [*Sen. The Hon. F. Khan*]

5. The Defence Force (Rates of Pay and Allowances) (Amendment) Regulations, 2016. [*Sen. The Hon. F. Khan*]
6. The Defence Force (Rates of Pay and Allowances) (Amendment) (No. 2) Regulations, 2016. [*Sen. The Hon. F. Khan*]

JOINT SELECT COMMITTEE REPORT

(Presentation)

Whistleblower Protection Bill, 2015

Sen. Wade Mark: Madam President, I have the honour to present the following report as listed on the Supplemental Order Paper in the name of Sen. Michael Coppin:

Fourth Interim Report of the Joint Select Committee appointed to consider and report on the Whistleblower Protection Bill, 2015.

URGENT QUESTIONS

Five Year Old Poultry Products

(Protection and Safeguard of Consumers)

Sen. Wade Mark: Thank you, Madam President, to the hon. Minister of Trade and Industry. In light of recent reports that five-year-old chicken parts are being sold to consumers, what immediate measures will the Government be taking to protect and safeguard the well-being of consumers of poultry products?

Madam President: Hon. Minister of Trade and Industry, you have two minutes.

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Member. May I just say that this question of food fraud and food safety, all of these issues are very, very serious issues. We see it of paramount importance for the consumers of chicken. Chicken as you know is one that is consumed by the majority of the population and, of course, it is a considerable source of protein. So naturally it is quite a large industry within

Trinidad and Tobago, so it is very important to us. It is a cross-cutting issue in terms of across several Ministries. It is that, and you will know that, your government will know that, we have not adopted any food standards for poultry at all. This was an item which was agreed on by the COTED which is a Council for Trade and Economic Development in CARICOM. So that a CARICOM standard, after consultation with the Caribbean Poultry Association and in accordance with the OIE as an international benchmark for the WTO, when it comes to animal health issues, this standard was approved but not implemented by the last government at all.

As you know, it is a voluntary standard and however, we as a Government would wish to consider whether we would make it a compulsory standard. I will tell you why. As it is, a number of Ministries are involved with the actual importation. So I cannot say for certain and I have checked in the short time that I have had, and over the weekend as well I also delved into it, I cannot say for certain that there are, in fact, five-year-old chickens imported into Trinidad and Tobago. What I do know is that it involves the Chemistry/Food and Drugs Division of the Ministry of Health and they rely on a health certificate which is given. For instance, chicken coming into Trinidad, they rely on that health certificate coming in from the US Department of Agriculture and that would have the country of origin and so on. I do not think that the date of issue is there.

Madam President: Hon. Minister, the two minutes, your time is up.

Sen. The Hon. P. Gopee-Scoon: Time is up?

Madam President: Yes.

Sen. Mark: Hon. Minister, could you indicate to this honourable Senate when will action be taken to standardize, vire and implement through legislation and regulation the decision taken by COTED in terms of insuring the well-being of

citizens who consume poultry products?

Sen. The Hon. P. Gopee-Scoon: Madam President, action is being taken and as I can tell you, the Bureau of Standards has been looking at the actual standards and looking out for all of the quality problems which exist in the industry. There is going to be a cross-functional approach to this with the involvement of the Ministry of Health, from the Chemistry/Food and Drugs Division, the Ministry of Trade and Industry in terms of consumer education as well and the Bureau of Standards with their involvement in terms of the implementation of the standard as well and the Ministry of Agriculture, public health under the Ministry of Rural Development and Local Government will also be involved. But we consider this a serious issue and this Government will be continuing until the actual standard is implemented. So we will be moving with speed, with alacrity. This is a very, very, urgent issue. Thank you.

Sen. Mark: Madam President, in light of the urgency and action required as outlined by the hon. Minister, could the hon. Minister indicate to this Senate whether she is aware that the Chemistry/Food and Drugs Division has not—the laboratory has not been functioning for a few months well. And in light of what is taking place and the action that you have proposed, what measures will be taken to get this laboratory of Food and Drugs Division functioning efficiently and speedily.

Sen. The Hon. P. Gopee-Scoon: Madam President, it has not been months, it has been years and therefore the Senator would be advised that they have full knowledge of this matter. The lab has not been functioning, I believe for about two and a half years under you all and nothing was done about it. But it is an urgent matter and it affects all other issues, all food, all drugs, all cosmetics, the testing for which is now done by CARIRI and so on. It is a matter that is being

looked at closely as we speak and we have been looking at it and it is being given urgent attention. [*Desk thumping*]

**Flooding in Debe and Penal
(Government's Assistance)**

Sen. Wade Mark: Thank you, Madam President, to the hon. Minister of Works and Transport. Given the recent flooding and dislocation experienced by residents of Debe and Penal through persistent rainfall, could the Minister state what assistance, if any, will the Government render to the affected residents?

Madam President: Hon. Leader of Government Business, you have two minutes.

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Thank you, Madam President. Madam President, we had some excessive rainfall this weekend which, from a point a view of water management we welcome. However, it has affected the residents of Debe/Penal in a way that has caused some flooding. As you are aware the Penal/Debe area is on the fringes of the Oropouche Lagoon and what happens there is that there is so much backfilling for residential building that the water does not have enough channels to run. But having said that, this question is largely based on what assistance will the Government render.

Madam President, there is a robust social safety net in place in Trinidad and Tobago. For example, there is a disaster grant for home repairs which all affected residents can access. It is \$20,000 for home repairs, \$20,000 for electrical and \$20,000 for plumbing. So if you are really, really, badly affected you have access to as much as \$60,000 in that regard. There is also a short-term rental policy that if your house is not habitable for a period of time, you can get three months' rent, up to a maximum of \$7,500.

Clothing, if your clothing has been destroyed, \$1,000 per person. So if there are

six people in the household, you can access up to \$6,000. Schoolbooks for primary school children \$700, for secondary school children \$1,000 and obviously there is also the temporary food card that will be accessible to the affected residents. So I think Trinidad should feel proud that we have such a wide safety net for affected people in disaster and I think this is comparable to any part in the world. I thank you.

Sen. Mark: Madam President, could the hon. Minister indicate whether the areas that he has mentioned under the social safety net, could he indicate whether these areas are properly funded and resourced at this time so that people can access those areas?

Sen. The Hon. F. Khan: Madam President, I am pleased to announce that this section of the Government services is very much well-resourced and all these grants are accessible once there is legitimate request for them and obviously if the area has been flooded out there is a legitimate basis to access these resources.

ORAL ANSWERS TO QUESTIONS

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, the Government is pleased to announce that we will be answering all three questions listed on the Order Paper.

IADB and the Government of Trinidad and Tobago

(Loan Repayment Terms)

63. Sen. Wade Mark asked the hon. Minister of Planning and Development:

Could the Minister state the value and repayment terms of the recently signed loan agreement for the strengthening of the single electronic window for trade and business facilitation between the IADB and the Government of Trinidad and Tobago?

Madam President: Leader of Government Business, you have five minutes.

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, the loan value for the project, strengthening of the Single Electronic Window, SEW, for trade and business facilitation, the loan value is US \$25 million. The repayment terms are as follows: Amortization period, 25 years with semi-annual payment installments; disbursement period, five years; grace period, five and a half years, or moratorium for another phrase to use here. Interest rates, Libor base, currently 1.85 per cent based on Libor of 0.63 per cent, plus funding margin of 0.07 per cent, plus the IDB spread for capital loans of \$1.15 per cent.

Madam President, the interest rate for this loan is a mere 1.85 per cent and an amortization period of 25 years and a moratorium of five years. There is a credit fee payable on disbursed balance of the loan at a percentage set by the bank periodically during its review of financial charges on ordinary capital loans. The credit fee however shall not exceed 0.75 per cent per annum and will begin to accrue 60 days from the date of signature of the loan contract. Madam President, this is the nearest thing to free money.

Sen. Mark: Madam President, could the hon. Minister indicate when would he be making available to this Parliament the actual loan agreement which the Government is compelled to do under agreement arrived at some years ago? Could he tell us, Madam President, when will that loan agreement in full be tabled for the viewing of the Senators and by extension the national community.

10.15 a.m.

Sen. The Hon. F. Khan: Madam President, the loan contract was signed by the hon. Minister of Planning and Development in the Bahamas in April of this year. I stand guided. I am not certain if those loan agreements have to be tabled in the Parliament, but in the interest of transparency I will surely seek to find out it that is

the case and, if it is, there will be no problem.

Sen. Mark: Madam President, I am surprised that the hon. Minister is not aware of it, but there is an undertaking by Government which came about as a result of an agreement that all loan agreements whether it is IMF, IADB or what we have here, would be tabled here.

Madam President: Sen. Mark, what is the supplemental question?

Sen. Mark: Well, I am just trying to ask the hon. Minister if he can give us an undertaking to report within next week, within the next couple days, that particular position and make available at the same time that loan agreement.

Madam President: I think that the Minister previously for the first supplemental gave a response. I do not think that that what you just said requires a response from the Minister.

Implementation and Operationalization Policy (Officers Slain in the Line of Duty)

64. Sen. Wade Mark asked the hon. Minister of National Security:

Could the Minister provide a precise time frame for the implementation and operationalization of policy, in respect to the award of \$1m to the estates of officers slain in the line of duty?

Madam President: Hon. Minister of National Security, you have five minutes.

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam President. Madam President, barring any unforeseen circumstances, it is expected that the policy for the payment of the \$1 million compensation for the families of officers slain in the line of duty will be finalized by the end of June and a Note will be submitted to Cabinet for its consideration and approval.

Sen. Mark: Thanks, Sir.

**Implementation of Unemployment Insurance Scheme
(Government's Intention)**

65. Sen. Wade Mark asked the hon. Minister of Labour and Small Enterprise Development:

In light of the rising levels of unemployment through layoffs and retrenchment and declining purchasing power of the workers, is it the intention of the Government to urgently consider and implement an unemployment insurance scheme?

Madam President: Hon. Minister of Labour and Small Enterprise Development, you have five minutes.

The Minister of Labour and Small Enterprise Development (Hon. Jennifer Baptiste-Primus): Thank you very much, Madam President. The Government of Trinidad and Tobago is deeply concerned about the loss of jobs through any means, whether it is through layoffs, retrenchment or termination. We understand the devastating effects of job loss on workers, their families, their communities and the nation as a whole. The loss of one job not only affects one's livelihood, but can have long lasting emotional and psychological effects, which can further impede on one's ability to rise out of unemployment into sustainable work.

Madam President, while there are mechanisms in place in Trinidad and Tobago to assist unemployed persons to obtain sustainable employment, or create jobs through entrepreneurship, as well as a wide range of social protection measures to provide income support, we have taken note of calls for the establishment of an unemployment insurance scheme in Trinidad and Tobago. Such a measure was proposed by the some stakeholders at the Ministry of Labour and Small Enterprise Development's recent National Tripartite Stakeholder Consultations on the Industrial Relations Act, Chap. 88:01, held on February 22 and February 23, 2016

in Trinidad, and in Tobago on April 08. This issue was also raised at the workshop that we held on Contract Employment - Reducing the Dependency which was held on April 13, 2016.

Given this Government's commitment to tripartite engagement and dialogue with stakeholders, we would no doubt wish to fully explore this idea with stakeholders. We would need to engage in a national conversation since such programmes require careful and detailed consideration. The issues to be considered include eligibility, benefits level and duration time frames for application of the scheme, financing, effects on consumption, effects on employment, effects on poverty levels and economic trends. We have already enlisted the assistance of the International Labour Organisation in providing information on jurisdictions where such schemes have been implemented with success, and methods and processes of administration.

Madam President, it is within this context and against this background that we look forward to working alongside the relevant line Ministry and state entities on the engagement of stakeholders on this important topic in the very near future.

Thank you. [*Desk thumping*]

Sen. Mark: Madam President, may I ask the hon. Minister in light of the worsening economic situation in our country and the laying off of so many workers, whether the hon. Minister intends to fast track this particular mechanism so that within the shortest possible time frame we can bring to the Parliament the appropriate legislation to address this particular matter which is of grave importance particularly to those workers who are being laid off and have no income to turn to? Could the hon. Minister advise whether this matter will be given top priority and she will come back shortly?

Sen. The Hon. J. Baptiste-Primus: Madam President, while I understand the

concerns, I think we must understand that consultation cannot be fast tracked. Consultation is a process because you have to engage various stakeholders, they have to convey their views, the views have to be assessed. And whilst this Government is cognizant of the fact that there are people out there, there are workers out there who are suffering, I want to make the point that this Government is a mere nine months of age and we have done much more than the last administration did in the last five years. [*Desk thumping*] But notwithstanding that, I hear Members of the other side demanding that this Government must do X and Y. I want to assure the workers of this country and the national community that this Government cares about their welfare and we are working as fast as we can to bring relief, but I think they will understand that consultation takes time.

Sen. Mark: Madam President, could the hon. Minister indicate whether it is her intention to present very shortly, to the national community, a white paper on this very important subject for discussion and via the consultation process having regard to the urgency of the matter?

Sen. The Hon. J. Baptiste-Primus: Madam President, I do not think I can add any more to what I have said earlier. This Government is moving with dispatch. We are engaging with various stakeholders and the process has started.

STATEMENT BY MINISTER

Caribbean Financial Action Task Force Mutual Evaluation Report

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, in November 13, 2015 I made a statement that Trinidad and Tobago had undergone the Caribbean Financial Action Task Force (CFATF) Fourth Round Mutual Evaluation process to assess our compliance with the Financial Action Task Force Forty Recommendations, which are the international benchmark for an effective domestic Anti-Money Laundering/Combating the

Financing of Terrorism Regime.

This process assessed our AML/CFT systems as at January 2015 and entailed a rigorous examination of our laws, policies and enforcement track record. The Mutual Evaluation Report was adopted by the XLII CFATF Plenary in November 2015, but the report was also subject to what is known as FATF Global Quality and Consistency Review and analysis by FATF. The finalized report was made public on June 03, 2016.

Trinidad and Tobago knew the Mutual Evaluation was on our horizon. The Third Round Mutual Evaluation was completed in 2015 and we were placed into enhanced follow-up and monitoring by what is known as the ICRG. The PNM administration then faced these challenges head-on, taking steps to address these technical deficiencies by enacting four key pieces of legislation. These laws became the backbone of our AML/CFT legal framework and are of the basis for improved ratings for technical compliance in the Fourth Round. In February 2010, FATF publicly acknowledged our progress in improving our AML/CFT regime and called for continued work on implementing our action plan to address remaining deficiencies.

While we were removed from the ICRG process in 2012, we remained in enhanced follow-up. The momentum gained by February 2010 was not maintained and Trinidad and Tobago did not address all deficiencies required to exit the Third Round by November 2014 as scheduled. CFATF only allowed us to exit by merging the remaining deficiencies of the Third Round Mutual Evaluation into the Fourth Round Evaluation.

The results of our Fourth Round Mutual Evaluation clearly demonstrate that after 2010 too little was done to address our technical deficiencies. Gaping holes were left in our AML/CFT regime. We were rated non-compliant for

Recommendation 7 which is Targeted Financial Sanctions Against Weapons of Mass Destruction, and 8 which is the Non-Profit Organizations, and only partially compliant in respect of a further 13 recommendations. These include fundamental Recommendations such as Recommendation 1 which is Assessing Risks and Applying a Risk Based Approach.

A National Risk Assessment was not completed in preparation for the mutual evaluation. Policymakers had no empirical data against which to test the efficiency of legislative policy or operational measures. The country was shooting in the dark for solutions to national and international problems with a cascading effect of non-compliance with other Recommendations. As a result of these gaps, we now face the challenges of a three-tiered FATF/CFATF monitoring process. We were placed into enhanced follow-up requiring more regular reporting to CFATF, with our first follow-up due in May 2017. This will obviously put tremendous pressure on our country's time and resources.

Madam President, effectiveness is judged against 11 immediate outcomes set out by FATF. A country qualifies for referral to ICRG of both CFATF and FATF, if it has low or moderate effectiveness for nine or more of the 11 immediate outcomes. We were rated as low/moderate in all 11 and because of the size of our banking sector, which is roughly US \$15 billion, we qualify for automatic referral to ICRG at FATF and CFATF. This will be no walk in the park for us obviously.

We need significant improvements in our technical compliance and effectiveness to exist ICRG. We cannot exist enhance follow-up without first existing ICRG with both FATF ICRG supervision and CFATF, and obviously in those circumstances, we may very well find ourselves on the FATF grey list. This could lead to countless dire consequences for our citizens and economy such as de-risking of local banks, additional customer due diligence, requirements, multi-

national banks reconsidering their positions in our local market, and increased delays and cost of doing business in this country.

Madam President, fortunately, this Government predicted these threats long before entering office, which is why we made our AML/CFT reform a key component of our published legislative agenda, prioritizing a suite of legislation which must be amended or enacted to bring our country into technical compliance.

We have already drafted several powerful pieces of legislation to plug the gaps in our AML/CFT framework and towards taking the profit out of crime.

Amendments to:

- the Financial Intelligence Unit of Trinidad and Tobago;
- the Mutual Legal Assistance in Criminal Matters;
- the Customs Act;
- the Exchange Control Act; and
- the Companies Act

will be brought to this honourable Senate before the end of this calendar year. Amendments to the Proceeds of Crime Act and the Financial Obligations Regulations will shore up our defences, Madam President, and when put alongside civil asset forfeiture, which is “explain your wealth legislation”, we will finally put us in a real and meaningful position to protect our national patrimony from the savagery of corruption. The Credit Union Bill, Co-operative Society (Amdt.) Bill, Insurance Bill, Gaming, Gambling and Betting Control Bill, and legislation to regulate trusts and amendments to the Income Tax Act, are all on our legislative agenda.

We have taken a comprehensive view of this issue, adapting a whole of Government approach to AML/CFT. We do not operate based on theory. Our

solutions are fact driven. We have moved swiftly to complete the National Risk Assessment as a foundation for compliance with all FATF Recommendations and immediate outcomes.

10.30 a.m.

The Office of the Attorney General and Ministry of Legal Affairs established an anti-terrorism desk which lists individuals and entities as terrorists and freezes their funds. I have also convened ad hoc multi-agency task forces to tackle deficiencies in our anti-terrorism and anti-terrorism financing framework allowing for a quantum leap in inter-agency cooperation.

Madam President, in June 2016, the UN Regional Centre for Peace, Disarmament and Development in Latin America will work with us on legislation on the proliferation of weapons of mass destruction; legislative and administrative systems to address non-profit organizations, and very importantly, unmasking beneficial ownership for both legal persons and legal arrangements are aggressively in train. This is a fundamental element of AML/CFT framework which has inexplicably been left unaddressed for far too long.

Legislation on non-conviction based confiscations will address gaps with respect to mutual legal assistance. In that vein, this Government has already appointed the Seized Assets Advisory Committee which was not done since the law was passed. We are not only seeking technical compliance by enacting legislation but we are ensuring that these laws are fully implemented and properly operationalized.

A national action plan is being finalized to address all 11 immediate outcomes and will position us to exit the ICRG process in the shortest possible time. Work is, however, already underway in several key areas. We are examining all international conventions relating to anti-terrorism to determine

where our country is non-compliant. I have also initiated an assessment of the current investigative procedures regarding anti-terrorism financing which would also yield a framework to manage money laundering investigations. In December 2015, my office successfully listed for the first time ever the first individual as a terrorist and froze his assets. Further listings to United Nations Security Council Resolutions 1267 and 1373 are currently in train and these matters are before the courts right now.

Our legislative agenda clearly demonstrates the priority we place on AML/CFT issues but this is not a fight which the Executive can win on its own. It requires a demonstration of patriotism and devotion to country by all Members of this honourable House and in the other place. The 11 immediate outcomes speak to areas which fall within the remit of constitutionally independent offices, including the Judiciary and law enforcement agencies. However, Government remains committed to providing the resources and creating an enabling environment for the judicial and law enforcement agencies to fulfil their mandate. These are matters necessary to protect our citizens and to which this Government gives the highest priority.

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

Sen. Mark: Madam President, could the hon. Attorney General provide to this Senate what he described as the 11 immediate outcomes which have been imposed on us by CFATF and FATF? Could you briefly give us what those 11 immediate areas are?

Madam President: Hon. Attorney General, you have two minutes to give your response.

Hon. F. Al-Rawi: Sure. Madam President, two minutes would not do justice to the volume of work which the Fourth Round Mutual Evaluation Report discusses.

It is imperative therefore that Members access—and it is published on the CFATF website and I will make it public on the AG's website as well—the entire Fourth Round Mutual Evaluation Report which was published on the 3rd of June. There has been a long train to get us there, Third Round then go into Fourth Round and it is not as simple as disaggregating because the matrix as a whole must be put together. But I will certainly put the portal on the AG's website at www.ag.gov.tt and also it is on the CFATF website, and then compare it against the legislative agenda which we have, which I have already spoken to.

**JOINT SELECT COMMITTEE
(APPOINTMENT TO)**

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, I beg to move the following Motion:

Be it resolved that this Senate agree to the appointment of Mr. Rohan Sinanan in lieu Mr. Hafeez Ali on the following Committees:

1. The Joint Select Committee on Land and Physical Infrastructure; and
2. The Joint Select Committee on Social Services and Public Administration.

Question put and agreed to.

FAMILY AND CHILDREN DIVISION BILL, 2016

Order for second reading read.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. I beg to move:

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

Madam President, the Standing Orders of the Senate permit me only 45 minutes to discuss what is, literally, a massive work undertaking and work product before us. Permit me in the very short time that I have to traverse the Bill, et cetera, to reflect upon what is before us. You see, there is a tendency by some to look at the fact that we are dealing with one Bill before us today to oversimplify where we have come from, what we have passed through and what we now have before us.

Today, in the Senate, we now have for the second reading this Bill. In the House of Representatives, the Bill, when piloted there, resulted in a pause and a referral to a joint select committee pursuant to Standing Order 69 of the House of Representatives, where five Members of the House of Representatives were appointed to consider the work behind this Bill. Similarly, pursuant to Standing Order 67, the Senate before the second reading, not in the same position as the House, pursuant to its Standing Order 67, referred this Bill by an equal number of Senators appointed from this House to meet with the five appointed in the House of Representatives.

The Joint Select Committee established, therefore, by both Houses sat on Friday April 01, 2016; Friday April 08, 2016; Friday April 15, 2016; Wednesday April 20, 2016; and Wednesday April 27, 2016. The Members of the Committee comprised: me acting as Chairman; Mr. Randall Mitchell MP; Mrs. Ayanna Webster-Roy MP; Miss Ramona Ramdial MP; Mr. Barry Padarath MP; Miss Khadijah Ameen, Senator; Miss Nadine Stewart, Senator; Mr. Hafeez Ali, Senator; Mr. W. Michael Coppin, Senator; and Miss Melissa Ramkissoon, Senator.

And we considered, Madam President, material presented for the first time in a consistent pattern by this Government, not only the Bill before us, but we produced for consumption by all Members: the Bill, the track-changed marked up

version between the 2016 Bill and the 2015 Bill which the Opposition, then as Government, had brought to the Parliament and which lapsed. We considered a consolidated amended version of the legislation. We tracked all of the changes and we demonstrated to Trinidad and Tobago, not only the principle content of this Bill, which is to create a Division of the High Court to be known as the Family and Children Court, but very importantly along that jurisdictional carving that we did, we traversed the 18 pieces of law which we went through to harmonize and operationalize this law at the same time.

You see, Madam President, the 2015 version of the Bill brought by the then Government, now Opposition, comprised roughly seven Parts, 47 clauses, three Schedules and it amended three pieces of law in very short order across three pages. Roughly about 23 pages of a Bill, just putting it simply. In the current Bill before us, we have gone to six Parts, 63 clauses, five Schedules and in Schedule 5 in particular, we now seek to amend 18 pieces of law. We had the option of taking this law piece by piece and we could have brought it to the Houses of Parliament, produce 18 Bills if necessary, but it was by far more sensible an exercise to take this work product and package it in the manner which we do now and so amend 19 pieces of law in total.

Now, permit me for a moment to reflect upon some of the legislative history. In fact, the history of this Bill started in 2001, some 15 years ago. There was the Family Court Bill, 2001, brought in the Senate. It unfortunately lapsed when the Parliament dissolved. It then reappeared in 2007 as the Family Court Bill, 2007. It again lapsed and then it came again in 2009 as the Family Court Bill, 2009, when the Judiciary intervened and said that there were some fundamental architectural changes that they wished to affect, and so they invited the then PNM Government to retreat from the Bill and to cause amendment.

The gestation period between 2009 and 2015 then happened and very importantly, the Judiciary came to be in receipt of—and I wish to express gratitude for this—United Nations aid funding where the Judiciary stood as a beneficiary of USAID grant development to produce what was called a juvenile court system for Trinidad and Tobago and a youth court. That was matched right alongside bringing into legislative form the experiment which was the Family Court and which is reflected in the Explanatory Note of this Bill.

Trinidad and Tobago would know that we as a jurisdiction carved out by way of an experimental pilot project in the Judiciary, the manner in which we treated with family matters by the creation of the Family Court for the District of St. George West. For those of us who have practised in those courts, a very wonderful and meaningful experiment which very much informed the manner in which we amended the Civil Proceedings Rules and in fact, the manner in which we have now published the criminal proceedings rules which will come into law on January 17—be operationalized on January 17, 2017, having already been published under this Government.

I say that because we have taken the opportunity to marry the Family Court experiment and the children's court, as we now call the juvenile court experiment, putting those two together—but what the Judiciary has done is rather unique. At first when I considered this legislation in 2015, brought then by the Government, I asked myself aloud and on the floor of the Senate: why do we want to affect the Supreme Court of Judicature Act in the manner that we do? Is it not as a framework piece of law good enough to allow the Chief Justice by his direction to modify his court and to apply it into positions? That was the open question because the law permitted it. However, the answer which came then by a deeper drilling down was that the administrative structures of the Judiciary intend in this

Bill to set the track record for all other divisions.

So let us put it into context. We have a Supreme Court of Judicature in Trinidad and Tobago which is comprised of the High Court and Court of Appeal. We have the Summary Courts Act which deals with our summary courts. We call our summary courts, the magistracy. In one area of the law, they deal with both civil and criminal jurisdiction and then the Supreme Court deals with both as well. The administrative structure was such that we are now putting into law an administrative structure cast into law as opposed to one which the Chief Justice applies from time to time. And the reason given to me for this is that it is by far, better to define the boundaries, the circumstances of operation into law rather than rely upon the voluntary participation of people who work in the system.

We now create a sub-division of the High Court, a division of the High Court, a sub-division of the Supreme Court of Judicature. We now have the Court of Appeal on the top. We have the High Court which has as a Division the Family and Children Court. And what we do is to take the Family and Children Court, cleave them apart because of the learning which stands behind them, we take the Family and Children Court, we park all of the family law matters, which in fact stand as a Schedule to the Bill. I believe it is the first Schedule to the Bill.

10.45 a.m.

When we take that first Schedule and we look to it, you will see that there are several pieces of law which we can deem to be laws in relation to family matters and we have scheduled it out into Schedule 1, including Administration of Estates Act, Succession Act, Emigration (Children) Act, Status of Children Act, Age of Majority Act, Family Law (Guardianship of Minors, Domicile and Maintenance) Act, et cetera, all set out.

What we do next is to then take all of the children matters, so family matters

and children matters, be it two very critical definition pieces which stand in the Bill, because the courts are now intended to operate on what we consider to be family matters and children matters. And what we do, extremely importantly, is to marry the jurisdiction of the Magistracy with the High Court.

You see, the experience right now is, for instance, where you wish to enforce maintenance orders and certain other orders in the Magistracy, including in particular a very important area called domestic violence, a protection order must be approached in the Magistracy, maintenance orders approached in the Magistracy in some circumstances. But we had people going through the indignity of having orders in the Magistracy where the High Court came in to be involved, say for instance someone had approached the court for a divorce or a children matter, and we had two courts running concurrently. And you would have parties shuttling between the Magistrates' Court and the High Court. What this Bill does, in a very powerful fashion, is to marry the jurisdictional experiences between the Magistracy and the High Court so you have what is referred to as wrap-around services, where you can access one court and get the suite of remedies available to you. That is a first for this country and a step in the right direction. It is not only a cost-cutting effort, but it is an efficiency effort.

Very importantly, women will no longer need to go to the domestic violence court, get a protection order and then try to have the High Court ignore that order and send you back to the Magistracy; not in today's world. Very importantly, maintenance orders which apply to the Act, which is set out in Schedule 2 to the Bill. These orders can now be put into effect by a children court, by a family court sitting in various circumstances, where you have family court judges, family court masters.

We do something further. We take the benefit of the Clerk of the Peace

experience and what we have done is to clean up that exercise and have the Clerks of the Peace now operate as the Registrar of the Supreme Court, the Assistant Registrar, Assistant Marshals and we have migrated away from the experience of the Clerk of the Peace as is applied in Trinidad because it was not quite what it was intended in the original context, but we have taken the option to clean that up.

The architecture of the Bill itself, across the six parts, is quite an interesting one. Basically, in this Bill, what we have are some mirror conditions which apply between the family court structure and the children court structure.

The first part is the preliminaries, short title, commencement, interpretation. The second part deals with the creation of the Division of the High Court called the Family and Children Division, how we set up the court, et cetera.

Third part comes to deal with the administration of the Family and Children Division. And as I mentioned, taking into flow there the assignment of the Deputy Registrar and Marshals, Assistant Registrar and Deputy Marshals. And then we get into the court administration. Here is where we legislate an organizational structure intended to be a prototype, to be applied across the Divisions of the Supreme Court. Here we put in the establishment of the court administration department. We put in the Deputy Court Executive Administrator, family court administrator, children court administrator, the staff.

In Part IV, we create the Family Court and we give it, very importantly in clause 9 of the Bill, the authority and jurisdiction in all family matters exercisable by the Family Court. But if you stick a pin for a moment, you compare Part IV with Part V of the Bill, you will see traversed across clauses 9 to 24 of Part IV, which deals with Family Court. When you compare that against Part V, which is the children's court, where we have clauses 25 through 39 inclusive, down through 40, straight down to 58, you will see that there are some provisions which can be

mirrored. In particular, I would invite Members to look at the mirroring of terms and conditions between clause 9 and 25; clause 10 and clause 26; clause 11 and clause 27; clause 12 and clause 28; clause 13 and clause 29; clause 14 and clause 30; clause 16 and clause 31; clause 17 and clause 32; clause 18 and clause 33; clause 20 and clause 34; clause 21 and clause 35; clause 22 and clause 36; clause 23 and clause 57; and clause 24 and clause 58.

And so we have traversed, through the marriage of jurisdictions Summary Court with High Court for the authority in family matters and for children matters. We have assigned Family Court Judges. We have assigned Family Court Masters. They shall have powers of a judge. We assigned the Family Court Masters and the powers of Family Court Masters as set out. We assigned the powers of Family Court Masters to be the same as a Family Court Judge, and very importantly we deal with staff, management, oaths of secrecy, restrictions on publication of proceedings, so that you redact so people cannot be identified, we deal with the ability of the family court or the children's court to appoint a guardian ad litem on the request of the children's attorney, so that you can have the voice of the child preserved in these circumstances. We deal with the transfer of matters and appeal of matters. Those are the mirroring provisions.

Let us look to some of the powerful punches in the legislation. Clause 15 deals with the enforcement of certain orders and we are putting a nuclear device, in essence, to people who are the beneficiaries of maintenance orders, orders in relation to matrimonial property. Very often persons who are the beneficiary of these orders find that the cupboard is bare or somebody is just not listening to the court order, warrants have to go out, you have to track down the people, they are dragged before the court, delay after delay.

And clause 15 allows for the implementation of what is referred to as a show

cause notice. That show cause notice can be invoked to say why you should not have the Registrar of the court step in, effect the transfer of your property without your participation. Of course due process is observed, you are given notice, you are invited to come to the court but it is a very powerful tool for the Judiciary to apply, at the invitation of a party who wishes for it to be implemented, so that we can treat with one of the ills when we deal with maintenance orders and that is where enforcement of certain orders is tied into Schedule 2, as I had pointed out a little bit earlier.

Importantly, you heard me mention a short while ago the voice of the child, Madam President. This is a concept which is an evolutionary step in the Judiciary. We have migrated away from what is in the best interest of the child to include the protection of the voice of the child. And very importantly, we are now permitted, by the establishment of the children court as a division as we do in a sub-division of this division, to have some extremely powerful provisions put in. You see, beyond the mirroring sections of the family side, versus the children side, as I have just described, we now have the benefit of having the voice of the child dealt with in avoiding recidivism, the constant revolving door where children find themselves in conflict with the law.

Our structures were just too rigid. A child runs away from a children's home—what was referred to, prior to this law coming into effect, God willing, as a youth detention centre, or a juvenile centre—run away, you are obliged to put them right back in. Our laws, which stand in *pari materia* with the legislation, which we now treat in the consequential amendments, were a little inflexible. And what we have done, on this occasion, is to now add a few very powerful provisions onto the children's side of the equation:

1. children probation officers;

2. proceedings to deal with peer resolution;
3. children drug treatment court process.

Now focus on those three. Proceedings for peer resolution are found in clauses 40 to 46, inclusive. Children Drug Treatment Court are found in clauses 47 to 56, inclusive. When we look to the establishment of children probation officers, we look to clause 38, clause 39. And we recognize in clause 37, that the Judiciary is permitted to have a constant supervision of the child. So that there is a constant reporting.

What the architecture of this Bill does is to now take into effect having the auxiliary services available to the court of a specialized nature where you get people who are appropriately selected as having the mindset for this area of the law to work as probation officers; child psychologists; children police, if you want to use that expression insofar as the Trinidad and Tobago Police Service has had the benefit of this Government's agreement by Cabinet of the establishment of an entire unit of the police force comprising hundreds of persons to work alongside this system; improving the coordinate relationship between the Children's Authority, which is in a rather invidious circumstance. It is a regulator and a facilitator and they are expected, with a miniscule budget over the years, to perform miracles, quite frankly.

They have been thrust into the deep end of the equation, and particularly with the inexplicable operationalization of the children's foster care and nurseries legislation under the last Government, that inexplicable proclamation of a clause which caused the situation in Trinidad and Tobago for every child in remand to be in the position of being deemed to be unconstitutionally detained, because the centres were not built before the law was proclaimed. I just cannot understand how that happened. All I can tell you is that today Trinidad and Tobago is now

paying hundreds of thousands of dollars per person so remanded, and the Children's Authority has been thrust into the mix to try and find the regulatory framework to allow that to come into effect.

But when we look now to the manner in which the court can permit supervision, we are now introducing, in the host of amendments, the ability to have a child detained in circumstances such as section 54, where you can actually release the child, not only back to a children's home or a children's rehabilitation centre but into the custody of a parent. That is a very important tool in the arsenal of reducing recidivism and protecting the voice of the child and factor in the best interest of the child.

When we look to peer resolution set out in clauses 40 to 46, we see that we are now permitting an alternative dispute style mechanism, entrenched in the law to facilitate children being participants in a process of supervision by their peers. Now, obviously you do not just throw them into a court and tell 12 to 19-year-olds to just come up with a decision. There is a process of training for the peers. There is a process of judicial supervision for the peers. There is a process of resolution management for the peers, so that peers, who in fact can include people who have passed through the system and graduated themselves, get to have the reciprocity with the child who is in the peer resolution process.

Very often, as we had in the public fora that I have hosted as Attorney General in relation to the age of the child and emancipation issues of the child on under-aged marriage, I can tell you many a young person has come forward and said: listen where is the voice of the child, what do children say about this, how do they participate in it?

As a parent to three teenagers, I can tell you, no matter how many qualifications you have, your children believe you are unqualified to tell them what

they are thinking or feeling. And that is just a fact that I would imagine every father experiences or every mother experiences from time to time. There is that distance between the teenage evolution and the adult position where you feel as if you just do not have it right. And, therefore, this mechanism of peer resolution comes to be a very important tool in the arsenal.

Madam President, I am particularly bad at timekeeping, so I would just ask you how much I have left.

Madam President: Twenty-one minutes left. You stop at 11.20.

Hon. F. Al-Rawi: Appreciated. Usually my colleague would hold up a little sign for me but she is lost in her own work. Madam President, peer resolution forms a fundamental architectural position for us in this mechanism.

11.00 a.m.

Let us look now to the concept of the child in the position of the Children Drug Treatment Court Process, clauses 47—58. We are allowing another significant development in the management of children, in the drug-related issues that they are faced with, to have an alternate forum called the Children Drug Treatment Court Process. This is putting legislative clothing on another worthy experiment by the Judiciary, which was funded, which was carried out on a child-development practice basis, and which has produced significant results, which the hon. Chief Justice has spoken to on many occasions.

Now we are allowing, where any court comes to understand that a child has a problem with drugs, with alcohol, with certain influences, we are allowing a referral to a Children Drug Treatment Court Process. In doing that, we can take a host of remedies, auxiliary programmes, put the child through a course of developmental experience, where the child has the option to graduate from the programme, and have a certificate of graduation, constant supervision, constant

reporting back to the court, but very importantly, in the both the Children Drug Treatment Court Process and the peer resolution process, we have taken care of the situation where a parent might say, “Ah doh wah mih child in dat”. The court sitting in its traditional role as *parens patriae*, where it has supervisory authority and control over a child, can say to a parent who says no, “Listen, this is in the best interest of your child, and we would do it without your consent, through due process”. There is, of course, right to appeal. There is, of course, the right to knock on the door of the court. There is a right to review, but it is important where parents may have a view different from the court and probation department’s and auxiliary department’s views, to factor what is in the best interest of the voice of the child, to give the child that second chance. This is what we refer to as the wrap-around services in these Bills.

When we looked to the graduation from clause 56, which is the Children Drug Treatment Court Process, and we looked to peer resolution, we have looked to the situation where, we have described what the child has to have to qualify for both programmes; both programmes allow for lack of parental consent with due process; both programmes allow for a conviction to be avoided, and that is a critical thing for a child. A child who is scared by the fact that, I am a criminal. I have a conviction. It is on my record. I go for a certificate of character and it pops up. We are giving children the chance to avoid a conviction on the record, but to be under the supervision of the court, so that they can come back at any point in time, and that I think most respectfully, is society beginning to work right.

Madam President, that is barely scratching the surface of the architecture. You could not read this out to Senate in the time that you have, because the real powerful punches in this legislation come, as I said before, in the consequential amendment set out at Schedule 5 to the Bill. Schedule 5 to the Bill is one which

reflects the degree of consultation had in this Bill. For the record, I will say that there was widespread local and international consultation on the process and procedures. Locally, the consultations included: police, prison, probation; Criminal Bar, DPP, Solicitor General; Legal Aid and Advisory Authority; Children's Authority; private bar, Children's Authority staff, judicial officers; representatives of the National PTA, Ministry of Education personnel; Ministry of Justice personnel as it then was, AG personnel as it now is; youth development specialists and religious leaders.

Internationally: family, juvenile and youth courts in the US and Canada; children probation and support services in the US; US National Center for State Courts; study of rules of court in several jurisdictions; specialists in Jamaica, Canada, New Zealand, England; study of the scientific research on child and adolescent development and its relationship to delinquency and child care. Overall, the Judiciary has concluded that this is a step in the right direction, but importantly, what we had to do was to factor what the amendments, as I said, were going to be, to the laws to make this thing work.

You see, I have come to understand having traversed the number of laws dealt with in the last Parliament, the Tenth Parliament. You could tick the box all you want on the laws, unless you operationalize the laws sensibly, you just have a check list, a laundry list, you have not gotten it done. And what we have spent time as a Government doing, is literally—to use the expression I heard in Jamaica recently—we are building a plane while we are flying it. Sorry to put it as crudely as that. Whilst we have been piloting these laws, looking at it, we have sourced—the Judiciary of Trinidad and Tobago has sourced the buildings to house these courts, two buildings; one in Tobago.

The Judiciary of Trinidad and Tobago along with the Ministry of Public

Administration, has looked at the human resource capacity to staff the courts. Discussions with the CPO have been factored and lined up in gear, transfer of terms and conditions, et cetera. You see, if you wait to do this thing in series, 10 years from now we will be having the same conversation, and what we can say is that, for once, we as a country are considering operationalization at the same time as the legislation, and that is why you get a work product like this before the Senate, where you do not amend three pieces of law, consequentially, you amend 18.

I can tell you this, we could have gone on and on and on, and found more and more and more, but it is just a point where you have to accept that perfect is not the result you are looking for. Let us get it moving in the right direction, and this is not only an exercise of diligence. This is a labour of love, and I wish, if I could press pause for a moment, to publicly commend yet again the technocratic team that worked on this Bill, [*Desk thumping*] they included: the Office of the CPC, Chief Parliamentary Counsel, Mrs. Angela Moore, Mrs. Carla Ali; the Juvenile Court project, headed by Master Christie-Anne Morris-Alleyne, as the project manager; Mrs. Gaietry Pargrass, as their legal consultant; Ms Donna Boucaud, the component manager; Ms Shari Niles Hypolite, the Legal Officer; the Children's Authority, its chairman, Mrs. Stephanie Daly, and a host of others, because the Office of the Prime Minister, Permanent Secretary; Minister Ayanna Webster-Roy; the Office of the Attorney General, the Secretariat at the Attorney General, everyone has come together and pushed for the development of this purpose, and on this occasion, I am very pleased to also publicly commend the Opposition and the Independent Benches, for participating in the Joint Select Committee, as they did, for taking the mountain of work that I confessed I put on their backs, because what we did is to put every piece of consequential amendment

into the law which we amended.

We track changed the version. We put the amendments inside of it so it could be comparatively factored. We wrote out to the public-sector societies. We got contributions back from them. We have opened a whole conversation on another area of law in the age of contracting of marriages, which we have dealt with separately, because of the mandate of this committee. You cannot step outside the mandate of the committee. We received submissions from equal opportunity observers.

You will see in the verbatim notes of the Joint Select Committee, in the report put before this Parliament, some very interesting commentary by Sen. Ameen, raising an issue. Sen. Ramkissoon raising an issue in how we treat with where the law needs to explore further amendments, because it is only by way of fact-driven data that we are going to get there. I am very pleased to say that the record at the Attorney General's Office for the last eight, now nine months, has been, we are fact centred, data-driven, and we produce the information for public consultation and for public consumption, so that intelligent, driven analysis is factored on the back of Trinidad and Tobago data. Not data in the United States or in England or New Zealand. We now have data in our local jurisdictional context. How much time now?

Hon. Senator: Eleven minutes.

Hon. F. Al-Rawi: Ten minutes, 11 minutes gives me barely enough time now to traverse, Madam President, through the consequential amendments, as I went on a slight tangent of necessity, to pay congratulations and thanks to the many sleepless nights spent by the technocratic team, and to all Members that participated.

So, Schedule 5 has amendments to 18 pieces of law. The 18 pieces of law which we amend are very important material to articulate along with this process.

The consequential amendments are to: Supreme Court of Judicature Act, Chap. 4:01; the Bail Act, Chap. 4:60; Summary Courts Act, Chap. 4:20; the Administration of Justice (Deoxyribonucleic Acid)—sometimes trip—Chap. 5:34, which is the DNA Act; the Legal Aid and Advice Act; the Probation of Offenders Act; the Indictable Offences (Preliminary Enquiry) Act; the Prisons Act; the Young Offenders Detention Act, sometimes referred to as YODA; the Police Service Act; the Matrimonial Proceedings and Property Act; the Adoption of Children Act; the Status of Children Act; the Family Proceedings Act; the Children's Authority Act; the Children's Community Residences, Foster Care and Nurseries Act; the Children Act itself; the Indictable Offences (Committal Proceedings) Act, No. 14 of 2014, not yet assented to or proclaimed, but still standing as law—sorry, not yet proclaimed, but still standing as law nonetheless.

In going through those 18 pieces of law, there are a few of them that I wish to flag out, because obviously it would be difficult to go through all of them. In flagging out this architecture, obviously in the Supreme Court of Judicature Act, we are raising the number of Puisne Judges or High Court Judges, from 36 to 49. The Bill itself says how we are going to deploy the Masters and Judges, that we have created posts for.

In the Bail Act, we have specifically gone through the requirement that a child is someone under the age of 18 years, and what we have done is to factor how we treat with evidence to be taken, unsworn evidence for persons under 10-years of age, and sworn evidence in criminal proceedings for persons above 10-years of age.

In the Summary Courts Act, we have again reflected the same position as we have done in the Bail Act. In the DNA Act, we have done something which is critically important. DNA Act, Status of Children Act and the Police Service Act,

we have covered a loophole which we raised while we were in Opposition, where the information, the personal information, fingerprint data, DNA data was not protected for non-intimate samples. The case of *S and Marper v United Kingdom* as it went to the European Court of Human Rights, came squarely to rest at home. We took the opportunity to insist if you were going to take non-intimate samples, and you are going to take fingerprint information or photographs of children, that it had to be protected in the same fashion as you protect for intimate samples.

We specifically, in reflecting on those three pieces, disaggregated the difference between the DNA evidence which you take for criminal proceedings, which is done by the forensic institute, and that which you do in particular for the Status of Children Act, where you establish paternity. You see, the law as it currently stands un-amended, is that you use a haematologist to give you a blood type, to tell you who is not the father by way of conclusive statement or inconclusive statement. When the state-of-the-art technology as to 99 per cent accuracies, in fact, DNA legislation, and because the child's right is so important and the voice of the child is so important, we needed to modernize the systems, but protect the data at the same time.

When we looked to the Legal Aid and Advice Act and we factored the amendments to the Children Act, and we looked to how we articulate between the roles that we have created, the Solicitor General's Department, under the AG's Office, has child advocates. The Legal Aid Advice and Authority, again, has a form of children's attorney, there may be a private children's attorney. What we needed to do was to harmonize the protection of the voice of the child, so that if you are at a police station and the child comes in to a situation, where you believe the child needs assistance or in any event, anybody, parent, police, Children's

Authority, can call for a child advocate to be present, while the statements are being given, to protect the interest and voice of the child.

11.15 a.m.

When we look to the Prisons Act and we look to the complete reformation of the Young Offenders Detention Act, we are taking a bifurcated approach. We are telling the Children's Authority, you as the licensor of children's homes and rehabilitation centres, the supervisory factor, you have certain powers, but children who are on charges and in Remand or are convicted children fall under the supervision of the Commissioner of Prisons and, therefore, you have to have an inter-relationship between the supervisory aspects of the Commissioner of Prisons and the Children's Authority, and we have done that by putting a hybrid approach with an advisory board.

Madam President: Hon. Attorney General, you have five more minutes.

Hon. F. Al -Rawi: Thank you. I was now thinking I had a little more time. The Young Offenders Detention Act, we are refashioning it into a Children Rehabilitation Centre Act—and that says it all—taking this concept of the juvenile, converting it into the child and looking to the interest of the child.

We are, very importantly, allowing the provision of the Matrimonial Proceedings and Property Act to work. We are allowing for orders in favour of a child even on an international reciprocity of enforcement basis to ground tighter. The Adoption of Children Act, we now have the ability to bridge that six-week period in terms of where you place the child—not the consent of the mother, which, as we know, through lactation or other issues may have psychological issues relative to consent or affect consent, but we are allowing for a child to bond faster with potential family, to the adopted family, in those circumstances and that is a very important thing.

We banned the position of payments for children. We put the Children's Authority as the facilitator of applications to the court. We are removing the concept of disaggregating the pieces, getting the best qualified entity to approach the courts to get this area done in the best interest of the child.

The status of children, I have touched on already. In the Children's Authority, we are, very importantly, allowing for the provision of temporary or conditional licences, and the same thing for the children community residences, because the three-month period permitted to allow for licensing long past and people could not apply. Again, through reasons which I cannot explain, but perhaps someone else can, the law was operationalized without the system being ready. The last Attorney General and one before would have had the responsibility for that. They are the same people in court applying for damages for the people on the operationalized law. I cannot explain that, and I would not go down that road today. That is for another occasion.

The Children Act, very importantly, we are clarifying this role, as I said, of Duty Counsel, Child's Private Attorney and interview the child, et cetera. All in all, two minutes left as I have, time could never do justice—45 minutes as we have—in this sitting to the massive amount of work which was done in getting this Bill ready; to the months of slaving replicated over years, because when you reflect from 2001 to 2016, that is 15 years, and there was a whole time prior before that.

Finally, we are looking in the right direction. We are operationalizing. At the same time that we legislate, we are looking at human resource, budget, and provision of finances. There is a coordinated effort. I salute the Judiciary of Trinidad and Tobago for pioneering data-driven work as we have. I thank most kindly the very gracious benefactors of donors that have allowed Trinidad and Tobago to have the beneficiary support funding from USAID, et cetera, United

Nations and, most importantly, the sheer will, the sheer desire for success demonstrated by the people that work in this system. Trinidad and Tobago could never repay that debt of gratitude. The people at the Children's Authority, the Chief Parliamentary Counsel, the various agencies who have done the work are heroes of Trinidad and Tobago that we must all openly salute.

Madam President, I wish to thank the Secretariat to the Joint Select Committee for the hours of work put in, and with these few words, I beg to move.

[Desk thumping]

Question proposed.

Sen. Khadijah Ameen: Thank you very much, Madam President. Madam President, I thank you for the opportunity this morning to contribute in this debate to establish the Family and Children Division of the High Court of Trinidad and Tobago. Madam President, I am particularly pleased to be given this opportunity, because the welfare of children and their protection has been a personal passion of mine and, more so, has been a matter that the party to which I belong, and the former Prime Minister, Kamla Persad-Bissessar, made many meaningful steps when it came to action to protect the children of Trinidad and Tobago.

Madam President, I listened to the Attorney General as he emphasized on the work and the research that have been done in preparation for the Bill that is before us. Madam President, the Family and Children Division Bill received the most amount of attention and work under the People's Partnership Government under the leadership of Kamla Persad-Bissessar. *[Desk thumping]* This initiative is one that many in the fraternity at work with children were very well receptive to. Madam President, what would make this venture worthwhile is for the Government and my colleagues opposite to ensure that it is proactive in passing legislation like this and not to wait until it is too late. But, more than that, I want to

issue a bit of a warning, I should say, that the protection and rights of children are not a public relations exercise or a game. The required work to be done in the areas of providing infrastructure to ensure that there is sufficient funding to organizations that operate to implement and carry out this work, such as the Children Court which is to be established, the Child Protection Unit of the Trinidad and Tobago Police Service and the Children's Authority of Trinidad and Tobago need to be carefully looked at.

The Attorney General indicated that at the committee several members did mention the need for other pieces of legislation to be examined to ensure full protection of our nation's children, but this Government would be really only doing lip-service if it were not to ensure that the necessary support is given to all the agencies including the one seeking to be established today.

Madam President, in my contribution today, I want to reiterate the People's Partnership commitment to ensuring the protection and welfare of all children of our nation. [*Desk thumping*] I want to emphasize the importance of the following to successfully implement this Family and Children Division Bill:

1. The infrastructure that is required: the courtrooms and the court spaces that are suitable for use where children and family matters are concerned;
2. The further legislative support required to ensure the protection of children;
3. The funding of units, agencies, departments such as the Children's Authority, the Child Protection Unit and the Family Court; and
4. To provide the necessary state support to these agencies.

Madam President, it was under the former People's Partnership Government, Kamla Persad-Bissessar, as Prime Minister, announced the inauguration of the

children's task force, the Child Protection Task Force on December 01, 2013. Madam President, amongst the objectives for the task force were:

“...to commence and complete and review of all provisions, regulations, legislation, and public processes to protect children; to provide recommendations on the issue; to create risk resolutions...on specific risk areas which will require State interventions; to suggest how early warning systems can be structured to provide for the detection of children who live in risk situations; and the provision of sourcing improved counseling and specialist...services for children.”

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

Mr. Vice-President, ironically, the first meeting of the task force was called on Friday, December 06, 2013 and it was held at the Ministry of Gender, Youth and Children Division. Sadly, Mr. Vice-President, one of the first acts of this PNM Government was to get rid of the Ministry responsible for gender, youth and children and it has been reduced to a division within the Office of the Prime Minister. And, in fact, that only came about after protests and objections from civil society and from the Opposition. In the past, I have called on the Government to re-establish the ministry of gender, youth and children development, and I want to repeat that call today.

Madam President, in giving the Children Protection Task Force the support to do its work so that the Attorney General could talk about all the work that has been done in the past, I looked at the Child Protection Task Force Report to Parliament for March 26, 2014. In the report it indicated that the Children's Authority, that Cabinet had approved the authority's org structure of 242 staff in June 2013, the Cabinet of the People's Partnership Government. [*Desk thumping*] This would constitute the staff complement required when the Authority becomes

fully operational in multiple locations for start-up. When services are initially to become available to the public, the Authority has determined that the 97 staff in key positions are necessary.

The Prime Minister's establishment of the Children's Task Force was made with the mandate to cover the provision of salaries and so on, and with the cooperation of the CPO's office and the Ministry of Finance, the task force assisted the Children's Authority to ensure that that was done. After receiving approval of its compensation package in early February, 2014, it has recruited 41 of the 97 approved staff positions, and it was expected that the Authority would be fully staffed, and initial training completed with all of its departments in operation by September, 2014. Mr. Vice-President, it is not just about talking the talk, it is about walking the walk. [*Desk thumping*]

11.30 a.m.

Mr. Vice-President, the report of the Task Force was delivered to Parliament within such a short space of time that I think it would be remiss of me not to mention some of the persons who worked passionately, almost all their lives in Trinidad and Tobago, but also with other countries and the United Nations, and when the members of that Task Force were nominated they divided themselves into subcommittees, and I specifically want to mention Mrs. Margaret Sampson-Browne, who chaired the committee on policy and procedures; Mrs. Hazel Thompson-Ahye, who chaired the committee on legal matters; Mrs. Hazel Brown, a stalwart in advocating for the rights of women and children; and Mrs. Stephanie Daly, of course, who chaired the committee on the Children's Authority. Their work really was done in such a short space of time and it really had to do with their own expertise and passion.

Mr. Vice-President, in the time that the Children's Authority became

established there were a number of reports, very alarming reports in the public of children being abused and the state's lack of ability to treat with these matters, and the work of the task force at that time was so urgent and it could not have been done without the Government giving that power to the task force to ensure that things came forward. But, you know, as with all things, you have the legislation, you have the good intent of some, but it requires the fairness on behalf of those who are here now to ensure that the implementation really does take place.

Mr. Vice-President, one other agency that was established and expanded under the People's Partnership Government, the Prime Minister at that time, Kamla Persad-Bissessar MP, who was chair of the National Security Council indicated that the Child Protection Unit was proposed to the Acting Commissioner of Police, Stephen Williams, to deal with underage sex offences. The special unit of the police service will focus on offences against children including teenage pregnancies, and this was one of the immediate steps to be taken following a meeting of the National Security Council, which was announced by the Prime Minister at that time.

While speaking to the media, the Prime Minister said that the Council decided to expand the terms of the Child Protection Task Force for research and review of the issues and to provide recommendations to treat with it. Not only were they further empowered, Mr. Vice-President—she added, and I quote from a *Guardian* article of Saturday, February 08, 2014:

“She added that 1,000 people are to be recruited for the Police Service and 500 for the Special Reserved Police (SRP) in the coming weeks to bolster the Police Service.”

That is, Mr. Vice-President, to ensure that they do have the manpower to carry out the work that is required. And you know what, fast-track to Sunday, January 17,

2016, this year, “Child Protection Unit overburdened”, and if you would allow me to quote a bit from the article:

“Overwhelmed by a heavy workload, insufficient staff and the absence of proper streamlining mechanisms...”

And members of the “(CPU) of the Trinidad and Tobago Police Service”—said that—“they”—were—“fearful that the unit, conceptualised to protect one of the nation’s most vulnerable groups, could instead be short-changing them.

The fledgling CPU, which came on stream in May, 2015, with a mandate to ensure the rights of children are protected under the law is governed by three pieces of legislation: the Community Residences, Nurseries and Foster Homes Act; the Children’s Authority Act and the Children Act.

However...police officers were becoming increasingly disenchanted and burnt-out on the job...

...one of the unit’s major concerns was the absence of safe homes to put the children, who are mainly abandoned”—and—“abused.

‘Many of the homes were closed down and there are no residences for them as it is supposed to be. Because of this, in many of the cases, the children are left with the same perpetrators and it becomes a vicious cycle of abuse,’”

They also, Mr. Vice-President, indicated that:

“...the District Medical Officers (DMOs) to whom abused children are referred”—are—“also overburdened.”—and

““They have their own work to do...””

I mentioned this to reiterate how important it is for the Government to not just talk and bring legislation to Parliament, but to ensure that the state agencies responsible have the support required, that what is required to establish and register and

monitor residences for children who are at risk, the administrative support, not only for the CPU but also for—and this is why again I believe the Ministry of Gender and Children should be brought back to give full support to the structure that will establish the residences and monitor them. So far there are nine police divisions of Trinidad and Tobago police where the CPU is established, but, certainly, the education and training of these officers must be continuous and it requires funding. It requires the will of the Government to ensure that those in charge, the Acting Commissioner of Police has the resources to do the work.

Mr. Vice-President, I also want to remind where the construction of the courthouses are concerned, the People's Partnership, when we had a Ministry of Justice, had made a commitment to deliver on the promise to the people of Trinidad and Tobago to modernize the administration of justice in Trinidad and Tobago. In early 2013 the Partnership agreed to spearhead construction of four judicial centres: one in Sangre Grande, one at Trincity, one at Carlsen Field, and one in Siparia. Unfortunately though, there were Members of the Lower House, I remember in particular, who made very vociferous objection to the construction of these administrative centres.

If we are speaking about the modernization of justice, if we are speaking about increasing the efficiency of justice, and where we are talking about having an environment in a court that is conducive to children and family, when we speak about having more mediation and counselling, we really cannot do it in the present atmosphere that the courts operate in. So while I know that the people who are part of the Family Court at present will work with whatever their circumstances are to make it good, the onus is on the Government to ensure that construction of these judicial centres begin as soon as is possible.

The dignity of the court should be maintained. The designs agreed to under

the People's Partnership Government really reflected a shift in paradigm from retributive methods of punishment to include restorative techniques for offender management. And you do not just call it treating with criminals because children, I mean, children very often are offenders and many of them, with the support, can go on to lead very productive lives. But we must also ensure that our courts are easy to access for all users, members of the public, the differently-abled children, families, and within those spaces too the Partnership's plans for these judicial centres there were allocations for the Legal Aid and Advisory Authority for mediation and for probation services. So with this, I want to urge the Government that the spaces to be utilized for these courts must be given priority as well.

Mr. Vice-President, I want to also mention that Trinidad and Tobago is a signatory to several international conventions: the United Nations Convention on the Rights of the Child, which we signed in 1989; the Declaration on the Survival, Protection and Development of Children, which we signed at the World Summit for Children in 1990; the Millennium Development Goals, which came out in 2000, which we are also a part of; and A World Fit for Children in 2002, and in this Senate the first Motion to be debated was brought by Opposition Senator, my colleague, Sen. Wade Mark, and it was a Motion for the Government to adopt the United Nations Sustainable Development Goals. [*Interruption*] Yes. It was the first Private Motion to be brought to this House, and the Agenda 2030, an agenda for sustainable development, and all Members of this Senate voted in favour of the Government of Trinidad and Tobago adopting the seven Sustainable Development Goals, and out of the 169 targets covering a broad range of sustainable development issues, it includes—and I just want to mention these because they have an impact on how we treat with children—ending poverty and hunger and improving health and education. The rights of a child really are guided by four

principles; the best interest of the child, respect for the views of the child, and in this piece of legislation you would see where the view—the child’s right to have a view is given opportunity to be recognized in law, the right to life, survival and development, and non-discrimination. Where non-discrimination is concerned, the state parties undertake to respect and ensure that the rights identified apply to every child without discrimination of any kind that they have equal access to services and protection.

Mr. Vice-President, with that in mind there were several recommendations that did not make its way into the legislation that is presently before us. There was a recommendation for the children’s ombudsman, who will treat with matters pertaining to the welfare of children, and in our administration of state we do have an ombudsman who is so overburdened. He treats with every matter, and I think there were so many different sectors who are asking for their own ombudsman. Coming out of local government I know that there were requests and proposals. The Minister, the hon. Sen. Franklin Khan, would be familiar because as part of his work in local government there are people who are saying, let us have a local government ombudsman.

11.45 a.m.

There is also a call for those who deal with the rights and protection of children to have an ombudsman responsible for matters pertaining to the protection of children.

One other matter which I know at some point we will have to treat with, was to take a more gender-neutral approach to treating with sexual offences in children, to treat with the issue of teenage pregnancy, and so it is not only about who commits what offence, but where we go from there.

Mr. Vice-President, before I wrap up, I want to take this opportunity to pay

tribute to those men and women in Trinidad and Tobago who have been working for decades to ensure that our cultural approach to the protection of children is developed; who have been advocates, regardless of who is in government. I want to pay tribute to the people who worked to ensure that this piece of legislation before us, which looks at a number of issues, that they were able to bring it forward. But more than that I want us to ensure as a Parliament, while our job here may be to talk, what matters when it comes to the protection of children is the action that you take. So all of the things that have been described would be only fancy words if you do not put them into action.

Mr. Vice-President, as I close I want to again repeat my call for the re-establishment of the Ministry of Gender, Youth and Child Development. I want to again call on the Government to ensure that the assessment centre which caters specifically for abused children who come before the Child Protection Unit, and is supposed to fall under the Children's Authority, that that is established, that a building is constructed for that use, and to ensure that the judicial centres, which were proposed by the People's Partnership Government, get attention to construct the new building to ensure that the administration of justice in our country, and especially when it comes to children, gets the attention it deserves.

I thank you.

Sen. Melissa Ramkissoon: Thank you, Mr. Vice-President. Let me firstly say good morning to all. It is such a good thing to say that in this Chamber, to be here so early and start right. It is a good thing. It is truly an honour to join this debate to talk about the Bill to allow a Family and Children Division to the High Court to deal specifically on family matters.

I was given the privilege, as highlighted by the hon. Attorney General, to be part of the Joint Select Committee. Just for information, five members were

appointed from the House of Representatives and five members were appointed from the Senate to be part of this Joint Select Committee. After being part of the Joint Select Committee, I must say the Independent Bench is much different to the other Benches. The Government can caucus and have their five members, the Opposition has the opportunity to caucus, but the Independent Bench does not have this great opportunity. So I must say the views and expressions and thoughts that were expressed during the committee were strictly mine and from the research. After that I must appeal to the Members who write the Standing Orders to look at probably inviting more than one Independent Member who have different backgrounds to be part of the team. I see some merit in looking at that.

Mr. Vice-President, I have tailored my debate to outline some of the key points revealed during the committee work, as it relates to this Bill. As well as I always ask all to be very open-minded and acknowledge the recommendations that may come from all Members who participate in this debate, because we always want the best way forward and the best Bills to go forward.

This Bill is quite important to me as I have served my country in a smaller capacity doing community work in south Trinidad and Tobago. I have seen what children face and I have seen scenarios, cases. I have heard their cries, I have seen how they feel in these foster homes and what they face. I sometimes think children's homes are a bit like boot camps; you have a fixed time to eat, a fixed time to wake up, a fixed time to go outside. It is very, very programmed, and that is what you expect when your child is going into a foster care or into a children's home. But you have to expect this because it is a large number and you have different diverse situations. I do remember a particular case that really touched me, where this child, coming to foster care when he was given a bed. He did not sleep on the bed. He slept on the ground near the door because he was familiar with that,

and that is cases that exist in Trinidad and Tobago.

Just in today's *Guardian* there was an article, "Big spike in child abuse cases" by Anna-Lisa Paul, and it showed that there are about 1,300 reports of child abuse in Trinidad and Tobago. We all love children. We love their innocence; we love that they are fearless. Children did not ask to be part of their home or their parents or anything like that, but parents who are addicted to drugs, gambling, they have different scenarios, history and are just part of the abuse problem.

[MADAM PRESIDENT *in the Chair*]

We all know that parents might give you birth of life, but love gives you the reason to live.

I recall dealing with cases where kids were separated from their parents, and the first question they would ask you, Madam President—who is back with us—is: When will I go home? When can I go home?—regardless of what background they may have faced.

I was blessed to have loving parents who really taught me at an early age how to be compassionate, how to give back to society and really how to be grateful. I really was happy to see that this Family and Children Division Bill is before us, and I must say that I support this Bill. As the Attorney General in his initial statement said, that this is a pilot project. That stood out to me in the committee stage. We have been piloting for the last 12 years, so I hope we have got it right now, and we can now go to a different stage of the process. So I do support this piece of legislation.

Now the focus. The Family and Children Division Bill 2016, is really focused on children reformation and second chance. As a child who commits a murder will be suffering serious mental issues, which are very difficult to deal with, when a child is birthed into a family of violence and abuse. We all know that

love covers a multitude of sin, and even the Attorney General spoke about a labour of love. I personally know of second chances, where children, brilliant minds who came from children's homes, go to prestige schools, win scholarships, become active members of society and give back positively.

I personally have a young man who lives in my community and I have like adopted him as my little brother. He is very sold out to the Lord. He is a fabricator, he is a welder and he came from Laventille. He was adopted by a family in my community who are strangers. So people can give back, regardless of where they come from. Children are not the root of evil, it is their environment or their background, and we have the chance to make a difference.

Many times society unfortunately stereotypes. For example, if you are from Cedros, all you can be is a fisherman. I disagree with that line of thinking. I believe you can be anything that you want to be. Yes, you can be a doctor, even though Mount Hope is probably three hours away from where you live. But we as Members of Parliament need to be aware of these scenarios and really provide opportunities for these children to be more than what their situation can present for them.

Madam President, allow me to share a personal experience that I had this weekend, and it really shared the humanity and why I love my country so much. It really ties in to our family and our children and really what we teach people. It was my very first time I entered a half marathon. I am very impressed that I can stand before you all today. [*Desk thumping*] The one thing that got me to finish was the people—not the organizers, not the runners, not the competitors, but the people. They came out of their homes, they cheered you on, they said every good thing possible about you to finish. I remember reaching 15.5 kilometres and I stopped, and this guy just ran out of his shop and said, “Come on, you are almost

there. I am your No. 1 fan.” This meant so much to me, because this is our people. [*Desk thumping*] We always forget the good. We always tend to because we see the media publish so many negative things. We see our papers, it breaks your heart, but to see the good things—and this is why I said I was going to serve my country and I was so good. It was so refreshing to see this, this weekend.

Madam President, we want to live in a community or country with world peace. We want freedom of speech. We want harmonic living and we definitely want gender equality. This Bill before us really seeks to bring concerns and queries at a point where you can have a resolution, a way forward and not really as outlined as a conviction, but really a second chance doing something. I really did welcome the committee work. It was definitely a learning opportunity and definitely a different spin to work as a legislator.

The Bill intends to implement proper organizational structure that will prevent large backlog of cases. Also the jurisdiction and powers in the family matters and children matters exercised by the High Court and some re-jurisdiction are to be transferred to the Family and Children Court Division. So basically we are taking out the High Court and we are using the Family and Court Division to deal with all the family matters.

One thing that I learnt in the committee was that the court building is intent to be a safe zone or haven to reduce stress and to facilitate open discussion of issues and provide families with support, hope and alternative solutions. Other than Port of Spain there are two targeted locations—one in south Trinidad to be delivered by November 2016, and one in Tobago to be delivered by the end of 2017. I hope that the hon. AG can give us these assurances that this will be happening in his wind up.

I also learnt about the DNA testing facility which would be OSHA certified,

and the Bill had provisions for other recognized facilities to be added by way of Order. We heard briefly about the peer resolution, and find this is a very commendable method with dealing with children who have done minor offences, such as maybe they went to the computer lab in their school and stole the mouse pads, and they were caught. I think it is very, very good to have teenagers trained to deal with children who are committing minor offences in the school and seeing quick actions of resolution and seeing accountability for their actions, and this was good.

I must say that teenagers are much more strict judges than adults, because they see things in black and white. We might be more lenient and put ourselves in the shoes of another and say we understand why this was done. I must say this is a very strict way of dealing with peers. It is commendable. I know there is a training, some of my friends are part of the peer resolution initiative and they are very willing to start the work.

12.00 noon

In accordance, Madam President, with clause 35 of the Bill, the use of the children attorney which is really for the voice of the child. And it would not be in every particular case that you would need a child attorney. And I also learnt that this is different to your defence attorney. So a child authority representative is not your defence attorney. So you would also have a defence attorney representing the child, but this is really to have that flexibility and confidence in the child to give a response.

Madam President, in relation to the Probation Officers in clause 39 and 38:

“...to monitor the child’s compliance with the sentence and sanction and to ensure that the child is assessed for risks at the appropriate periods.”

—is commendable. Now that we have Probation Officers we can look at using

electronic tagging for these children as a measure of keeping tabs on offenders.

So, Madam President, what I have learnt about the Children Court, it is tailored and/or rehabilitating and reintegrating children to be productive citizens in our society. Now there was some statistics shared over 90 per cent of the matters determined in both courts took seven months or less to be resolved, which is really a fast process. The solution is proving to be an appropriate type of solution as it was even shared; it was less than 46 cases were cancelled prior to the premeditation and in light of the workloads of the social services. So we are seeing less matters going to the court stage because of this resolution process and different types.

Madam President, we also heard of extended funding that would be given to our country if we met deadlines of before or at the end of June. And I read recently that St. Kitts and Nevis launched their Juvenile Justice Reform Project and it was commended by the US, and they were even funded \$900,000. So if this is for us that would be also good.

Now, Madam President, we were given these Bill Essentials from the Parliament and one of the countries that stood out to me that I thought was very commendable was the Canada Youth Criminal Justice Act, 2000, and it spoke about adult sentences are given to the more serious, violent offences committed by youths 14 years and over. Now, we are dealing with children or a child is classified as under 18 years, and I brought this up as something that I thought was noteworthy because for serious crimes, can a child who commits a serious offence who is 14 years and over be tried as an adult?

Now this may not be something that we can think of, but I ask all to reflect in 2006 a case study with one of our angels that touched every, single heart in Trinidad and Tobago, Sean Luke who was buggered to death by a 13-year-old and

a 16-year-old. And I remember society was crying out for these young teenagers to be tried as adults. Now, I have learnt that our system does not take that into consideration for trying minors in this case as adults, but cases like this, Madam President, we need to ensure that we have it covered and we look at it.

And so, Madam President, I would like to move now to some work that was done by the Family Court Monitoring Committee and they have published a first and second year consultation report where they made recommendations for effective and efficient operational strategies, tasks and processes. One of the areas that stood out for me that was surveyed was for staff survey, 59 per cent of the respondents who took part in the survey found that internal communication was adequate, so 41 per cent thought it was inadequate.

Another point, 65 per cent states that at least two areas in which procedures and practises could be improved at the court and also identified specific areas to be addressed. So that is processes and procedures that could be tightened.

Another area, 51 per cent agreed that improvements were needed to procedures related to their specific job. Again, job descriptions is always a weak point in our country and always need some tightening.

Another point was, attorneys working in the Family Court noted a need to improve strategies to deal with the service of summons. And a last point that stood out for me was the assessment of the medical psychologists and risk assessments to be conducted for each of the cases. There were merits in looking at these recommendations and really closing them because I do not know if they were addressed because we need to close the gaps in these areas as we move forward to have other courts in different locations in our country.

So, Madam President, I would like to now look at the Children Drug Treatment court process which from clauses 47 to 58, and I would expect that we

are talking about illegal drugs and not over the counter drugs, and so, we are dealing with minors and drugs. And just to note, we were recently, in our public domain, we were learning of consultations for legalizing marijuana. I do not know at what stage the consultation process is, but I would like to use this forum to just say my thoughts on that. Knowing the culture in our country and learning of—well we are actually having a drug treatment facility to deal with minors and alcohol abuse and drugs, illegal drugs, to now legalize a substance that is presently legal, I do not know what control systems that will ensure that we have enforcement to have such preventative measures in place.

It is very difficult presently to prevent minors from gambling, from smoking, from drinking and just participating in vulgar activities. So unfortunately, I am not supportive of that at this time unless we can prove that we have alcohol in control, we have gambling in control, these measures in preventive.

And I can even share an example with you, Madam President. Recently in 2014, there was this movie done in Trinidad and Tobago which was entitled *Girlfriend Getaway*. I did not look at it at the time, but after getting all the credits and they spoke so highly about this movie, you know, of local, being on the map internationally, I said, well okay, I will look it. I, Madam President, was not a fan of this movie because it promoted poor customer service, getting drugs from a friend. It spoke about illegal activities that they highlighted to the police who could not solve the crime; it showed vulgar dancing in the streets and I could not believe why we as Trinidadians were proud of this movie. I could not really understand. I do not know if anyone saw the movie. No? Okay. And it really highlighted us as a bit of a lawless society and maybe we accept it to a point, but as a Member of Parliament I felt that it was not something that we can accept.

So to look at the drug abuse and the treatment, we really need to have

preventative measure in place and really have that enforcement measures and it really goes all the way from the top to the bottom for persons being held accountable for what they are doing, for their jobs, have a kind of pride, self- pride to motivate yourself to do the right thing.

Madam President, I also got the opportunity to look at the Western Australia—Children’s Court of Western Australia Act which was published in 1988. And I liked how they dealt with their drug court system, and it used a breach point system to respond to compliance and non-compliance, but it operates in reverse. So when you enter the drug treatment facility, you are given 20 points. If you do good things, you gain points. If you do bad things in the system, you lose points. And I thought that was a great method that we can look at when we are writing our regulations to running this particular facility.

Now, Madam President, I must say at this point, prevention is better than cure. We always tend to praise the cure rather than the prevention. So when we see a building burning, we always say—we give praise to the firefighters, we give them a medal or we give them promotion, we give, you know, we always highlight them for their good work. But we do not ever highlight the electrical engineer or the electrician or even the person who is monitoring the panels to make sure that it is not overheating. We do not ever look at the preventative strategies. “It working good, it not broke”, we do not fix it. Right? So, we never tend to look at the preventative—our society is like that. It is just, well for me, the world is like that. We tend to look at the end result rather than what we have done to get to the end.

And I feel it is necessary at this point in my debate to just speak briefly on something that I can think we as a country can look at as a preventative measure. And I always speak about when I am speaking about a root cause. And if we look at our society and we look at root cause of our Family and Children Division, the

cases that come forward, we can look at, despite the growing crime situation in Trinidad and Tobago, we can look at families or parents having to work longer hours where both parents are employed and younger children are left unsupervised or in unsafe child care facilities. And this is really about merging your work culture and your family life. Unfortunately, school hours are not designed to fit working hours. Many children have to return from school to empty houses. Mothers and fathers have to entrust strangers to care and raise and instil values into their children at very critical stages in their lives, especially the stage where they imitate your every movement. So what we as a society or what this means as Members of the Parliament or what have we as the Government done to assist these modern families?

Now, let us just look around at us. The women in the Senate, Madam President, nine of 30, if we include you, Madam President, of the 10 of 31, which is about 30 per cent of the Chamber. And they always talk about, we are in the minority. Now, Madam President, we are Senators, but we are also expected to be considered full-time mothers who are not at home, but yet we are full time. We are expected to hold full-time jobs, but yet we are also Senators. And then they still want to know why we are in the minority? So, we need to look at gender equality.

And really I am looking at many organizations now, they are into this health fitness drive, so every building has a gym or equipped or nearby. I believe that there is a merit in looking at fitting these buildings or organizations or our public service with a day-care facility. This building should have a day-care facility because we are here such long hours, Madam President. We have staff, all our staff and we expect them to be here all the time with us, preparing for us. It is such a merit to have that safety aspect. You can check in, you can look in. Because we are seeing it in the newspapers where the care facilities, I think there was

unfortunately a case where a child died and, you know, all those things are very sad cases and we really should look at merging our work culture and our family life. There is a lot of merit to it.

So, I even got a chance to look at, you know, I love to look at the different Acts that we have in our country. I am always impressed by what is written in the paper and what actually happens. But in accordance with the Maternity Protection Act, Chap, 45:57, the power to make regulations—this is what this area is about and it says that:

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

So, we can look at marrying these and really look at writing regulations that will allow public sector or all organizations to have a close proximity, a day-care facility or a primary school or a kindergarten that will really see some merit in it.

12.15 p.m.

Madam President, equality is really merging work environment and the home. I saw an example that I thought was really exemplary. I only learnt of this recently, and it is quite a good business initiative. There is a facility in central that Central Athletic Club that has a day-care facility because it is a 24-hour gym. So if they could get it right, we could get it right. So, I just wanted to share that example.

Now, my final point is on the Ministry of Education National Policy that was last updated in 2009, and it will be amended, I am sure. And I think it should be amended to incorporate this running legislation that is before us today. And what is the next step for when the child is being reformed? What is the next step for when this child has gone through the rehabilitation stage and now has this credit? They have their point system, they are working, they are good members of

society, do they just go back to the same school? Do they go back to the same standard? Do they go to another standard? You know, all those things need to be considered before we throw them into the system, and it really is a lot of merit in taking the time to write the national school code policy to reflect such.

I saw a very nice quote from Dr. James Dobson:

“Every child deserves a chance to grow up with a healthy mind and body.”

Madam President, as always, I always avail myself to work together with all Members in preparing and getting to the stage of the best Bill possible, and I want to thank you all for this opportunity to share my examples and experiences with this House.

And, Madam President, I thank you, and may God bless you all. [*Desk thumping*]

Sen. Nadine Stewart: [*Desk thumping*] Thank you, Madam President, for the opportunity. It is indeed always a privilege to contribute in this honourable House.

Madam President, I rise in support of this Bill brought to this House by the hon. Attorney General. I would really like to congratulate the hon. Attorney General and all the relevant persons, the technocrats who I would refer to as the masterminds that would have contributed to making this Bill a reality. Because, anyone that would have carefully perused this Bill cannot deny that a lot of work would have been put in. Madam President, further to this Bill passage from the other place, it was sent to a Joint Select Committee, on which I myself sat as a member, and I would like to also congratulate all Senators, all members that would have contributed at the Joint Select Committee. [*Desk thumping*]

But, Madam President, before I go into my contribution, I would just like to make a comment. Actually, just to give a reminder, my colleague Sen. Ameen kept reiterating in no uncertain terms that there should be a re-establishment of the

child and gender Ministry. But, Madam President, through you to Sen. Ameen and all of Trinidad and Tobago, I would like to remind Sen. Ameen that this Ministry now falls under the Office of the Prime Minister [*Desk thumping*] in the very capable hands of Minister Ayanna Webster-Roy. [*Desk thumping*]

Madam President, in reading through this Bill, I think for me what stood out from inception is the Explanatory Note, and this clearly states that the Family and Children Division Bill, 2016 seeks to make jurisdiction for all family matters and children matters exercisable in a division of the High Court, to be called the Family and Children Division, and to make provision for matters connected therewith. And, the Explanatory Note says it all, with the 62 clauses providing further support. Because the attempt being made here is to speed up matters relating to children and families, and this is with a view to move from punitive justice that focuses merely on punishment to a more form of rehabilitative and restorative justice. And this will be done by ensuring that we would establish what we call a Child-Friendly Court with specifically trained personnel.

Madam President, when I worked as a probation officer in Tobago, on many occasions clients would say to me, how much longer before I go to court? And this is because a specific day is allotted for children and family matters, and added to that, in Tobago we have three courts: we have the First Court; we have the Second Court, that would usually deal with family matters; and we have the Third Court. So whenever a child appears before the court, let us say the First or the Third Court, the courtroom usually has to be cleared of all persons not related to the case, which tends to be time consuming. So, today, before us we have a Bill that is comprehensive, we have a Bill that is thorough, we have a Bill that is extensive that will once and for all deal with these occurrences. This Bill it places us in a better position to provide structure for court processes relating to children and

families. Because, by creating an atmosphere that is conducive to calm discussion and settlements, without any type of aggression or intimidation, it will assist in resolving problems whilst recognizing the sensitivity of this issue. [*Desk thumping*]

Madam President, I hold this particular piece of legislation very close to my heart, and this is because of the interactions that I have on a daily basis with children and families in my profession. This Bill, it comes to the Parliament at a point, particularly within recent times when we would have been hearing and seeing some of the most disturbing occurrences with our nation's children, and reports of massive family breakdown in family life. So, we can therefore relate the clauses in this Bill as a treatment to what is happening in our society today. And as I would have mentioned earlier, the policies and practices provide for matters relating to children to be held once per month, and this sometimes can result in these children getting lost in the system. Because when children are not taken to court on their adjourned dates, they are being denied the right to a speedy trial.

Madam President, as I move into clauses 4 and 5, I firstly want to look at clauses 4 and 5, the Family and Children Division of the High Court. And, the hon. Chief Justice Ivor Archie, in November 2014, at the launch of the Trinidad and Tobago Juvenile Court project, he said in his opening statements, and I quote:

“An initiative of this nature is, in reality, inevitable. Firstly because the external legislative environment as it relates to children and young persons has changed, requiring us to deal with them differently than before and differently from adults in whatever capacity they interact with the justice system.”

And, Madam President, whilst I was conducting research for this particular debate, I came across a piece of information that said Trinidad and Tobago ranked 91 of

197 on access to justice for children, and this is according to the Child Rights International Network. This network is a global research policy and advocacy organization that ranks country-states according to the extent to which their legal systems effectively guarantees children's rights to access to justice. And Trinidad and Tobago tied with Burundi, both having a score of 136.5. So, with the approval of this Bill we would definitely see our country Trinidad and Tobago moving up the ranks.

Madam President, the establishment of a Children Court can be viewed as an important step in achieving meaningful justice for children, and embracing global standards, and this is in adjudication which guarantees the rights of the children in accordance with the United Nation's Convention of the Rights of a Child and Principles of Restorative Justice. The Children Act of 2012 defines a child as a person under the age of 18. And when you look at sections 64(1) and 65(1) which deals with the placement of children in either rehabilitation or orphan homes, it contemplates a situation where children between 10 or 18, or even below 10 can come before a children court. Madam President, matters of juvenile crime capable of being committed by children seven to 17 should be addressed in a court specifically designed for children. And over the years and in more recent times we have seen an increase in the number of children coming before the justice system, whether they come as witnesses, whether they come as victims, whether they come as perpetrators. In a newspaper article, March 7, 2016 in the *Trinidad Express* headline, "Boy, 11"—appears—"in court for ganja". Further to that, Tuesday, February 23, 2016 headline, "Student, 16, charged".

And, Madam President, these and other reports are what have been headlined in the media that concerns children and families. And, some of the circumstances leading to conflict with the law are of a social nature. The research

suggested that children who offend, they sometimes come from families facing difficulties such as poverty, substance abuse, separation. Some of them may even be without a job, or excluded from the school system. And when these children enter into contact with the police, the main purpose of the juvenile justice system should be to enable them to not reoffend. Children exposed to violence, they may be at a higher risk of engaging in criminal behaviour and becoming a part of a violent cycle. Which means, again, that the court processes should be revised to treat with these occurrences.

Madam President, Article 40 of the Convention of the Rights of the Child advocates measures for dealing with children involved in judicial proceedings. This requires young offenders to be treated in a matter which considers the child's age, promotes the child's reintegration and the child's assumption of a constructive role in society and, of course, it ensures the availability of alternatives. And, most jurisdictions in the Caribbean have special juvenile courts or children court with special legislation and a special branch of the Judiciary to deal with children matters. We have Jamaica, we have Belize, Grenada, St. Vincent and the Grenadines, and more recently St. Lucia, where family courts have been set up that allow cases to be dealt with in, of course, an all-inclusive or holistic manner. And, the family has a large role to play in assisting with the rehabilitation of the juvenile, and professional help should therefore be provided to counsel the families and to address any family problems that each may be experiencing. Because if this is not done, these children will simply be returning to chaotic homes and they would find themselves before the juvenile justice system once again.

So, Madam President, let us incorporate a range of specialized professionals. Let us incorporate psychologists, let us incorporate probation officers, let us incorporate social workers, operating in a variety of settings so that the focus is

shifted to rehabilitation rather than mere punishment. And this administration has responded to the call for the need for Caribbean Governments to make a concerted effort to harmonize legislation pertaining to children and juveniles with principles enshrined in international norms. Madam President, General Assembly Resolution 40:33 through which the UN standard minimum rules for the administration of juvenile justice has been officially adopted. It states:

“...young”—people—“owing to their early stage of human development, require particular care and assistance with regard to physical, mental and social development, and require legal protection in conditions of peace, freedom, dignity, and security.”

And, these children that come before the criminal justice system, these children did not get there by themselves. A whole host of factors would have contributed to these children being involved in the justice system. And, Madam President, with your permission I would just like to include the psychological aspect as it relates to young offenders in my discourse based on the research, and of course, my personal interactions.

12.30 p.m.

Madam President, young females tend to have a higher rate of what are termed, internalized mental disorders. This includes some form of depression or anxiety. Whilst young males usually have higher rates of external disorders, including oppositional defiant disorder, conduct disorder and other behavioural problems. Madam President, what is alarming is that a child can be diagnosed with oppositional defiant disorder or conduct disorder before 10 years of age. If the behaviour persists, past 18 years, the person would then be, who would now become an adult, would be diagnosed with antisocial personality disorder.

Other risk factors, Madam President, for increase of offending among both boys

and girls, biological, prenatal exposure to high levels of testosterone, physiological, neurological impairment, such as low IQ, environmental exposure to dysfunctional families or deviant peers. So, Madam President, with the availability of trained professionals which speaks to clause 6, to identify and adequately treat with the physiological needs of young offenders will assist in the alleviation of repeat offenders. Therefore, there must be a robust support of many if these young offenders are to be extricated from the system and rehabilitated successfully.

Madam President, child justice must not only focus on the child, but must identify—

Madam President: Sen. Stewart, I am sorry to interrupt, but I think this is a good point for us to suspend for lunch and return at 1.31p.m.

Hon. Senator: 1.35p.m.

Madam President: I will be generous. We will return at 1.35 p.m.

12.32 p.m.: *Sitting suspended.*

1.35 p.m.: *Sitting resumed.*

Sen. N. Stewart: [*Desk thumping*] Thank you, Madam President. Madam President, before we broke for the lunch break, I started my discourse which speaks to clause 6, the availability of trained professionals in these courts. Madam President, the purpose of family and child courts should reflect the ultimate goals of modern thoughts, which means they should be protected, they should be “adjustive” and they should be supportive. And when we speak about protective, it is to guard members of a family from physical and emotional harm. When we speak to “adjustive”, to assist families which have broken down, to adjust to new lives apart and when we speak about supportive, it is to encourage and support family life.

So, Madam President, I am of the firm belief that family dispute, family

issues and any issues relating to children and young offenders should not be dealt in the same environment where common criminals, if I should refer to it as that, are dealt with. We have to be more caring and we have to show more concern, how we treat with issues relating to children and family. And this is why the Attorney General in bringing this Bill to this Senate, he carefully articulated that these courts would comprise experienced and specially trained persons in order to help them effectively deal with the issues that families in conflict face. Added to that, Madam President, the structure of the court would promote the resolution of family disputes in a fair, comprehensive and expeditious way.

Madam President, I move to clauses 40 to 46 which speak to peer resolution. Madam President, as you know, I am one of the younger Senators in this Eleventh Parliament, which means in colloquial language, “I just left school d other day”, so I understand how effective and how impactful peer resolution is. Whilst in high school, I was trained as a peer mediator which although is different from peer resolution, it all falls under the umbrella of peer restoration. And as a peer mediator, Madam President, along with other school friends, we would take turns intervening in situations with other classmates, et cetera. And we saw a reduction in conflict as time progressed.

Madam President, I refer to a news article from the *Tobago Today*, a newspaper made and produced in Tobago, dated October 15, 2015, and it is entitled:

Students get a taste of peer mediation.

Officer Candice Davis Blackman gave some insight into the project and I quote:

The system works by having students accused of wrongdoing to be held accountable by their peers in the school environment for specific minor

offences. The Trinidad and Tobago Juvenile Court Project is an important step in improving the juvenile justice system.

Through this project the court system will consider the needs and best interest of the child and assist in addressing the root causes of conflict with the law.

And, Madam President, let me just pause to mention that I am extremely proud of the high schools in Tobago, particularly Roxborough Composite School, my alma mater, which is the school that I was trained as a peer mediator and I am heartened that young persons in Tobago are continuing on such leadership pathways.

But, Madam President, there is a recognized importance of directly involving youth and employing peer resolution as part of a comprehensive strategy, and peer resolution is both a programme and it is a process. Young persons of the same age group will facilitate resolving issues. Madam President, persons tend to be more receptive to others in their age bracket than persons who are much older. We tend to understand our peers which places us in a better position to empower them and therefore command their respect. And I have learnt that when children and young persons solve their own problems they feel that they are more in control of the environment and they make a commitment to the solutions. And it is this same process that has proven effective in and around the United States, changing the way offenders understand and resolve conflict in their lives.

Changes include: self-esteem, listening, critical thinking skills and these skills are transferable to society. Madam President, it is the United States of America that has the longest history of peer resolution and the most extensive literature, because whilst conducting my research, most of the information came

out of different states in the United States of America. Other countries: Australia, Canada, South Africa, Norway with more experience than most, have also introduced this programme. And peer resolution, Madam President, is invariably considered to be one of a range of techniques under the much broader term, conflict resolution that should be considered.

As I move to clauses 38 and 39, let me mention that social services and the justice system, they are invariably two separate Ministries, but the occasions in which they could and should interface and cooperate are numerous and important for the protection of children and families. Persons in the social services profession help to identify proactively and respond to families where children are at risk, wherever possible, by enabling those families to address the root causes of the presenting problems such as intrafamilial violence, neglect, delinquency among others.

So, Madam President, with the assignment of a child probation officer to a child given a sentence, an order to participate in an auxiliary programme compliance is assured and I believe, Madam President, that this is the cornerstone of the justice system. This process has the power to affect decision-making and service delivery at every stage of justice processing and thereby host the potential to ensure that accountability is stressed at all points from initial entry through final discharge. This works best for the benefit of the well-being of the child which will track progress and an established way of reporting to a child judge, so that no child gets left by the way and ensures effective functioning of the system.

Most importantly, Madam President, let me quickly mention that there are a range of programmes to continue assisting and supporting families even after they would have successfully moved out of the justice system and reintegrated into society. We have the Ministry of Social Development and Family Services,

provides counselling service to families through trained counsellors in the family services division which also conducts parenting outreach programmes to provide information and parenting skills to parents.

We have the social welfare division of the same Ministry. It provides financial assistance to needy families along with voluntary organizations. The police service also plays their part in preventative action and, Madam President, I am a member of the Joint Select Committee on Social Services and Public Administration and in our first public hearing the community police indicated that they conduct counselling sessions for families. They also run several police youth organizations and in a variety of ways they offer support, they offer guidance, training, supervision and recreational opportunities for our youth and families within the communities.

So, Madam President, as I wrap up to give way to my colleagues to continue the discourse, let me reiterate that this is a well-aimed and intentioned Bill. This Bill is an important step in the right direction for children and families. It is a great benefit, Madam President, to all citizens of this country. This Bill will change the way we conduct business whilst ensuring a different type of environment for children and families with a focus on restorative justice that must, of course, be done in a structured manner.

So, Madam President, again as I declared at the beginning of my contribution, I am in full support of this Bill and I hope that all Senators, that we would consider the well-being of the citizens we represent by being in this honourable Senate and vote in support of this Bill as we look forward to a better and brighter Trinidad and Tobago. Madam President, I thank you for the opportunity. [*Desk thumping*]

1.45 p.m.

Sen. Gerald Hadeed: Madam President, it is indeed a great pleasure today to be here to contribute to this most important piece of legislation. I would like to congratulate everyone, the technocrats who helped put this together, the Senators, Members of the House on the other side, Opposition Senators, the Independent Bench. This is progressive legislation. It is legislation that I would consider came a bit too late, and I would like just to go back in history of the Bill and make some comments on it.

This Bill, according in the Attorney General when he was in the other House on March 11, 2016, stated:

“Specifically, Madam Speaker, the history of this Bill was that in 2001, on September 11, 2001, the Family Court Bill, 2001 was laid in the Senate. That Bill lapsed on October 18, 2001, on the dissolution of that Parliament. In 2007, on September 10, 2007, the Family Court Bill, 2007 was introduced and that Bill was intended to deal with issues of juvenile matters and lapsed on September 28, 2007. On May 5, 2009, the Family Court Bill, 2009 was laid in the Senate of the Ninth Parliament and that Bill unfortunately lapsed on January 8, 2010.

I put that forward because in the period 2009—2015 there was a considerable amount of delay on the occasion of collating the package of children’s laws, getting the legislation into the proper clothing and form and then seeking to operationalize those laws. And it was not until September 2015 when Cabinet saw release to the Parliament, then Cabinet, on May 25, 2015, there was a Bill entitled: The Family and Children Division Bill, 2015. That Bill was passed on June 3, 2015, in the Senate, but unfortunately it lapsed on June 17, 2015 due to the prorogation of Parliament.”

Why did I raise the issue, Madam President? If as legislators we had taken this

Bill seriously, maybe today our country and our children would not be in the situation that we are in today.

For 15 years this Bill has been up and down like a ping pong ball, without the due consideration to the damage that was taking place during those 15 years. How many of our children could we have saved? How many families today would have been happier if we had looked at the legislation for 15 years? We must take the blame for that. We here, we in the other place must take the blame. We must not allow this Bill today to go by the wayside of other Bills. We must pass this here, we must pass it in the other place and we must have it assented to. We must deal with the issue of child neglect in a very serious manner. [*Desk thumping*] As I said, thank you very much for permitting me the opportunity.

This Senate is debating this Bill at an important time in the history of Trinidad and Tobago. We need to understand the Trinidad and Tobago context in which this Bill is being laid today. As we consider the Bill, it is vital for us to understand in whatever we do, it is in the interest of the children, which must be of paramount importance to all of us. So what is the context in which this Bill comes before us today? We have approximately 210 murders in 172 days. Many of these murders are little kids, little children, young people under the age of 18.

In some schools, students are on the rampage. The level of violence in our schools is frightening while the education system is breaking down. The level of domestic abuse in homes is growing and it appears from the lack of proper interventions that many in authority are unconcerned. We are in the midst of a challenging economic future and the challenging economic futures, again, there is stress on family life, there is stress on children, there is stress within the workplace. Every day we see more and more people are going out of jobs. We have to be take the initiative as a people, as a Government to be responsible to try and get all of the

ducks in order to safeguard the family life more than anything else. The work of the Family and Children Division of the court will therefore be under tremendous strain if we do not look after these issues today. Trinidad and Tobago is likely to face overwhelming challenges among our children and young people unless we also treat with the underlying causes in our society.

Crime is getting out of the control, Madam President. We cannot therefore consider this Bill in isolation. The problems which this Bill seek to deal with are the result of problems which must be addressed if the courts of the Family and Children Division are to have any hope of succeeding. If we fail to treat with the underlying problems, the court will be overwhelmed and doomed to become another failed institution. We cannot allow this to happen. For the sake of our children we must do better. We must do better for our children's sake. We need to have a holistic approach to this matter. It cannot only be done within a court system. There are preventative areas that we have to deal with before it reaches there. We must ensure that these areas are looked at in a holistic way.

I believe the starting point is to ensure that family life is improved. Without the building blocks of family life, no nation, no people, no society can hope to succeed. Without family life, without the love and the attention to children's needs, hopelessness will take place, Madam President. Hopelessness. It is essential that the family life and parental skills be enhanced. We can no longer simply leave this to chance, otherwise as I said before, Family and Children Division will have to deal with the consequences. We have to be proactive if we want to have a secure and safe nation. If we are to deal with poverty and a people trapped on dependency, the State will have to step in to improve the life chances of children, of those families who are the most vulnerable and disadvantaged.

There is a lot of poverty in this island, Madam President. There is a lot of

neglect of family life. We build many, many houses for people to go into, but we do not build homes. We must stop building houses, but build homes instead. A house is a shed. [*Desk thumping*] We must come together as a people, and as a nation, to ensure those that need the most help get the most help. Society is not at this stage. We are not as a people helping the disadvantaged. We are putting them more at a disadvantage, more than anything else.

I would like to recommend to the hon. Senators that they read the work of the renowned author Paul Tough entitled *Helping Children Succeed: What Works and Why*. Tough's book is an eye-opener as to the fundamental underlying problems which beset Trinidad and Tobago. I have therefore included in this presentation several references to his ground-breaking work.

I turn now to early childhood education. Research from Harvard University Centre of the Developing Child has demonstrated vital importance of the first few years of life. How parents interact with infants, and how children are treated in the first five years will largely determine the chances for success and fulfilment of an adult life.

Indeed, Tough in his book demonstrates from the research that the most important force shaping the development of non-congenital skills in infant is toxic stress. Stress, Madam President. It is hard for big people like us. We undergo a lot of stress, but what about little children? Toxic stress can kill every initiative a child has from the earliest age. Toxic stress is a killer. It can either make you or it can break you at an early stage. We have to find ways and means to ensure that children of a tender age have little or no toxic stress. Such toxic stress impedes the development of the prefrontal cortex, as well as our ability to regulate ourselves both emotionally and cognitively. It is the effect of such toxic stress which is likely to result in young people being drawn into gangs and the life of crime.

Madam President, I would like to be able to go through this entire document. It is June 2016 issue, the *Atlantic Magazine* is by Paul Tough. If possible, I would like to have the opportunity to lay it as part of my contribution so it can be read by all and sundry.

Madam President, if we are to transform Trinidad and Tobago, and if we are to end the downward spiral of crime, it is essential that we create a caring and supportive environment for our children. We cannot simply wait until they get into trouble and then seek to intervene in the Family and Children Court. If that is all we do, we will be in trouble. The Family Court and the Children Court level, that should be the last, last, last place that we should try to help. We must, as a State, work with families that need the assistance.

I remember reading a document two years ago, three years ago and it had to do with exactly what is taking place in Trinidad and Tobago today, school violence, young people involved in gang, murder, mayhem in the inner cities in London, and a researcher went into that area and started to do research with families, what is causing the breakdown in family life, what is causing the children to become wayward, disrespectful and getting themselves into a lot of trouble? They did a survey, family by family, within an area of about 20 blocks in the inner cities of London, and by doing an analysis and then going back with family counsellors, they were able at that time to be able to resuscitate quite a lot of the problems that those children were facing.

2.00 p.m.

I am asking, we are doing a lot of work here on this Bill but is it possible that we can look at 20, 30, 40, 50 families whose children are in the position that they are in today and go back and do that type of research that was done which turned out to be quite successful in England, in London. So I think that we must

try to find out what is wrong with us here in Trinidad and try to solve it locally. It is good quoting from all of these documents but we can only learn from them but we must put ourselves in a position to understand why this is happening to us here in Trinidad and Tobago.

It is for this reason that the People's Partnership Government, during the five year period, 2010 to 2015, constructed 113 Early Childhood Education Centres. Why did we do this? We did it and I would like to quote:

Top 20 best educational countries in the world, start with Japan. Japan has had the best education system in the world for three straight quarters in a row. The main reason for being at the top is its technology-based educational background and a firm investment in the education system with a lot of money put into it.

South Korea: South Korea comes second on the top 20 educational countries in the world. It is worth noting that South Korea was able to defeat Japan in three out of five levels that were looked at in the ranking but just could not out place Japan. The main reason was due to the fact that Japan has invested more into early childhood education as compared to South Korea.

United Kingdom: the United Kingdom seems to have done quite well in this poll done on September 2013. Of all the European countries, the UK is the only country that was able to make it into the top 10 of the rankings.

Singapore: the Singapore education system has continued to impress over the years and is giving the UK education system a run for its money. The country who ranks highly in primary education and is thought to be inching closer to beating the UK on quality education.

Russia, early childhood education has been its major doing as long and it is the main reason for them ranking that high. Finland, again, early childhood

education. Canada, early childhood education.

I raise these issues on early childhood education because it is here where the children of our nation either will sink or swim. We have put forward as a policy of the People's Partnership Government early childhood education as a pinnacle for success in assisting, in future years, the reduction in crime in our country.

When children cannot learn to read and write, when children do not have access to technology, they become frustrated and stressed; they get toxic stress. We need always to ensure, especially those children who are not in an advantaged position to be able to have private lessons or whatever to be able to pass their exams to get into a secondary school, we need to ensure the early childhood centres are equipped with the best educators, the best technology-driven teachers and have the best nutrition for the children to succeed. We must give this to these children so they can succeed and not fail.

The Early Childhood Education Centres also present another opportunity for improving family life. We need to introduce mandatory classes for the parents of those young children attending early childhood, in which parenting skills are taught and family life programmes are offered. At the same time, why not make such parental family and life skills programmes a compulsory component of employment in our CEP programmes. I am sure that many of our NGOs and other civil society organizations would welcome the opportunity to play their part in developing the parental family and life skills of our young parents.

It is time, Madam President, to mobilize our nation. It is time to have our people blossom and bloom by developing their natural abilities and native geniuses. As a nation, we cannot afford to have stagnation which would keep the poor downtrodden for use as mere voter polls. All political parties try to utilize the poor as voter polls. This is wrong. It is wrong. We must lift them up. We must

allow them to have the democratic freedoms. They must be independent of the State to be able to create true democracy in our society. This is one way that we must lift our educational standards and our educational skills.

Imagine the steel pan being an integral part of this promotion of the family life programme. We can and we must energize our people. Now is not the time to allow inertia and despondency to take hold in Trinidad and Tobago. There is so much we can do if we had the right leadership to point the way forward. The population is waiting anxiously for someone to fill the leadership vacuum which has emerged over the last 10 months. We cannot simply stumble blindly into the darkness. Unless we can awake our people to the immense possibilities that lie ahead of us, then despite the establishment of the courts of the Family and Children Division, which the People's Partnership Government first brought to Parliament in 2015, we will continue to flounder in the swarm of inertia.

I now turn to our secondary school system. Dr. Eric Williams, our first Prime Minister, said to our schoolchildren that the future of our country lies in the schoolbags of students. The lawlessness which has descended upon our secondary schools is a reflection of what is happening in the wider society. We cannot continue to drift aimlessly to and fro. If we continue along this path, the courts of the Family and Children Division will be overwhelmed and unable to handle the world which will descend upon us. Yes, we need to set up these special courts but that only treats with the symptoms of what ails us as a society, not the underlying causes. We need a dramatic intervention in our secondary school system, a reengineering of the entire system of education and training. We cannot simply tinker with the system and hope that things will change.

Our young people are yearning to fulfil their dreams and aspirations, but our education system is squeezing the lifeblood from their hopes. A small core of

people are disturbing the educational system to the detriment of all the students who want to learn and improve their lot in life, to climb up the ladder of success. We do not see these young people as monsters, we see them as youngsters starved of attention, caring and direction. If we do not intervene, if they are not already there, they are destined to join the pipeline of “gangsta hood” and criminality.

We need to give youngsters who are disrupting our schools a second chance. We need to have academies dedicated to helping these young people to make a success of their lives. We cannot allow them to spoil the chances of the majority of students who want to learn and improve themselves. If we establish these academies, then we could staff them with sufficient guidance counsellors, as suggested by Sen. Stewart, to deal with the special needs of the students and teachers especially trained in remedial schooling. The academies would include an option to allow parents, for a nominal fee, to choose the benefit of board and lodging for their youngsters. Yes. This would create an additional financial burden on the state but allowing the lawlessness in schools to explode will impose even greater societal cost to the detriment of the security and safety of the nation.

Here is an opportunity, Madam President, that if we use academies to assist troubled children and parents who need assistance, we can use these academies to build the skills, the life bank of skills; help them to see the way forward, help them to be better citizens. The money spent upwards will be so much less than what will have to be spent on the courts and the jails and the this and the that. Yes, this would create, as I said, more burdens on the state, but, I mean, allowing lawlessness in schools, will impose even greater societal cost.

On the flip side, students should be required to undertake a minimum number of hours of community service each year with NGOs and other civil society groups. In this regard, “No Time To Quit”, commissioned by the People’s

Partnership Government, very worthy of implementation, specially trained members of the Defence Force would be trained to provide the discipline and teaching which such academies will need. The learning environment for such academies would benefit from a project-style focus. Exactly what Sen. Stewart was saying. Groups of students would work together accomplishing some objectives based on students input. That way the project will be connected to real life leading to fulfil the students which all of us as human beings desire.

Madam President, it is such a project approach to education that will bring about the creativity of students and stimulate their passion for learning. It is through pursuing such projects, students will really learn, not simply reading and writing but physics, mathematics and other life skills. The behaviour of our children mirrors that of our society so it is very worrying when we see the type of lawlessness which prevails in our school system. The old fisherman will always tell you, "Fish doh rotten from the tail". Therefore, when we see the level of lawlessness in our society, it must be that something is rotten at the very top.

In Trinidad and Tobago, we have developed a society based on patronage. To get anything done, you have to know somebody or at least know somebody who knows somebody with influence. When you add to this system of patronage, the tribal division which is part of our society, this becomes a recipe for disaster; a disaster which will impose impossible burdens on the courts of the Family and Children Division.

2.15 p.m.

It is essential, therefore, that we move away from a society based on patronage towards developing meritocracy; a country in which there is equal opportunity for all, no matter our tribe, our class, our gender, or our religion. If as a nation we hope to achieve sustainable development, we must focus on our

national watch words of discipline, tolerance and production. But we must do more than that. We must build our institutions which deliver service to all, regardless of political affiliation.

Unless there is equal opportunity in relation to the awarding of Government contracts based on merit, then all manner of corruption follows and when this happens society takes its cue from its leaders and we descend into rampant lawlessness at every level of our society. We must set the right example at the top, otherwise we can expect a culture of lawlessness and criminality to flourish, and the impact will be felt in the children and family court, and unless we make these radical changes, the courts of the Family and Children Division would grind to a halt and the finest legislation efforts of this Parliament will come to naught, we will see the demise of another promising institution, Madam President.

Finally, Madam President, I wish to draw attention to a statement made by the Chief Justice on the occasion of the opening of the 2012/2013 Law Term in relation to the operations of the Family Court. On that occasion, the Chief Justice pointed to the crippling effects of the actions of the Chief Personnel Officer, in relation to the terms and conditions and remuneration of staff of the Family Court. As a result of this, the Chief Justice said we are in danger of losing even more of our experienced staff. Chief Justice Ivor Archie went on to say: no business or institution can develop successfully without the effective and efficient control of its finances and its human resource base.

I know that it is in the manifesto of your Government to ensure that the judicial system gets its own money to manage its affairs. Please ensure that the judicial system receives adequate funding in this budget that they can deal effectively and efficiently with all that they need to do. [*Desk thumping*] And at the same time, I call on your Government, Sen. Khan, to ensure that the Parliament

themselves become independent and give them enough money to run their own affairs. [*Desk thumping*]

It is in this context I wish to urge the honourable Senate, through you, Madam President, that this Bill make explicit provisions for the Judiciary to engage in its own staff and to determine within the constraints of this budget as approved by the Minister of Finance, the remuneration and incentives which will allow the Family and Children Court to achieve the lofty objectives which are part of its mission.

Indeed, if our institutions throughout Trinidad and Tobago are to achieve the productivity and service orientation which are hallmarks of a developed nation, I would urge that we move towards a culture of pay for performance. Over and above their basic wage, employees should have initiatives to achieve the desired outcomes of their institutions. In that way, we would build morale and a culture of pride in Trinidad and Tobago and the employees will reap the rewards of the dedication and hard work.

Madam President, subject to the amendments which my colleagues on the Opposition Bench propose, I am happy to indicate our support for this Bill and I thank you for the opportunity to speak on it. Thank you very much. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Madam President, for this opportunity to contribute to this very critical debate this afternoon. I rise to support this particular Bill. I think a tremendous amount of work has gone into the preparation of the various amendments which have been brought for consideration by this honourable Senate and I want to commend all members of the Joint Select Committee for the efforts that they expended in ensuring that there would have been, as far as is practical, universal agreement on the amendments, which are to

be made, to harmonize all the laws governing the welfare of the child in the Republic of Trinidad and Tobago.

I do have, maybe, a 1 per cent issue and 99 per cent agreement and it is for the consideration of the hon. Attorney General. But first, in reading the Bill, we are told that since 2004, there has been a pilot project, with respect to the issues under review, but what I did not see, that I consider important really, Madam President, are the statistics governing child delinquency in Trinidad and Tobago. In particular, I would have liked to observe, I would advance the reasons why I would have liked to see the following statistics, which I am sure the Office of the hon. Attorney General would have had since 2004, to say 2015, over a 10-year period. Out of the range of crimes committed by children, how many of these were serious crimes and how many of these are considered non-serious crimes?

Second, it would have been important, I think, to identify in a particular year, whether there are repeat offenders amongst that cohort who are habitual troublemakers. Again I would advance the reason for asking for this type of statistic. Is it that the errant children are clustered in a particular age cohort, gender cohort, regional cohort? Are they urban children, rural children? And is it that we could identify maybe some academic performance? Are they children who are below a failing grade in school? Are they having difficulty with their academic work and their miscreant behaviour may be just a reflection of academic difficulty, and what is the family background? Again, I want to reiterate to a point Sen. Hadeed has made. What is the family background of the children who are finding themselves in trouble with the law?

Once we identify, Madam President—and we do have the pilot project from 2004, we should have all the administrative data, police data, together with court records—we will know what kind of interventions we need so that the flow of

individuals to the court system can be restricted. I support totally the current legislation before us and I do hope we can establish the institutions quickly. It will take a while I know, and that is for those unfortunate children who have found themselves in legal difficulties. But, in the future, I think it is incumbent upon us as a society to try to identify, given the data we have within Trinidad and Tobago, on the profiles of those children who have found their way into the children's court into the legal system.

Take, for example, the issue of academic performance. And like Sen. Stewart, I too am in the Joint Select Committee on Social Services, we had an opportunity. The report is not yet before the Parliament, so I cannot refer to that report. But during the public hearings we did interview a range of stakeholders, and we were told that some students who are experiencing academic difficulty usually are the ones who give the most trouble within the schools. It may be that we need to collaborate with the Ministry of Education as we design laws for children, so that we could stem the flow, reduce the number of students moving from the schools into the courts, via a curriculum that is tailored to them.

Family background, again I reiterate the point made by Sen. Hadeed, using the school system to introduce a module on family life education. You see, if the statistics—and I am sure the hon. Attorney General will forward the statistics in the summing up and I hope he does and maybe forward them to us at some later time. If it is that we find the majority of problem children, children who are experiencing problems, come from families where both parents, perhaps, are absent and they are looked after by a sibling, a distant relative, a grandparent, then it may very well be that the Ministry of Education itself can assist in this particular problem by a proper change in the curriculum on family life education.

When we are looking at crimes of a particular age cohort, we are looking at

crimes of children 14 years and under. But is it that the bulk of the crime is clustered around a 13-year age, which would mean that, one, these are children just on the cusp of puberty, then we understand that social workers may be able to design programmes for them. Is it clustered around the 11-year? I do not know. And I think these statistics would really provide the basis for interventions, because ultimately we do not want a larger court system for children, we want a larger school system for the children, so that they may be able to accumulate human capital.

The statistics for 10 years would certainly be valuable, beneficial, so that we could engage in preventive actions, so that over time less and less crime will be committed by our children. [*Desk thumping*]

Another point, again, Sen. Hadeed raised and I want to reiterate and re-emphasize the point and that is, this institution is relatively new. We are setting up a new division within the judicial arm of the State. It is going to require, from my reading of the Bill, some 50 new judges. I think 28 judges and 22 masters, I think, that is the proportion we are looking at. In any event, 50 new judicial officers seems like a very large number to me. We need to justify the number, based on the point I made, with respect to statistics. Is it that in this country, when we look at all crime, the thousands and thousands of crime committed, we are finding such a large amount committed by those under the age of 14, that we will justify this significant expansion in the Judiciary? That is one area.

The second, Madam President, is the cost. This is an area in which I feel somewhat comfortable in commenting. The Bill did not, and may I recommend to the Government, as a matter of policy, that whenever Bills are brought before us, which require the establishment of new agencies or an expansion of different arms of the State, we get a costing as to what is the approximate cost.

We should have the staffing. We should have the organizational structure. We should have from the input of the CPO, the relevant salaries which are to be paid, I think it would be important if we know right now what this new arm of the Judiciary will cost.

I can estimate, based upon judges' salary, and so on. But given the financial crisis that we have found ourselves in, if we do not know the cost of this children's court and this particular separate structure, with the 50 judges and all the administrative staff then we may very well find that a good idea, a necessary idea, a valuable institution, is being underfunded because of the resource constraints of the State. [*Desk thumping*]

2.30 p.m.

Madam President, we should know what the cost is. I am sure the hon. Attorney General, this, there would have to be Cabinet consensus on this particular piece of law, and there would have to be a commitment on the part of the Ministry of Finance to release the necessary funding, but my recommendation is, that in this time of financial "impecunity", that is, there is really a drying up of resources to the State, there is a lot of grant funding available in the international community, for projects in relation to the welfare of children. We may want to look at some of the opportunities which are available to defray some of the costs, even though Trinidad and Tobago does not normally qualify for grant financing because of the per capacity income that we have, given the particular issue under consideration, the welfare of the child, the voice of the child, the rights of the child, and justice for the child, and overall, the issue of building up a family court, I think there may be a strong case for us to supplement the resources of the State, with some grant financing, which may be available elsewhere.

In that regard, Madam President, we will like to get in this Children Court,

Judges and Masters of the highest quality, because they are going to be individuals according to the Bill, not only with the requisite training, but also with the temperament. We are looking for a combination of skills, of individuals with legal training, people who have distinguished themselves in the legal profession, who have the temperament and the commitment to a family court, a children's court, and we need to try to recruit the best.

But, Madam President, can we recruit the best when as we speak, 35 judges in this country for a while back, have not had a decent pension? May I make a plea on behalf of the judges again, I have no judicial friend. Well, I have a couple judicial friends, but no judicial family, but really, I think it is important for us to look at the retirement package of judges, ensure that we could look at some of the failures there, try to remedy that situation. So that if we could provide to judges an agreeable retirement package, we should be able then to recruit some of the best in the legal profession, to serve in this particular institution. So I am hoping we can, once again, revisit the issue of judges' pensions. I have estimated that it will cost the State, Madam President, \$1 million a month to provide 35 retired judges with a decent pension, \$12 million a year. I think it is something that we should be able to afford. It has implications for the quality of people we are going to recruit for this particular institution.

I am looking at this notion of peer resolution, and I am saying it is a good idea, but again I am wondering, what is the intention with respect to involving the Ministry of Education in this process. After all, all of these children under 14 that we are talking about and, in fact, the majority of children under 18, should be in secondary schools. We are supposed to be in schools up to age 16. So the children who have gone afoul of the law, either in major or in minor crime, should all be within a school system. And when we are looking at the issue of peer resolution, I

do not know how we are going to go about identifying these peer counsellors, these individuals who will sit on the panel.

But it would appear to me that once we work with the high-school system, even the primary school system, because there will be children under age 10, I would imagine, who would also be committing some type of crime— hopefully not major—but there would be in the school system itself, a mechanism for the discipline in the classroom, and once that mechanism is understood, and that the school principals are encouraged to ensure that there is proper discipline in the classroom, via the old fashion prefect systems, then we would have already within the school system, individuals who have experience in ensuring that there is some order in the classroom, when the teacher is away and also, people in the school system who already have the respect of their peers, and people who would have distinguished themselves, in one way or the other, in the school, and that would provide a ready pool for the peer counselling group. In that regard, I think that we ought to be looking in a serious way at community service in the school, for children—and even for the court system, to be able to impose community service on students. So that the students who have committed some crime, will be sent to the school to do something productive within that school.

Madam President, the issue of bullying and cyberbullying was not very clear to me in this particular Bill. I imagine the hon. Attorney General in his wrapping up will indicate that it is a crime, that children are wronged, and that there will be a possibility for victims of these types of crimes, to make the necessary charges, either within the school system. I do not know if the principals will be able to lay it for them. So that there can be some remediation on this matter, but I really would like that this child, on child issue of bullying in general, which is a huge issue and of cyberbullying and cybercrime, will also be placed under the

jurisdiction of this particular agency.

There is also, Madam President, this matter of DNA testing. There is a requirement that DNA tests are going to be required to determine paternity, but this requires institutions of the State to be able to administer these tests in a timely fashion. Again, I am unsure about the capacity of the State, the capacity of the forensics sciences division, in providing a very prompt DNA report to the court system or to the police. If that is not so, we need to build this institution and ensure that we are able to have DNA testing. A Bill was brought before this Parliament and passed in the Tenth Parliament but, again, we are not sure as to how fast the agency is able to discharge its functions in this manner. Because if we do not have the supporting agencies, then it will take—the law good as it is, will not be implemented in the public interest.

On this issue of institutions, we know across the country, I think there will be a mantra on this Independent Bench that we do need to build the institutions. If, for example, Madam President, the Chemistry, Food and Drug administration in Trinidad and Tobago was functioning, they would tell us that frozen chicken, however old, has absolutely no loss in nutritional content. I had to go to the USFD—the US Department of Agriculture to find out that there is nothing wrong with frozen chicken. It is just—it is nothing wrong, that is the US Department of Agriculture. So that it keeps, it may just have a “lil freezer” burn. You see, we have to be very careful, Madam President. We need our institutions to make these statements, not vested interest groups; vested interest groups which may make a lot of money if we band the importations of chicken. So we need to be very careful of—but that is a side track. We do need to build our institutions and DNA testing is one of those.

Finally, Madam President, under Schedule 4 in the Bill presented, it is

indicated that there is a category of offences, there are a number of categories of offences which are not amenable to the peer resolution process. I would just lay it for the hon. Attorney General for consideration, that he has there, if there is assault under—offences for which peer resolution is not available, offences against the person namely, assault occasioning bodily harm. Now, I understand the reason for placing this offence as an offence which is not going be subject to peer resolution, because it is considered to be a serious offence.

However, I think it is quite possible that in disputes amongst students themselves, students have gotten into a fight, into a scuffle, and one of them may have experienced some physical injury, the court should be in a position to decide, that based upon the injuries sustained, that it could have been accidental, that not all physical injury, not all assault occasioning bodily harm are really grievous, and crimes which are of a serious nature. I think in many of these instances, while we do not tolerate them, I think it may very well be valuable if the student peers themselves, those who are in the same age group, understanding the dynamics of the situation, I think they should be given an opportunity to look at the infraction, to look at the injuries and to make a decision as to whether, in fact, this particular student, this particular child, who has committed a crime, should be properly treated because, Madam President, the issue is not punishment. The issue is rehabilitation.

Madam President, I think we really need statistics. We need interventions at the school. Over time we need less and less students and less and less children going into the court system. We need more and more of them staying in school. I think that once we get the intervention programmes in schools, and we are able to categorize and identify the types of crimes, we should be able with the range of psychologists and social workers we now have, people skilled in the welfare of the

child, we should be able to provide adequate therapy within the school system.

The child is supposed to be raised in a family, educated in a school. He really has no business in the court room. Between the family and the school, we should be able, with correct diagnosis of the problem, to make sure a lot of the cases are solved. Very early we identify the potential problem children very early even at age four or five, we intervene at that level. We do need the intervention of the Ministry of Education. We do need them to tailor their curriculum based upon the potential children that they have. The statistics will help us, but right now we need the court and, therefore, I am hoping the resources will be available, that the resources will be found. We can establish the institution very quickly. We can recruit top quality people, but really, Madam President, it is my hope that over the next decade or so, this particular Children's Court will become less and less relevant in the society of Trinidad and Tobago, and that more and more relevant will be the children who ordinarily would have gone to this court, are now going into institutes of tertiary education, where the State should then be allocating its funds.

Madam President, I support the Bill and I thank you for the opportunity.

[Desk thumping]

Sen. W. Michael Coppin: *[Desk thumping]* Thank you, Madam President, for the opportunity to contribute to this Bill. I use the word debate very loosely, because as I sit here and I listened to contributions of all the Senators, I think we have continued with the same consolatory tone, that we had when we were last here debating the IMPACS legislation.

I think we are all united as a Parliament, in that we have all recognized and rejected the scourge of criminality currently plaguing this country. And as it relates to children, I think as Sen. Mahabir would have just stated, and there is not

a lot of statistics within the public domain, but I have done a bit of research and in my contribution, I would share a bit of that with this honourable Senate.

Madam President, I think we are also united in our understanding, that there are a number of societal actors, that are important in addressing the issue of criminality as it relates to our children, and also I will like to deal with a number of these institutions, that have found—that are empowered and have found voice within this Bill, this legislation before us.

2.45 p.m.

And, thirdly, Madam President, I think we are all united, because we understand that the Parliament is the place where laws are reformed. I think the hon. Attorney General would have mentioned earlier that this legislation is wide-ranging. Madam President, 18 pieces of legislation are currently being reformed and, as a consequence, we as a Parliament, we have a duty to really study each detail of each piece of legislation to see how it would ultimately impact on the criminal justice system. That is what I want to focus on today, actually the criminal justice system, as my friend, Sen. Nadine Stewart, would have already dealt with the implications of the Family and Family Division.

So, Madam President, I want to commence my contribution by looking back, by putting this legislation within an international context. In the other place, the Attorney General would have spoken about the Beijing Rules. Also, in this House a number of commentators would have spoken about the Convention on the Rights of the Child. There are also other conventions, United Nations Conventions, which we have to look at and which are important and germane to this issue and this Bill under consideration. For instance, the Havana Convention as well as the Riyadh Guidelines. I would also in the course of my contribution be referring to a number of these international conventions, as I said, because they are, in fact, germane and

a lot of the *raison d'être* of this legislation finds its historical roots, and its reasoning within these international conventions.

So, Madam President, this Bill, as Sen. Stewart would have mentioned, is built upon the foundation of the principle of restorative justice and it eschews, it rejects the outdated 1925 mode of thinking of children and correcting children using the rod of correction and those types of philosophies. As we go through each legislative provision, we will see how this philosophy is incorporated within this legislation.

As it relates to the criminal justice system for children, Sen. Hadeed, I know he would have spoken that we have been failing our children. I think he spoke about 15 years of vacillating and doing nothing, but actually the United Nations Conventions and Beijing Rules would have been actually passed by the United Nations in 1985. So it is actually 30 years that we have really not progressed the matter of the rights of the child as it relates to the criminal justice system through the Parliament.

So as this Bill really runs through the wide gamut of the criminal justice system, it looks at arrest and detention. It looks at the interviewing of the child at the police station. It speaks about bail and releasing children into the custody of their parents and to rehabilitation centres; it speaks about in the exercise of judicial discretion, Madam President; it speaks about imposing sanctions on offenders; it speaks about the role of the Children's Authority in rehabilitation centres; it speaks to a reformed role of the Commissioner of Prisons; it speaks to a different new way of thinking about how we regulate and the role of the Minister of National Security or the Minister of Justice or the Minister charged with such responsibilities—and, of course, as a number of commentators and Senators before me would have spoken about—it speaks to alternative way of sentencing; it speaks about the Drug

Treatment Court and it speaks about Peer Resolution. These auxiliary programmes, as I think they are referred to, are really important in the way we think about disciplining children in need of supervision and children who are in the criminal justice system.

So, Madam President, in essence, this Bill is fundamental. It is of extreme importance. It is part of a comprehensive sustainable crime plan. I think this Government is definitely on the right path. I think when I peruse the legislative agenda of the Attorney General, I think in the medium and short term, I think there are 17 pieces of legislation that relate to the criminal justice and national security directly. So this Government, it is obvious, has placed national security and the criminal justice system high on the agenda, and I think that must be commended, Madam President.

We have in this country a situation, and hon. Attorney General would have spoken about it, and I also want to refer to it in my contribution. It deals with the human right implication of a number of judgments at the High Court that I think the country has not truly appreciated. I do not think it has been covered in the press in the way that it ought to have been considered and that really is, I am speaking about the 150-page judgment of the honourable Vasheist Kokaram that relates to the detention of children at the YTC Rehabilitation Centre. I think that the honourable court and the population at large would benefit from reading that judgment, because the implications did not just deal with the illegality and the failure of the Government to implement certain reforms and licences, but the unconstitutionality of holding children in the condition that they are currently being held at the Youth Training Centre.

So, Madam President, I want to speak a bit more about that. In fact, that is a good point to really jump off my contribution, because I have the judgment here.

The honourable Vasheist Kokaram, in fact, he waxed quite lyrical in his 150-page judgment, and if I am allowed to quote, Madam President—and I share these views as it relates to this particular Bill. He says:

“There is much at stake here. The future of children who are involved in the criminal justice system. To end recidivism by a restorative approach rather than punitive one. The fundamental safeguards of a juvenile justice system, recognizing at its core an international norm, expressly recognized in the legislation which promotes the principle of the ‘best interest of the child’, giving the child voice, and which abhors a child’s arbitrary detention, cruel punishment, prolonged periods to detention prior to the determination of innocence and guilt or detention in places which are not designed for their rehabilitation, care and welfare or the mixing of children with adults at those places of detention. This is the content of the child’s fundamental rights in a criminal justice system.”

So, Madam President, I use that to really begin by saying that what is at stake here is crucial. This piece of legislation, as wide-ranging as it is, is fundamental to the rights of the child and that is an element that ought not to be lost as we progress in this debate, because it has the tendency or we run the risk of ignoring the human element of this piece of legislation.

So this Bill is also built upon a principle that there are psychosocial and sociological determinants of crime. The hon. Attorney General would have flooded my office and the offices of, I think, a lot of members on the Joint Select Committee with empirical evidence, you know. So many studies were presented to us in bundles that I think it speaks to the scientific fact-finding approach that this administration has taken towards its legislation.

So, Madam President, this approach speaks to tailoring the remedy to the

type of child. It speaks to assessing the child's sociological background; the child's psychosocial make up and, therefore, tailoring the effective sanction to suit the individual child. I know Sen. Mahabir would have asked about reoffending, but I think in the literature there is a general statistic which speaks to 10 per cent of all children become lifelong repeat offenders. So I think it is an international benchmark that one can use in determining whether or not a child who offends as a child is going to become a lifelong persistent offender. By using these types of statistics and employing this psychosocial approach and using assessments, I think we are in the right direction, and I think this Bill incorporates in the use of these types of assessment as it relates to probation officers. We would see a bit more about that as we progress in this Bill.

So, Madam President, I just really want to compliment the Attorney General and the technical team—I see a number of them here—who would have provided mountain and mountain of information for us to ventilate and to come into our own conclusion as to the merits and the demerits of this piece of legislation.

I think it is also opportune at this time that we are considering this Bill given the recent foray in the media about child marriage. Now, obviously, this Bill is not about that, but it places on the agenda and the forefront on the minds of our citizenry the importance of the child. I am sure the Attorney General—because he has been having a lot of public consultation on the issue—will in the not-too-distant future bring to this honourable Senate measures that would relate to child marriages after extensive consultation.

So what is our local context? So I have built, I have looked back at the historical antecedents, but we need to ask ourselves now: where are we as a country? What is our current situation as it relates to children in the criminal justice system? Now, in the 2012 prison report, Inspector of Prisons Report—it is

a quite comprehensive report, Madam President—it spoke to 5.2 per cent of the population, the prison population, being children. By my own calculation—because he gave the prison population at that time—that means that about 190 persons in the prisons—he used prison also to mean YTC as well—are children. That was in 2012.

As it relates to serious crimes and minor crimes—I know Sen. Mahabir asked that question, and in preparing for this debate, I called CAPA, the police service and asked them that exact question. They told me—the statistics that they gave me as it relates to 2015—because they gave me from 2006 to 2015—but 2015 as it relates to children charged 11 to 17, there were nine females and 211 males. That is serious crimes. So that is a total of 220. For minor crimes, there were in 2015, 15 females charged and 123 males charged. So if we add them together, by my calculation, we have about 355 persons between the ages of 11 and 17 being charged for serious and minor crimes in 2015.

Now, if we look at the period 2006 come down, there has been a marked decrease I think over time. However, I do not have the statistics for those children who are in need of supervision what we previously called “beyond control” and that is also going to be an important statistic for us to actually look at and in seeing whether or not the court system—as Sen. Mahabir— in this time of “impecuniary” needs to expense such expenditure.

It is clear that when we look at this piece of legislation, the court system, it is not that the court is going to sentence these children and leave them out to dry but, in fact, there is going to be a degree of continuous assessment provided for in this piece of legislation, and also the beyond control element, we have to also take into account in trying to assess what is likely going to be the utilization of these courts.

3.00 p.m.

Sen. Stewart would have spoken about her own experiences in Tobago where, you know, two days a week is put aside for the hearing of child matters, and the consequential problems that had for the length of time it took from, I guess, the first appearance until the child actually has a sentence. So there is definitely a need for the system to be expanded, for courts to be built, and I think a lot of work has been done by the USAID who are here in doing those assessments. So, Madam President, I want to turn as well a bit to the USAID, Caribbean Basin Initiative Juvenile Justice Assessment, Final Report 2011, and the reason why I want to turn there is because this legislation, as I said, is wide ranging, and it attempts to address a number of issues, a lot of international standards that have been identified as being lacking by Trinidad and Tobago. A number of those—of 24 international standards, Trinidad in 2011 was found to be only compliant with about 10 of those; two, there was no information available, and there were 12 of those international standards that we just were not compliant with.

I just want to mention a number of those which this Bill will, in my estimation, address. For instance, there is number 9; there is a table here in that said report, assessment report, page 13, it speaks to children who are being kept in adult jails, and Trinidad and Tobago is non-compliant because the international best practice is that they are kept separate and apart. As it relates to number 13:

Are there—“institutionalized mechanisms for providing children before the courts with legal representation or assistance”?

That is something that is currently being addressed. It is addressed in the Children’s Authority but it is given more teeth, I think, in this piece of legislation currently before us, as well as:

Whether or not—“Corporal punishment is...used as a sentence or

disciplinary measure...”

In any correctional institution we were found to be non-compliant with that metric.

Fourthly:

Whether there are—“Psycho-social assessment and treatment...readily accessible to the child offenders”.

Now, Madam President, those are four of 10 that I think this Bill directly and immediately addresses. So how do we know? How would we know whether or not this Bill is beneficial or, you know, is achieving what it sets out to achieve? I want to really refer this House to a 2002 task force. It is a ministerial task force that was commissioned to look at the prison reform and transformation. It spoke to a number of metrics that we as a nation ought to really consider, to see whether or not we are failing or progressing in our prison reform attempts. A number of these metrics include reducing the percentage of young people who offend, reducing crime in targeted areas, maximizing the use of the restorative justice process, increase in confidence in youth justice system, reducing the time from arrest to sentencing—I think I just referred to that and Sen. Stewart would have also spoken about that—reducing the proportion of young offenders participating—increasing the proportion of young offenders participating in the education and training. Now, I think, Sen. Mahabir would have referred to that metric as being important as well.

So, Madam President, if we turn directly to the Bill, now that we have laid out the framework in which we can assess, and we have looked at the statistics locally and the international conventions which apply, and we look directly at the provisions of this Bill. The Attorney General would have already traverse the ground as it relates to the administrative reforms and what is going to obtain at this newly created division of the High Court and the number of judges, but Part V and

Schedule 5 of the Bill really looks at the criminal justice system, and I think I want to begin at the definition of the child. Because if we look at the 18 pieces of legislation, currently before this House, that are being amended we are seeing a myriad of different terms being used, and it is quite confusing to describe child offenders. For instance, we have minors, we have juveniles, we have young offenders, we have young persons, and there needs to be a degree of harmony within these different, as the Attorney General says, inter-articulating pieces of legislation which need to be harmonized, right.

So, Madam President, if we look at the Bail Act, for instance, the child is defined as someone under the age of 14 years old, right, and a young person is defined as someone between the ages of 14 but under 16, but what this legislation does, by changing the definition of the child, is that it allows those categories of persons who were termed young children and young offenders between the ages of 14 and 16 to now enjoy some of the benefits, for instance, that the Bail Act allows. So, for instance, the ability for children under the age of 18, so those persons 17 and 18 now can now go and get bail, for instance, to be bailed by their parents, for instance, to be left in the custody of their parents. By raising this definition, or changing the definition, we have now a number of individuals who would now benefit from a less punitive bail restriction. So I think that is one example of how a simple change of definition can change the way and the number of individuals who now benefit from restorative principles contained in these pieces of legislation.

So, Madam President, I also want to turn to the Children Act, a key change is contained in section 51B, where the parent and guardian and duty counsel must now be present. There is an obligation for them to be present during interviews. Now, there is a similar provision in section 99 of the Children Act which speaks to

intermediaries being present during the examination of witnesses, but now we have that obligation being placed upon the police from the time of arrest and detention that an intermediary must now be present to basically communicate and to understand that the child understands the line of questioning. So it helps and it aids in protecting the child's constitutional right, for instance, to a right to a fair trial, because, you know, I myself have been to the police station on a number of occasions and, you know, sometime you speak to persons who have been apprehended, who have somehow given confessions to the police without their parent being present or the benefit of a duty counsel, and, you know, it is important that we ensure that there is fairness throughout the system. For instance, that amendment, you know, really, in my view, is really important, and will ensure that fairness throughout the system, Madam President.

As it relates to the children's attorney, there is a new provision—well, it is not a new provision but it is contained in the Children Act 2012—there is a new provision that clarifies section 88 of the Children Act, it clarifies the role of the children's attorney as being a voice of the child, and it really removes a degree of ambiguity that I had in my mind when I read the first version, the 2012 provision, which speaks about the judicial discretion almost to define the roles and function of this child's attorney, but this Bill now seeks to clarify that particular role of the children's attorney.

Madam President, the hon. Attorney General has spoken about the role of the probation officer, and in this piece of legislation if one compares this current Bill to the Bill that was before the House before, the Family and Children Division Bill, there is now an expanded role for the children probation officers. They have a role where the court is concerning non-custodial sentences, and whether to allow a child to participate, for instance, in the drug treatment court. Now this enhanced

role, Madam President, is really important because the courts now, by having these probation officers, has the type of assessment reports that would be needed in attempting to administer a different type of justice, and that is really important in my estimation because a lot of times the court does not have the information, the requisite information to make the right decisions for the child, and that probation officer's role is going to be continuous, Madam President.

So it is not that it is going to be a one-time thing, but rather, as the child is—whether or not he is sent to a rehabilitation centre or not, the role of the probation officer is really going to remain a mainstay of this particular child's life, and that is really contained in section 39 of this Bill. I commend all my senatorial colleagues to look at the role of the child's probation officer. This role and this function of the probation officer is really coherent, or incongruity with our rights under The Beijing Rules, and in particular Rule 17 of The Beijing Rules, and that speaks to the need or the importance of:

“Social inquiry reports”—and that a—“competent authority should be informed of relevant facts about the juvenile, such as social and family background, school career, educational experiences, etc.

Restrictions on the personal liberty...shall be imposed only after careful consideration and shall be limited to the possible minimum;”—Madam President.

So, again we see that this piece of legislation is grounded firmly within our international commitments. It is not a vaille-que-vaille piece of legislation at all, by any means, but it is really grounded in a scientific approach that speaks to the psychosocial element of the child offender. So, Madam President, I do not want to speak too much about the peer resolution, I think that was adequately covered by Sen. Stewart, and Sen. Mahabir as well, but the drug treatment court, I think it is

something that—it was not really covered, and it is something that is really important, especially when we consider the fact that a lot of children currently incarcerated and are there for offences related to drugs, Madam President. And, again, the statistics from Kappa that I have in my possession would have spoken to possession of narcotics in 2006, 291 persons being brought before the courts on being charged with narcotic offences, that continued but it has been slightly decreasing. It has been decreasing amongst the males from 2006 to presently, but amongst the female it has been relatively flat. There has really been no shift up or down as it relates to the number of women, or of children, female children, currently before the courts charged with drug-related offences.

3.15 p.m.

In 2015, Madam President, 123 males were charged for possession, 18—in 2015, there were a number of individuals charged and I think that statistic is 75 males, seven females. So it is really a total of 82 persons brought before or charged for narcotic offences, now, that is quite a lot. And actually possession narcotics is by far the largest offence that children are charged for and brought before the courts. So this Drug Treatment Court is really going to be very important in our efforts at curbing and reducing the number of persons before the courts and charged.

So, Madam President, this Drug Treatment Court is contained in clauses 47 and 56 of the Bill and it is really for those children who plead not guilty really and who are subject to drug related matters. They are not charged with violent or other serious abuse. They have a history of drug or alcohol abuse and that the assessment, again, by the probation officer indicates that they are suitable and that they have a good chance of benefiting from a referral to such a programme.

And as the Attorney General would have spoken, that there is a programme

now that children must graduate from. And what is really good about this programme, Madam President, is that it staves off the chance of that child being burdened with the stain of having a criminal conviction once they have graduated from this programme, Madam President. And I think in this day and age, it is really important that children not left to be stigmatized by something they might have done, you know, some minor infraction. They may have experimented with drugs as a child, but we must ensure that, you know, choices that one would have made as a child does not follow an individual for the rest of his life. And this again is an example of a more, you know, restorative way of dealing with persons who are in need of supervision and who may have committed crimes. So, Madam President, again this is in line with the guideline 59 of the Riyadh Convention and it is really about not punishing when persons need help.

Madam President, I want to turn now to clause 34 of the Bill which speaks to restrictions and publication of proceedings. This is also in line with rule 8 of the Beijing Rules.

Madam President: Sen. Coppin, you have five more minutes.

Sen. W. Coppin: And, Madam President, it speaks to the identity of a child of being protected and again, in line with not stigmatizing children. It is important that the identity of children be protected and that judgments and court proceedings, the identity of the child is protected and the identity be redacted, certain personal information be redacted.

So, Madam President, that is another important aspect of this Bill. As it relates to court rules, a lot of work has been done and I know that my colleagues who are attorneys-at-law would have received several emails from the Law Association with the draft children rules, children court rules and it is contained, it is provided for in section 117 of this amendment, of this Act or the Children Act

amendment and it is really comprehensive. When put in place, I think it may well be put in place before the Criminal Procedure Rules, and we all know, those of us who are attorneys, would know that the importance of the Criminal Procedure Rules ensuring that there is a speedy, more effective way of proceeding in the criminal justice system and in the court system.

So, Madam President, I—45 minutes is really not enough time to deal with this, [*Crosstalk*] 40 minutes, to deal with this multiplicity of amendments. And, you know, I really wanted to speak a bit more about the role of the Children's Authority which has been bolstered by the amendments here and the role in setting standards and providing temporary licenses and conditional licenses which would help in adjusting some of the issues identified by Justice Kokaram and they in the case that I mentioned earlier of children being illegally detained in institutions where there are no licenses and standards.

So, Madam President, in winding up—how much more time, Madam President?

Madam President: You have three more minutes.

Sen. W. M. Coppin: Three more minutes. Okay. The YTC, is an institution that really needs to be reformed. I think the role of the Children's Authority is going to be key, the Commissioner of Prisons his role as the manager and being in control of that institution and rehabilitation centre is going to be maintained however, there is a need for a degree of intervention and the role of the Children's Authority is crucial, but also, Madam President, there is a role for the advisory board.

I know that Sen. Ameen would have spoken about the role of the Ombudsman, but I think it was explained to her at the Joint Select Committee, that that is outdated. There is no need for an Ombudsman anymore because it is the role of the Children's Authority really it substitutes the role of the Children's

Ombudsman, as well as there is an advisory board, Madam President, which will assist the Commissioner of Prisons in really transforming the curricula and the conditions within the YTC and the rehabilitation centres.

So this piece of legislation, Madam President, is really comprehensive. The advisory board is going to be comprised of persons from several disciplines, attorneys-at-law, there are supervisors of the prisons, persons, psychologists, probation officers. So, Madam President, I am comforted by the fact that a lot of work has gone into thinking about the rehabilitation centres.

So, Madam President, in closing, I think we are on the right track. This legislation is not perfect by any means. There is still a lot of things that we can do, but it empowers the Judiciary; it empowers probation officers; it empowers the Commissioner of Prisons; it empowers the Children's Authority. You know, the plane is already flying and we are constructing, as the Attorney General would have mentioned, we are constructing while the plane is flying, but we ought really to avail ourselves of the opportunities that exist, that is to really do our part to ensure that we protect our children and really to make Trinidad and Tobago a safer place for our children and our children's children. With that, Madam President, I thank you. [*Desk thumping*]

Sen. Daniel Solomon: [*Desk thumping*] Thank you, Madam President. I am pleased and honoured and humbled to make this contribution today. I must commend and thank all my colleagues, Senators, the technocrats who were involved in the creation of this Bill. A massive amount of work and man hours have gone into it and a tremendous amount of research has been provided and I dare say that this debate has been extremely enlightening and I am very pleased to say that this Chamber is moving in the right direction. I am pleased to say that the level of the debate is at a higher level and hopefully through this style and this tone

and this type of debate we can move the country forward together, each side offering ideas and coming together with the best possible set of legislation for the country, to protect our families, to protect our vulnerable children and the vulnerable in society.

Madam President, the history of the Family and Children Division Bill is that on May 25, 2015 this Bill was read for the first in the Senate by the then Minister of Youth and Child Development, a Ministry which has since been disbanded. On 2nd of June the Bill was read for the second time in the Senate and then proceeded to the Lower House for debate and passage. Unfortunately, this Bill lapsed on 17th June, 2015.

Madam President, this Bill and this type of Bill is no stranger to the former administration, the People's Partnership Government, very involved in the protection of children, the protection of the vulnerable, and in fact, had been involved in many other Bills of the type. Under the former administration we saw the passage of the Children Act, the adoption of the Children (Amdt.) Act, the Children Life Fund Act, and we also operationalized the Children's Authority. So, the People's Partnership Government was very dedicated to the protection and development of the children in society. [*Desk thumping*]

As my colleague Sen. Hadeed had indicated, during the five-year period of the People's Partnership Government 113 early childhood centres had been constructed and these gave accommodations to almost 600 children. There are now 678 registered private ECCE centres that accommodate 18,000 children. This is a substantive amount of resources allocated to the protection of children, and these early childhood centres is a mammoth piece of work which seriously keeps children in a developmental, dedicated environment.

Madam President, when the former Attorney General Mr. Garvin Nicholas

introduced the Bill and I wonder if I could quote from the second reading:

“...revolutionize the current judicial structure by creating a special division in the High Court to focus on children...to have cases in which children are central under the proposed children court. Under this system, charges against children and all matters related to their care, including civil matters involving juvenile delinquency and breach of school rules applications, can be heard.

This Bill seeks to confer jurisdiction for all family and children matters to a division of the High Court, namely, the Family and Children Division of the High Court.

The Family Court will have jurisdiction for family matters while the children court subdivision will have jurisdiction for all children matters including children criminal matters.”

Madam President, that sums up very aptly what this Bill aims to accomplish and the amendments that have been added would also increase its viability and its robustness. The rationale behind the Bill is that the family unit is perhaps the most fundamental element of our society that needs to be protected. The children of a family learn socialization, they learn morals, they learn ethics from their parents, they learn about love, caring and when that family unit breaks apart or falls apart, the breakdown can lead to social breakdown. It can lead to domestic violence, can lead to child abuse, children getting lost, getting involved in drugs, getting involved in crime. And this is why this Bill is so imperative in terms of keeping the family unit together and to keep it in a—if it is disintegrating or it is in a vulnerable position, then the Government and the society must provide the safest, gentlest, calmest environment wherein which to treat with these issues.

Madam President, and the design of the courts in which these issues are

resolved is a much friendlier environment and it is imperative for that. The usual High Court and Magistrates' Court can be quite combative, quite aggressive. There are environments that would clearly intimidate people who have never been to court before especially children and especially families who are undergoing stress as it is. You have certain situations like you would have in the Family Court you would have rectangular tables where the Judge would sit amongst the litigants in a more amicable, relaxed way. This sort of environment gives to more resolution rather than combatting litigants.

This protects the family against—

3.30 p.m.

Hon. Senator: He sit down like the deputy would send him. [*Laughter*]

Sen. D. Solomon: The judges do not wear robes, for instance—I know what you might say—and the robes obviously give a more intimidating feel to the children, and the litigants, and the families who appear. So, it is less intimidating. And as Sen. Ramkisson had said, it may be worthwhile to note that in fact in a lot of the family courts nurseries are provided for babies where professional caregivers take care of the children, while the parents may be involved in the court itself.

So, it is such an advancement towards a more civilized way of treating with our vulnerable. In addition, there are youth rooms with computers and games, so the teenaged and adolescents would also have a space where they can entertain themselves while the litigation happens in the courts. One would want to avoid the children actually hearing the parents battling over their custody, or adultery, or whatever property may be in dispute. These sorts of trials are serious burden on the families and on the children. And as I say, we need to keep that family unit as solid and as together as we can. The hearing themselves are done by appointment so that you do not have the waiting around as you do in the normal courts, and you

appear at the time that you are going to be before the courts. And as this piece of legislation dictates, there is also protection of the children's identity, certain hearings are held in camera, the services that are also available on site, the probation officers social services, mediators and judges, and judges can even order special investigative teams to go to the homes of the children and see the children under the circumstances in which they live, and get a proper idea of what the children endure, and that is in keeping with this legislation again. It is about putting the children first.

We always say that you can measure how civilized a civilization is by how they treat with their weak and vulnerable. We on this side have always focused on a people-centred development. These are emotional relationships, very difficult and very hard on the children, and therefore they need to be protected. Even after a family disintegrates or there is a divorce the relationships continue, and one must not be left scared. Children must not be left scared from that incident. They must be able to maintain a relationship with both parents. The mediation services in particular is something I would like to focus on. They are free services that appear for the litigants. The judge always encourages mediation, and the mediator would sit down with the entire family at times and try to work out the difference. Because what happens in a lot of these situations, there is a breakdown of communication. Persons become so emotionally disturbed that often communication breakdown and a sense of acronym and hatred develops between the parties, and what the mediator does, who is professionally trained, is manage to bring the parties together.

First, I think the mediators' objective would be to try to see if there is any chance of reconciliation, any chance of saving the family unit. If that seems not to be possible, then mediation would move towards how this can be most amicably

settled, thus avoiding the drama of a child and the stresses that endures, always keeping in mind the best interest for the child. So these mediation facilities are to be applauded, and I am very, very pleased to see that they are working out and they are included. Madam President, if we can look—the reason that I am focusing on the family, a lot of the times when the family breakdown and the children are split up, the children often look elsewhere for the love, for the support, for the comfort and approval, and it is often to people who may seek to take advantage of them. In some environments young men may be lured into a gang because the gang culture provides that sense of security, it provides that father figure that young men may be often searching for. That gang culture then can take them into a place of no return, where they engage in heavy criminal activity.

Madam President, we are no stranger in this country to the effects of this gang culture, and if I could just refer to Trinidad *Newsday*, more than 2,000 homicides, 2,000 illegal guns seized, dated June 25, by Julien Neaves:

“There were more than 2,000 homicides in 11 Caricom States last year, almost 2,000 illegal guns seized and a gang membership of more than 35,000 and growing, reported Francis Forbes, Executive Director of the Caricom Implementation Agency...(IMPACS)...”

—which we debated recently.

Madam President: Sen. Solomon, what year?

Sen. D. Solomon: My apologies, Madam President. June 25, 2014. With your leave, Madam President, a further article Trinidad and Tobago 2016, crime and safety report done by OSAC, United States Department of State Bureau of Diplomatic Security, and I quote:

“According to the TTPS statistics, there were 420 murders in 2015, 403 murders in 2014, 407 murders in 2013, 379 murders in 2012...The detection

rate for murder was 13.6 percent for 2015, a decrease of 16.1 percent in 2014. The murder rate continues to be driven primarily by gang- and drug-related activities that are concentrated in a few urban areas...with limited spillover into the wider community.

According to several sources, including the 2012 United Nations Development Programme (UNDP) Caribbean Human Development Report and the Council on Hemispheric Affairs...‘Gangs Are The New Law In Urban Trinidad & Tobago,’ approximately 100 criminal gangs were identified in T&T. These gangs, as well as other organizations, were linked to crimes related to weapons, smuggling, fraud, and other organized criminal”—gang—“activities.”

Madam President, so I just want to tie it back to the family unit, the disintegration of the family unit, young men getting lured into the gang lifestyle where they are searching for that security, that approval, that father figure, not to mention the trappings of wealth, and power, and drawn away from the family into that lifestyle which then is easily translated into a life of crime. So, this is a preventative Bill, one which we hope will prevent and keep our children on the right track in an atmosphere of love and caring, rather than moving into an atmosphere of crime and killing. I wanted to take it further, that the young women, young teenaged women for instance, who are also very vulnerable, and they end up looking for love, and security, and approval, perhaps having relationships with men, and ending up having these intimate relationships that lead to early childhood pregnancies, and the CSO has said that every year there are about 2500 teenaged pregnancies.

Again, that situation is unacceptable. A lot of these young women are single mothers, unable to support the young child, not able to give it the care and love

that it needs. And again, the law of crime and gang lifestyle for those children is great. And this is why we need to support this type of Bill. Because this type of Bill, again, supports the family unit, but also there is a monitoring aspect of the Bill, there is a caring aspect in terms of the social services that are available, and early identification is the cure. If you can prevent when a child is going wayward early, and the courts get wind of it, then you can monitor and prevent. And that I think is very, very important, and I applaud this Bill and all the people who have worked on it to get it to this stage.

I think that clauses 37 to 39 deal in particular with the monitoring of children and recidivism, which I think is something that a number of the speakers have discussed. Peer resolution is another procedure that I applaud. I think that it is commendable, and this is done by clauses 47 to 56, and it is described again in the Bill essentials which I would not go into. But, I wanted to know if I could, from the Attorney General in his winding up, how effective this peer resolution methodology was, and what the results and data were proving. Because it is a pilot project at the moment, but it certainly is something that could assist in particular with the bullying aspect that is happening in our schools today. Madam President, the holistic approach that we speak about, and the courts, and the resources, the resources is the aspect that we on this side have the greatest concern for. Because, there are a number of buildings, schools, staff, and I think in the previous submissions, it was mentioned by a temporary Sen. Stuart Young, who had said, and if I may quote:

When we look at this Bill and this legislation that require tremendous resources, we are increasing just at a minimum.

And, Independent Sen. Prescott also said:

It seems to me that they have been taken on a gigantic task intended to create

a super structure that needs to be funded from the ground up, and the part from the ground to the very top does seem to be quite long, demanding a great deal of rigor, and as some people say, the story contemplates many, many people in many, many buildings, in many institutions, in many committees, all striving towards this end, and we all would be proud to have the family and children matters are well managed.

So, the cost of it is what is concerned. And, therefore, I call on this Government, as I think my colleague Sen. Mahabir had done, let us know the cost of it; let us know how much resources you are prepared to commit to it, because in our view we think this is a very, very good and profitable investment for this country. [*Desk thumping*]

In addition, Madam President, we need a policy, we need a plan on how to deal with the scourge of crime and vulnerable in our society. This Bill does go somewhere towards that. We would like from this side to ask about the work for the Children's Task Force headed by previous Sen. Diana Wyatt-Mahabir and Stephanie Daly Senior Counsels. We do not want that the good work that the taskforce would have been engaged in, be lost. Similarly, the Children's Authority has suffered in terms of resources, and we would like to see very much that they are also adequately funded for the very important and good work that they do.

The Government had said that in 2015/2016 they were budgeting \$500,000 for the establishment of a juvenile court. But, I do not think that is going to be sufficient. I think that we need to put a lot more resources into making this Bill operational, as the Attorney General has said previously it is about operationalizing the Bill. And I think that is very, very important, especially in this matter. And my colleague, Sen. Mahabir, again, had mentioned how important it would be to have the right people, and the right judges, and the right human resources, the right

probation officers, the right social workers, the right mediators who have a passion and an understanding for dealing with children and dealing with the vulnerable in our society. So, perhaps I am calling on the hon. Attorney General, if he can present a budget or a fiscal plan whereby we can robustly implement this project. And I assure you if the plan is value for money you would certainly get utmost support from this Bench on our side.

3.45 p.m.

Madam President, over the past few months in Trinidad and Tobago we have seen a litany of child abuse cases and again the Children's Authority had reported that they had 4,158 abuse cases in nine months. That was published in the *Guardian* on March 01, 2016:

“The Children's Authority of T&T says after nine months of operations it is managing some 4,158 cases of children in need of care and protection. This is the highest number of cases to be reported in the country's history.

In a statement yesterday the authority noted that the figure was an indication of the public heeding the call to report child abuse...”

They highlight it every day in the newspapers, Madam President. And that report says it is:

“...a chilling reality of how poorly we are doing as a society to protect the most vulnerable. The Authority also lamented that placement for children remained a major challenge, particularly children with special needs.”

So, Madam President, I am reaching out to the Government to request and implore that they utilize whatever international funding is available, whatever grants are available, whatever NGOs can be utilized, which are vast and numerous for these sort of situations, to assist the Children's Authority and the Family Division Courts with their work.

I also would like to applaud that this Bill also goes to the protection of children not only who are victims, but who are witnesses and the use of social services, children with child attorneys and guardians ad litem. You see, a lot of the situations that occur one has to see what is going on behind the scenes, what is happening in the family behind closed doors. A lot of the situations that we hear about are not only, maybe, the family members themselves or the mothers, but may in fact be persons who are known to the family. And the other day there was a horrendous story that was regaled in the *Newsday* article:

“Naked girls in van”

May 18, 2016. Without going into too much detail that was when two young girls were found drunk in the back of a Navara van with a man in his underclothes. And it turned out that that man was, in fact, well known to the family—[*Interruption*]

Madam President: Okay, but Sen. Solomon, you know that this matter as I think maybe before the—[*Crosstalk*] okay.

Sen. D. Solomon: Thank you, Madam President. The issue I want to get at is that these children also need a voice to protect them, a voice to voice their concerns and one has to look at what is happening behind the scenes, what is happening in that family to cause that situation to happen. And if I could just go on to another article and this is even more shocking. The *Trinidad Express* titled:

“Most child abuse inflicted by moms”

Published on March 04, 2016.

“THE majority of abuse being perpetrated against the nation’s children is coming from their mothers, a report by the Children’s Authority of Trinidad and Tobago has shown.

The report, which marks nine months of the authority being operational, offers, among other insights, data and supporting graphs on who

are the majority abusers, the type of abuse most reported, gender ratios per category, the demographic profiles of cases and the ages of abused children according to reported cases.

The report stated: ‘Mothers were identified by reporters as the persons responsible for abuse in 34.5 per cent of all reported cases. Over the past’—nine—“months, mothers have consistently been identified by the reporters as the most common perpetrator of abuse against children.’”

This trend is not unique to Trinidad and Tobago and it is consistent amongst other Caribbean territories,

which brings us back to the situation where you have to get it early to the family unit and you have to protect the early childhood pregnancies and the children from getting into situations where the single mother may be stressed, she may be young, she may be a teenager and that could easily lead to a situation where the violence and the abuse and the frustration is taken out on the child. What happens in those situations? We have a situation where the children grow up abused and the cycle continues and the abused becomes the abuser.

So this Bill effectively tackles, we hope, this type of child abuse and the protection orders that it can enforce and the enforcement of it as the hon. Attorney General had described will be a lot more robust and we applaud that element of it as a lot of the times in the Family Courts a lot of these matters get tardy through the lack of enforcement.

Madam President, I think that this Bill focuses more on rehabilitation, and the rehabilitation regime is certainly more appropriate rather than the punitive approach which we always adopted in the past. As children get caught in the system, you do not want to lose those children by putting them in a situation—in a lot of the homes for instance, the St. Jude’s Home and the St. Michael’s Home

which have had a history of some horrendous abuse and thus hardening and furthering these children into growing up, having been abused, to become abusers and to become even more hardened. And this is why this Bill would go a long way to keeping the children away from these systems and one has to look very carefully at these homes and see what exactly is going wrong.

What happens to a young girl of eight or nine years old who is put into one of these homes with other girls at 17 and 18, who may be sexually active, may have a lot more life experience. That young girl is exposed dramatically and with no protection at all. And this has been highlighted also in the boys' schools. In the *Guardian* article dated July 21, 2016 entitled:

“Horror house

The St Michael's School for Boys, Diego Martin, is a 'house of horrors' for those seeking sanctuary, confirmed one of the teenagers subjected to physical and sexual abuse at the facility.”

He says you need:

“to know what was really happening behind the six-foot fence.

That is not a suitable home for children. It's like a little prison for teenagers, because they don't teach you anything...They don't give the children counselling. Most of them, they pull them out of school and send them to train.”

Madam President, there was a further article and forgive me for quoting so extensively, but it is important that we understand how this affects the children; and the media and the society, at whole, need to know what is happening in these places. This article says:

“The recommendation was made by the investigating team that was set up following the death of 13-year-old Brandon Hargreaves who died on

April 8 after he suffered a fatal blow to the head when he fell in his dormitory room. In the report obtained by the Sunday Express, the investigating team concluded: ‘The overall information obtained thus far is suggesting the possibility of removal of the residents from such a hostile and negative environment in order to prevent further calamities or fatalities.’”

So, Madam President, we have a situation where we are sending these young children to these homes and they are coming out being furtherly brutalized, being sexually abused and there is a loss of life. So basically it is a breeding ground for creating hardened criminals at the end of the day. Which is exactly the opposite which we want to do in our society. We want to rehabilitate; we want to restore; we want to get these children in a state where they can develop and contribute back into society in a meaningful way. So again, I want to call on the Attorney General to give us some information about the status of these homes and what is their plan in order to curb further incidents such as this.

The United Nations Convention on the Rights of the Child has been largely adopted by this Bill. And it is created—the United Nations was created in an effort to better advocate for the protection of children’s rights, helping children to meet their basic needs and expanding the opportunities to reach their full potential by guaranteeing certain rights to children in conflict with the law.

Trinidad and Tobago is a signatory to this UN convention. And in adhering to these rights, the UNCRC’s focus is placed on four major principles. The first principle is Article 2, which focuses on the non-discrimination of children and for equal treatment of all. Article 3 best defines the best interest of a child principle, which is a principle, again, that is reiterated in this very Bill. The third principle, Article 6, child’s right to life and survival and development. Now, Article 12 which is the fourth principle, is the importance of the child’s participation and

opinions in matters concerning him and her.

Now, a lot of these Acts have actually identified and dealt with these conventions and rights of the children. Some of these are: the Family Law (Guardianship of Minors, Domicile and Maintenance) Act, the Children's Authority Chap. 46:10 Act, the Children's Life Fund Act, the Children Act and the Children and Young Persons (Harmful Publication) Act.

However, none till now have dealt with Article 12. And Article 12:

“States”—that—“Parties shall assure...the child who is capable of forming his or her”—opinions and—“views...to express those...freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and the majority of the child.

“...the child shall in particular be provided with the opportunity to be heard in any judicial and administrative proceedings affecting”—him and her.

And this is where clause 21 of the Bill which empowers the family court to:

- “(a) appoint a guardian *ad litem* for a child;
- (b) request”—the appointment of a—“Children's Attorney to represent and safeguard the voice of a child and perform such other functions as the Court may think necessary...”

Now, that in my opinion means that now Trinidad and Tobago are in keeping with its signatory to the United Nations for children's rights. Clause 35 also goes and would empower the children's court to appoint a guardian ad litem for the children's attorney, I think in criminal matters, if I am not mistaken.

So, Madam President, there are manifest advantages to this Bill. I do have one criticism however—[*Interruption*]

Madam President: Sen. Solomon you have five more minutes.

Sen. D. Solomon: Is that right? Wow. On page 73 of the Bill, we discussed—at the bottom of the page, Schedule 5, page 73, there is a mention of the:

“Occupational Health Solutions Ltd,
24, Gaston Street, Lange Park
Chaguanas, telephone 672–2444.”

And this is a list of the approved labs, which I believe deals with the DNA section. And the issue I have is that I am not sure whether it is proper to have the listing of a particular business in such legislation. I do not know how that flies in the face of procurement procedure and fair play, but I imagine that what might be suggested would be a standard and certain companies or corporations can try and meet that standard. So just as a suggestion and a word of caution, I think that we need to consider that because that clearly cannot be proper.

In conclusion, Madam President, in wrapping up, I just want to reiterate that it is of vital importance that this Government not only pass this legislation, but dedicate the resources and the manpower to make this an effective and operational piece of legislation and I really do hope that this Government sees it through and we get some sort of real commitment in terms of dollars and cents and resources and that we can track the progress of this legislation. And that is all I have to say on this matter, Madam President. [*Desk thumping*]

4.00 p.m.

Sen. Stephen Creese: Thank you, Madam President. It would appear to me that this Bill takes us on the route to the final frontiers of freedom, which, to me, is liberation of children from the tyranny of adults. We have seen the introduction of universal adults' suffrage. We have seen the abolition of slavery and attempts to ensure that human trafficking does not continue. The liberation of children has always been, to me, the final frontier.

I remember seeing the movie “Harder They Come”, which was based on a Jamaican/West Indies experience, and there is a scene in it where an elderly gentleman says—and I remember the words vaguely now—“I plant the cherry tree, I raised the cherry tree, why I “cyar” pick the cherry? Embedded in that is the notion of abuse, of sexual abuse, and who amongst us will deny that we have heard similar tales within the Caribbean folklore. When one adds to this, the recent debates surrounding the whole question of Muslim Marriage Act, Orisa Marriage Act, Hindu Marriage Act, it is clear that there is a greater issue involving the rights of children and the larger question of the oppressiveness of religion.

When you place against included in the milieu in the backdrop, the LGBT question and the issue of homophobia, and I am not anti-Jamaican, but I think in one of the newspapers columns yesterday there was a reference to homophobia in the Jamaican context—not that Trinidad is free of that, eh—with the nature of the phrases and the description of people who have alternative sexual life styles. And at any rate within our immigration laws, the question of the immigration authority is being able to turn you away because of your sexual preferences, implying that was—I do not know if it still is on our laws. Has it been abolished?

Hon. Al-Rawi: Nope.

Sen. S. Creese: So it is still there. So we are a homophobic society.

Sen. Sturge: The CCJ ruled that they cannot prevent it on that basis.

Sen. S. Creese: Of course, implicit in that is whether our constitutional right of freedom of association is not impacted, because if it is implied in that legislation that homosexuals are unwanted, part of the unwanted types and desirable types to use the more common language, then the question of freedom of association comes up, and when one places this against the backdrop of what recently occurred in Orlando, where 49 were killed and just as many wounded because of their sexual

orientation largely, then the question of these rights in our Constitution and how valid, how real they are comes up for debate. Freedom of association, sexual orientation, the Old Testament value systems and the extent to which they have found a way into our laws.

I suppose when we were passing all these various marriage Acts we thought we were being liberal, we thought we were being modern, we thought we were recognizing the plurality of our society, but in effect we were placing into our laws book the most backward, the most bedevilled, the most ancient thoughts on freedom and, particularly, freedom of children and the denial of the right to enjoy their childhood. So we surely got it wrong and the time has come to get it right. I am not so certain that all the amendments proposed in this Bill are placing the cart or the horse in front, because it would look nice when somebody from someplace else goes online and they see that in our law books how all these modern pieces of legislation: Children's Authority Act, et cetera, et cetera, just as with section 34 which is the last time our Parliament tripped up seriously when we assumed that everything would fall in place on queue, and section 34 was about things not falling in place on queue. The cart and the horse, which one in front; which one dragging, which one backwards?

This legislation reads lovely, wonderful, man. Best piece of legislation I have seen in a long time. I think it was Sen. Mahabir who raised the question of what is the cost, and whether in the heights of the recession and oil price we would be able to put 50 judges on the Bench; we will be able to fund the supportive institutions? I am talking here about the safe house facilities because one of the problems we have had for the longest while is not being able to properly house people who are on the wrong side of the law. As someone who started out his public service career at the Office of the Ombudsman and who was assigned to

visit and take complaints—because one thing a prisoner in the Trinidad and Tobago system has is the right to pen a letter of complaint to the Ombudsman, and I did that schedule for about seven years.

So I visited all the prisons—Carrera, Golden Grove, “Dem” boys jail on Frederick Street, the female section of the prison, Remand Yard—seeing them in their 15 to a cell and I know all the tricks. All these things I will tell you, that you could read about Attica and the notorious prisons of North America that you see on television, they have happened right here. Everything you see, the wildest thing as some of the scriptwriters, all of them happened here including some of the most perverse things you could imagine where families of victims have been able to reach into the prisons and ensure that they get their pound of flesh, their version of justice. That has happened right here on occasions too many to name.

So I am under no illusion as to what goes on, what will continue to go on and whether this legislation will have any kind of impact, and the contributions thus far and the arguments of the Attorney General, we have not been given anything in terms of how effective these interventions in other jurisdictions have been. So the question as to whether all this expenditure we are proposing, if we are able to carry it out just how effective it will be. I want to point out that this is only one aspect of treatment of the greater issues involved in this because there is a larger cultural problem that we need to address, and I hinted at it in the early comment about raising the cherry tree and wanted to pick the cherry, but there are all kinds of twist.

I remember there was a joke being given by an MC in a calypso tent about a woman who worked as a cleaner in the public service and she had received a report when she got home that her child had stolen a pen or pencil in school. She proceeded to beat the child, and with each stroke of beating this child she said,

“You know, I told yuh not to steal. If you want a pen or a pencil, ask me, ah go bring one from de office for yuh”. [*Laughter*] She worked as a cleaner in the public service. She was not a clerk. She had no business with pens and pencils. But that is part of our culture and how do we see stealing and what we define to be stealing. How it go? Massa horse, massa cow. Get the phrase now.

There is a bigger picture that we need to grasp and that bigger picture has to do with our history of dealing with sexual predators in this society. There is a certain priest, prominent in the music world, who was allowed perhaps facilitated in absconding from our jurisdiction and died years later in England, who had been accused of interfering with juveniles. I am sure we all remember, not that long ago. We are going to deal with the children and the delinquent children, but we are not dealing with the cause of the delinquency because the question is: to what extent would that priest have been cause of the delinquency of others? We will never know because he never faced our courts. He was not the priest, of course, the calypso had made him famous, “If the priest could play who is me”, but he was a Christian priest nonetheless.

And then, you know, there is that case of abuse and murder frequently cited by a former Senator, Member of this House—I think the name is Akiel. I know the spelling because I have never heard it pronounced, A-K-I-E-L.

Sen. Sturge: Akiel Chambers.

Sen. S. Creese: Akiel Chambers, I am corrected, which is a matter which has never been prosecuted, which occurred right here. So we do not have to go on TV, we do not have to go to the States to find out all the wicked and nefarious things that could happen to children that go unpunished. So here we are setting up a facility and arrangement to punish children, and we are yet to deal with those who have offended against them.

That is why I have started out by saying that this legislation is part of the final frontiers in deliberation of children from the tyranny of adults.

4.15 p.m.

But it is also a cultural issue and which takes me to my next quote from “Shame and Scandal in the Family”: “woe, woe, woe is me, shame and scandal in the family. Yuh father eh yuh father and yuh father doh know” and there are many very variations of that, as to “yuh mother is yuh sister is yuh mother and everybody else doh know”, except the midwife or chance. This is Trinidad and Tobago, this is West Indian society; this is post-slavery society and all these things have occurred and all of us from our various villages could cite examples similar to that which is described in that famous calypso which went international by the way, eh.

And it is this on-going culture that makes victims of our children and I think it is Sen. Solomon who spoke about the cycle, how this cycle repeats itself. And what is the incidence of the successful or even attempted prosecution of those who abuse children, whether sexually or otherwise? What does the statistic say? Ironically enough, I think Sen. Solomon quotes the examples from the Children’s Authority that the statistics that they have to date points in a different direction. It points to the fact that the greatest of incidence of abuse comes from adult females to children. So not the sexual predators, adult females to children. And I am sure embedded in the minds of most of us is the image of a beefy, middle-aged-type woman, big arms coming down on some child with some whip or some shoe or some—

Hon. Senator: Pot spoon.

Sen. S. Creese:—pot spoon, whatever is nearby and that is our history, which brings us to the larger question of corporal punishment and you hear it on the talk show programmes all the time. They calling in to say “Yes, it was good, that have

me good so and they passing on". One thing I am always grateful for, that the children of today, caught up with their thumbs in the iPad and cell phone or what have you, not transmitting the messages of their parents. They are not listening to "them" talk show programmes, to that foolishness, that idiocy that has come out of slavery, per chance it will die a natural death within our lifetime. Because there is little to be said for corporal punishment and I think it was in that same movie, "The Harder They Come", that gave me my first inkling of how perverse that is. Because I think they placed the prison over a barrel and inserted his penis through a hole in the barrel so that when they beat him, the urine will be contained. You could check back if you found a copy of the movie, you will see that scene in it.

The West Indies has a perverse history of violence and unless the deliberate efforts are made to reduce that, it will continue to be an undercurrent that manifests itself in the perverse acts or whatever delinquents we create. So be not surprised when the bad boys reign terror and in the middle of a holdup, they turn around and say, let us shoot one. That is the manifestation of that. That is how that persist because there is a sense in which they see all of us for what we are and they placed it to value on our lives and less on their own.

You see, the bigger subset in this question is the question of penal reform. Golden Grove, Carrera, Remand Yard, is virtually the "university" of Trinidad and Tobago. That is the first university of Trinidad and Tobago, not UTT, because it is there, particularly in Remand Yard, where people spend years and years. And I think is the former AG Ramesh Lawrence Maharaj, at a recent press conference, was making the point that our system is totally broken.

Consider the length of time people spend in Remand Yard, it becomes a joke when the judge comes to sentence them because he reduces their sentence period if it finally comes up. That is if they are found guilty and sometimes you are called

upon to wonder whether or not finding them guilty was part of the way of solving the problem because if you find them innocent, you have to pay them for years and years of false imprisonment and all that goes with that, and whether in our system, people really get any kind of justice. And you would be surprised how easy it is to find yourself at the wrong end of our system.

Because I am aware of somebody who spent two years down Carrera who was never found guilty of a single offence, who had a perfectly clean record and it is there in one of the annual Ombudsman's reports, so I can go into details. He was charged for malicious assault. What really happened, they were playing cards under—gambling under a tree in Laventille and people accused him “ah stealing and he run up the hill and he pelt some stone and same time police was passing and they see him so they take him down”. And by the time he came to court, the magistrate, the lawyer, his defence lawyer decided to be bright. “He had a lil buss head. He say, well listen boy, shave around it and put ah big plaster. The guy was cross-eyed so he tell him take off your glasses, yuh in front the magistrate.”

[*Laughter*]

He was there, in front the magistrate, cross-eyed, a big plaster in the middle “ah he head” and at that time, they had just come up with that new detention thing for persons suspected of being mentally unbalanced. They had just passed a—good. So the magistrate sent him up for observation and that was it, yuh know. The Clerk, in writing up at the back of the indictment, good, was the first time they were using President's pleasure under the Mental Health Act, normally it meant you are being detained for life and so on, that was misunderstood and he went down Carrera, and it is there we met him two years later. Telling everybody his story and “Nobody ent taking him on, that his case eh finish”, he is supposed to go back to the court. Two years down in Carrera. This is Trinidad and Tobago. That

happened in our lifetime, all of us in here. Good.

So the bigger issue of penal reform. So imagine the implications for his family situation; imagine implications for all the others who are down in the reform situations; imagine the implications for their family situation. Because the majority of them are men so the question of absentee fathers and the implication for the young ones coming up, whether they be boys or girls in that family household and the mother is dependent on those fathers largely, in the communities of which we speak we are talking about, the need for penal reform, because with all that fancy court room system and the peer negotiation, tra la la. If you keep feeding people into that, you are going nowhere fast and faster and all the other systems or failing systems of our society, all the other collapsed institutions, are there feeding people into that stream. That, too, will get clogged as everywhere else and we will be right back to where we started. The only thing, we would have spent a lot of money getting there because our penal system has created and is continuing to create an absentee father system. Think about it.

And if we are not feeding that system with the resources because here we are talking about the social workers, the psychologists, the psychiatrists, all of that stuff for reports and so on, we are not feeding that in, then what would be the outcome. So I cannot join the chorus of people who are saying, great, great, we are about to see the promise land. We are nowhere closer, we just have some more decorations in the law books, something else for the people to research.

I think it was Sen. Solomon who also referred to the young girls found consuming alcohol and so on and what occurred to me when he was saying that is that alcohol and alcoholism have always been a problem in a society that once produced rum as its main export, and in all of this, would young rum recruits, young alcoholic recruits be facing this court system that we are designing? And

the answer is no. Because when you check our statistics, there are not any set of prosecutions of young boys or girls for consuming alcohol under age but the sign is there and by all the bars, right. We are not selling tobacco and liquor to people underage, but you tell me what you see on Carnival day or any of festival days around, tell me if this thing you are setting up here will be catering for those young people who are falling into the pathway of alcohol and the answer is no. So our biggest social problem will not be addressed by this legislation. Fact. So the absence of statistics about all of this in the case that we ought not to be pursuing this legislation, according to Brigo, “we grovelling in the dark”.

I wish to close by wondering who will be the Fanon of our time, who will take the trouble to analyze what has gone wrong; what are the psychological scars that alcohol as an industry has left on this society. And for me, talk about reparations, the aftermath of slavery, has some relevance. I support the principal of the Barbados campus in that regard. But I think the greater reparations that is relevant to Trinidad and Tobago is not that of slavery because the East Indians were not slaves here, the greater reparations is the question of what alcoholism has done to this society, and both races—all races, all groups and classes are involved because all have consumed. I thank you. [*Desk thumping*]

Madam President: Hon. Senators, at this stage, we will take the tea break. So this sitting is suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

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

Sen. Rodger Samuel: Thank you, Mr. Vice-President. I truly appreciate the opportunity to have my own input into this particular piece of legislation that deals with a Bill to make jurisdiction for all family matters and children matters

excisable in the division of the High Court to be called the Family and Children Division and to make provision for matters connected therewith.

Mr. Vice-President, though this particular Act is in itself from a national standpoint a good one and a legislative move in the right direction, a move based upon the status of our society and the fact that we are a society that always tend to look at symptoms and never get down to dealing with the cause of problems, there are things that we can never legislate on. The problem in the society may not be a legal one but a moral one. The problem might be that of value and virtue and that we need to, in many instances, revisit the value system and the virtue systems to ensure that we are walking along a safe path.

The fact that, Mr. Vice-President, for a nation that has existed, and a young nation, for just a few years, we must come to realize that we have swiftly, quickly, rapidly shifted away from the fundamental traditions that have been handed down to us by our grandparents, the values and the morals, and we have shifted so rapidly away from it, that the mechanisms that were used just a few years ago, because we are a young nation, the mechanisms that were used in those days, that were so good in keeping homes together and keeping villages together, used to keep communities together. There was a mechanism that was used to discipline children and to build the village, which seems to be a cliché that is used today, though it derived itself originally from an old African proverb that it takes a village to raise a child. That is being used regularly all over the place.

But yet, while we repeat it regularly we feel by repeating it, it will come into existence again. We are shifting rapidly away from the fundamental mechanisms that held communities and families together and we continue to do that. And the more laws we enact is the more laws, in 10 years we will have to amend and is the more laws we will enact again and the more laws we will amend. And though we

change and rearrange, everything seems to remain the same.

So, the fact that we have moved away from those values says that we are in trouble. And the time has come for us to re-evaluate ourselves and look at the downward trends and see the impacts and effects that it has had on our society and our communities and it continues to have it and we must be bold enough to take time and stop and realize if we continue heading down the path we are going we may reach a point of no return.

And we keep doing the same things and enacting the same laws and amending laws and expecting a different outcome, because we have not been able to affect the psyche of our society, we have not been able to touch the minds and find ourselves doing the same things, but in a kind of state of stupor, trying to expect a different outcome. And modern-day intellectuals, Mr. Vice-President, use this idea of a village bringing up a child but will not support mechanisms that will enable that. We talk loud and say nothing. We will not have any kind of mechanisms implemented at the local levels or the village levels that would enhance that.

As a matter of fact, when I was growing up, there were so many people that were responsible for me and that I was responsible to. As a matter of fact, I do not know how many of you that sit here today, if you got licks in school you were afraid to tell your parents; not only afraid to tell your parents but the neighbour will go tell your father and your mother too because they felt a sense of responsibility for you. That is how it was. So you had respect for all of them. But we live in a society where there is no respect anymore because we are shifted away fundamentally from our values and it is no longer like that. So in one breath we are saying it takes a village to raise a family. In another breath, everything that we do counters that and goes contrary to that.

And the time has come, Mr. Vice-President, that we need to begin to look at change from the bottom up and not from the top down; that we need to find mechanisms that will affect change at the lowest level, at the family level, in our schools in the villages, in the communities. And then it would affect the society and then we will not have to do a lot of these alterations to legislations and enact more laws, as we are constantly doing on a yearly basis.

As a matter of fact, sometimes I feel every five years Governments go into a legislative competition to see who could enact more laws and who could bring about more amendments and then they can boast and say we had 45 pieces of legislation and 100 pieces of legislation and that is the kind of war that is going on over and over. And while all of that is happening, there are no mechanisms that are being implemented and put in place to even support some of these legislations that we enact and we find ourselves in difficulty.

And while that is happening, the society continues to deteriorate. We are facing more and more of the same problems. People are behaving less and less the way they should be. People are becoming far more lawless than they were and we are enacting more laws.

I recognize, Mr. Vice-President, from years ago, if you paint a wall and you put up a sign "wet paint", everybody will touch it. Yeah, everybody wants to see if it is wet or dry, and so you put wall up or you do not put a sign because you are going to have to repaint again. And that is what we have been doing, painting walls and putting up signs. And the fact that we have to amend laws and enact more laws says, Mr. Vice-President, that our society is deteriorating rapidly. It is not getting better. And at the rate we are going, Mr. Vice-President, we may find ourselves sitting and doing the same thing over and over and over and over and more rapidly and more intensely as we go along. Why? Because things are not

getting better. People's mindset are not getting better. People's behaviour are not getting better.

And by way, Mr. President, all of our ideals, all of our beliefs are structured around a family image. As a matter of fact, it is the family that took care of the children and supplied for the children. Governments are designed like a family. They are to take care of the citizens who are supposed to be the family of the nation. So it is a family structure but we are not doing what is necessary to strengthen the family.

The worse thing that could ever happen in a household is divorce, the worst thing that could ever happen. And do you know, Mr. Vice-President, what is the statistics for divorce in Trinidad and Tobago? I mean, I think on any given year over the last 15 to 20 years you had about 20,000 applications for marriages, average, minimum, and out of that in the courts you had about 2,500 to 3,000 applications for divorce. And you multiply that 2,500 or 3,000 if they had two or three children, you see how many families and how many children are affected on an annual basis when mother and father are split up. So you are talking about 2,500 children minimum, 2,500 families applying for divorce. If each of those families have two children or three children you are talking about a great deal of citizens that are affected on an annual basis, who had to choose between mother and father, who now have to live in a home that is divided and separated. Now there is a war and they have to go to school and face that.

I remember we were in a cadet camp some years ago and a young man struck another one with a piece of wood. They were terrorising him and teasing him, and he retaliated and they wanted to send him home from the camp and I decided no, let me talk with the young man. Just to find out that the night before he came to camp, his mother and father broke up and to ease the tension his mother

decided she would not withhold the idea of him going to camp, she would send him to camp to kind of, not put him through the mess at home, but he took it on and he struck out.

5.15 p.m.

Now, if I did not sit and try to talk with him, they would have sent him home and sent him back in “ah mess”. Could you imagine what would have happened going back home in an environment where daddy is gone, or there is big fight and the entire family structure is messed up? Again, Mr. Vice-President, the idea of the family in the society, and I am glad we are talking about family courts. And by the way, I find it strange the hon. Attorney General did not give us any kind of statistics, [*Desk thumping*] no idea as to how many cases there are before the court that deal with family issues, serious family issues?

How many cases are before the court that deals with children issues? So we could understand the dynamics, because it may mean that we are sending—we are having a division that deals with family and children, and they might be instantaneously overloaded, and then we are back to square one, and the statistics will be very informative, Mr. Vice-President, as to what is the quantity of cases in the different categories, family situations and children situations, that are there before the court, and that will now be before these divisions of this court? So that we can get a better understanding of the status of things in Trinidad and Tobago. I would love, you know, the hon. AG, as he wraps, to “kinda” give us a “kinda” idea, as to the quantum that this new division has to deal with already, and you know, it is going to build as we go along, because things are not getting better.

So, when we look at Trinidad and Tobago, one of the things I have recognized that held this nation together, was that the nation was built on the premise of strong families, and the families were built on the premise of

relationships with a creator. When the relationship of a creator is removed, and the family structure begins to disintegrate, then we found ourselves having to enact tremendous laws, because people became very lawless, because a godless society is a lawless society.

It is important for us to know that, that there is breakdown in the family unit. As a matter of fact, marriages are endangered species, and though we talk about those people who applied to the divorce court, there are so many people that are not going through that route. They just decide, "I am through with this. I cannot deal with it". They are not prepared to deal with the situations of a marriage. We need a cadre of counsellors who would assist people before marriage, as well as through marriage, as well as after marriage. We need a cadre of counsellors, because it does not matter, it does not matter who you are.

I have known of folks who courted for years, they lived together for 15 years and got married, and broke up one year after. Yeah, marriage, AG? I mean, you find it strange that they lived together for 15 years, got married and broke up one year after; strange phenomenon. It is strange. What is causing that? It is something that we have to study, what is causing that. A court cannot determine that. That is a serious, social and spiritual issue. It is not a legal issue and until we are able to deal with those aspects of it, then the court will continue to be bombarded with family issues and divorce issues, because people are no longer tolerant of each other. A man will "lick yuh down for skipping ah line". That is how we are as a society, Mr. Vice-President.

And when families break up, when there is a destruction of the family unit, then that impacts the entire society, and it is necessary for us to focus on the family, because when the family is affected, the children are affected, and it is necessary for us to focus on the family, in such a way that it becomes a powerful

unit to strengthen the remit of a society. But we pretend to understand all of those issues from a legal standpoint, but we do not understand it from a spiritual and a social standpoint. So we enact laws from a legal standpoint because we do not understand it from any other standpoint. Then because the social and the spiritual aspect of it happens, then the laws do not help, because the law cannot change a man's innermost senses. It does not. All it does is restrict him. The law does not change a man's mind. All it does is restrict him or penalize him. And we have got to change the way we design these things.

So this "kinda" plaster on sore kind of approach only works for a while, and that is why the incidences of recidivism and all these things is happening so rapidly. Why? Because we are not attending to the real depth of the human being. Law, legislation, amendments and I can tell you, Mr. Vice-President, we "gonna be doing dat for the rest of our lives", and the generations to come, over and over and over and over. Symptoms, not cure, nothing that would bring about tremendous change.

I remember saying to my colleagues that when they removed corporal punishment from the law books, a teacher called me the evening after, and said to me that, "She is going to submit her resignation. She is gonna go for early retirement, because the day after one of her students in her classroom came up to her desk, took out his privates and urinated in her basket, and said Miss, yuh cyah touch me, yuh know". [*Laughter*] "She say, before I end up in jail, let me retire." What a thing we created! We created it! Terrible stuff! I will never forget that.

We have a system, Mr. Vice-President, there were times I would go to secondary schools and do lectures, and I have done that for many, many years—that happened, eh—for many, many years. I remember going to a secondary school in San Fernando and during the session, and all after the session, I saw

children, students lining all over the school. So I went to the VP and I said, “Why are these children not in their classes”? And the VP said to me, “They have a right to do what they are doing”. I said, “How you mean they have a right”? He says “As far as the education system is, the education system says that they have to come to school. We cannot force them to be in a class”. So they are on the premises from eight o’clock to 3.30, but the teachers and the staff cannot force them to be in a classroom. I encountered that, and it tells you where we are, what we are doing. They have a right and I agree they have a right, but when you have rights, you have roles and you have responsibilities. We have got to ensure that they understand their rights, but they also understand their roles, and they understand their responsibilities.

I remember being in Cuba and we visited a classroom of children in Cuba, at the age of—it is a primary school classroom, and one of the things that was tremendously fundamental, I am sure Sen. Mark would remember, the children saying, that one of the things that they have to learn is their rights, their roles and their responsibilities. Their rights as citizens, their roles to their communities and their responsibilities to their nation. Something that we need to teach our children. Why?

Because while we enact laws and amend laws and have courts, and nothing is wrong with all of it, we have got to begin to think about how many dropouts are there at secondary school? How many dropouts? What is the drop-out rate at school? How many people are not finishing school? How many people are just passing through the system? What are the statistics on dropout? And what happens to these dropouts after school? Are they a part of the system what is affecting the society? What is the statistics? What about—are these part of what we call “youth violence”, those people who drop out? Can the Ministry of

Education tell us how many people dropped out in 2015 and 2014, and all those years? And when you do a summary of all of that, you would recognize the amount of children that have dropped out of schools tremendously, and you would probably have to figure out what is going on. So there is a cause, school violence. There is a cause.

Not only that, Mr. Vice-President, but we must consider the fact that, in a newspaper article on the *Newsday*, September 21, 2014, and if I am permitted to just pick out of it. It is talking about:

“Tracking school dropouts.”

How we track school drop-outs:

“To what extent—”

It is written by Corey Connelly:

“To what extent do school drop-outs impede the growth of Trinidad and Tobago’s economy? Have studies been conducted to determine the rate of early school-leavers in the education system alongside factors which give way to the trend?”

And he went on to elaborate on the whole issue as to, you know, there is not much statistics and data that is known publicly, about the extent of the dropouts at school, and what becomes of these children that dropout of the system or pass through the system? Not only that, but what is the magnitude of children that are coming out of school with less than what is expected? All of that has to be taken into consideration, when you are dealing with trying to change a society, and implement things to try to help curb the further decay of a society.

But, Mr. Vice-President, there is something that people are afraid to talk about, and it is called teenage pregnancies. Yeah, teenage pregnancies, written by Gizelle Morris of the *Guardian*—permitted to please? It says:

“When several girls, ranging in ages 13 to 15, were discovered to be pregnant or sexually active, a Form Two class at Malick Senior Comprehensive School, Morvant, was ordered by the principal to attend abstinence club meetings.”

That might have been “ah big shock”:

“The class has 22 students.

The principal felt students should be exposed to the programme to help them make some wise choices...”

But something else in this clipping I was moved about, Mr. Vice-President, that says:

“The case of pregnant and sexually active students of a Form Two class is not exclusive to Malick Secondary Comprehensive. But nobody knows the extent of the problem, least of all it seems, the Ministry of Education.

It has been happening across the board,’ contended James”—of the school—
“...who also teaches Food & Nutrition and Management.

James, who has been a teacher at Malick for the past 28 years, said pupils entering Form One at her school were already sexually active. ‘We are getting students from the junior secs who already have babies...’

When James first started teaching at the school, student pregnancies were rare.”

5.30 p.m.

But then he went on to say that the system has been developed in such a way that a young girl becomes pregnant, she is called to the principal’s office. They put her on leave until she has her baby, and then she returns to school as a proud mother, and all of the girls in the school cluster around her with a sense of pride and joy as if, I want one too. It is a sad state of affair. It means that we have got to

find solutions. We have to find solutions, Mr. Vice-President.

Support services, it went on to say:

“James could not give any statistics on student pregnancies in schools and attempts by the Sunday Guardian to get data from the Ministry of Education were largely unsuccessful.

Support services do exist to help pregnant school schools, admitted Mervyn Crichlow, communication specialist at the Ministry of Education. He said he preferred, however, not to say how many girls or schools have been affected.

Initially, he said figures were not available. Then he said the Student Support Services Division does collect some data.

When asked if Sunday Guardian could have access to this information, Crichlow said: ‘I prefer not to make that available for public consumption.’

A request to the Student Services Division for the information was refused. An official at the department said public officers were not allowed to speak with the media and she referred all questions to the Ministry’s communication department.”

Not only that, Mr. Vice-President, but something else attracted me. The National PTA President:

“In 2001, a girl between the ages of 15 and 19 gave birth to a baby”—a schoolgirl—“it was her sixth...”—I am just quoting.

“This was one of the preliminary findings of the Central Statistical Office’s 2001 Population and Vital Statistics Report.

More recent figures were not available.

Although the 2001 report has not yet been published, excerpts are available from the CSO.

Figures collected for 2001 show that of the 2,629 babies born to mothers in the 15 to 19 age group:

- * 2,173 babies were first born
- * 404 were second births
- * 44 were their mother's third...
- * six babies were to mothers who already had four...
- * one baby was its mother's sixth child

The 2001 CSO also found:

- * 25 babies were born to 14-year-old mothers
- * four to 13-year-old girls
- * one baby was born to a mother under the age of 13

An official at the CSO said in some cases, mothers in the 15 to 19 age group were married, most"—of them—"to older men.

The 2000 Population and Vital Statistics Report states that almost 15 per cent of the babies born in Trinidad and Tobago were to teenage mothers."

So we have got to go back to the issue of the family. We must do all that is necessary, Mr. Vice-President, to look at the family issue. But then up comes another issue. If we are dealing with the family and we are dealing with children, is what we call children and alcoholism. The statistics again says a lot. As a matter of fact, in a survey carried out by the National Alcohol and Drug Abuse Prevention Programme together with the Inter-American Drug Abuse Control Commission, it had turned up, on average, the first time use of alcohol beverages in nine-year-olds. In addition, 75 per cent of all students interviewed indicated that they started using alcohol at the age of 13. Sen. Creese reiterated that a bit—at the age of 13—but probably we are producing it. At the age of 13.

In a symposium conducted by the Ministry of National Security along with

the Ministry of Health, the National Drug Council and the UN Office on Drugs and Crime, it was said that in schools teenage alcoholism and teenage addictions are on the rise, just as of July 2014.

So, Mr. Vice-President, while it is awesome to amend all of these legislation to deal with the issue of family and stuff, the system that we operate under helps nothing, because we are still living in a highly broken family environment and children are left. But then our purpose is to protect the rights of children and that is of uttermost importance.

Mr. Vice-President: Senator, you have five minutes.

Sen. R. Samuel: Thank you, Sir. The *Bible* is very clear: train up the child the way it should go and when it is old it will not depart. So training is important. In this country, the majority of parents are good parents. I do not want to say that the parents in this country are bad parents. There are good parents in this country. The support structures around might not be as good as it should be.

But, Mr. Vice-President, the same way we are protecting children, I have had to intervene to protect parents when children are violent towards their parents, and their parents are fearful of them. I know of single mothers who are afraid to sleep in their own homes because their children, school children, are violent towards them. I have had to intervene physically to protect people. So that we may have to have some kind of protection for people like that, for the parents, because we are protecting the children. Now we have to start to look at the parents who are under attack and they are under severe attack. There are single mothers who are under severe attack. There are fathers who are under severe attack, in our own society, by schoolchildren. I am telling you that and it is a fact.

It means that we have got to look at it seriously. Parents who are abused by their own teenagers and they are afraid of them, and there are parents who are

living like that. And then what happens is that they are now forced to give this child everything they ask for because they are afraid of the child and people feel, “Oh your parents have money.” The parents are sitting down trembling home. Serious problems, Mr. Vice-President, and it is something that we must seriously look at.

The training or the qualifications of those persons that are supposed to be in clauses 38 and 39 of the amendment of the Bill, talking about their qualifications because they have got to now—the remit that is under them is to report on:

- “(a) the progress of the child;
- (b) the child’s compliance with the sentence and sanction;”—that is easy
- “(c) the care of the child;
- (d) the child’s education;
- (e) the child’s health and general welfare;
- (f) the child’s interaction with his family;”

You know personally how people could put on a good show, because they do not want a bad report, and as the probation officer gone all hell breaks loose.

- “(g) the most recent assessments of the child; and
- (h) any other issue which the Court deems necessary.”

Mr. Vice-President, that is a tall order, you know, for a child probation officer. That is a tall order. You could imagine he would have to have a support mechanism that he can call on a counsellor and call on somebody to do some kind of review. That is a tall order.

And a system where the Judiciary is already overstretched, and there are more cases that they could ever handle, and they do not have the support mechanism necessary and they do not have the budget, we need to get about a million probation officers to try to handle this situation of our children and our

youth in this country.

Mr. Vice-President, as I close, the idea of this amendment is good, the idea of the Bill is good, but that is only the symptom, dealing with the symptom. We need to set in all of the mechanisms to deal with the cure and get this country the way it is supposed to be. I thank you, Mr. Vice-President.

Sen. Sophia Chote SC: Thank you very much, Mr. Vice-President. I assure you that I will not be as lengthy as those who have gone before me, because I think much of what can be said about this piece of legislation has already been said. I have been a legal practitioner long enough to witness first-hand the brutalization of children in the criminal justice system, and I will give three examples that stay with me.

One was a case where police officers had gone to a home in Arima. In those days, if they found something like a firearm or a bit of marijuana, they would not only arrest the person who they thought it belonged to, but they would arrest the entire family. These police officers, in their wisdom, not so long ago, arrested a four-year-old autistic child and kept that child in a police station for several hours while he had seizure after seizure until a young female attorney walked into the police station picked up the child and walked out, because there was no other way of trying to resolve the issue.

The second example that stays with me is a case which I was sitting in court and it came up. Those were the days when Juvenile Court would be on a Friday in the Port of Spain Magistrates' Court. This young boy about 12 or 13 is brought before the magistrate. It seems as though at home he had used an expletive when speaking to one of his parents. Unfortunately, for him, you see, they knew people who worked at St. Ann's so they had this child committed there for I cannot remember how long, until some God-fearing person within the institution brought

it to the attention of the magistrate. Even before the magistrate, the parents did not think they had done anything wrong.

The third case is sort of funny, if it were not so sad. Little village—a young boy in the village sees a pretty girl living in a house. He assumes that his love for her is requited. So he goes into the yard to try to throw a stone at her window to get her attention. Big rich daddy, of course, finds out that there is this poor boy from the village throwing stones outside his house. He has him charged, taken before the magistrate. The boy got three years in YTC. Charged for breaking and entering, incidentally when there was no evidence of breaking and entering. So I have seen how children can be brutalized by a system of justice.

That said, when we see something good, we must give credit to those who have prepared it. This is an excellent piece of legislation clearly done with a lot of depth, thought, hard work, not only by the Attorney General and his staff. It is clearly work which commenced many years ago, and it is an excellent work product.

5.45 p.m.

I would just like to have some questions, and perhaps if the Attorney General is able to give his answers in his response, I would be very grateful. In the legislation there does not seem to be that greater distinction between Judges and Masters, because Masters are empowered to do things which Judges can do. Now what concerns me is what I see at 30(c), because it appears as though a Master is given the right to adjudicate in a criminal trial. Now it could be that I am misreading it, or it could be that there is some other explanation for it, but as I see it now I fail to follow why that should be the case. The other thing that concerns me with respect to Judges and Masters is who they will be answerable to.

If they are going to be selected by the Hon. Chief Justice then will their

terms and conditions be different from judges of the Supreme Court who are selected by the Judicial and Legal Service Commission? That is not clear to me from the legislation, and, in any event, is a Master the same as a Judge? And if a Master is the same as a Judge why have a Master? So that is a bit unclear, I am sure the hon. Attorney General can clear that up. When it comes to ancillary staff, I think it might be useful if we put in something in the legislation to suggest that the ancillary staff must come properly accredited, not only in terms of certification, and so on, but they must show that they have the adaptability to work in both rural and urban environments.

Now the go-to expert in the legislation—I am sorry if I sound a bit out of breath it is just that it is a bit late in the day—is a psychologist, but quite frankly I think we are missing the point, a psychologist is not a medical practitioner. A psychologist can only help you with things such as—well, perhaps I should not say it that way because it may sound as if I am trying to diminish what psychologists do, and I do not intend that to be the case. A psychologist can evaluate a person and tell you, well, what their IQ level is, what their triggers might be, and so on, and so forth, but what you may perhaps require in this situation that you are dealing with in the legislation is a psychiatrist, a child psychiatrist.

Now when you talk about interviews and who must be there for these interviews, may I respectfully suggest that we put in something for interpreters? Reason for that, we are awash with people now fleeing from all parts of the world, not only seven or eight miles away. So I think we should take that into our account. Education, it is a crime not to send your child to school, and I know that there is legislation dealing with that but I am wondering if that might be included in this legislation, because the Acts which are considered at the back do not seem to refer to that. I could be wrong. [*Interruption*]

Hon. Al-Rawi: You mean the education point?

Sen. S. Chote SC: Yes.

Hon. Al-Rawi: Sure.

Sen. S. Chote SC: Now the Schedule 4—and I am trying to go as quickly as I can, I realize, hon. AG, that your schedule must be very tight. If I may look at Schedule 4, you are talking about offences for which peer resolution is not available, so may I respectfully suggest that we add in there, terrorists activities, proceeds of crime activities, causing grievous bodily harm activities, because I do not think those offences would not fit in with what you have there.

[MADAM PRESIDENT *in the Chair*]

Now, in the wording of the legislation there are instances where you talk about psychological evaluations, and I think really what you want to say is a mental evaluation. I am not going to pinpoint it but I think you will have an idea of the part of the Act that I am talking about.

I appreciate that this is a huge project, and I do not expect that this project is going to get off the ground with all the judges and Masters and infrastructure, and so on, that you hope that it will one day have, but, certainly, I congratulate you. I think that it is an avenue for dealing with children, which is needed, and this is as good a piece of legislation as I have seen. Thank you very much. [*Desk thumping*]

Madam President: Sen. Sturge. [*Desk thumping*]

Sen. Wayne Sturge: Madam President, I too would be very brief in this debate. Firstly, I would like to commend on this legislation, and from my reading of it this came before the Parliament last year, and I believe it came before the Senate last year. I tried, when I arrived here earlier, to get my hands on the last version of this particular Bill, and I realize that, substantively, what we have before us today is no different to what the People's Partnership brought before the Senate, and before the

Parliament, in the last Parliament. So this, in essence, is a People's Partnership bit of legislation.

The only thing I see that is an addition would be Schedule 5. Schedule 5, in essence, did not appear in the last Bill simply because there was really no need to. Schedule 5, in essence, basically makes the point as to which bits of legislation, amended by virtue of the fact that this Bill would become law, that of course would have been implicit and subject to the rules of statutory interpretation, and, more particularly, the rule that deals with statutes in pari materia, and so on. So that whilst Schedule 5 is, in essence, welcome, it was not absolutely necessary because a lot of it, since this is an Act that deals with a specific subject matter, when one comes to apply the rules of statutory interpretation insofar as it would be incongruous with other pieces of legislation, the provisions in this Act would have prevailed.

Having said that, I agree with what Sen. Creese had said earlier in the sense that we are a society where we put the cart before the horse, and I say that because when we look at how children progress in the criminal justice system there is a very easy way to kill the giant while it is a baby. I am sorry for using that term but it is necessary. Now what we have here with this piece of legislation, quite apart from dealing with the family law aspects, it deals with aspects of what before this Bill would have been matters relating, or taking place in the juvenile courts of this country. And I marry that with what Sen. Samuel said about symptoms and causes.

Now if I can indicate, at the very early opportunity that I have now, it seems as though, and I have maintained this, and I have believed this for some time, and I remember reading the works of Talcott Parson's eminent sociologist on the family, and what he said about influence, and so on, and it seems as though we are a

society that somehow, with respect to the young people in particular, we are a society influenced by American culture but governed by English laws. It seems as though the law seems to be trying to catch up with the reality of the situation. Now there are easy ways of dealing with the problems in our system and the legislation is, in essence, a good start, but I think we need to start before getting to court.

Now I was hoping that when I got here we would have been provided with statistics in terms of how many persons are before the juvenile court in Trinidad and Tobago on an annual basis, and so on; sadly we were not given those statistics before we debated, so I can only go on the basis of empirical evidence. But let me just say, when one tries to understand the socioeconomic dilemma we find ourselves in, in the context of Trinidad and Tobago, there are several factors, and several factors we may need empirical evidence to assist us as to how we fix these problems. But let me give you what I know from the empirical evidence a very short bit, since I practice almost extensively in the criminal justice system. In 2013, I believe it was, I was part of a committee that journeyed into the prisons because there was an explosion of prison violence, and it was headed, the committee was headed by Professor Ramesh Deosaran, who is a criminologist. Whilst we were in the bowels of the prison, the Golden Grove Prison in particular, it is the worst place I have seen in my life, the worse; the absolute worst. Fifteen people in a cell, there are two beds in the cell and persons are suspended in mid-air sleeping on beach towels, and we had instances of person damaging themselves because sometimes because of the weight of the prisoner, the beach towel might give out during the night and he falls and he hits his head, and so on.

I cannot go into that in too much detail because we will be here for about two hours or so, but the Deosaran report makes very good reading. But there is something that is relevant to this Bill that I want to refer to, and from my

recollection when Professor Deosaran visited and we were there with him, Professor Deosaran tried to get some sort of empirical evidence, which again would assist us in the way forward, and there is something very interesting, when you look at the race of the persons in prison, one race is overrepresented; that is the first thing. The second thing is one may get the impression that a certain religious group is overrepresented; the truth is most of the prisoners are Christians, the second largest would be Muslims, and they are not Muslims who were born into Islam, but Muslims who were born into Christianity and converted into Islam.

6.00 p.m.

There were probably two Hindus from my recollection. But when we went on Prof. Deosaran had asked for a show of hands. There were probably about 90 to 100 prisoners and he had asked, “How many students here attended denominational schools, St. Mary’s” and so on and so on? That is how we called it. And only one person put his hand, a chap of East Indian descent. He is a Christian who I happened to represent and I would not go into too much detail. But everyone else attended a junior sec., a senior sec., government schools basically.

So, Prof. Deosaran and I were speaking about it and it seems as though there is a problem with the perceptions of students who sit this dreaded—well we used to call it Common Entrance. I cannot—what do they call it now? SEA. Because inherent in that system, at 11 or 12, whichever age you are when you sit it, is a certain alienation. So, 20,000 students sit, limited space at the prestige schools, St. Joseph’s Convent, St. Mary’s, Fatima and so on, and all the rest they—well there is a small, little section where you still feel happy if you get into Providence or one of those schools, but all the rest go into the government schools, in essence. But at 11 years old, when a child sits that exam and does not get into a prestige school, a

very powerful signal is sent to him or her. He is not good enough. So he ends up in the government schools.

I had a constituent from San Fernando West. I would not want to call her name, but she complained bitterly when her child passed for, I think, it was San Fernando West Secondary or something like that. And she told me about the horrors of the school and so on. And I said, well that is what your child passed for. You have to make the best of it. And she was trying to get a transfer and asked me if I could get a transfer. And I said, "I cannot." And that was last year. And she is a PNM supporter. She said, "But your party in Government, yuh cyar help meh?" I said, "I cannot and I would not." Because the truth is, if your child passes for that school, she has to go to that school. And she was making the point that some people do not actually pass for convent—"Like your daughter, Mr. Sturge passed for convent". And I did not have any help. I forgot the day when we were supposed to put children on the list. I forget things regularly and I did not put her name on the list. And I say, "well pardner, hear what happen. If you have to get in a convent, it is on your own strength." And I went the day with the belt—that was just a joke, the belt because I never hit her in my life.

And I have to make that point with respect to a point Sen. Samuel made. But she got into St. Joseph's Convent. And the thing is, I asked her, well, "What if you had passed for Mucurapo, how would you have felt?" She said she was not going. And you see the thing is, what I do in my practice quite apart from trying to ascertain what your defence is and so on, I try to get my own evidence. So sometimes when you come, I will ask you about your background and I realize everybody charged with a criminal offence seems to attend some junior sec. or some government school.

Now the point Prof. Deosaran made, it did not resonate with me, but it might

have some force. He was saying and he was saying “Sturge, whether you believe in God or not, religion serves a very useful purpose.” And he said, “Listen, in St. Mary’s and these other schools, if there is a statue of Mary and when you pass by it, you have to genuflect” and so on and so on. And they pray, morning, lunch, after lunch, evening, before they go home. I did that when I attended Belmont Secondary back in the day. But the thing is, back in the day that did not happen in Belmont Junior Sec. right up the road. It did not happen in Malick Senior Comprehensive. It did not happen in these schools.

So you have right and then when you leave primary school, you have the absence of God or the absence of morality and you leave them to their own, and then most of them, the other striking thing, is most of them come from single parent households. So we see right there, there is a failure of the institution we call the family and I was hoping we would have had some statistics so we would not have to limit ourselves to what the Chief Justice says every year, but it is alarming the amount of divorces we have every year. It seems as though the family is failing. But when the family fails, and the family being the microcosm of society, then we are in for trouble. When the family fails at a very early stage, it seems as though most marriages last less than five years. In fact, most last less than three. In fact, most people do not get married and you have all these unwed mothers, single mothers, two and three children, and unless there is a very solid character who takes up the role as stepfather, then you are in for trouble.

Because the reality is, when these single mothers with these three children, they have to go out and work. They do a CEPEP in the morning for two hours or three hours and then they have to go and work in KFC and flip some chicken, and be subjected all sorts of abuse by customers and so on. And when they come home they are not in the best mood to discipline children. But whilst they are away from

home and they are working trying to make two ends meet for the “pickney”, there is a caregiver in the community called the community leader. He is the father figure. He is the one who is idolized. He is idolized because he has four and five women, he has “bling”. I “doh” want to say wet man again because I will get in trouble. He has cars. He lives the good life and he is not Oxford educated. In fact, when you look at him, this role model, he has convictions. He goes before the courts, he kills his witnesses and he comes out. And that is who the children are glorifying. Legislation cannot fix that.

What I said some time ago on this very issue is this, we need more psychologists, particularly child psychologists and adolescent psychologists and less lawyers. [*Desk thumping*] Maybe we need to give an incentive so when people get into UWI they are guaranteed a job when they get out if they study child psychology or something like that. Maybe that is the direction we need to go.

And with all the lawyers we have, they somehow do not end up in the criminal justice system to help anybody. The criminal justice system is small. They go where the money is. So, “crapaud smoke we pipe all how yuh turn and twist.” But what happens now with these young people who idolize this community leader who has all this money. And when they want a Jordan’s, “he buy it for dem. Anything dey want, he buy it for dem. But one hand doh clap. But if yuh disobey, that one hand does slap. But dat is long time. One hand, the community leader, one hand doh slap again. He doh need one hand. He need one finger.” So he rules by fear.

So, let me just jump back to what Sen. Samuel said because I took issue. He said something about when we abolished corporal punishment. That came too late as far as I was concerned. When they abolished corporal punishment, I already was already a big man, so I did not benefit from it. [*Laughter*] No lie. Go to

Belmont Secondary and ask them about Wayne Sturge. I remember my last day of school the principal told me, “You Mr. Sturge, the highest you will reach, you will be shovelling garbage for a living”. He say, “But let me tell yuh what you really going to do. You are not even going to aspire to that where you are getting health benefits. You will be begging for five cents by the side of the road. And when ah see yuh, ah go spit on yuh.”

And you know the interesting thing, I raise this because—God bless his soul, rest in peace. I raise this because and simply because at that time we used to get “licks in school and like I use to get licks for everybody”. And I used to get blamed for everything that happened in the class because I was the clown and for all intents and purposes, I might still be a clown of sorts. But the truth is, with corporal punishment some people were singled out more than others and you felt that you were being treated unfairly. And I remember that manifested itself one day in a parent coming to school and disciplining the principal. The principal had to go and hide. With all the power he had, that is the day I triumphed. “Ah say, look at him, coward.”

But the thing is, the importance of this is, it was a good thing when we abolished corporal punishment. You know why? Madam President, violence begets violence. And when you use violence to correct someone, you are basically legitimizing violence. What you are saying, it is okay because it is taped sanctioned violence and that does not work.

I have the naughtiest children and I do not need a DNA test because when I see how naughty they are, I say that has to be mine. [*Laughter*] Even the little white one. But the point that I am making, as naughty as they are—[*Laughter and crosstalk*] I suspect Sen. Solomon because we campaigned together in 2010 [*Laughter*] and she was born a few months after. But the point I was making is,

listen, “with all the naughty they naughty and so on, I doh hit dem.” I have never hit one of them in my life and they do very good in school. If it is anybody to be blamed it is me because when there is a consent form to sign, I never sign it. I always forget when it is money or it is late, whatever. But that is me.

But think about the single mother who does not have support systems in place. In fact, the other day we debated some Bill very late. What it was? Not the procurement. Yeah. No. The SSA. I left my children and they were in the office until nine in the night and I had to scramble to get colleagues to come back to the office. And I was saying, “what kind ah lawyers you are? You all left children by dey self?”—to take them home while I am here. So if that is the case with me, imagine what it is for the single mother who has to work a CEPEP and so on.

I use that example to go into another area which was touched on by Sen. Solomon and it related to the Hargreaves chap who died in custody in St. Michael’s. I hope with this Bill we see the end of St. Michael’s. I do not want to say too much about St. Michael’s, but I hope we see the end of that place. [*Desk thumping*] And the family and the mother in particular came to see me some time ago about the issue. And that boy, that little Hargreaves boy was naughty, naughtier than—well not as naughty as my children. But the thing is, he drove his mother to her wits’ end and she brought him before the court as being, what is the term?—beyond control. So beyond control he ends up in St. Michael’s where he dies. And she tell’s me, she regrets that decision. That beyond control thing is another thing I have an issue with.

There is another thing I would like to raise before I forget. There is the issue of doli capax which deals with mental responsibility and the age of criminal responsibility. As it is we have the lowest age of criminal responsibility in the world. We are rivalled only by the United Kingdom and I believe Israel, and one

would understand why Israel would want to punish eight-year-olds for throwing rocks at tanks. So, we are in the same boat. And, I raised that issue when I spoke in the last Parliament, and let me draw two examples of—well let me not go into too many examples because the cases are before the courts. But in Trinidad and Tobago the age of criminal responsibility starts at eight and it is something we inherited from the United Kingdom from the 1400s. The English in 1925 raised the age of criminal responsibility and then I believe in the 1960s. Well, we have not followed suit.

So, I attended a radio programme at 102 on Abercromby Street sometime ago hosted Wayne Mystar who incidentally attended Belmont Secondary and he was, I think, a form or two above me. And he was saying, the police service is saying, maybe we should lower it from eight. And I said to him, “what utter rubbish”. And he was saying, in essence, we have to look at the reality because some of the children committing crimes are actually younger than eight, and it is not that they do not know what they are doing and so on. But that is a failure on our part. That is not a failure on the child’s part.

I bring that in and make reference to a lady, a lovely lady by the name of Hazel Thompson-Ahye who I met at the law school many years ago, I think she is still there. And she is the one who is championing the cause of raising the age of criminal responsibility. So, although that was not touched on today, I hope very soon, since we are these days dealing with the rights of the child and we are on child marriages and so on, which is a good thing because children should not be married, but also children should not be getting pregnant which is a larger issue than child marriage. Because even though you get married, you can still get divorced, but you cannot get un-pregnant. Well, you can expect your status has changed. You are now mommy.

6.15 p.m.

So, I would urge the Government, when they are bringing legislation to deal with child marriage if they can perhaps in the same time, perhaps meet with Ms Hazel Thompson-Ahye, who deals with that sort of thing, on doli incapax, and she has been championing this issue in the hope that we can raise the age of criminal responsibility.

So, what I said earlier in terms of the criminal justice system, we are going to employ 50 or so judges, in my view that is not necessary. Because, in terms of the numbers of children coming before the court, it is not that much, and if you anticipate it is going to be that much, then we are failing. Something must be wrong. We cannot cater for an exponential increase. So, I think what we do is, coming from my own experience, what we need to look at is the primary school systems, and perhaps every primary school in the urban areas should have a child psychologist to identify the children who are at risk very early, see what makes them at risk, if it is because they do not have food or whatever, what is the problem, and treat the giant while he is still a baby, so that he does not get in to the criminal justice system.

Now, we do not have a lot of offenders seven, eight, nine years old. There was one recently. I cannot talk too much about him. He was charged with joyriding, and whilst in custody he was sleeping, and apparently the police officer guarding him was sleeping, and he ran off, so he also got an escaping custody charge. [*Laughter*] I was upset that he was charged in the first place, because I felt that was a case where the Director of Public Prosecutions could have used the—oh, God, do not tell me it is five minutes again.

Madam President: No, I am just saying to be careful when you are—

Sen. W. Sturge: Well, I am not attacking, I am simply saying I was hoping the

director would have used his discretion, because I do not believe it would have been in the public interest to charge that child. And I have always advocated that the children who should be before the courts are the children who are of a violent disposition, where they harm others. Those are the children who when all else fails should come before the court.

As I touch on that I look back to Schedule 4, and I have to ask myself, No. 12 on Schedule 4 says “An offence under the Anti-Gang Act, 2011”, any of those offences you would not be subject to peer resolution. I respectfully beg to disagree, because a child who is a member of a gang, for instance, is not there on his own accord. There must be systems in place where that can be corrected where the child can perhaps be removed from that situation, and it is a better deal to put him under the peer resolution system. Because, interestingly enough, and I say this because of my experience in the criminal justice system. If he is charged with anti-gang that is a badge for him. And if he does not have to go to the “kiddy” court—because that is what they will call it, that is court for little children, that is not real thing. If he has to go to the real courts, that is a badge. He ascends higher. He has more rank. He is a ranker.

Sen. Small: He has pips.

Sen. W. Sturge: He has pips. That is unparliamentary language, but I was being chained up by Sen. Small. [*Laughter*] So, No. 12, I think, respectfully, should be out.

No. 10, should also be out, because that is not a crime of violence, so just sedition. In Trinidad and Tobago you do not need inciting to violence as an aspect of sedition. But I see sedition has shown up here and it also showed up in the SSA Bill, and I wondered why are we so focused on sedition when in the last 40 years, only one person has been charged with sedition? That is Abu Bakr. So, it is not a

crime that is prevalent. So, then why is it finding itself here? The only time something close to sedition came up was in 2011 when a little girl said things that may have constituted sedition against the then Prime Minister, and the then Prime Minister handled it by saying, look, I am not interested in pressing charges. Maybe someone should speak to her and so on. I believe that is the way, because the little child could have ended up before the court and they could have taken her the distance, and that is not how things should be done. As far as possible, from my own experience, the court is the last place you should see a child.

Now, it is also interesting that we set up all these court systems—and the irony of it all is that you may get the impression, and I told this to Prof. Deosaran, I said to him, I say, listen, 90-something per cent in the prisoners here did not go to privileged schools and they have one way, and so on, and I had to tell him—and I raised the point in an earlier debate—that it seems as though there are some children who attend privileged schools or privileged for whatever reason, do not end up in the court system, and I made reference to a chap who, and I would not name his race, was in the police station cursing the police, he was there for serious offences, and when I was hoping to get my money Monday morning for a court appearance he was free. So, not everyone is subjected to court, and that is something that is disturbing on the one hand, but on the other hand I realized that the powers that be, maybe they realized what is the use in sending this little boy up to the prison, they might eat him alive, and say, well, what we have up here is well done and he is medium rare. *[Laughter]*

So, I saw recently, and I think this is something that may be going in the right direction, we are possibly going to revisit the concordat system with the prestige schools, and I think we would be going somewhere. I had a dispute with one of my colleagues who lives in the UK and they have the same system where at

11 or 12 you are separated and you have this elite bunch and then you have just the rest. He was justifying it, and I said you are justifying it because your children go to those prestige schools, and maybe you should have a little more sympathy. And since I raised the point earlier that we are in essence a society handed down from the UK but influenced by American urban culture, maybe what we need to do in the education system is perhaps postpone that filtration system which is common entrance, what do you call it?

Hon. Senator: SEA.

Sen. W. Sturge: SEA. Because the Americans do not have it. You are filtered when you are 16 or 17 years old, when you do something call SAT. At that point I think the child or the student is a little more mature to say, well, I cannot make the grade to go to college, but maybe I can do a trade or something else. But at least he does not feel useless at 11, because a child feeling alienated and unworthy at 11 is not, I dare say, a good thing.

Now since the age of the definition of a child is now 18, we have another dilemma, because we have most people leaving school at 16. A very small percentage would get into A levels. So, the filtration gets worse. But then you have people leaving school at 16, and they are still children, they are not yet 18, and they have nothing to do, and the devil finds work for idle hands. So, maybe we need to find something, some system, I do not want to suggest national service necessarily, because that is also fraught with difficulties, I do not support it, but we must find something to do with our at-risk 16 to 18 year olds. Because of where we are in terms of the economic situation, even when they get to 18, it is very difficult for them to get a job, and that by itself is another issue.

But, the 16 to 18, from my own experience with the criminal justice system, that is where we see an exponential increase in terms of entrance into the criminal

justice system. So, we do not have many seven and eight year olds. We do not have many between 10 and 14. However, we have more of those than the under 10's, but when they get from 16, when they are idle and unemployed, that is where the problem starts. And when you get into that system—let me find the best way to say it without angering anyone, I will simply use a quote from his lordship Conrad Dublin in 1995, I think it was, when he said, YTC and St. Michael's, they are breeding grounds for criminals. That is the quote.

So—just a minute—yes, there is just one other point. And when you end up in that system and once you are, as the psychologists say, you cannot be much better than your environment, if you get into that system, until your family has money to bail you out, or wants to bail you out, because you might get your mother as surety and the mother will say, well, let him sit down and stew a “lil bit”. But once you are in that environment it is survival of the fittest, and you are exposed to even harder, more seasoned elements, and then you mushroom into something much worse.

I do not see it in the Act. I am not a family law practitioner. But, again, from what I have seen in prison and over the last few years, there were a few persons who died in prison, and when you hear the shout, what they were in for? Failure to pay maintenance.

Madam President: Sen. Sturge, you have five more minutes.

Sen. W. Sturge: Thank you kindly, My Lady—I mean, Madam President. I am hoping to see the end of this, of people being sent to prison for failure to pay maintenance. [*Desk thumping*]

Because when Prof. Deosaran and I went to the prison in 2013, there were quite a number, about 10/11, in a different section. I think they were kept in a place called the deep next to the two cells that housed the plus 15 insane persons

who, again, should not be in prison. They were mainly vagrants who were picked up. But, what disturbs me, over the years persons who are not criminals are being sent to prison for failure to pay and they end up dying in prison. It is not just one person. It happened more than enough times. In fact, once is enough. But, you see the thing is, logic—I mean they always say the law is an ass and sometimes you have to wonder.

Madam President: Sen. Sturge.

Sen. W. Sturge: Oh, I am sorry. But, logic would tell you, Madam President, if jail is hell on earth, or worse than hell, why would I want to go there? And if I can avoid going there by paying the maintenance, I would. And the fact that I do not must mean I cannot, and if I cannot, then what use is it to send me there knowing full well when I come outside I still have to pay it and it is still unpaid. That defies logic, but that is something that happens and it has cost us lives. And that is something I would hope—it is not addressed in the Bill per se, but I hope we can see an end to that.

There is one more aspect, and in my few minutes let me pay homage to Sen. Creese who raised it, and I intended to raise it, about alcohol. I had my first taste of alcohol when I was seven. I had an uncle who was a crazy person, and he smoked cigarettes—

Sen. Gopee-Scoon: He mad.

Sen. W. Sturge: Yes, I am related to you also, so you are also a crazy person. [Laughter] But, he was a crazy person. He smoked and he would drink—

Hon. Senator: You look for that. You look for that. [Continuous laughter]

Sen. W. Sturge: The short point is, I had to hide, and I took a sip of the beer and I started smoking the cigarette, and my grandfather was there looking on and I did not know. And I did not feel the brunt of my mistake until about an hour later.

Because I heard him quarrelling with his son, which is my uncle, I did not know what that was about. But at the end of it, he say, well, I have a drink here for you since you like to drink, and he poured out a Johnnie Walker Red and he told me drink that—he never hit me—“and ah take one sip” and it was like fire, and he said, no, I did not tell you sip it, I tell you drink it, and I drink all, but it was the last time. Because up to this day my body has an aversion to alcohol. So, I have to thank my grandfather for that. [*Laughter*]

But, what I want to say is, not all families—and I am going back to where I started—are equipped in essence to dealing with situations like that. So that I hope, I see we are going to employ about 50 judges and personnel and so on, I hope that these persons are really trained and really equipped to deal with family situations, and not deal with it in the way we have been doing in the past. We are 50 years behind. So, in that sense I commend this Bill, and that is all I have to say, Madam President. [*Desk thumping*]

Madam President: Before I call on the next speaker, I will ask the *Hansard* to strike off those offending words from Sen. Sturge’s contribution.

6.30 p.m.

Sen. Paul Richards: Thank you, Madam President, for this opportunity to contribute to this Bill entitled:

“AN ACT to make jurisdiction for all family matters and children matters exercisable in a Division of the High Court to be called the Family and Children Division and to make provision for matters connected therewith.”

It is a great honour to be able to contribute. I will be very concise, more concise than Sen. Sturge advised he would be. [*Laughter*]

Sen. Sturge: “Doh believe anything a lawyer tells you.”

Sen. P. Richards: I am learning that day by day. But I think a lot of what I would

have intended to say would have been articulated earlier on and let me at the start commend the hon. Attorney General and his team and those stakeholders, including the Children's Authority and the Joint Select Committee, who would have contributed to making this Bill. I am not legally trained in mind, but from my readings over the last couple of days, quite comprehensive and I think they deserve to be commended.

I would also like to commend what I think is a "red letter day" since my tenure began in this honourable Senate. I am sensing in this sitting a sense of commonality of purpose and I am putting a way of partisan politics for some reason. I think it is because of the interest of children that we are seeing a tendency to support for the Bill because of its importance for the children of the country and I think that deserves to be commended.

Let me start by saying, there is an old saying that says, "An ounce of prevention is worth five pounds of cure". And while this Bill and its intention is extremely laudable and commendable, I think we sometimes miss the boat in Trinidad and Tobago. We need this Bill because we missed the boat with prevention. We need 50 judges it seems, because we missed the boat with prevention. And to reiterate part of what Sen. Sturge articulated, if we need 50 judges, if we are projecting that that is what we need, it means that we know that we are failing. What are we doing about it? That is the question.

I recently encountered a 35 year old woman who stopped me in a mall and is begging for my help. She is 35 years old, to help her 19 year old son who is in prison for a couple of joints. I stood and spoke to her for a while and it turned out that, if you use some simple maths, she had him when she was 15. Her mother had her when she was 17. You see the generational cycle that is occurring. And that, if you go and talk to anybody, if you walk around the streets and the communities

in Trinidad and Tobago, it is happening much more than we would like to admit in Trinidad and Tobago. And that is the problem here. That is the real issue here.

In many developed countries and we like to talk about importing cultures and values from other jurisdictions, a lot of research has gone into the predisposing factors. I mean, this is not even new science, to at-risk behaviour and they are no secrets. What has happened in the UK for over two decades is, they have realized that there is a tendency for single mothers or families that do not have the support systems to produce children or offspring with a particular trajectory. It does not happen all the time. It is not absolute. Single mothers are a great resource as we have seen in Trinidad and Tobago. [*Desk thumping*] I am not in any way chastising single mothers, but the science is saying that if there is a single family home, single mother home, that there is a tendency toward a particular trajectory for that child in support in another place.

We heard and it is interesting that Sen. Sturge gave his story of his walk through, is it Belmont Secondary, Sen. Sturge?

Sen. Sturge: Belmont Secondary.

Sen. P. Richards: Belmont Secondary and your tendency to naughty behaviour and your introduction to alcohol and cigarettes at seven years old. But what was striking to me about that, is that many would have gone down that road and not ended up where you have ended up. You also spoke of your grandfather who was the intervening factor. Many families do not have that and that is the critical part of that story. And so they fall by the wayside predisposing elements and I think Sen. Stewart also alluded to some of it, in any at-risk situation are very well known families, peers socio-economic status/unequal distribution of resources; I hate the word wealth, drug abuse, media, pop culture, social media now, which is something we need to look at carefully in Trinidad and Tobago; culture,

educational access and process. And we spoke a lot about that today. And many Senators spoke a lot about that and self-esteem.

One could at this stage in the science create an algorithm, interview people and put their data and you can with some level of almost certainty predict who is going X and who is going Y. This is not new science. We know where the at-risk youth are. We know who they are, we know who will be predisposed, it is not a certainty who will be predisposed to criminal activity. And when we do not identify them, when we do not use the resources in the society of the state to remediate or intervene, we are going to have to add 50 judges to those 50 judges in five years. [*Desk thumping*] And we are going to have to add \$10million to the \$10 million if that is the cost of it today.

The hon. Chief Justice for the last couple of years has beseeched for independent resources, more resources. We are already seeing the effects of a struggling criminal justice system that have us being painted in the worst possible light, globally, where Remand Yard is concerned. We all know of the shortcomings of Golden Grove and the Port of Spain jail. Is it that we are going to continue to ignore the preventative measures or the interventions because we have spoken about them session of Parliament after session of Parliament, but, what are we doing about them? That is where the resources should be going most of all. Because all we would be doing is using the expertise and the brilliance of the hon. Attorney General to create more laws in the future to deal with larger volumes of criminality and it is a never ending cycle. When we can, if we think about it, pour the resources into prevention and intervention. [*Desk thumping*]

I am not saying this is not necessary. This is necessary now and it is commendable. But we can run parallel services and stymie this and hopefully in 10 years do not have to come back here and add 50 more judges to this. Because if

we do not stymie the creation of it, the criminal schools, as Sen. Sturge put it, we are going to be back here creating more laws for expanding criminality in creative ways and wasting our human resource in Trinidad and Tobago. It is time we start to use the science and deal with it.

It will be remiss of me not to stand here or to stand here and not talk about the shortcomings of our education system and I will talk about it every time I stand here, because we are not doing enough about it and the fact that we propagate the elitist colonial [*Desk thumping*] inheritance of prestige school as opposed to Government Secondary School. And I beg to differ with many who keep saying that we do not have the data. We have the data. We have the data from Prof. Selwyn Ryan, we have the data from Prof. Ramesh Deosaran, we have the data from **Prof. Roche Suji** from USC. There are tons and volumes of research papers done and sitting there collecting dust at the tertiary level institution in Trinidad and Tobago [*Desk thumping*] that are not being accessed and applied. We are using subjective interpretations of what we feel to provide interventions. And that is not productive.

This country is a country filled with brilliant people, people who are willing to work in the interest, but why are we not getting the point of where we need to point our resources. We have to change the approach. We all know of the old saying that says: "if we keep doing the same thing the same way, that is the very definition of insanity". But we keep doing the same thing the same way over and over. Laws and amendments to laws are important, but the interventions and the correction of an education system that is obviously not, one, keeping up with the times and, two, propelling us into a future of a different kind of global spectre is something else. Right now we in this country are struggling to come to terms with the fact that our greatest resource has a \$30 benchmark value, not likely to go back

to \$120 in the near future. And even if it does, what are we going to do, take it and squander it again? [*Crosstalk*] I would not mention the Trump factor.

No, but, at the end of the day how are we approaching the future differently. As Sen. Sturge indicated also, we are training more and more attorneys and we all know the science indicating that an integral part of any educational jurisdiction, one, for behavioural intervention, behavioural identification, assessment and radiation is psychologists. And Sen. Chote let me just add, the term “psychologist” is pretty broad. There are clinical psychologists who can also identify, remediate and prescribe medications when necessary. And the ideal thing is actually for something that is called an IPO or a team, a child is never remediated by, identified by one person, it is too subjective so. But we need more psychologists.

My understanding is that we have three or four school psychologists for Trinidad and Tobago. It has been so for over—[*Crosstalk*] Well whoever is in charge, Sen. Sturge, it has been so for a while. So the casting of the blame thing is not going to help it into the future. We need to understand what works in other jurisdictions and not just quote Japan and quote Switzerland and quote Australia. We can apply it right here, we are still a relatively wealthy country in terms of resources. But how we are applying those resources?

The aspect I want to also touch on quickly, is the issue of, once again the Judiciary and the lack of resources and the fact that, why we cannot come to grips with what is, grant the resources and put monitoring systems to ensure progress as with every other sector. Is the Judiciary exempt from productivity levels, from monitoring, from assessment of whether the processes and productivity is at the level it should be. [*Desk thumping*] And this is not to cast any aspersions as to hon. Chief Justice to what is happening now. I am just saying like any other sector that is to be assessed it has to be subjected to that kind of enquiry or scrutiny,

because of its critical importance in the stability of the state; because of its role in society; because of what it stands for to the common man. And I do not get these days that with the remand yard conversation so rife in the national domain that the public feels that level of confidence.

The disparity between white-collar crime and blue-collar crime and our lack or seeming lack of ability, because it seems, as I said before in this honourable Senate, there is only one name associated with white-collar crime in Trinidad and Tobago. And now she is being sent for an evaluation. Apparently we have no white-collar criminals in Trinidad and Tobago. [*Desk thumping*] We are a wonderful state. We have had from Tesoro come right down to all the others and not one conviction. We are a shining example for the globe—not one, barring that one individual. What does that say about us? When Madoff and whoever else have already served their terms in other jurisdictions, it is a stinging indictment on all of the institutions in the criminal justice system.

And it says a lot about us as a country. The justice system is certainly from public perspective, not equal for all.

6.45 p.m.

I said I was going to be short and I am going to be short, or concise. Another point I want to make is—and I am happy with this Bill because it is in the direction of understanding that children are not adults. Whether you feel they committed a crime as heinous as murder, an eight-year-old is not an 18-year-old. [*Desk thumping*] A child's prefrontal cortex has not been developed where they can reason with any level of certainty. They do not understand. Moral judgment has not been developed in them. Proper reasoning and abstract thought have not been developed in them. They easily mistake what they see in a video game and real life for the same thing without understanding the consequences for their lives,

or for the other person. They cannot be judged on the same level. In addition to which, they have gotten to that point not because really of their own failing but because of a lack of guidance from an adult. And we as a society are judging an eight-year-old, or 12-year-old even, on the same scale as a 25-year-old? It means we are uncivilized because that is a child.

I am not saying excuse the behaviours of children. They need to be held responsible and taught consequence and responsibility, but moving in the direction of a juvenile criminal justice system, as this Bill does closer to that, is extremely commendable as a country and as a society, and that is why I am extremely pleased at the level of lack of politicking in this honourable Senate today. People have raised concerns in a cogent and responsible manner, but there seems to be a commonality of thought of the quality of this piece of legislation and that is very commendable. Let us use this momentum and start focusing on the science and the research that we have and apply it to other areas of progress and development in Trinidad and Tobago.

Sen. Khan spoke last week Thursday, I believe it was, and spoke about the fact that simple pieces of legislation are inexplicably stuck and lapse when they should be simply passed because of partisan politics not necessarily in the interest of Trinidad and Tobago, and the support I have seen today for this Bill certainly is a clear sign that we can put aside our differences. When something is good, say it is good. When something is poor, say it is poor in the interest of the people of Trinidad and Tobago.

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

Madam President: Sen. Small.

Sen. David Small: Thank you very much, Madam President, for giving me the opportunity to join in this debate. I want to say firstly, I think I want to echo the

comments of all the previous speakers regarding the Bill itself, the clear amount of effort and the process that it went to get where it is at. It has been an interesting debate because I have listened intently and I say this. I have only been here a short little while and it has been one of the few debates where we have actually focused on the issues, and that goes well for the future of this process, but I always have my own way of putting things.

Given that I am a living, breathing oxymoron according to one of the previous speakers because I did not go to Government school, yet somehow I did a lot of my studies at Oxford. I hate that phrase that you are a product of your circumstances. I reject it. I reject it totally. I was blessed. My mother and my father were there throughout my childhood, but I grew up in a place—I started my life in a place call Rose Hill, and very few people here would know where that is. So that you are not a product or your circumstances. You can make choices about what you want to do with your life, but you need guidance. So I am one of those that not because I have done it—and I always tell people it is not easy.

Last time, Madam President, in this Senate, I made a comment about haters and I said that a hater will see you walk on water and say is because you cannot swim. This morning as I was walking into the Chambers, the building here, one to my very early haters, I passed him this morning and I said good morning, and he continued to just act as if I did not exist. I always remember I have a good quote that says that there will always be haters, and the more they grow and the more you grow the more they hate, and the more they hate the more you grow. So that people want to be how they are, but here is what, I am a humble soul. You do not like me, I really do not care but I will tell you good morning. It takes nothing. It takes nothing from me to be polite. It takes nothing.

Madam President, on this Bill I just want to just go in a different direction

slightly at the beginning. I want to make a quote here from the United Nations Fact Sheet and Juvenile Justice, and I want to make a couple of quotes here which I think are appropriate. I quote:

- “• Youth are disproportionately represented in statistics on crime and violence, both as victims and as perpetrators, and in many developed countries violent crimes are being committed at younger ages than in the past. Moreover, there is growing concern that, in some countries, the proportion of violent crimes committed by youth has been increasing...
- Though poverty and unemployment are not, by themselves causes of violence, they become important factors when coupled with other triggers such as lack of opportunity, inequality, exclusion, the availability of drugs”—the availability of—“firearms, and a”—general—“breakdown in”—social—“justice...”

Now when you—and this goes to the point that Sen. Richards just made. There are a lot of information out there about what are the causes of these things, and if you delve down deeper into these documents, here are suggestions about how you can treat with them. So I agree the legislation in front of us is important. We have to do it, but we must also—you know if you go to the doctor and you have an ailment there tends to be more than one set of medication prescribed. So that you have to have a mix of reactions.

I also, Madam President, in doing my research for my short talk here this evening, there is an interesting statistic especially in the USA from the United States Department of Justice about youth crime, where the youth crime in areas has been trending downwards, but as it has been trending downwards from the 1990s when you had youth crime the split between male and female was about 40 per

cent female and 60 per cent male. Forgive me. It was 28 per cent female and 72 per cent male. Now as of 2014, it is 60 per cent boys and 40 per cent girls.

So it seems that a lot of the youth crime now, while the total volume has come down there are more girls. And anytime you go on Facebook in Trinidad and you see the wonderful school videos—here where that is happening—there seems to be some empirical thing happening in the system, in the society, where girls seem to be much more active in youth violence. This is not my area. This is why we need the psychologists, all the people who are trained in these areas, to help us to understand what is causing the increase in violence that we are seeing, and I think that is the direction that we have to go.

So that the legislation is great. I support it. I am going to vote for it, but here is what. There are other things happening that we need to also be focusing on and putting the resources on, and I also believe that we have the money. Some Ministries get some huge, huge, huge—I do not see why the child agency has to be struggling for funds. They need to probably double or triple the amount of staff that they have. They need to be resourced properly. That is an easy fix as far as I am concerned. It is an easy fix, but I am not the Government. I am not in charge of the resources and I do not know what the universe of demands is on the Government at any point in time, and I will not go that way.

So that, Madam President, I think it goes without saying that this Bill is a high priority for everyone here. I think it reflects a commitment to offer the promise of a better future to children and to families who have endured experiences that many of us, luckily, will never face. In fulfilling that commitment, it is important to note that the Bill before us is part of what I will say is a wider support system that we recognized that there is a lot of things, what is called the social safety net, to support people and families, but we still need to do

more.

I also think that, Madam President, this Bill will deliver better support for families, legislating to break down barriers in bureaucracy and delays which really stop vulnerable children and families getting the help that they need in the quickest time possible. This is part of the problem we have now. The help is available, but the gap for them to get the help is the problem and we have to really work at closing that gap. So I am hoping that with the new structure it will speed up the proceedings, and those who really need the help can get the help that they want in a time that it really becomes useful.

Madam President, I also quickly looked at the provisions and peer resolution and I think that is actually pretty progressive as we seek not simply to punish young persons who have committed infractions, otherwise you could end up with a whole group of naughty, grumpy children, or NGCs as I call them. These children can exhibit many, many types of negative behaviours such as arrogance and disrespect for their superiors. What will be needed to deal with children like that in a case like this is to provide some gentle but firm guidance to these NGCs—naughty, grumpy children—so that they can see the error of their ways and recognize that they can re-join the fold of the family if they demonstrate some humility and provide some apologies for their errant actions.

Often, Madam President, naughty, grumpy children act out and claim that it is their way of providing criticism, and that the system is against them, but I want to sharply focus this. The President of the Industrial Court in an article just this Saturday in the *Newsday*—and the headline of the article was “Industrial Court slams claim of bias”, and there are some power stuff in there. In the article, the President of the Industrial Court was going down the road of saying that those who are:

“...seeking to advice arguments on the workings and operations of”—any entity—“must not seek to diminish the independence of”—that entity.

Any entity would welcome constructive criticism, but I wish to quote and this is instructive from the President of the Industrial Court, and I quote:

“...boundaries between criticism and seeking to influence outcomes must not be blurred.”

And I want to say it again.

“...boundaries between criticism and seeking to influence outcomes must not be blurred.”

If you want to criticize give it constructively, but do not try to criticize by trying to run the process because you are not in charge of the process. I want to go on quoting, Madam President, of the High Court said and I quote:

““One may disagree with some rulings of the Court, but to seek to impugn its impartiality or diminish the importance of its role and function will not be countenanced,’...”

And I say that, Madam President, because I have a view about when people act out, and whether they be children or adults, they need to be corrected and there are ways in which everyone could be corrected. Some of those require from family actions, some require extra family actions.

On the issue of speaking out, I also noted last week a letter from a citizen who wrote I think to the *Trinidad Guardian*. I cannot remember the headline, but there was a letter to the newspaper where essentially the person is arguing—it was a young lady—that parliamentarians do not even deserve the money they getting now, and the gist of the argument is that I am a citizen, services do not seem to work, I am not getting good roads, good health service, reliable postal service. If things are not working, on what basis are parliamentarians—Madam President, I

digress on this only to make one point.

That is somehow we are failing in communicating the various roles of parliamentarians. We are failing on that, and that the structure of governance in the country, people have to understand there is a difference between the Executive and the Legislature, and they perform significantly different roles.

And because of that seeming failure, parliamentarians are lumped as not being deserving.

7.00 p.m.

As I continue on the thread of fixing things, I believe the new Family and Children Division structure is likely to be more efficient, flexible and simple of a court user to understand and will promote increased judicial continuity in managing cases. For people who have a matter now or they would like to file a matter, they do not have to worry about going to the Magistrates' Court and interacting. Because, Madam President, if as an average person, you have never had some free time on a morning and gone to the Port of Spain Magistrates' Court or gone—just walking in there, it is a different experience. Just walking into the Magistrates' Court and you are surrounded by people that, on an ordinary day, you probably would not want to run into, much less in the night time. I tried to describe the feeling. It is challenging. Having a family court, hopefully in a different building, will allay some of those interactions.

I also enjoy the provisions inside of the Bill with regard to protecting people's personal information. That is critical. But also I want to talk about what I call the aspirations of children. A couple of days ago was Father's Day. I have—a proud father of two boys, pre-teens and it is a hard job. Because for those who think that I am underpaid or I do not work hard enough, I struggle to get time with them. I really, really struggle. I heard Sen. Sturge talk about support systems. If I

did not have the support system, I do not know how I would function, just could not work. It could not work because of the hours I keep. I run 17-, 18-hour days every day. Every single day, I am up at 4.00 and I invariably do not get to bed until 11.00, 12.00 at night. That is just what it is, every single day. And you know, the average person probably does not understand how much effort it takes to do what I do. So then I read people talk about—say other things, I respectfully disagree, respectfully.

But we should all be determined that children, whatever their background, whatever their circumstances, deserve the opportunity to realize their potential to be successful. We, here as the adults and as legislators, have the responsibility to look out for the most vulnerable in the society and to not only protect their welfare but safeguard their interest for the future. That is why I believe the measures in the Bill are so closely intertwined with my thoughts because as a person of compassion, I am fully supportive of those measures.

Madam President, I also want to say that while the Bill has specific provisions to deal with children in the issues with dealing with drug treatment and children who have been exposed to drugs, I also want to say that sometimes or a lot of times, our systems, I believe, do not have adequate plans in place to deal with those who have long-term health conditions. Because of the life a lot of children have been living in this country, there are young children who have diabetes, there are some young children who have hypertension in their teens and I am not sure when you have a child who has, what I would consider to be a potentially lifelong health condition, what provisions have we made to make sure that while all the other processes are going on, that they are being properly taken care of? And that is one concern I have, Madam President.

In supporting this Bill, I am as keen as the Government for it to make speedy

progress to being implemented. However, I hope that the Government is left with no doubt, there are a couple of issues that I and several other speakers have indicated we would like looked at.

I now turn to children and safeguarding their future. Nothing can be more important than safeguarding the protection of children, especially those who are at greatest risk or are most vulnerable. Sadly, we have heard of several examples throughout the afternoon here, from this morning, about all sorts of horrible, abominable things that have happened to children in our country. And at the end of the day, there is a lot of, particularly social media these days, all sorts of things end up and then by the time the story gets there and someone is actually arrested and then they get bail, and then it will and then it will and then you hear nothing about it. So somewhere along the line, the system is failing our children, we are failing our children and I am not saying that we should be draconian, but somewhere along the line, those who are perpetrating these crimes are not being punished.

I want to talk about crimes because as I would normally say, there are things that I would not speak about, but as we are keeping this debate focused on the issues, I am happy that Sen. Richards raised it, because there seems to be only one focus on one type of crime in this country, white collar crime does not exist. Why is it that people who are perpetrating real, real heinous abominable crimes in this country and by the crimes they are perpetrating, they are effectively removing food from the table of people in this country. I keep saying it and I will keep saying it. People who are perpetrating financial white collar crime are taking money away from the State and away from the mouths of people who need it. I see too often too many people I run into are struggling to keep everything together on a daily basis, struggling to hold it together. While some people, or probably more people,

are living the fabulous life and there is absolutely no penalty. FCB IPO, HCU, Clico—the whole shebang, nobody seems to ever get caught and be brought—I just do not—it boggles my rational mind.

My good friend, Sen. Mahabir, told you about a guy called Raj Rajaratnam who is serving at the pleasure of the United States Federal Department of Justice and another guy called Allen Stanford with the biggest Ponzi scheme. He is only serving 125 years. [*Interruption*] Only 125 years and they have seized all of his assets and all of his family's assets. I know the hon. Attorney General was looking at civil asset forfeiture. It is going to be coming and I am right behind you on that because people do not get involved in crime just to collect money, they want the things that money can buy.

So, Madam President, I think that we always have to understand that crime—there is a cascade of crime, so that when we only deal with this part of it, we are not fixing it. So there is a cascade of crime and I mean, there is enough—Sen. Richards has spoken to this—enough empirical research to help people understand what happens with crime, which is why—probably I watch too much TV. I watch too many movies and the big guys are there, they are always going for the jefe, they are never interested in the little guys. They are always going for Mr. Big. I do not want to talk about, in Trinidad, what happened when they went for Mr. Big because he was not anybody.

But the idea is you go for the big guys because the small guys are the functionaries, they are not the problem and they are easily replaceable and this is the problem we have. I think Sen. Sturge, in his talk, pointed out that the young jefes, the young generation is there and they are now getting their stripes and they are feeling good because they are seeing the jefes living good and they want to live like that because that is the person who they see themselves aspiring to. And

perhaps, part of the problem in the country is that we glorify the negatives. I always give experiences of positive things that I have experienced because we tend to glorify the negatives in this country and there are so many positives. So, so many positives and I believe we should work more on that. The press has their job to do and I have mine.

Madam President, you would have heard me on more than one occasion in speaking in this Senate, I am driven with a sense of purpose and I am relentless in my personal alignment with excellence and importantly, I have learnt to pay no mind to disimpassioned, impotent haters because I cannot deal with negativity. I cannot deal with it. I deal with facts and I call it as it is. We have challenges in this country. It requires focused action. We as adults and citizens, we are failing the young generation. And I always sit back and I tell my boys, I say, "Listen, daddy cannot keep up this pace forever. At some point in time, you need to be feeding something to daddy". But if I do not do my job properly and I do not prepare them for the world and I do not give them the support and help them along, then I am hurting myself. It is my job and my responsibility as a parent. When we roll that up into a professional responsibility here, we have a Bill here that is saying, we are going to put systems in place to make sure that for those who are falling off the rails, we can try to see how many of them we can recover and at least have a system that they can be treated with fairly. All I am saying is, can we take it back, this step here, we try to catch them before they fall off the rails and that is what is needed.

So I support all of the comments that have been said here today, that we have to have a suite of solutions to deal with the problems that we are facing. Crime is a societal problem. There are issues in the homes in this country, but here is what? We need some more compassion. We need compassion in this society.

We cannot all want to have everything our way. We have become so commercially oriented in this country and everybody is only driven to see what they can get for themselves and simple acts, I try every day. You open the door for someone. You just try—if all of us went out one day and say listen, let us all do one good thing for someone else and expect nothing in return. Do it, just do it and expect nothing in return, you generate a wave of positivity, but too often we are caught up in our own selves and we are above it. I think every member of staff would tell you I would walk in here and I would talk to everybody because I do not know any better because, Madam President, I am from the other side of the rails. I grew up simple and humble. I got plenty licks in school. My mother beat me with the pot spoon too, the hanger, whatever she could get her hands on, I got plenty of that.

But here is what, I understand what it is as a person because I saw the rails. I was this close to the rail and I saw what happened, how easy it was to get over the rails and my parents tried their best to keep me on this side of the rails. I went to Government school, I did what I did and slugged it through and if you really work hard in life, nothing is out of your reach but you have to be willing to do the work and that is part of, I think, the work ethic. We are struggling to instil that work ethic in people and understand that if you want to be successful at something, it just does not come, you have to be willing to do the work.

So, Madam President, I want to conclude by reemphasizing my commitment to supporting this legislation. I believe that it is targeted at leaving no child or family behind. I am confident that we all here share the same desire to improve the life chances of the most vulnerable children and families and that Bill represents an opportunity to dramatically improve their fortunes for the future.

With those few words, I want to thank you, Madam President. [*Desk*

thumping]

Sen. Jennifer Raffoul: Thank you, Madam President, for the opportunity to speak. As always, it is a pleasure to be here and to speak to all of you and I want to start with commending the people who wrote this Bill: the technical drafters, the UNDP who worked on the Peer Resolution courts. I think the Bill itself is fantastic and I really believe in commending where commendation is due. I think it is a positive step forward for our country.

I would also very much like to agree with everyone who has spoken on the need for greater attention to rehabilitation and to prevention. And I would like to, as I always like to, speak here with a sense of sharing some technical advice in a sense of collaboration. I would like to give some suggestions on financing mechanisms that we can use as a country so that when we agree on things, we can take it that step further.

I want to speak briefly on the issue of duplication of resources and just to further add to the statistics that have been discussed already and also to commend the Children's Authority. The Children's Authority, they play the central role with co-ordination of resources. The Office of the Prime Minister is in charge of strategy and the Children's Authority is in charge of implementation and the Ministry of Social Development and Family Services, a few other Ministries help to give grants to different needy families and children.

Regarding the Children's Authority, they said that they had 5,300 reported cases last year of children needing intervention and we met with them for the human rights Committee recently and the day that we have met with them, they said that they had 30 reported cases that day alone of child abuse and children's homes needing intervention.

7.15 p.m.

One thing they said that stuck with me is that they said that regarding the children's homes, some of them were so bad that they try not to direct children to go there. One in particular that was mentioned here today, the children that are sentenced to go there are almost guaranteed to be raped if they are sent there as part of their orientation by other students, that there is a really a grave need for greater intervention for our children in Trinidad and Tobago. Additionally, there is no placement options for mentally ill children and there are very limited resources for special needs.

Regarding duplication, the Ministry of Social Development and Family Services receives \$10billion annually as part of their allocation and the Ministry of National Security a similar value. Recently, the Ministry of Social Development and Family Services said that about half of that allocation goes into staffing and the other half goes into disbursements, in terms of grants.

According to our budget estimates, about 37 per cent of our GDP goes into our social safety net, which is a quite high figure internationally. The problem though with duplication is that despite all of this value that is invested, the outcomes are very weak. We have a lot that is actually allocated but the impacts of that investment is again, for lack of a better word, weak. So we have several different Ministries working on similar programmes without necessarily collaborating between them and the Children's Authority is really trying to spearhead this collaboration very positively and very effectively so far. But while it is still going through this process, the duplication still exists, and again, I commend the Government because having reduced the overall number of Ministries has made a fantastic effort, in terms of preventing the ongoing duplication and making sure that there is more efficient allocation of resources going forward.

Despite the fact that we have one of the highest GDP per capita values in the western hemisphere, the value of the support grants from the Ministry of Social Development and Family Services to children with disabilities is only \$1,200 a month per family. So we have so much wealth. Again, I agree with Sen. Richards who said that we are still a very wealthy country. Despite the fact that we have a deficit, our net revenue has still been quite high and quite significant over the last few years, and the problem is that our expenditure has gone up significantly more than the increase in revenue. But our revenue has still been higher than it has been for decades previous. So our overall revenue is still so large but our expenditure is more than that. So it is not necessarily that we have had a recession but it is more of a deficit. And the fact that we have this deficit means that we have to be very creative in how we structure our economy going forward and how we get back to a place of equilibrium and how we make sure that in doing so we retain our social safety net.

There is a foster parent stipend, which is TT \$2,000 a month, supporting foster families that will foster children that are in need, but it has not been distributed for the last few months because there has not been that allocation available, and the value of our food card is between TT \$450 and TT \$700 a month per family, depending on the size of the family. So still, the fact that we have so much money and the value of these grants is still so low. So we need to make sure that we strengthen our social safety net to make sure that we have less duplication, less money going into staffing and administration, report writing and more going into actually increasing the value of grants that are available to families.

As I said before, I wanted to focus on solutions so I will be brief. The first solution that I see is social impact bonds which I had spoken before about. Social impact bonds are an innovative, financial instrument for development. They work

in partnership with the social sector, so NGOs, as well as private sector intermediaries. So Government saves investment of putting out an outflow and it is incumbent on the partnering agencies to prove that there is benefit from the programme to have a reimbursement from the public sector. So social impact bonds are similar to public/private partnerships but it is more social sector oriented.

Earlier, the issue of domestic violence came up and I wanted to again reiterate the example of the Citizens Security Programme. The rate of domestic violence in partner communities, via that programme, went from—I do not remember the exact number but it decreased by half as a result of the programme, the intervention, and the rate at the end of the programme, or when the results were measured, was lower than the national average and these are communities where the initial rates of crime and violence were very high. So for the rates of domestic violence to go to lower than half the national average really demonstrates the impact of NGOs and their effectiveness working in those communities.

Recently I, as part of our human rights committee, suggested that we take a very proactive look at how we can strengthen human rights in Trinidad and Tobago, rather than taking the traditional look that the committees tend to do, looking at the past and questioning authorities on what has not been done well.

In addition to that, we also look at what can be done positively going forward. So looking at the experience of other countries in the world that have used social impact bonds and where it has worked well. So I made the suggestion to my committee and I was absolutely thrilled that it was received well and that the fellow members of my committee agreed that it will be great to receive suggestions from other international agencies about who we could invite to speak with us about social impact bonds and have this looked at in more depth. Can we adopt this approach in Trinidad and Tobago?

So I was thrilled at the level of collaboration that I saw in that committee and for me that is one of the highlights of being here for the last eight to nine months, as witnessing this collaboration from a very, you know, experienced place, as opposed to being a spectator and watching the news every night. The media sometimes portrays politicians as being—they unfortunately show the little snippets of drama, which is so unfortunate, because sitting here for so many hours you see that everyone really is very collaboration-oriented and that, to me, has been the most beautiful thing being here and seeing that there is genuine collaboration. So, I have so much hope for my country and it is because of the collaboration I have witnessed here over the last eight to nine months.

The second solution that I would like to suggest is a grant available, through the Inter-American Development Bank. I worked on this grant several years ago when I was there and it was on social safety net strengthening, specifically addressing this aspect of duplication.

It was a policy-based loan, which is essentially a grant. So the procurement legislation that we debated last week was actually brought forward by the IDB as a policy-based loan. Policy-based loans are normally given to countries that are in dire need, usually as a result of some macroeconomic shock or some large debt ceiling. They are not given unless it is in exceptional circumstances. And given that we have such a large deficit, I think we might be eligible.

Policy-based loans are very unique, so they do not go to fund a programme, per se, but they go to all-over budget support. I do not remember the exact value of the social safety net project that was approved. I think it was similar to what the procurement project was, which was about US \$300 million, which is about TT \$2billion and that goes into all-over budget support.

The condition normally is that the country would have to pass some kind of

legislation. So for example, if it was on climate change, that we would issue some kind of climate change legislation. So it depends on the specific sector and the project was already approved by the IDB several years ago. My understanding was that there were some change in personnel at the Ministry so the project just never got off the ground but the resources are already approved and they are just there waiting for us to start the conversation again. So, it is a large value of resources.

It was already designed to look at this area of duplication and strengthening the social safety net for the population, making sure that the grants available through the different Ministries were increased and that there was going to be a greater number of specialized personnel. So, for example, there is a lot of staff that are basic level staff but not necessarily specialized staff in the different Ministries. So the intention was to make sure that there is an increase in the number of specialized staff and a reduction in the number of Ministries working on the same issue but having it in a centralized place and increasing the value of resources. So that social safety net policy-based loan was a large value and I think would have a lot of value for Trinidad and Tobago and it is something that I suggest that we look at going forward.

That is it. I wanted to be concise and to be brief. Thank you again for allowing me to speak, Madam President. Thank you all for being so collaborative. [*Desk thumping*] Again, I would like to commend the people who wrote this Bill and worked on it, all the different committees and all the different personnel. I think it is a step forward for Trinidad and Tobago. Thank you. [*Desk thumping*]

Sen. Wade Mark: Thank you very much, Madam President. I join this debate at this time to ask the hon. Attorney General for clarification, information on several matters that we would like him to clear up before we get into the committee stage

of this Bill.

I would like to begin my contribution, Madam President, by looking at a very famous calypso, which was rendered by a very famous prolific composer. He wrote back in the 1980s a very, very, very powerful number entitled “Think about the children, not later but now” and I refer here to this great composer who has now gone to the great beyond, a very talented and prolific composer, the late “Merchant”, Dennis Williams.

Madam President, he told us about a story, which will unfold as I get into my contribution, about Betty Lou and Sam and their six children, a family ravaged by abuse and neglect. And it demonstrated, at that time, a very sad commentary about a dysfunctional family, where the parents were always cursing and fighting in front of the children and leaving them at home alone as they go out drinking and feting.

And, you know, 36 years after, this song was rendered back in the 80s and had we listened to Merchant and his wonderful lyrics when he said, among other things: “What kind of children will they grow up to be if they are not brought up properly? Where is the love, care and attention these children need? Betty Lou and Sam better take heed and think about the children not later but right now.”

Madam President, it tells us that in Trinidad and Tobago, back in the 1980s, the poverty, the dysfunctionality, the social delinquency among young people are still with us and even worse today. And whilst we bring forward legislation which we have participated in formulating, legislation that is designed to provide a new approach to what is called rehabilitation and to give a more solutions approach, as is stated in the Preamble, one of the areas that we must pay attention to.

7.30 p.m.

When you drill down to what is causing the crisis in our society, we would

identify, Madam President, growing income inequality in our nation and rising wealth disparities. I think that when you boil down, as we would say in local parlance, the “bhaji”, that is where the problem lies. And, of course, in this society we have to develop whatever solutions we can, and I think this is an effort by the Government coming, from the backgrounds of the history of this Family Court Division, or Family and Children Division, is not something new. It has been with us for some time but, as I said, from Merchant 36 years later, we are still in a very sad place.

I was reading somewhere, Madam President, where it was identified that there are several ways of tackling crime in countries like ours. I was also surprised to see in the newspapers recently, some *US Gazette Review* identifying us, Trinidad and Tobago as one of the 10 most violent countries in the world, where in terms of crime per capita or per head, in terms of inhabitants, it is something like about 30 to 100,000.

Recently I read where the Minister of Social Development and Family Services, indicated in a debate elsewhere, that poverty levels now stand at 24.5 per cent in Trinidad and Tobago. That is a bit shocking to me with all our wealth, all our income safety nets that we have in this country, a quarter of our population, experiencing poverty, and I think they have some benchmark that they use. I think you have to be working for about \$1,000 or less, in order to fit into that particular category.

I remember doing some research some years ago, because the information is so poor, the conditions of, I think, it is the conditions of living or survey of living conditions, if I have it right? It was completed some time ago in 2014, and the information is supposed to be with Government. It has not been tabled as yet in our Parliament, but that survey ought to tell us what is the state of play as it relates

to income inequality. What is the Gini coefficient, Madam President, at this time?—because back in 2000 as information revealed, the gini coefficient stood at close to 40.3 per cent, and at that time, wealth, the distribution of wealth in our country, revealed that 2 per cent of this population, enjoyed about 70 per cent of the nation's wealth.

And this explains, Madam President, the circumstances that we are faced with today in our country. Why there is much social challenges and difficulties that the citizens are faced with, but we also in analysing the challenges of young people, the issue of crime, abuse and neglect, we recognize that there is a link between crime and abuse, and neglect of children in our country. And we paying a very heavy price in Trinidad and Tobago on this particular matter today.

Madam President, I would like the hon. Attorney General to indicate when he is winding up, whether in this very important matter that is before us, whether he has been able to access any data, any evaluation report that would guide us as a Parliament, concerning the success story of the family experiment? I believe that we need some kind of evaluation report, so that we can understand where we are with this family court, and the experiment that we have had, and now we are moving on, according to this Bill, to the establishment of a division for both family and for children.

I do not know if the Attorney General could tell us as well, where it is this Division of the Family and Children Court or Division of the High Court will be located in Port of Spain? Where? Is it going to be at NIPDEC House, Madam President, where we had the experiment? Is that going to be the new division's location? And could you also tell us where is the division going to be located in San Fernando? Where is it going to be located in Tobago? And what time frame does the Attorney General anticipate, for the rolling out of other divisions of the

Family and Children Courts in Trinidad and Tobago?

Now, I want to endorse and I think the Attorney General will also endorse it, because he knows as a parliamentarian, there is this element that is needed when you are dealing with legislation. And that has to do, Madam President, in Parliaments like the United Kingdom, you do costing, that is an essential feature of modern legislation today. We do costing, so we can know as a Parliament, when we introduce a piece of legislation, what will it cost the taxpayers of this country. I think that this point has been beaten a lot this evening, and I will ask the hon. Attorney General if he has any evidence, if he has any information as a ballpark figure, what will it cost the taxpayers of T&T, to really operationalize this court, this division? I think that as parliamentarians we ought to have some knowledge of that. [*Desk thumping*] So I will ask the Attorney General to share with us his thoughts on that particular matter, Madam President.

I also recognize, Madam President, that this Children Drug Treatment Court Process, has been an experiment at the level of the High Court of Trinidad and Tobago, because I did some research and my research led me to a presentation by then Mr. Justice Geoffrey Henderson. This was a presentation on the Drug Treatment Court Pilot Project in Trinidad and Tobago, and this was a presentation made—[*Interruption*]

Madam President: Sen. Mark?

Sen. W. Mark: Ma'am?

Madam President: Could you just—? Leader of Government Business.

ARRANGEMENT OF BUSINESS

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, in accordance with Standing Order 14(5), I beg to move that the Senate continues to sit until the completion of the business at

hand.

Question put and agreed to.

FAMILY AND CHILDREN DIVISION BILL, 2016

Sen. W. Mark: Thank you very much, Madam President. So, I did some research on the matter involving what is called the Children Drug Treatment Court Process, and I came upon a presentation, a seminar organized by the OAS. It is called the Drug Problem in the Americas, and it was held at UWI, St. Augustine, July 22nd, 2013. At that particular seminar, Mr. Justice Geoffrey Henderson, made a presentation on this matter of the Drug Treatment Court Pilot Project. So again, like the Family Court, that has been in existence for some time now, based on an experiment, and based on the successes realised by this project, we have now reached the stage where we are now making it a permanent family court. We have gone further and said we are going to have a children division, and we will have a family division. I am also demonstrating that the courts of Trinidad and Tobago through a project, has apparently been experimenting on a pilot basis, with this Drug Treatment Court Pilot Project. And, you know, there is this idea, some people when you hear about the Drug Treatment Court, they—as it is stated in this document, we must not confuse the drug court, you know, a drug court, Madam President, with this particular court that is being advanced by the legislation, that is before us today.

Well, I think it is a very important pilot, and it is a very important measure in this legislation, because so many of our young people, children almost, between the ages of sometime eight to under 18, are caught up in the drug—they are engaged in what is called substance abuse, whether it is alcohol or whether it is illicit drugs, and rather than have these children incarcerated, once they plead guilty, and they accept guilt, then they can be given that opportunity to be

rehabilitated, which is important for their own future. So I think it is a very important advance for the children of our nation, that we can have that kind of experiment being advanced and being promoted.

Now, Madam President, we also recognize that in this particular legislation, the Government has made a number of consequential amendments to the legislation. I think the Attorney General made mention of some 18 pieces of legislation, which were amended in the legislation. I wanted to—before I deal with the Young Offenders Detention Centre, I want to go immediately to this whole question of DNA.

7.45 p.m.

I see there is a section dealing with the status of the Children Act and under that section of that Act, we have the various amendments to the DNA in terms of amendments to that particular Children Act, by inserting the meaning of DNA, DNA analysis, non-invasive tissue samples, et cetera, et cetera, and it goes on to what is called the “List of Approved Labs”.

Now, I wanted the Attorney General, Madam President, to explain to us: why would he and the Government want to place in legislation a private organization, as I understand it, called Occupational Health Solutions Limited of 44 Gaston Street, Lange Park, Chaguanas and put its telephone number? I do not know if this is a sister organization of the Forensic Science Centre, because I know that the agency under state control that is responsible for DNA testing is the Forensic Science Centre. So when I saw this organization written into law, I could only assume, hon. Attorney General, through you, Madam President, that this is a sister organization or an arm of the Forensic Science Centre. I do not want to believe that this is a private organization, because what I would ask the Attorney General when he is winding up, is that if this is a private organization or a private

firm: what is a private firm doing in this piece of legislation?

And what is even more amazing, Madam President, we have done a quick search online on this company or this organization, and I do not know if something is wrong at the Registrar of Companies, but we have done a quick search, online search, and there is no company that is showing up at the Registrar General's Office based on an online search by the name of Occupation Health Solutions Limited. So I do not know, Madam President, if the Attorney General could correct the record and tell me if I am wrong, based on the search that we have conducted; and not only if I am wrong, but if he could explain the rationale for having a private sector firm listed in legislation.

I would have thought, Madam President, with our recent passage of procurement legislation that there would have been some kind of criteria.

Sen. Hadeed: Criteria.

Sen. W. Mark: Well the criteria is already set up in our procurement law, but at least there would have been some kind of bidding for whatever work would have attest or testing that had to be conducted or had to be carried out—any DNA analysis. For example, if you want to determine paternity, whether this child belongs to this father or parents in question, that there would be some kind of criteria that you may wish to outline in the legislation consistent with procurement legislation and whichever company wishes to bid, Madam President, or to apply, they can, but I do not think it is proper for us to have in legislation a company called Occupational Health Solutions Limited in our legislation as an approved lab, and it is the only approved lab that is listed here. That cannot be proper. So I would ask the Attorney General to delete this from the legislation. [*Desk thumping*] We think that is improper. Do not go with that at all at this time. So, Madam President, when the hon. Attorney General is winding up he will, in fact,

address this matter for us.

Madam President, I also realize we have a lot of responsibilities being given to the Commissioner of Prisons. I like the idea in the legislation, that idea of the establishment of a Child Rehabilitation Centre. I think this is urgently required and needed and, obviously, I, like most of you, would have read a judgment issued by a Judge recently dealing with the whole matter of young children being detained in adult prisons whether it is the Women's Prisons at Golden Grove or I think YTC. I think that it was made very clear that those places are not designed for children in accordance with the Act. When we talk about the Act, we are talking about that Act that deals with residences, foster homes and nurseries.

So this amendment here to what is called the Young Offenders Detention Act, establishing a Child Rehabilitation Centre is a very important step forward. Not only will that centre be organized in a way to separate those young offenders who are sentenced, Madam President, for some offence that they would have committed, but those who have committed an offence and are awaiting sentence, they too, will be accommodated in this particular rehabilitation centre but in separate areas.

What is even more interesting is that the maintenance and the expenses surrounding this rehabilitation centre for children is and will be a direct charge on the Consolidated Fund. So there is no way that the Government of Trinidad and Tobago will have, you know, that kind of ability to wriggle its way out of this expenditure. So I think this is a very innovative approach as it relates to ensuring that the rehabilitation centre for children, the funding that is required for it, comes directly out of the Consolidated Fund and it is a direct charge on the Consolidated Fund, and that, to my mind, is a very important advance as we seek to ensure that our children are given the best care, they are nurtured and they are given the best

opportunity to rehabilitate so that they can live a second life. They can have a new life, Madam President, than what currently exist.

The mix, as you know, at this time with the criminals, and there are centres, as Sen. Sturge said—St. Michael's Home for Boys—that, according to him, based on some statement made by some judge in the past, appear to be a breeding ground for criminals and we do not want our children to be on that particular path and to experience that kind of life. So we want them to be rehabilitated, we want them to be reshaped, refashioned and remould so that they can live a more productive and meaningful life.

I also observe, Madam President, where the Minister by Order after consultation with the Commissioner of Prisons and the Children's Authority shall designate premises to be a Child Rehabilitation Centre. I guess the Minister will advise us, the hon. Attorney General, that is, will advise us. Is this the Minister of National Security here?

Hon. Al-Rawi: Yes.

Sen. W. Mark: Okay. Well the Minister of National Security will be responsible for this particular—it goes on further, Madam President, to deal with the Commissioner of Prisons:

“The Commissioner of Prisons shall be deemed to be the manager...of a Rehabilitation Centre.”

So, and this is where we talk about:

“The expense attendant upon the designation, conduct and maintenance of a Rehabilitation Centre shall be a charge on the Consolidated Fund.”

That is the point I was making earlier, and that this Commissioner of Prisons has a lot of responsibility in managing and controlling the centre and ensuring that the superintendent who is placed in charge as manager is properly trained and properly

equipped in order to deal with the young men and women who will be visiting or placed at the rehab centre, Madam President.

As I am on this particular point dealing with children, I want to ask the Attorney General whether the resources that are necessary to improve on the allocation to the Legal Aid and Advisory Council, whether that allocation is going to be improved, because I see in the legislation, Madam President, where they are going to have children's attorneys-at-law and Legal Aid, based on an order from a judge, issued by a judge or a Master of the High Court, would be able to call upon Legal Aid to provide a Children Attorney to a child that is appearing before the Children Court.

I am just asking, hon. Attorney General that, again, I have been reading where Legal Aid seems to be facing some challenges in terms of resources and attorneys being able to really represent clients, because of the poor packages that they are offered, but you will know better than me on that matter as to what is taking place in that area. But I can envisage, Madam President, that Legal Aid would require some funding, some more resources, in order to provide access to kids through their attorneys called Children Attorneys.

Now, Madam President, this matter of training, I notice throughout the legislation, and I want to agree with Sen. Chote that it must not just be persons who are qualified as psychologists or other professional workers, but those persons must be accredited. They must come from accredited institutions, because a lot of people are qualified, but there are diploma mills and degree mills around the world where people can pay for a degree and pay for a diploma and, therefore, I think it is very important that those persons who are being approved by the courts must not just only be professionally qualified, but they must be coming from an approved accredited institution or body. I think that is a very important point that has been

raised, Madam President, that we need to take into consideration.

8.00 p.m.

This question of persons having suitable temperament, I think that is very important when dealing with children, Madam President, and I see throughout the legislation where that is being emphasized that the temperament of those individuals. Even the judges—*[Interruption]*

Madam President: Sen. Mark, you have five more minutes.

Sen. W. Mark: Yeah. Even the judges that are going to be sitting on the Bench they must have suitable temperaments. They must be able to understand those young offenders that are coming before them. Now we know they are trained in law, and we know they are going into a new area of law, almost bordering on what Justice Henderson quoted in his statement here at UWI. He talked about therapeutic jurisprudence, where it does not ask judges to be therapists or social workers, it does not ask judges to cure addiction, to counsel court participants, or to single-handedly solve systemic social problems. It does, however, ask judges to be aware that such problems do exist, to be alive to their signs and symptoms, and to consider the effects they may have on people in court and on the activities that have brought them to court, and to think about how to address these situations so as to maximize therapeutic outcomes.

So, Madam President, these measures that are contained in the legislation will go a long way in easing the burdens of young offenders in the system. It will allow young offenders an opportunity to be rehabilitated and to rejoin society as quickly as possible. I also want to raise the issue of domestic violence and these orders that are issued to protect the rights of women. Madam President, you know, as we have always said, the family constitutes the unit of our nation and society but there are major challenges facing family life in T&T, and any cursory glance or

analysis of the amount of divorces that are taking place in our country is cause for alarm, even concern, and that is having a negative impact on family life, and it is having a very telling impact on the psychology, the emotional health of children in this nation. So that is another area that I recognize is contained in the legislation, and it is designed, again, Madam President, to allow the judges in the Family Court, as well as the children's court to have that kind of jurisdiction to deal with protection orders if it becomes necessary.

So, Madam President, there are some issues that we would like the hon. Attorney General to clarify for us on this particular piece of legislation, and we look forward to him providing us with his clarification on the matters that we have identified so that we can move forward as a Parliament in bringing legislation that will seek to provide children with an opportunity to live a second life, to have a second chance to be rehabilitated and to work towards solutions as they seek to liberate themselves, and to give themselves the best opportunity to survive in this very challenging environment. I thank you very much, Madam President. [*Desk thumping*]

Madam President: Hon. Attorney General. [*Desk thumping*]

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam President. Madam President, we are 10 hours later from the start of this debate, and I wish to offer sincere congratulations and an expression of heartfelt gratitude to all Members that have contributed this afternoon. It has been a pleasure to come to the Senate two Tuesdays in a row to engage in facilitative and supportive legislation for the benefit of Trinidad and Tobago. I think that all contributions this evening were solidly intended on finding the best approach to the law which we agree as a society is required, in particular on this issue.

Last week we spoke about crime and we spoke about the savaging of our society,

and we came together in a very unified sort of way to deal with law, and this evening we come again on the back of heartfelt contribution to talk about the voice of the child. It is very difficult, Madam President, to wrap up a debate like. The material itself is massive, 18 laws, a division of the court, then getting to societal ills, budgetary support, operationalization and technical issues of the law. It is hard to pick an end. One could spend a significant amount of time on any one of those issues. It is hard, therefore, to also disaggregate what each person has said and to answer one by one, so forgive me hon. Senators if I group some of the observations together and deliver more of an omnibus response to issue shared in common.

Sen. Mark raised a very significant point of operationalization, which was shared by Sen. Mahabir, by Sen. Small, by Sen. Raffoul, by Sen. Creese, and by Sen. Richards, all in common; Sen. Ameen raised it as well. And when we talk about operationalization the issue of how much budgetary support is identified, what are the buildings, what is the human resource allocation, what is the cost to country, came as square questions for answer. And permit me to answer as follows, we are fortunate to have the benefit of international lending, and by way of supportive aid coming from the UN/USAID combination of funds, US \$4.5 million in budgetary support for this particular project. That has a timeline attached to it, and that timeline is that we are intended to be operationalized and hand over operationalized projects in three locations, as I am informed, by the first quarter of next year in terms of the handover of assessment having been done.

That means we need to be in operating, outfitted, human resource in location by the end of this year, this year 2016. There are three locations identified, one in Fyzabad, one in Port of Spain, and one in Tobago. The Cabinet has been invited to consider the confirmation of the Judiciary's selection of these properties because

the Judiciary went out, did its survey, did its analysis; in fact, engaged with the Ministry of Public Administration, prior to September, 2015, in looking at what options were available, because the US funding package started some time ago. We are pleased to say that the Cabinet has in fact blessed, subject to certain other manoeuvres by the Judiciary in terms of confirmation, the Fyzabad property; the Port of Spain property is being considered right now, but negotiations are afoot by the Ministry of Public Administration, and the Tobago property is afoot right now where there is a special purpose buildout intended.

Cabinet is ensuring that Public Admin does its work and that all i's are dotted and all t's are crossed, and that the value-for-money considerations are in gear. At the same time Public Administration has to engage now in the human resource allocation which has already been prepared. The dominos will fall immediately after this Bill, assuming we have passage tonight. Immediately after this Bill, Public Admin will take control of the work which has already been done to get the jobs matched against the human resource capacity, and so that bit of human capacity will fit in next. Now, you will see in the Bill, I believe it is in section 4 of the Bill, that we are talking 22 puisne judges, 28 Masters, and so people have used to concept of 50 judges, but remember this court is intended to absorb the magistracy into the High Court at the same time. Concurrent jurisdiction being merged together so that a Master will have the ability to do what the magistrates do. Magistrates sit in criminal matters, preliminary enquiries, summary court issues, which can have significant effect determinative of certain matters.

In the criminal arena you can have a summary court matter and have a conviction, it may go on indictment. What we are doing right now is blending the suite of services together across the areas in Trinidad and Tobago. And Sen. Mark

asked a very important question, is there any literature about how successful the Family Court project is? Well, I want to say, yes, and it has been put in writing. Sen. Ameen has volumes of it which we gave to her. Member of Parliament for Princes Town, Mr. Padarath, also has volumes of literature, I can attest to you that taking from this desk to the top we handed at least six or seven volumes of paper, and in it chapter and verse on the success story, trials and tribulations, and case flow and statistical analysis on the family court. It was given to all members of the Joint Select Committee, and what I think is useful coming out of Sen. Mark's enquiries is to make sure that the repository of information is available for any other person who wishes to have inspection of it, but certainly the Opposition has, the Independent has had accessed to it, and the Government has as well.

Just let me stick a pin for a moment and to address an issue. Sen. Sturge raised an observation, he says, look, this thing resembles a work product that was produced in the last Parliament by the last Government, and he made an observation which I am compelled to realign, I would not say put right, and that is that the Bill is essentially the same as the last work product. There is a lot of backbone structure, yes, it is; however, the current Bill before us, and I do this only for comparative purposes so that Members are focused on it, lest the mind of the public be confused. The current Bill has 13 extra clauses in it. In the 2015 Bill, we did not have the drug treatment court system, and that is a huge factor, because what we do there is to allow for early release. Is to allow for graduation from the court, non-conviction based treatment, and it tackles the root of recidivism squarely, and that is a significant amendment. But, this is the bit that I need to realign from Sen. Sturge's contribution, it is not correct to say at all that passing the Bill would have had consequential amendments automatically fall into line because they were material, as we say in law, that were in *pari materia*.

What that translates to is this Bill would have on its passage corrected the laws by way of implication. That is essentially Sen. Sturge's point, but that is entirely the opposite of the position, because what we have done is to significantly change 18 pieces of law. It could not be a matter of implication of law that we are introducing DNA, safeguards for fingerprints, safeguards for DNA, gutting and replacing the Young Offenders Detention Act called YODA, converting it into children rehabilitation centres, gutting and replacing the Status of Children Act, making significant amendments to the adoption of children, making significant amendments to the Children Act; those are not consequential amendments, they are actual substantive deep-cutting amendments to the law, and I was compelled to put that right because it could never be by implication. Implication is a cross-reference change or some other subtle change that flows through, these are square, large, robust, very meaningful changes to the law. I have touched one of them, DNA.

And Sen. Mark raised a very important point that must be addressed, why are we designating in the Status of Children Act an entity in the schedule? And permit me, Sen. Mark, the rationale is, number one, we are designating because specifically section 18, I believe it is, of the Status of Children Act, section 18A, new subsection, and we provided to all Members the consolidated marked up versions of the laws as amended in the laws. So you will see in the volume at tab number 13 of the large volume that we inserted DNA analysis evidence, and, specifically, under the general provisions in section 18 we put that the Minister may, from time to time, make regulations; section 18A, the Minister may by order amend the schedule, and the schedule has list of approved laboratories, Occupational Health Solutions Limited, Gaston Street, Lange Park, Chaguanas, telephone number, et cetera.

8.15 p.m.

But that goes back to section 14 and in section 14 which is the second clause that we deal with DNA, what we are saying is that the court can designate:

“The Registrar and Marshal of the Supreme Court may designate a qualified person to take non-invasive tissue samples in respect of which DNA analysis is required.”

Having used that language it was necessary to use a designated entity in the law so that it made sense upon proclamation. The designated entity can be changed by simple order. This designated entity was selected because the Judiciary of Trinidad and Tobago nominated the entity because they have used this entity continuously from the period 2005 come to date, and they are satisfied with the DNA designation work that they do.

And it is very important to recognize, and I want to clarify this. Sen. Mark asked again another very useful question: is this a sister entity of the forensic centre? No. It is not. And the reason is that we have cleaved civil DNA analysis from criminal DNA analysis and the forensic centre which does DNA analysis under the DNA legislation, the Administration of Justice (Deoxyribonucleic Acid) legislation. That law deals with the criminal data banking. And we had to designate, notwithstanding ISO certification issues, the Trinidad and Tobago forensics entity for it. The civil end of it which we are using now on the paternity side for the status of children legislation, that is where we have a different regime applying, but what we did was to put the safeguards on the civil standards even though it was for non-intimate samples.

We amended the police legislation to put safeguards for fingerprints and photographs, et cetera. So what we wanted to do was to ensure that the civil could operate independently from the criminal, covered by same matrix of protection, but in this case we are using a designated entity provided for by the Judiciary's

recommendation, and it can be changed. It is grandfathering, as they say, what is actual practice right now, but there can be room for growth. As to whether they exist on the role of companies, the register of companies, I will certainly check, but I would assume that the Judiciary's practice inside of this, I have not personally checked. *[Interruption]* Sure.

Sen. Mark: Attorney General, is it necessary for us to have in the legislation, even though we know that it is the preference of the Judiciary to have a privately named company, something is not reading right there. I am just wondering whether we could not have a discussion with the Judiciary and indicate to them—yeah, you could go ahead and have these people if you so desire, but have it in legislation. I think something is improper, and I do not think as legislators we should just be bowing to something that we believe to be wrong in practice. I think something is wrong with that. I really believe that something is really wrong that.

Hon. F. Al-Rawi: Thank you, Sen. Mark. If I could attempt an explanation this way. The architecture of the status of the Children Act with the new DNA legislation input as opposed to a haematologist recommendation for blood typing requires us to have an entity named to conduct the DNA. The Trinidad and Tobago forensics institute does not have the capacity in terms of workflow and ability to produce on time. Another question asked in the Senate this afternoon: can we do it on time? Can we guarantee the results? Unfortunately, the forensic centre does not have that capacity and architecturally I must name an entity and that is why we do it now.

So it is not only proper, but the architecture of the law requires it, and that entity can be changed from time to time as more and more entities achieve muster of capability and are recommended by order of the Minister. That is just DNA. *[Interruption]* Senator.

Sen. Ameen: AG, can the Forensic Science Centre as a state entity be empowered and then outsourced to an approved body like—it could even be the same one named here, but to have a private organization in the legislation? What I am asking is if it could be considered for the Forensic Science Centre to be named here and they can later in practice and in implementing outsource to an approved agency?

Hon. F. Al-Rawi: Thank you, Senator. If I could again volunteer an answer this way. As I understand it, having the outsourcing arrangement would be duplicitous in the sense of costing would be layered. And the forensics institute does not have the capacity to do it. They are in the backlog of the thousands. The public hearings in relation to the forensic centre show that that entity deserves a lot of attention which is what the Government is focusing on right now. The backlog in forensics has a significant impact upon the case flow in the criminal justice system, let alone the civil justice system; the recommendation by the Judiciary having had a track record with them from 2005.

If I were to flip it on its head and ask what the mischief would be, if I lift out of that, look let us go to a state entity and they can then outsource and then there is some betterment to use the state entity, the question is going to be competence, capability and cost and turnaround time. But I am advised by the Judiciary on this issue. It came up in the Joint Select Committee. We had significant discussion on it. I thought that it had been dealt with at that point, but that is the position that I have on this issue for now. [*Interruption*] I have half an hour left.

Dr. Mahabir: It is just one question.

Hon. F. Al-Rawi: Yes. Please.

Sen. Dr. Mahabir: Just, I mean, AG, I understand what you are saying about the Judiciary and so on, but we simply cannot take the Judiciary's recommendation as

is. I would simply like to know whether a lab such as this Occupational Health Solutions Limited is governed by the DNA Act so that they are going to conform to the regulations that we approved in this House governing DNA sampling? Thank you.

Hon. F. Al-Rawi: The answer is, yes. On the criminal standard we are not using them at all because the DNA Act deals with the criminal standard and that we use the forensics institute which, by the way, has issues about meeting the standards. They were designated. They did not achieve muster and their performance record, I will say openly, leaves a lot to be desired.

So what we are doing is we are actually using an entity that has a higher standard and which the Judiciary is happy with to deal with the civil standard and this is relation to paternity only. So what we are looking for is the reliability and turnaround time for paternity. God forbid somebody comes into court, has to declare an issue of paternity one way or the other, and then sends it to the DNA laboratory at the Trinidad and Tobago forensics institute and if the track record there applies, the child may become 20 or 22 years old by the time you get the results back because of the backlog. So it might sound funny, but it is the truth. So this is why they have gone for this quick turnaround entity, but it will be tracked, it will be monitored and there is room for change.

Sen. Creese: Attorney General.

Hon. F. Al-Rawi: Yes. Please.

Sen. Creese: If I may. My problem with this is this. I feel it is the business of Parliament to set the standard and that the law should hold up a standard. And what could be done is that the Minister, the relevant Minister, could be given the authority within this law to identify approved institutions as part of the schedule and then we would be at the place where we want to be. But to name a private

institution to put them into law reminds me, I think it would have been the trade union prior to TTUTA that was named in law and all the confusion that we had to go through with TTUTA to come on board.

Hon. F. Al-Rawi: Sure. Thank you. Forgive me. I am a little antsy about the time. Thank you, Sen. Crease. We have to put someone in law. The Minister in this architecture and I would invite you, Senator, perhaps I can send this across to you. If you look at the status of the Children Act, exactly what you just recommended is exactly what is here. The Minister has the ability to recommend in law, but for it to have judicial bite, it must be something which is gazetted or published usually in the mechanisms that we use in law. In this case here, it is done by way of an order, and the schedule is one which is done by way of order from time to time, just a publication. Section 18A:

“The Minister may, by Order, amend the Schedule.”

No negative resolution. No positions otherwise. So it is exactly as you recommend in this Act, but we need to name someone. And they have named the someone currently into this. Hon. Senators, that is only the issue of DNA on the civil standard. Senators have raised a significant number of other issues.

Sen. Raffoul raised a very important point and a lot of Members contributed this afternoon on the issue of funding and how it is we are going to achieve what we want to get done. And she raised a very critical issue of eliminating duplication of resources.

Sen. Ameen raised the issue of having a separate Ministry returned to the fold and she asked about the Child Protection Task Force and she recommended that that was a better approach. Most respectfully, the current Government's position is that eliminating the duplication of Ministries results in a savings of money, we get to target a lot tighter, and just for the record, the last Government

did indeed have a Child Protection Task Force. That task force life came to an end in 2014 and was never reappointed.

Sen. Ameen: It gave birth to the Children's Authority.

Hon. F. Al-Rawi: In 2014? The Children's Authority was a creature of statute, started way back before 2014, Sen. Ameen. That is just not correct. But the Child Protection Task Force, to return to it, it was not used post 2014 when its life came to an end.

The factor inside of here, hon. Senators have raised the issue of targeting. How do we ensure that the money that we spend as a country actually hits where we want to go. And permit me to connect the dots. Architecturally, this Government has engaged in a whole-of-government approach to this issue.

Number one: we have sought to operationalize this particular law, make cutting amendments which are not consequential amendments, but at the same time we have taken the Trinidad and Tobago Police Service, we have created there a child unit, if I can call it that, in the hundreds of persons; we have operationalized them with job descriptions, posts, Cabinet-appointed positions so that they can go to work and be paid to go to work. At the same time we have taken the Office of the Prime Minister, driving the rehabilitation centres and children's homes and assisting the Children's Authority because the Children's Authority is not the only operationalizing entity. The Office of the Prime Minister is apart from the Minister of Social Development and Family Services.

And in the Office of the Prime Minister we have established long-term, medium-term and short-term goals to achieve satisfaction of section 54 of the Community Residences, Children Foster Homes and Nurseries legislation. That law when proclaimed by the last Government was proclaimed without the centres being operationalized or retrofitted—St. Jude's, St. Michael's, St. Dominic's,

whatever you want to call, YTC, the remand, women's facility, the women's prison. None of those things were amended. They were actually left as they were. There was a Cabinet Note which said, let us build a long-term centre in or around 2019, and then we will get there, and several hundred million dollars were carved out to do that. But the law was proclaimed and none of that was fixed.

And what we had to deal with, with the law having been proclaimed, with persons approaching the court, as Mr. Ramlogan did, Anand Ramlogan. Having approached the court, we were met with an allegation by Mr. Ramlogan that the law was—that the detention of minors was unconstitutional because the law was operationalized. And he operationalized the law and then went to court to ask for a declaration of unconstitutionality and the court agreed with him; 400-and-something thousand dollars per child in one case was ordered to be paid by way of damages with interest running. That money, most respectfully, could have been spent on outfitting the children's homes, doing the remnants of work that was required. The short term could have been done. So, we had to accelerate the programme, get the amendments done, the retrofitting to St. Jude's, St. Michael's and the women's prisons. [*Interruption*] Sen. Chote.

8.30 p.m.

Sen. Chote SC: Hon. AG, I know that you are running out of time, but I must go back to this issue. Is it that you are saying that we will not get funding for this programme if an agency is not named in the legislation? And if so, if that is what you are saying, then could you just tell us what is the source? Where is that requirement to be found?

Hon. F. Al-Rawi: No, Sen. Chote, I am not saying that we would not get funding. What I am saying is that, to operationalize the amendments to the status of Children Act, which is at tab 13 of the bundle of consolidated amendments that

was circulated out, that a designated entity had to be put in. But, permit me to just come to that. I would press pause on that issue for a moment.

Let me just come back to the issue of the connection of the dots beyond this law. How to make the system work. And I was dealing with the point, I had dealt with police, office of Prime Minister, children's homes, but there is a very significant retargeting that is going on societally, and that is in the local government reform. In the local government reform we are taking the dollar spend of the State and we are putting it closest to the ground through the councillors. So that Sen. Sturge's recommendation that we need more people in social services than lawyers becomes a reality. Because what you are doing is you are driving the dollar spend through the people that work in the communities and constituencies and can track it. And the best way to do that is to avoid giving billions of dollars in subsidy and social net services, and support programmes, to a Ministry to then flow through a pyramid of boulders and hope the water gets to the right pot at the bottom of it.

We believe, hence the mission that we have engaged upon, that the retargeting of expenditure in that fashion is a critical thing to be done because you have smaller catchment areas under tighter supervision with the Ministries working in tandem there. So, those are some of the larger picture issues, but very importantly, we propose, and we are in active discussions with the Judiciary as to the mechanics of this, that the Judiciary have its autonomy on its expenditure. And the hon. Chief Justice is in a coordinated engagement with the Attorney General's office and the Ministry of Finance right now working out the details of the Judiciary's autonomy on its own budget. Just like the police have autonomy for their budget—section 123 of the Constitution, where the police commissioner has the authority to manage the police service as he sees fit—spend as he sees fit, we think it more

appropriate for the Judiciary to identify how it should spend its budget, in what particular area it intends to engage in.

So that achieves a focused approach on operationalization. But, we have a few more issues; Sen. Chote raised a very important one. You asked, Sen. Chote, and I believe it is in reflection to clauses 11 and 27, when matched together, which deal with the authority of masters of the court vis-à-vis judges, and the question was asked, well, why do we want to give masters powers as judges, if they can do the same thing why not just say so, or have one do it, all judges. The rationale behind that is grounded in section 65(a) of the Supreme Court of Judicature Act, where masters derive their jurisdiction specifically from legislation, and in fact in the Supreme Court of Judicature Act, have the same authority as we now amend that Act as judges. What circumscribes the role of a master is really the rules of court where we say what a master cannot do.

So, we give in the Supreme Court of Judicature Act, and in this Bill judges and masters to do the same work with the same powers, but it is the rules of court which will come to circumscribe and cut down the scope of operation of the masters, and that was the rationale for the language behind clauses 11 and 17, I believe it is, of the Bill. I will get the correct reference to the numbers in a moment. Permit me to put it right now, and that would be those two sections, if I am not mistaken, which are the two powers that we described.

Hon. Senator: Twenty-seven.

Hon. F. Al-Rawi: Twenty-seven, thank you, 11 and 27. I had done the comparison side by side.

Sen. Chote SC: Hon. AG, thank you for clearing that up, and I will take your word that the resolution is to be found in that section, but I am more concerned with the question I asked earlier, to which you have not yet responded. [*Desk*

thumping]

Hon. F. Al-Rawi: Sen. Chote, so I can get it squarely, would you like to pose the question? What is the mischief that you are driving at that is concerning you?

Sen. Chote SC: Okay, I will ask the same question again. Is it that you are saying that we will not get funding for this project if a particular agency for DNA testing is not named? You answered, no.

Hon. F. Al-Rawi: Correct.

Sen. Chote SC: My question then was, what is the source of this requirement? Which document says this must be so?

Hon. F. Al-Rawi: Sure. Okay. So the answer is, no. It is not that the funding is hinged upon that. The source of the document is to be found in the consequential amendments to the status of children legislation by way of introduction of clauses 14, 18A, and then the schedule and, of course clause 13 of that particular consequential amendment. And that is the source of authority.

So, the rationale for a DNA entity to be named in the amended status of the Children Act is to be found in the inclusion of the new DNA analysis as a replacement to blood tests, and that is in the new section 13, subsections (1), (2) and (3), (3)(a), (6), (6)(a), 13A, then we get to clause 14 where the Registrar and Marshal may designate a qualified person, the use of the expression “qualified person” is attached onto the need to designate a qualified person where the schedule is set out where your list of approved laboratories is set out in the schedule, and you have to put something in the list. And it is the recommendation of the Judiciary that we include this entity. I hope I have answered it this time.

Sen. Chote SC: Well, you see, with all due respect, that still does not answer the query.

Hon. F. Al-Rawi: Sen. Chote, sorry to cut in. Perhaps we can do this in

committee stage because I am running out of speaking time. So, we can perhaps do it in committee stage because, unfortunately, I do not have the time to do all of the wrap-up in this approach. And I will get it there. Okay? Okay, we have—how much time do I have left, Madam President?

Madam President: About 12 minutes—12 minutes and 18 seconds.

Hon. F. Al-Rawi: Thank you so much for the 18 seconds extra. We had the issue of peer resolution arise, and in dealing with peer resolution—sorry, let me deal with them sequentially now in the bits that are remaining.

Sen. Ameen raised the issue of the children's ombudsman, and this was squarely raised in the Joint Select Committee, and we had pointed out in the Joint Select Committee that the children's ombudsman would be a very limited version in terms of capacity and wrap-around services as compared to the Children's Authority which has a much larger scope and ambit and suite of services available to it.

We have dealt with the issue of the children's task force. Certainly the recommendations coming out of the task force have gone to the Children's Authority, and that has had its position bettered, and the operationalization of the Children's Authority is certainly very useful right now. That is to be noticed as well in the increase in the budgeting which the Children's Authority will receive, particularly because their accommodation is being better managed, they now have the ability to do certain temporary location and receipt of children, and as the population will well note the operationalization is now a matter of public knowledge, and people are accessing the system at a faster frequency and with better responsiveness.

Sen. Mahabir raised the issues of the associated cost of the project, and the response in terms of what it will cost us to do this is one to be had and certainly

one which will come to the Cabinet after the US aid funding and external sources dry up. That will no doubt find expression in the preparations which we are doing right now for the budgetary allocations for the next financial year. As you know, the budget preparation has begun, and the statements of expenditure and estimates for the year will certainly be continued, so that will find its way into the budget statement. However, there is the flipside cost as Sen. Solomon put it. There is a much larger cost to not doing it. Because, what we will see, as many Senators have observed, is that children continue to fall through the cracks, and while 17,000 to 18,000 children matriculate at SEA each year, by the time you get to O levels, now called CSEC, or A levels now called CAPE, you notice that the numbers have fallen significantly, and many children fall out of supervision and radar.

And I agree, the court is the last place we want to find results, but if we can manage the process better, in a better environment, in a better structure, with better value for money, certainly that success that we have had in the Family Court, for anybody who knew what the Magistrates' Court used to look like at NIPDEC—a cockroach-infested den—to what the Family Court looks like now, it is light years ahead of where it was. [*Desk thumping*] And that en suite wrap-around services that the Family Court project has been so successful at creating, led the way to the reforms in the civil justice arena. That is what led our CPR rules, that is what led a lot of the experience as we have in case management conferences, as Sen. Solomon put it so eloquently. The mere look and feel of the environment that you are in sets the tone for a different approach towards justice, and it is to be commended.

When we looked at the issue of the call for statistics—Sen. Samuel raised the need for statistics. I will recommend to Sen. Samuel the work that is on the AG's website in relation to the voice of the child issues. He raised the very

important questions about what was going on with pregnancies. And Sen. Samuel, you would be pleased to know that we have disaggregated by age, by hospital, by frequency over a 10-year period all of the pregnancies that have turned up and been reported at the hospitals. It does not include what other doctors may do, but we have gone a step further and we have given all of the statistical information in Trinidad for a 10-year period on live births. And the live births include up to 15,000 pregnancies. Live births. And, what we have done is to compare that against the number of criminal charges that are in our courts, and we are tracking with the police right now the status of what they do.

Because the police receive a huge chunk of money. In a five-year period approximately TT \$25 billion have gone to the Trinidad and Tobago Police Service, and we have got to ask ourselves, would a police force of 7,000 people across \$25 billion, what is the cost per head on the value for money outputs of the police? This is why we are taking local statistics and translating them into measurables so we can now target what the outcome of how we spend our budgetary allocation looks when we say, it is not a Minister only to answer, it has got to be if we are taking our society in the right direction where we turn to a commissioner of police or superintendent of any station and say, well, what are you doing with your divisional statistics? How is it that you have 15,000 cases of statutory rape and you have no convictions? Because, that is the only way you are doing to actually measure it.

So, that is available. I can send it to you, Senator. And it is also on our website as well, which I know you would be pleased to see. Because, Sen. Small was right, Trinidad and Tobago is a very unique society which says that it has no civil issue with criminality for white-collar corruption if you look to our efficiency ratios, the convictions have to match your concerns, which is why we firmly intend

on driving the message of civil asset forfeiture, explain your wealth legislation, where we are going to tell people, move away from a criminal standard, move away from needing to get a conviction first—

Madam President: Attorney General, you have five minutes.

Hon. F. Al-Rawi: Five minutes—and drive yourself into a different zone of measurement.

Sen. Dr. Mahabir: Hon. AG, I hate to interrupt you, but do you have the crime statistics for juveniles in Trinidad and Tobago? Are they available to us on the website?

Hon. F. Al-Rawi: Hon. Senator, you would be pleased to know that in our AG/Judiciary discussions, we are disaggregating right now those statistics. I told Trinidad and Tobago that I would come with statistics. Everybody is now very happy that that is happening. They are now beating the door down for the statistics at a faster rate when there was none for donkey years in Trinidad and Tobago, and the third consultation that I will be doing is on the civil justice and the criminal justice system, and I am going to give all of the statistics so that we can spark intelligent debate in Trinidad and Tobago.

8.45 p.m.

Sen. Ramkissoon raised a number of very important issues which need to be answered. Time does not really permit us to get there, but she shared concern with Sen. Creese on the effectiveness and measures and how we would gauge it. And Sen. Creese asked, how effective will measures under the Bill be, what evidence of success in other jurisdictions? I am pleased to say to Sen. Creese there are over a thousand team courts in the world which attest to the statistics of the approach that this Bill adopts with peer resolution and the drug treatment court for children in particular. That example is what has driven us in terms of our international

feedback coming into us to inform us as to what we ought to do.

Sen. Ramkissoon, you referenced Western Australia's point system for drug treatment court and suggested the same, we implement it by regulations. Excellent suggestion. We have taken note and we will be looking to that as we deal with the rules of court as we move forward. You, Sen. Ramkissoon asked the concern for improvement and what is needed to the service of summons, et cetera, although the Bill does not address that. The rules of court will deal with those parameters. So I am reminding hon. Senators that the architecture of the Bill is to create the division and the functionalities, and job descriptions and managers and portfolios. They are to be supplemented by the rules of court which will come into effect. They will be supplemented by the improvements in the inter-articulating legislation which we have brought in all 18 pieces of law. I think I have a minute.

Hon. Senator: Two.

Hon. F. Al-Rawi: Two. In the last two minutes, promising to get to Sen. Chote's very important question at committee stage, I wish to simply say, thank you hon. Senators for your keen interest and support which has been obvious today in something which we all share as necessary for our society. How we treat our children is evidence of how we treat ourselves. How serious we are in our approach to bettering the system is how significant an improvement in the quality of life it will be. I am pleased, in my parliamentary life in the Tenth Parliament and now in the Eleventh Parliament, that I have been privileged to participate in so many laws which we have treated with, the Children Act, 2012, this particular piece of law, the Children's Community Residences, Foster Care and Nurseries Act, et cetera. All of these pieces of law have quickened in pace and clearly we have awoken and are headed in the right direction. And with those words, Madam President, 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.

Madam Chairman: Hon. Senators, may I just point out that the Bill before us has 63 clauses, five Schedules and a Preamble.

Clauses 1 to 8 ordered to stand part of the Bill.

Clauses 9 to 24.

Question proposed: That clauses 9 to 24 stand part of the Bill.

Sen. Dr. Mahabir: Madam President, I do have a matter to raise with the hon. Attorney General on clause 16 and it is for his consideration only and that is with respect to 16(b). It states that the:

“...Executive Administrator...shall hold office for five years, but may be eligible for re-engagement.”

I am seeking to get your views AG on whether, given the fact that we are looking for individuals of a particular calibre, that the contract employment that you are offering, should not be substituted with something like: the individual may be eligible for re-employment on a permanent basis after two five-year contracts have been served. And the reason I raised that issue is simply, at the moment to go, at the very beginning to recruit top quality calibre individuals as opposed to contract individuals who can demit office after a five-year period, it is simply not fair to high quality people who you may not attract in the first case.

Mr. Al-Rawi: Thank you, hon. Sen. Dr. Mahabir. It is a very important observation you have made. And it is something which I prior to assuming the responsibility to manage several Ministries did not quite appreciate. The story as it goes, now born by experience, is that high quality individuals are circumscribed by another very high quality individual called the CPO. The CPO's range of salary

options has resulted in the Judiciary being unable to attract the high quality standards that we wish to bring the people in. Because quite frankly the honey in the pot does not seem to be sweet enough.

What has happened therefore, is that two concurrent systems have developed in the state sector. Permanent employment or career people in the public service and those who wish to reside in contractual employment having the ability to come in, take some hard work with not so much honey in the pot, get the experience and then move to greener pastures, having the benefit of gratuities paid as opposed to pension. So the sweetening to attract people has actually been, as objectionable as it may be in some senses, the use of the contract employment of this type. And that is just basically because the country has been unable to offer attractive salary packages or remuneration packages.

Sen. Dr. Mahabir: It is just a concern I had. Knowing that we need to get the best possible people to—

Mr. Al-Rawi: I share the same, but one bit of silver lining in that, is that you have the option, after contract, to apply for established positions which are vacant and open and you will find, if you look at the DPP's office, for instance, or the AG's office or anywhere. The DPP has approximately 50 per cent vacancy, 97 people empty. And people just do not apply for it or the rate of applications do not go through fast enough because some people are just happy to work on contract.

So this Government's intention has been to try to migrate as much of the contract labour across into filling the vacancies, which is why you would notice there are so many advertisements in the papers now for the job titles. In my own Ministries, Legal Affairs and the Office of the Attorney General, you will see that the papers are filled with the advertisements for the full positions to encourage the migration across.

Question put and agreed to.

Clauses 9 to 24 ordered to stand part of the Bill.

Clauses 25 to 58.

Question proposed: That clauses 25 to 58 stand part of the Bill.

Sen. Dr. Mahabir: Could you give us some time. It is a lot of—I do need to go through my notes to see if I have any recommended changes. Okay, Madam Chairman, through you to the hon. Attorney General, under clause 52(3)(h), I know you are referring to professionals:

“The Registrar shall maintain a list of professionals which shall be known as the ‘Children Drug Treatment Team Pool’...”

And under (h) you have added:

“any other professional as the Registrar deems appropriate.”

But in looking at the spirit of the legislation, hon. Attorney General, I was just wondering whether you did not wish to have the Registrar given the option of not confining him or herself to a professional if another person can discharge the function. It could be a priest, it could be a spiritual advisor, could be a mentor who may not be a professional as designated in the law. So I am putting for your consideration any other person as the Registrar deems appropriate. Again, for you on the drafting team, because any other person who may not be a professional as defined by the Act and who may, in fact, contribute in a significant way to serving the problem that we are addressing.

Mr. Al-Rawi: Thank you, Sen. Dr. Mahabir. May I invite to the chapeau in subclause (3).

“The Registrar shall maintain a list of professionals which shall be known as...”

Correct me if I am wrong, I understand your submission in this way. One would have greater latitude by the use of “person” as opposed to “professional” because “professional” may be unduly restrictive. That is why I invited you to the chapeau. Because the chapeau is intended to populate a list of professionals in this capacity.

9.00 p.m.

Sen. Dr. Mahabir: But do you not think that giving the Registrar a wider latitude will serve the intent of the legislation better if the Registrar were to identify someone like a priest for example, someone who has the confidence of the child, who could discharge that function, who may not—I understand the chapeau very well—fall under professional designation. Again, I just want to put my concern on the record. It may be that you have already considered it in the Joint Select Committee stage, that there may not be another need for the person, but I just thought that when you have a catchall as in (h), in the catchall phrase in law, that you do want to give the authority the power to select, using his discretion, given the circumstances that he or she faces, the person who will be of greatest assistance, who may not be confined by the chapeau as you indicated, but I will put my concern on the record.

Mr. Al-Rawi: It is not that is was considered strictly in the Joint Select Committee. Sen. Mahabir, it is a very worthwhile submission. I am wondering if the response to that can include the reference to the rules of the court which will be promulgated and could allow. I am also looking in terms of architecture. I am not shutting down the issue. I am just inviting consideration to subclause (4) and then how it articulates with the other ones, in each matter, group comprising the following professionals.

There seems to be some degree of confluence between “person” and “professional”, which is the point that you are making there, but I did not think

insofar as we wanted this body to really be a team/pool of resource people. I believe that it would be safe to say that what we are really looking for is a cadre of professionals of a particular type. I know that the court has a general jurisdiction in all matters in the auxiliary programmes—which the Chief Justice holds unto himself—to provide a range of services through other mechanisms, and we are not stymied by not having that expressly stated because the Supreme Court of Judicature Act, Chap 4:01, still prevails here and can lend assistance to this.

Sen. Mark: Attorney General, I would imagine that the Judiciary would have their own standards and their regulations. How do we ensure, as a Parliament, that professionals come from accredited institutions and you do not have people coming with professional qualifications, but questionable institution? Do we put into the legislation accredited institutions, or would that be contained in the regulations or the standards set by the Judiciary?

Mr. Al-Rawi: Very good question, hon. Senator. The peculiarity of this Bill is that it is not quite framework, not quite prescriptive. It seems to be a blend, a hybrid approach towards the two. My own view is that insofar as the Judiciary right now operations with employment and has built an entire Judiciary since 1962 come forward, using a very framework piece of law which is the Supreme Court of Judicature Act, Chap. 4:01, which has no reference to qualifications, et cetera, that the matter of accreditation can fall into the concept of rules, or job descriptions, or qualification by the CPO and, very importantly, when Cabinet creates positions from the Ministry of Public Administration you then get the insistence as to what the specifications to meet the job criteria look like including accredited degrees, et cetera.

So knowing that the Supreme Court of Judicature Act is built around the lack of prescription of accreditation, and knowing that this is a hybrid approach

towards the two, I would think that the subsidiary rules and the functionality of CPO, and the Ministry of Public Administration, and the Judiciary's general standard itself, will fill in that gap of accreditation.

Question put and agreed to.

Clauses 25 to 58 ordered to stand part of the Bill.

Clauses 59 to 62 ordered to stand part of the Bill.

Clause 63.

Question proposed: That clause 63 stand part of the Bill.

Sen. Chote SC: Madam Chairman, I was trying to catch your eyes so I stood up. The hon. Attorney General has said that he would address an issue which I raised in relation to the naming of the agency in the legislation for DNA testing, I am wondering whether he could do that, or he is minded to do that now.

Mr. Al-Rawi: Of course. Thank you, Sen. Chote. Madam Chairman, of course, all Schedules would be in clause 63. So any concerns that hon. Members had—in this case here the enquiry. I am just repeating it so that I make sure I get it right, Sen. Chote. So feel free to correct me. The enquiry as I understand it is where is there is a need and a requirement that we actually designate an entity in the status of children legislation in the manner that we do as appears in the consequential amendments; and if there is a need, please point to it; and if there is not a need, do we have to keep it. Would that encapsulate the enquiries?

Sen. Chote SC: Well, except that it would be a private entity.

Mr. Al-Rawi: Right. And just to get it a little bit clearer. Is it that there is a mischief in having a private entity as opposed to a state entity in your mind?

Sen. Chote SC: In my mind, certainly.

Mr. Al-Rawi: And it is because of a standard issue, or an ISO issue?

Sen. Chote SC: It is any number of issues. First of all, I do not know that

legislation is the place for essentially Government contracts to be handed out. We have no information about this private entity, we have no information about the standards under which they operate. If, for example, this entity becomes unable to function, being the only named entity in this piece of legislation, what is going to happen to the testing required? I have very grave concerns about identifying any private entity without further information about that entity in a piece of legislation. I think it is just a recipe for mischief and I certainly do not approve of it.

Mr. Al-Rawi: Thank you, Sen. Chote.

Sen. Chote SC: In addition, you had referred me in partial answer to something to be found in another part of the Schedule, but when I looked there I saw that all that it contained was that the Registrar had the discretion to appoint an expert to do this kind of testing. So it certainly does not say that you have to name a private company, which is what we are doing here.

Mr. Al-Rawi: Sure. Thank you, Sen. Chote. That is certainly pellucidly clear and I appreciate the mischief that you are pointing out. Permit me a moment just to consult with the technocratic team as to the need for the scheduled inclusion. I catch what you are saying, particularly, in relation clause 14, which is where the Registrar and Assistant Marshal have the ability to designate a tester. Okay? Just give me a moment.

[The Attorney General discusses with technocrats]

Madam Chairman: Hon. Attorney General, excuse me. Do you need about 10 minutes? Would you like us to suspend?

Sen. Mark: Madam Chair, may I?

Madam Chairman: Sure.

Sen. Mark: I just want to re-emphasize and reiterate our strong objection to the incorporation of any private entity. I do not believe as a Parliament we should

become accessory to any kind of activity that can bring this Parliament into public ridicule and disrepute. This is a dangerous development. I have never seen in my 25 years of history, as a parliamentarian, a private entity being legislated. I have never seen that and I do not want to be part of this.

Sen. Roach: Madam Chairman, may I just indulge before you? Mr. Attorney General, probably could it be resolved by instead of naming the particular entity as opposed to setting a standard, and any entity that reaches a standard—the IOS or whatever standard it is—could probably can cure this very easily because it could be removed easily by the Minister by an Order. So even if you remove this, the Minister could bring another private entity tomorrow night. So, to me, to be more on a safe side, probably an Order of a certain standard.

Mr. Al-Rawi: Okay. Hon. Members, if I could just tell you, I am not slaved one way or the other and I accept the recommendations for caution. Just to address what Sen. Mark has pointed out. I have in fact seen in my six years in Parliament references to private entities, but it does not erode from the power of the point that he is making. So I do not want to make a deal out of it. The Motor Vehicles and Road Traffic Act has numerous references to that, that can satisfy that, but the point is taken.

If I give Members this reflection. The Administration of Justice (DNA) Act has at section 6 some interesting wording.

“The Government may, for the purpose of obtaining forensic DNA services, enter into an agreement with a laboratory that is—

- (a) accredited by an international accrediting body listed in the First Schedule; ...
- (b) approved by the Minister by Notification.”

Now, the reason why I have read that is to answer what Sen. Mark said,

because in subclause (b):

“approved by of the Minister by notification”

“enter into an agreement with a laboratory this is...accredited international...listed”—and—“approved by the Minister by notification.”

Now that obviously includes the ability to have private entities but done by way of a formula. So this thing is not as draconian as was particularly stated, but the point has been made.

Now this DNA Act, of course, relates to criminal management side of the equation.

9.15 p.m.

In this particular Bill, if we look to clause 14 which is the new 14 in the Status of Children Act:

“The Registrar and Marshal of the Supreme Court may designate a qualified person to take non-invasive tissue samples in respect of which DNA analysis is required.”

Now, that is only the taking of the sample by a person, so it could be a doctor, it could be a nurse, it could be something.

The question now comes as to who is or what is the laboratory that engages in the analysis and the need to have some standard or designation in the local context so you are sure that you are dealing with this. So far, the Judiciary has used this but that has been by judicial direction which any court can do. A court is always entitled under Part 36, if I draw an example in the Civil Proceedings Rules, to use an expert and an entity can be an expert for court purposes. And that is amplified by section 13A of the Status of Children Act which says that:

“Nothing in this Act shall be construed as preventing parties interested in the determination of parental relationship from consenting to the use of DNA

analysis using services...”

So the court has the discretion to use any entity it wants, obviously it would then certify what the competence of this is in the usual way that courts do that. The only question for us now as a Senate, which is something which I am going to consider with the judicial team and others right now, taking the lead of the hon. President of the Senate that it may be appropriate to have a short 10-minute recess if possible, is to confirm that position that the hon. Senators have collectively raised. But before doing that, I wondered, is there anything else that the honourable Senate wish me to consider on any of the other scheduled items so that I can perhaps get the answers in that 10-minute as well?

Madam Chairman: Except to say, hon. Attorney General, we have to go through the Schedules.

Mr. Al-Rawi: I understand, right. But what I was just looking for was just a flag.

Madam Chairman: Yes.

Sen. Dr. Mahabir: Right, okay. Clarification, hon. AG, and I too join with the rest of the Senators on that concern with a private entity but on Schedule 4, we have:

“Offences against the person, namely—

Assault occasioning bodily harm.”

And for me, when I observe student fights and so on which I think could fall onto the guise of a fracas and someone may fall and just bump his head and break his hand, I am thinking that we should not exclude that from peer resolution. I am wondering whether you would want to make a distinction between bodily harm and grievous bodily harm. I mean there is wounding with serious intent and there is something, a harm that occurred on account of the situation and an accident, there was no intention to cause injury to someone’s limb but it just happened.

The other one that I want to get some clarification on is under 4, there would be no peer resolution and you said “Any sexual offence”, I am just wondering, you see, I am not sure what the law says about a sexual offence. If, in fact, you make some comment about someone, is that a sexual offence or does it have to be physical to be a—okay, well then disregard. For any sexual offence, no peer resolution. But occasioning bodily harm as opposed to grievous bodily harm. That is the only concern I have. I think that the administrators of the court should have some kind of discretion as to whether the injuries sustained on account of a fracas was really accidental, it was not intentional, and therefore, peer resolution may be the way to go to resolve the problem as opposed to prosecution. That is it, Chair. Thank you.

Mr. Al-Rawi: Thank you. I will also get some instructions on that basis as well. Madam President.

Madam Chairman: Hon. Senators, we will suspend this committee for 10 minutes. So the committee is suspended for 10 minutes.

Sen. Mark: I think, am—AG, you might want a little more.

Madam Chairman: Okay, one second. We will suspend until 9.30 p.m. So the committee is suspended until 9.30 p.m.

9.19 p.m.: *Committee suspended.*

9.30 p.m.: *Committee resumed.*

Madam Chairman: Hon. Attorney General, do you need more time? All right. Five more minutes? Can I give you more? All right, 10? Okay. Hon. Senators, we will suspend the sitting of the committee until 10.00 p.m., so we will resume at 10.00 p.m.

9.35 p.m.: *Committee suspended.*

10.00 p.m.: *Committee resumed.*

Madam Chairman: Hon. Senators, the Committee proceedings are now resumed. The question is that clause 63 stand part of the Bill.

Mr. Al-Rawi: Madam Chair, I understand that the question needs to be put so that all Senators are on the same page, if I could just put a small explanation in. In the break—and I wish to thank hon. Senators and you, Madam Chair, for facilitating the fulminations by the technical team—we have managed to grip the two issues put by my learned colleagues en bloc. One, in relation to item 13 which is to be found on page 73 of the fifth Schedule. I know that you would put the question that 63 stand part of the Bill and then if Senators say yes, then we will go to the Schedules and amend the individual Schedules at Schedule 5.

But with your leave, Madam Chair, taking into the spirit the observations made by Sen. Mahabir, in particular as it relates to clause 41, we would like the Senate to revisit clause 41—sorry, it will be for the insertion of a clause to affect clause 41 which is how we treat with Schedule 4. For guidance, is it that we can take a new clause at the end?

Madam Chairman: Yes.

Mr. Al-Rawi: Then I would just let hon. Members know that we have come up with some language that should take care of the stricture behind 40 which is where peer resolution would be out for certain reasons. Okay? So we have come up with a formula to allow for judicial discretion in all the circumstances. Thank you.

Madam Chairman: So the question is that clause 63 now stand part of the Bill.

Sen. Mark: Well before I say—put the question, you will have to put—

Madam Chairman: I put the question.

Sen. Mark: You have to put the question?

Madam Chairman: I did put the question.

Sen. Mark: Yeah, but what I am saying, when is the AG putting—

Madam Chairman: When we go through the Schedules.

Sen. Mark: Or, we are going through each Schedule. All right, okay. Thank you.

Question put and agreed to.

Clause 63 ordered to stand part of the Bill.

Schedules 1 to 4 ordered to stand part of Bill.

Schedule 5.

Question proposed: That the Schedule 5 stand part of the Bill.

Mr. Al-Rawi: Madam Chair, if I could refer Members to page 73 on Schedule 5 and propose the following amendments there. Currently, Members will see 18A:

“The Minister, may, by Order, amend the Schedule.”

And there is a marginal note that goes with that:

“Minister to amend the Schedule”

10.05 p.m.

I am proposing that that be deleted and instead the following be substituted as a new section 18A. We would, in section 18A, propose by way of substitution the following words:

The Minister may, by Order, for the purposes of DNA analysis, designate a laboratory that is accredited by an international accrediting body.

It is proposed—[*Interruption*]

Madam Chairman: Just one second.

Mr. Al-Rawi: If I read again, Madam Chair.

Madam Chairman: That is accredited by an international?

Mr. Al-Rawi: Body—accrediting body. So it would read: Clause 18A:

The Minister may, by Order, for the purposes of DNA analysis, designate a laboratory that is accredited by an international accrediting body.

If I could explain to hon. Members. DNA analysis is actually a defined term in the

Bill, which puts it squarely to civil testing, et cetera, exactly within the realm. So I have used a defined term. We are proposing “international accrediting body” would allow the Judiciary the opportunity to have the inspection and be certified in the usual way in which experts are done.

We would, therefore, not need to have a Schedule and we would, therefore, propose that the Schedule be deleted, which, again, appears on page 73. At the bottom of page 73, there is one minor further inclusion, and that is to amend the marginal note so that the marginal note would be changed. We would delete “Minister to amend Schedule” and the marginal note would now read:

Minister may designate a laboratory.

Sen. Mark: Attorney General.

Mr. Al-Rawi: Yes, Sir.

Sen. Mark: May I seek clarification from you? How would we know that this laboratory is located in Trinidad and Tobago and is accredited as such? Because of how this is stated, this laboratory could be in the United States.

Mr. Al-Rawi: It can be and currently there is a system of mail boxing, as people put it. So the current entity, I am told, actually is not accredited but the courts allow, as all over the world, for the mail boxing of DNA samples and certifications.

Sen. Samuel: AG, are you saying that the same opportunities that apply to this particular lab can also be given to the forensics so that they can also do the mail boxing?

Mr. Al-Rawi: I had a chance to look at the Forensics Institute specifically in the body of the DNA legislation, the Administration of Justice (DNA) Act, and the Forensics Institute is designated itself and does in fact do some DNA testing here, but it is specifically included in the databank matrix that they have for that criminal

database of DNA legislation.

To answer your question now, I understand that yes they can do certain mail boxing but in this instance here we are proposing to rely upon the Judiciary's power to have entities which meet criterion from time to time and which are then recommended for designation. But the point is that they must produce their credentials, that they are meeting international standards and that they are properly designated.

Sen. Chote SC: Madam Chairman, if I may, I just wish to place this on the record, because I think it is salutary for us to note for future reference. I had a company search done on the company which had been listed in the Schedule and there are two directors of that company. One is an accountant and one is an electrician. There is one shareholder and there is no indication that this company operates any sort of medical or testing or scientific business, or that it is accredited. I wish to place that on the record because it seemed at one point as though I had incurred the hon. Attorney General's wrath by trying to suggest that we should not have a private entity named and I think the discovery of the search is something that should be placed on the record of this honourable Chamber.

Mr. Al-Rawi: Madam Chair, I thank hon. Sen. Chote for finding the reference that she has. I certainly would never expose Sen. Chote to any wrath. I am very grateful for her diligence in pointing out the issue.

What I am told, and I must put this on the record as well, is that in the period 2005 to date, there were two entities that actually did DNA testing of this type. One has since gone out of business and the only one that has survived and is still utilized by the Judiciary and the Family Court in particular is this entity.

I have proposed the amendments as we do, because I take on board Senators' good recommendation, all Senators' recommendation, that we should set

a standard as we are doing this for the first time. I do not think it unusual to have a private entity, provided it meets designations. And, of course, I thank Sen. Chote for her observations and her diligence.

Madam Chairman: Hold on, before I put the question, I just want to sort out with the Attorney General the proposed amendment. I know that other Members want to speak. Let me just sort out, because we have to record it to then put it to the committee. Okay? Hon. Attorney General, first of all you are deleting 18A as obtains in Schedule 5 and you are replacing it with a new 18A. The side note will read:

“Minister may designate a laboratory”

And then the new section 18A:

“The Minister may, by order, for the purposes of DNA analysis, designate a laboratory that is accredited by an international accrediting body.”

Yes?

Mr. Al-Rawi: Yes, Ma’am.

Madam Chairman: And then is something happening lower down with the Schedule?

Mr. Al-Rawi: Yes Ma’am. After “(m)”, which appears on the bottom of page 73—[*Interrupting*]

Madam Chairman: Yes.

Mr. Al-Rawi:—we are deleting:

“Schedule
List of Approved Labs
(Sections 2 and 18A)”

And—

“1. Occupational Health Solutions Ltd., of

24, Gaston Street, Lange Park,
Chaguanas, telephone 672-2444.’.”

Madam Chairman: So all of that is coming out?

Mr. Al-Rawi: Yes.

Madam Chairman: Okay.

Mr. Al-Rawi: In fact, we would need to take it off to keep it clean from “(m)”.
So from:

“(m) by inserting after section 19 the following Schedule:”

—and then the Schedule as I have just read out to you, Madam Chair.

Madam Chairman: Okay.

Hon. Al-Rawi: So the whole of “(m)” comes out.

Madam Chairman: Okay.

Sen. Solomon: Through the Chair, am I to understand, just for clarification, that what we were being asked to support, this Occupational Health Solutions Limited of 24 Gaston Street, Lange Park, Chaguanas, Telephone No. 672-2444, under the Schedule of “List of Approved Labs” we now discovered is not a lab at all, it is a shell company and it is not accredited as a lab and it is a postbox, a post forwarding box? Is that what we have got to at this stage now?

Hon. Al-Rawi: If I could just, perhaps, answer? The Judiciary of Trinidad and Tobago and Trinidad and Tobago itself does not have a single accredited lab, including the Trinidad and Tobago Forensics Institute, insofar as one may look to certifications of a standard of an ISO type.

There is nothing in the jurisdiction that has met with certification. The Judiciary has been using, for family matters on a voluntary basis, consent to use a service provided in Trinidad and Tobago, which I cannot say is a shell service, a business is not a business or shell just because it does what it does. But they have

been using the facility of having DNA testing done abroad, via this local entity, which may or may not be some form of affiliate. I do not know.

Sen. Solomon: With the greatest of respect hon. Attorney General, that has no speciality whatsoever. It is just a mail forwarding box. Why is it designated in the Judiciary or otherwise is choosing to say that this is a specialized lab and we should be using them only. That seems to me to be very disturbing.

Hon. Al-Rawi: Could I ask a question, Sen. Solomon? Is it that you get it? Is it your understanding that we are continuing to use this entity as a designated entity?

Sen. Solomon: I am trying to understand why it was there in the first place.

Hon. Al-Rawi: By recommendation of the Judiciary.

Sen. Solomon: And why it is that it was not properly investigated before it was presented as such?

Madam Chairman: Sen. Solomon, [*Interruption and crosstalk*] hon. Members, I think the amendment is now going to be put before the committee. I think this matter, this issue, has been discussed. The Attorney General has put forward his proposed amendments.

Hon. Al-Rawi: Madam Chair, I do not want—it is very dangerous to leave one point out. It is imperative for people to understand whether a DNA analysis is done here, California, England or not, there must be an entity that has the ability to take the samples in a prescribed fashion. And, therefore, I want to be cautious that we—I have had the benefit of the Judiciary telling me this is what they use, they certify it, they are satisfied with it, the results are reliable. But it is very dangerous to run off and say skybox and this and pour scorn. Let us be fair. There has to be a method and sample by which one goes about doing these things. So I want to put balance, lest Trinidad and Tobago who is looking at this, runs off with the wrong impression. Let us take some caution in the manner in which we criticize entities,

please.

Sen. Mark: AG, I would like to advise you that we have to be very cautious, you in particular, because this thing has now caused us to look at this whole exercise in a very, very detailed way now. So even though we are supporting it, these buildings as an example, we will now have to do a thorough investigation into these buildings that we are being told have been located, one in Fyzabad, the other one in Port of Spain and in Tobago. Because what is happening here, because you have been misled, with the greatest respect.

Hon. Al-Rawi: I do not accept that I have been misled at all. I have practised in the courts of Trinidad for quite a while and that is how the evidence is done but those are large “brandishments” to be throwing around, with the greatest of respect.

Madam Chairman: Hon. Attorney General, Sen. Mark, it is time now for us to move on with the committee’s work. So I am going to now go through with the proposed amendment and put it to the committee and I ask all Senators to listen, because it is a little technical, so I would ask everyone to just assist as we move forward.

Question put: That Schedule 5 be amended as follows:

1. By deleting 18A of item 13 on page 73, and replacing with the following section: “Minister may designate a laboratory” as the marginal note and then the new 18A: “The Minister may, by Order, for the purposes of DNA analysis, designate a laboratory that is accredited by an international accrediting body.
2. By deleting “(m)” appearing on page 73.

Agreed.

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

10.20 p.m.

Mr. F. Al-Rawi: Madam Chair, if I could ask for your indulgence in proposing a new clause, and that it be specifically inserted after clause 41, which appears on page 29 of the Bill.

Sen. Mark: Clause 41, right?

Mr. F. Al-Rawi: Yes, Sir. A new clause 41A, to be inserted after clause 41. If Members, through you, Madam Chair, would permit me to read it in flow, and then I will come back slowly, so we can catch the words correctly. The purpose of this amendment to take care of the strictures in Schedule 4, and the fact that clause 40(1), it says you cannot have Peer Resolution, if you have a Schedule 4 matter. In 40(2), it says even if it is not a Schedule 4 matter, but it meets with certain heinous characteristic as described in subclause (2), that you are out.

What we have proposed for Senators' consideration is a new clause 41A, which would follow directly after 41. Clause 41 allows the court to go ahead, and offer Peer Resolution even where a parent says that it is not appropriate. And, therefore, in architectural sense we propose a new 41A, which would read as follows:

Notwithstanding section 40—

—and I will read it again slowly just now:

...the Court may refer the child to Peer Resolution where it considers it to be in best interest of the child.

And if I read it slowly now:

New clause 41A:

Notwithstanding section 40, the Court may refer the child to Peer Resolution where it considers it to be in the best interest of the child.

That will be accompanied by the insertion of a marginal note, which would read as

follows:

Court may refer child to Peer Resolution in best interest of child

And the purpose of that proposed amendment, is to allow the court the overall consideration of any matter as may be justiciable in all the circumstances.

Madam Chairman: Hon. Attorney General, what is the marginal note again?

Mr. F. Al-Rawi: The marginal note would read:

Court may refer child to Peer Resolution in best interest of child

New clause 41A.

New clause 41A read the first time.

Question proposed: That the new clause be added to the Bill.

Mr. F. Al-Rawi: May I just make a small tweak? Instead of “the child”, it should be “a child”, apologies; the first time around:

Notwithstanding section 40, the Court may refer a child...

Sen. Ramkissoon: Madam Chairman—

Madam Chairman: Were you referring to the marginal note or to the substantive—?

Mr. F. Al-Rawi: To the substantive as read by the Clerk.

Madam Chairman: Okay.

Question proposed: That new clause 41A be read a second time.

Question put and agreed to.

Question proposed: That new clause 41A be read a second time.

Sen. Mark: Refer a child?

Mr. F. Al-Rawi: Yes, Sir.

Sen. Ramkissoon: Madam Chairman—

Madam Chairman: We are just trying to get the wording correct, and then we will invite comments, okay? Hon. Attorney General, are you satisfied, we have

read the correct marginal note and substantive new clause 41A.

Mr. F. Al-Rawi: Yes, Madam Chair.

Madam Chairman: Alright. Yes, Sen. Ramkissoon?

Sen. Ramkissoon: Thank you, Madam Chair. I just wanted to ask the AG, with this particular clause 40(a), what is the major difference with clause 44, where, when a child denies guilt and the court refers a child to Peer Resolution?—because it says:

Where the court refers a child to Peer Resolution, and the recommendation is received by the court as to the sanctions of the child, the court may review the recommendations.

So the court has the decision to send the child to resolution if he refuses in the first case, he can appear before the court, that was my understanding of it. So, I just wanted to know what is the major difference at this time?

Mr. F. Al-Rawi: Thank you, hon. Senator. Through you, Madam Chair, the difference is that clause 44 is treating with circumstance where the child would normally qualify for Peer Resolution, in the old clauses as we had it before, but where the child had denied guilt. So there was not a bar that the child could not even be considered for Peer Resolution, because he or she had a Schedule 4 matter, or a matter which was so serious that it would be treated under clause 40(2), as opposed to clause 40(1).

So the purpose of the new clause 41A, is to allow the child in the discretion of the court, notwithstanding the general prohibition, that you should not be involved in violent matters, et cetera, if the court thought it fit that, “Look, in all the circumstances this child should be a participant in Peer Resolution, that the child could participate”. So that is to lift the Schedule 4 limitation, or clause 40(2) limitation, which was where you are not Schedule IV, but you are violent, in the

circumstances set out in clause 40(2), that is as precise as I can be.

Question proposed: That new clause 41A, be added to the Bill.

Question put and agreed to.

New clause 41A added to the Bill.

Preamble approved.

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

Senate resumed.

Bill reported, with amendment, read the third time.

Question put: That the Bill be now read a third time.

Sen. Dr. Mahabir: Division, Madam President. You can call for a division.

Hon. Al-Rawi: Absolutely correct, yes.

Sen. Dr. Mahabir: I call for a division, Madam President.

Hon. Al-Rawi: I support it. I support it. [*Crosstalk*]

Sen. Dr. Mahabir: I am not in contravention of any rules of the Senate.

Hon. Al-Rawi: Absolutely correct, Senator.

The Senate voted: Ayes 30

AYES

Khan, Hon. F.

Gopee-Scoon, Hon. P.

Baptiste-Primus, Hon. J.

Rambharat, Hon. C.

Lester, Dr. H.

Moses, Hon. D.

Singh, A.

Budhu, Miss S.

Coppin, W. M.

Cummings, F.

Baksh, Miss A.

De Freitas, N.

Dookie, D.

Stewart, Miss N.

Sinanan, R.

Mark, W.

Hadeed, G.

Solomon, D.

Ameen, Miss K.

Sturge, W.

Samuel, R.

Mahabir, Dr. D.

Roach, HRI

Small, D.

Shrikissoon, T.

Ramkissoon, Miss M.

Chote SC, Miss S.

Creese, S.

Raffoul, Miss J.

Richards, P.

[Desk thumping]

Question agreed to.

Bill accordingly read the third time and passed.

ADJOURNMENT

The Minister of Rural Development and Local Government (Sen. The Hon. Franklin Khan): Madam President, I beg to move that this Senate do now adjourn to Tuesday, June 28, 2016 at 1.30 p.m. That will be Private Members' Day.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.37 p.m.