

*Leave of Absence**Thursday, July 29, 1999***HOUSE OF REPRESENTATIVES***Thursday, July 29, 1999*

The House met at 10.04 a.m.

**PRAVERS**[MR. SPEAKER *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Speaker:** Hon. Members, I wish to advise that I have received communication today from the Member for Tobago West who has indicated that she is ill and will be unable to attend the sitting. She has asked to be excused from today's sitting and she is excused.

**MOTION ON THE ADJOURNMENT**

**Mr. Speaker:** I also wish to advise I had given leave to the hon. Member for Tobago West to raise a matter on the Motion on the Adjournment and that would be deferred until tomorrow.

**PAPERS LAID**

1. The Motor Vehicles and Road Traffic (Amdt.) Regulations, 1999. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
2. The Annual Audited Financial Statements of Urban Development Corporation of Trinidad and Tobago Limited for the year ended December 31, 1998. [*Hon. R. L. Maharaj*]
3. The Audited Financial Statements of Trinidad and Tobago Forest Products Company Limited for the year ended December 31, 1997. [*Hon. R. L. Maharaj*]

*Papers 2 and 3 to be referred to the Public Accounts (Enterprises) Committee*

**DOMESTIC VIOLENCE BILL**

[SECOND DAY]

*Order read for resuming adjourned debate on question [26th July, 1999]:*

That the Bill be now read a second time.

*Question again proposed.*

**The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips):** Mr. Speaker, thank you for the opportunity of contributing to this debate in this honourable House. We all know that the family is the major and

*Domestic Violence Bill*  
[SEN. DR. THE HON. D. PHILLIPS]

*Thursday, July 29, 1999*

perhaps the only natural institution entrusted with the care and protection of its members. The core role of the family is in caring and this caring is reflected in its nurturing, its training, its guidance and direction and indeed protection of members of the family and similar and related functions.

Mr. Speaker, when the family deliberately injures or destroys its members, there is death of the family itself. The family is the core institution of our society and we must indeed protect that institution. If this violence in the family is allowed to escalate—indeed it is already existing in very high proportions—there is potential death of a society and by that I mean morally, spiritually and socially. Because the family is the most significant unit of society, and because the family gives to the society its particular character, we must all be careful with our protection of the family.

It is, therefore, the responsibility of the state to intervene to save the lives of members of the family. It is quite ironic that our Constitution, which was created to secure the rights and freedoms of individuals, including the right to life, must be addressed to ensure that this fundamental right, the right to life, is available to members of the family, and that includes children, women, the elderly, the physically and mentally challenged and, to a less extent, men. A responsible state, Mr. Speaker, must take into account the challenge of protecting the family from itself when this becomes necessary.

Our experience in the Division of Gender Affairs of the Ministry of Culture and Gender Affairs is that violence in the family is pervasive in this country. In fact, one report indicates that this violence is occurring in around 75 per cent of familial relationships. This is astonishing. Our domestic violence unit and hotline in the Ministry provides us with a sense of detail, the detail of the horror stories and the horror situations which several women and children undergo. Mr. Speaker, with your leave I would like to outline some real situations that we have identified in Trinidad and Tobago in relation to violence and I want to emphasize how much this is a family situation and a family matter.

For 1998, one person who lived in Besson Street, Port of Spain, a 34-year-old woman of African descent, was beaten to death by her spouse; another person, a 65-year-old woman from St. James of East Indian descent, was stabbed by her son; another person in Arima, a 39-year-old female of African descent, was beaten by her spouse, to death. All these are persons who have died as a result of domestic violence. A fourth person in Arouca, this is a man, 40 years of age, East Indian descent, was stabbed by his spouse.

We have six persons from St. Joseph, one, a 23-year-old East Indian woman, beaten to death by her spouse; a 19-year-old East Indian woman beaten by her brother-in-law; a 46-year-old East Indian woman beaten by her son-in-law; a 25-year-old female, East Indian/African woman stabbed to death by her spouse and a 58-year-old male of mixed descent shot by his sister. I go on, Mr. Speaker—23 persons in 1998 killed in circumstances involving members of the family, but most of them were committed by spouses. In total, there were two men who were killed in 1998 by their spouses, one killed by a sister and one killed by a stepson. So there were four men killed in 1998, two by spouses, one by a sister and the other by a stepson and they are from all over Trinidad and Tobago.

Let me identify some of the children who were killed, Mr. Speaker. In Rio Claro a five-year-old male child was beaten to death by his stepfather; in Mayaro an eight-year-old male child was beaten to death by his father; again in Mayaro a five-year-old male child beaten to death by his father; an 18-month-old child, no sex given, in Roxborough of East Indian descent beaten to death by the stepfather; and so we go on. Six children who are supposed to have been cared for and protected in the family have been killed in these circumstances.

In 1998, of the 23 persons who were murdered in the household situation, 13 were women, six were children and four were men. This is a very serious situation and while we have been deliberating and debating in both Houses, more deaths have occurred. If we look at some of the newspaper reports we find that—this is reported on June 9, 1999—“Man stabs ex-lover”; “Woman chopped after trip to buy bread”. This was reported on June 4, 1999; “Man gets two years for stabbing ex lover.”

“Woman critical after beating”. This matter was reported on June 17, 1999:

“A Sangre Grande woman is now in critical condition at the San Fernando Hospital nursing serious injuries to her head and upper body and is suspected of having a fractured skull.”

We do not know what has become of her but in June, 1999, she was in a critical condition at hospital. These things continue. I have a heading here:

“If I can’t have you no one will”. “Sister tells of ex-lover’s threat to murder Belmont teenager”.

And so we go on and on.

### **10.15 a.m.**

**Mr. Valley:** Mr. Speaker, I wonder whether the Minister would inform this honourable House what policies and programmes the Government is putting in

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

place, other than simply punishment, to prevent or alleviate the incidence of domestic violence in Trinidad and Tobago.

**Dr. The Hon. D. Phillips:** Mr. Speaker, I am saying that the attacks go on continuously, even in the context of the approaches we have been using to address the problem. As the Member requested, let me mention some of the programmes that we have in place. In 1996, we put in place—for the first time in Trinidad and Tobago—a National Domestic Violence Hotline, so that when people are in situations at home they could call and inform someone at any time; it is a 24-hour 7 days a week service. That hotline is connected to shelters and, certainly, the community police. So it gives persons an avenue to talk to someone and an assurance that something would be done.

In 1997, we also opened the Domestic Violence Unit in the Division of Gender Affairs which is still being staffed by a number of persons to work on prevention. That unit has created men's programmes, community programmes where we go into communities and work with NGOs and groups in order to create a sort of situation where communities protect each other. That unit is also responsible for public awareness programmes and school programmes. We have been working in schools and getting children to talk about their experiences, informing them how they can, in any way at all, prevent or expose—if that is necessary—situations in the home which are violent. So we have that Domestic Violence Unit.

In 1998, we started a programme of drop-in centres, that is, there were 22 centres opened in community centres and other facilities in communities across the country where people have access, free of charge, to a trained counsellor or social worker as well as a community development officer and a member of the community police. The community police have been greatly involved with us in working on that programme. So there are these drop-in centres, people are sometimes referred from the hotline to the centre nearest to where they live. So that they can again get attention and prevention of this particular problem. This is why we started the centres, the hotline and the unit in order to try to address this problem.

We have also done a great deal of training. We have been involved in training of the community police as well as hotline workers not belonging to the Government's Domestic Violence Hotline, but other hotline workers as well as volunteers. We have been training in terms of addressing the situation—talking with persons who are in violent situations. Of course, we have also been involved in the creation and review of the Domestic Violence Act because we think that

legislation is necessary to further address the problems which we face in terms of domestic violence. Those are some of the things we have been doing.

We have analyzed the domestic violence data that come out of the hotline and we have an understanding of some of the patterns of that violence. If I remember correctly, something like 85 per cent of callers to the line, are female. But what is very interesting and, indeed, frightening, is that close to 10 per cent of callers are children. If I remember the figure—approximately 3,000 new persons called the line in 1988 and of those, 10 per cent were children calling for help and assistance, which is reflective in our data from the police—the *Modus Operandi* Unit from which I was just quoting—that children are in danger in the family, which is an institution which is supposed to protect. So, Mr. Speaker, we have been doing preventative activity. *[Interruption]*

**Mr. Valley:** I wonder whether the Government is going to take any study to determine the reasons for domestic violence, and also whether there has been any increase in Government's assistance to NGOs, half-way houses and so forth, as a transition for persons or victims of domestic violence.

**Dr. The Hon. D. Phillips:** Mr. Speaker, the answer to both questions is yes. As I indicated before, the National Domestic Violence Hotline is connected to certain safe houses, and for those we have increased the funding. Those safe homes are largely funded through the Ministry of Social Development, but the Division of Gender Affairs itself, out of some of its funding, has contributed to training and to increased subvention to those particular houses.

We have been doing research, as I said, on the Domestic Violence Hotline data and that gives us an indication of who, where, how and what social circumstances and conditions the victims as well as the perpetrators of violence exist in. We have also been doing, with the collaboration of the community police, and the Ministry of Social Development, various studies on certain sections of the population. In fact, right now the Ministry of Social Development has commissioned a study on the home conditions, including violence of the elderly, because the elderly and children are two groups of persons who are also vulnerable to that problem.

Mr. Speaker, when we reviewed the legislation we found that the existing law does not adequately address the issue and that there is disproportionately low sentencing, judicial bias, police indifference and procedural regulations which seem to punish the victim rather than the accused. We found also that the law does not address prevention. This is one aspect of this new law which we are

*Domestic Violence Bill*  
[SEN. DR. THE HON. D. PHILLIPS]

*Thursday, July 29, 1999*

trying to introduce. We are trying to stop the violence or stop the killing before it happens; to introduce prevention and in this regard we see it necessary to give the police more powers as identified in the Bill.

**10.25 a.m.**

Mr. Speaker, in our discussions with the Law Commission, we identified four major obstacles which hinder the effectiveness of the 1991 legislation, and which rendered it difficult for abused women to take full advantage of, or receive the protection of the law. Those four obstacles were: firstly, financial considerations, and usually, we found that persons would not come forward because of their financial dependence.

Secondly, we found that the intervention by the police in domestic violence cases was not timely and that the police were not clear on their roles and functions in such cases. They tended, therefore, to have something of a lukewarm response, and we know that can be removed by training and certain regulations in the law.

Thirdly, we found that, of course, domestic violence situations, as defined in the old law were quite limited, and the new law, of course, attempts to broaden the scope of the definition, as we have seen in the law itself. Fourthly, the court was not vested with sufficient jurisdiction to provide the type of remedies which would afford protection and relief while, at the same time, imposing necessary accountability on the perpetrator of violence. I must again reinforce that the Domestic Violence Bill is gender neutral. It applies to men as well as to women in the same ways, punishing and conditioning.

There were a number of difficulties, one of them being the inability of the police. We have been working, as I said, for three years on preventive measures and counselling measures, but the violence continues. Even as we speak, people are being killed in their homes, and we need to address that.

The new Bill confers powers of entry to the police, allowing the police to enter premises without a warrant. In the other place, we amended that to increase the checks and balances on the police in relation to this entry without permission. Mr. Speaker, I was saying before that it is ironical that we have, in order to protect the lives of people—and, perhaps, the most vulnerable: the children, the women, the elderly—we have to amend the Constitution which gives us security in our rights and privileges. We have to amend it in order to protect certain members of the family in the private domain of the family, and we see that as necessary.

Mr. Speaker, there were 15 problems we found with that original Bill, and I want to go through them very briefly. One was the matter of the definition of “domestic violence”. Secondly, the Bill addresses the matter of cohabitation and issues in which people live in the same household. It extends the range of persons who may make an application for protection. It includes, therefore, police officers, probation officers and social workers who may apply on behalf of the abused.

It extends the ambit of protection to include any member of the same household. It confers on the Magistrates’ Courts additional property remedies by prohibiting the conversion of property, and so forth. It seeks to put in place a system which will allow the court to monitor the counselling orders and we found that this counselling was one of the problems—absence of counselling in the old Bill. It extends the duration for which a protection order may be made to three years, and so forth.

One of the most severe provisions of the new Bill is that it confers powers of entry to the police. Mr. Speaker, we see this as extremely necessary, and I have the backing of several non-governmental organizations (NGOs), and women’s organizations who see it as essential that the police be given the authority, to enter the household to protect the victims. Even into the private sanctuary of the home, we see it necessary in order to ensure the rights of those victims and reduce the killings and the violence which continually takes place, regardless of the preventive measures we put in place.

The role of the police—and in this regard we are speaking generally of the Community Police who have been working with our Ministry and our Division of Gender Affairs, to a large extent, in identifying the problems. Indeed, the Community Police have found that the highest incidents of crime and criminal behaviour in the community are related to violence in the family. Because of the limitations of the present Act, they are hindered. They cannot act as expeditiously as is necessary to prevent the violence in the family.

Mr. Speaker, having regard to what we have been doing in the area of prevention and what we have been doing in collaboration with NGOs and the other agencies of the state—particularly the Community Police and the Ministry of Social Development—we see that the incidents of violence continue, and we see it as a necessity to increase the powers of the police to make this law workable and to prevent the battering of women and children in the family situation. We see

*Domestic Violence Bill*  
[SEN. DR. THE HON. D. PHILLIPS]

*Thursday, July 29, 1999*

it as the right of the state, the role of the state, the responsibility of the state, to protect the family, and this is one of the ways in which that can be done.

Mr. Speaker, I thank you.

**Mr. Fitzgerald Hinds** (*Laventille East/Morvant*): Mr. Speaker, lest we be misunderstood, misquoted and never given an opportunity to correct it, I want to say firmly, and from the outset, that we on this side support the general philosophy of this development in the law as it relates to domestic violence and that we, Mr. Speaker, will grant and give our support to the Government in this matter because we, of the People's National Movement, understand full well the seriousness of the crisis as it subsists in our society in relation to domestic violence. So, we do not wish to be misquoted about that. There are, however, serious concerns on this side, and we will take the opportunity as we have done through our first speaker in this debate, to address these very important concerns.

Mr. Speaker, we want to support the Government, as I said, in meeting the objectives of this legislation. It will repeal the existing legislation. We heard the explanation and we accept that. It is a complete reworking of the legislation. I want to put on record the objectives of this Bill:

“increasing the power and jurisdiction of the Court;  
enlarging the scope and ambit of the Protection Order;  
providing harsher penalties; and  
giving the police greater powers in respect of their ability to intervene in domestic violence situations.”

It is the last of those objectives which hold our greatest concerns, but before we deal with that, the question of providing harsher penalties is a matter that I want to address briefly. Everyone understands that domestic violence is different in some respects from violence in general because of its very domestic nature. It is not done and often practised in the public domain. It persists and largely exists in the privacy of homes and in the quiet of bedrooms.

Mr. Speaker, it is that characteristic that makes it quite different, because it is unlikely that Constable John or Constable Brown would be going by at that time. Of course, in the last of those objectives, the Government proposes to allow Constable Brown to walk into the bedroom, and this is what infringes on the general constitutional protection afforded to all citizens of this country; not only spouses and those who are afflicted by domestic violence, but all of us, and we



have to be very concerned about this, because we have seen this Government, from time to time, come to the Parliament and espouse policy that on the face of it appears very laudable, on the face of it appears to be good, but when we look more closely at the thing, as usual, typically UNC, there is always a sting in the tail. We have learned from our experience with this Government to be untrusting in respect of even the matters that appear on the face of them to be the most innocuous in the world.

Mr. Speaker, the question of harsher penalty concerns me, not because I believe—and I do not—that persons who perpetrate acts of violence in general and/or domestic violence in particular, do not deserve to be punished, but we must appreciate that because of the special characteristics as I have explained that exist in the realm of domestic violence, these problems are generally social problems and find themselves dressed up in legal clothing.

I think that the Government ought to recognize this and I rather suspect that the honourable Minister who just spoke understands this. This is why she explained some of the programmes in respect of counselling and other backdrop facilities because really, these are intricate social matters. All kinds of influence could be responsible for the perpetration of domestic violence, and it is also well-known—and I want to place on the record—that it works both ways: Man against woman and sometimes woman against man. Man against children, sometime children against man and woman, because there are many cases where young strong maturing adults effect serious violence on their grandparents and even their fathers and, therefore, it requires our attention as well.

**10.40 a.m.**

Mr. Speaker, let me deal promptly with clauses 21 through 23, which are the clauses in this Bill that seek to enhance police powers in dealing with the business of domestic violence. Under Part IV of the Bill, the rubric “Police Powers of Entry and Arrest,” clause 21(1) says:

“A Police Officer shall respond to every complaint...”

That, on the basis of very simple statutory interpretation, imposes a duty on the police officer—it does not say he may respond, it says he “shall respond to every complaint or report alleging domestic violence...” It means that if the police forms the opinion, based on the history of the particular case, that the complaint is frivolous—and, in fact, there have been such circumstances—the police, according to this, are obliged to respond nonetheless, and this raises other questions. Is the police genuinely able to respond?

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

We know, that notwithstanding the Government's claim to have improved police efficiency with the purchase of new vehicles—well, in fact, they said purchase, but we discovered when we looked more closely, that they rented from a friend of the Government and are paying exorbitant monthly lease arrangements, to the detriment of our economy altogether, but that is besides the point. The point really is that they claimed to have made the police service more effective.

Mr. Speaker, as I speak to you now, I can give an example. The Barataria Police Station, which accounts for the entire Barataria/El Socorro and some parts of San Juan districts, they are possessed of one police vehicle and if that vehicle is in use while officers are investigating a murder, the police surely, cannot respond and even so promptly, to a call on domestic violence. That may sound like a very unimportant matter, but when the legislation imposes a duty as it does, it means that not only counselling and the other backdrop services of which the Minister so eloquently spoke, but the question of resources for the police is also very important; and once we raise the question of resources, it opens up a whole can of worms about the way the UNC has managed their affairs as a Government and the economy of Trinidad and Tobago. That is suspect, that is questionable and I rather doubt, as I speak now, that this Government is able to deliver on this very important matter because its delivery goes on unimportant matters elsewhere. So that is a matter of serious concern.

As I spoke about the Barataria Police Station—because what this does is to give more responsibility to the police. It makes it imperative. Before now, they ought to—sometimes they do it half an hour or two hours later; sometimes citizens say, half day, the following day. But now the Government imposes this duty.

Subclause (2) reads:

“It shall be the duty of a police officer responding to a domestic violence complaint to complete a domestic violence report which shall form part of a National Domestic Violence Register to be maintained by the Commissioner of Police.”

I was very attracted to that preposition in the subclause, because when it comes to attempting to give the police powers to enter into people's homes without warrant, as clause 23 proposes in this Bill it means, therefore, that this is a major departure from present arrangements. A warrant is a document that puts the occupiers of the premises or constitutional rights to privacy, use and enjoyment of

his property, a warrant puts those constitutionally entrenched rights in abeyance and there are many circumstances where warrants are obtainable and necessary.

In order to obtain a warrant, the police must go and swear to information, before a Justice of the Peace, a man appointed under law, a responsible citizen with training and experience who can deliberate on the facts and decide whether he will sign and issue this warrant at his hand because the circumstances warrant it. That check and balance is important because we understand that the issuance of a warrant puts a man's constitutional rights, temporarily at least, in abeyance. A Magistrate or a Judge also issues warrants in those circumstances. So that there is some check and balance on the police in that regard.

When it comes to the question of entering without warrant that raises other questions. Of course, if the police are in hot pursuit of a man and he runs into a home, they are entitled to go right in after him. That is a common law exception to that principle.

If, as a matter of human common sense, the police receives a telephone call and it says: "Come quick! come quick! I am in the bathroom, I have the door locked and he is banging away at the door trying to get in here, he has a cutlass, please come quickly", I would expect the police to be able to enter in those circumstances and effect whatever help they can bring to the victim in those circumstances.

We understand that there are circumstances such as those, but when legislation gives premeditated opportunity to enter without a warrant, this is what brings in the human condition and opens the potential for abuse, because it means a wicked person can make a decision before hand, knowing what the law is, and that he has an untrammelled right to enter without warrant, he can manipulate the situation and concoct any number of scenarios in order to perpetrate his wickedness. I think it is correct for me to say, that wicked people exist in all strata of the society, in all occupations and in all circumstances in terms of human activity and, as a result, the police service cannot be exempt from that.

We saw recently, a police officer brought the entire service—and I speak from some experience, because I myself was a police officer, and very proudly so, and served for six years—but we saw a police officer recently convicted in these courts and brought the entire police service into grave disrepute. He was receiving a report from a woman in the San Fernando Police Station, knowing that the woman had jewelry and cash at her home—according to the evidence upon which he was convicted—he kept the woman at the police station sufficiently long,

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

contacted a criminal; arranged for the criminal to enter into the woman's house to relieve the woman of her possessions, while he, the police sergeant kept her safely at the police station. That is a reality.

**10.50 a.m.**

Mr. Speaker, that example alone demonstrates the potential for the kind of abuse that we have been trying to highlight to the Government in these circumstances. If that is quite possible and the man was convicted for it, what stops the—Well we have read in the Bible that David sent Bathsheba's husband, Uriah the Hittite, out to war while he took the opportunity to meddle in the man's domestic affairs.

[MR. DEPUTY SPEAKER *in the Chair*]

That again demonstrates the potential for the abuse we spoke about. The police officer of whom I spoke—and I pray that no other police officer behaves in that dastardly manner—is quite capable of going to a man's house on no complaint from the man's wife, perhaps only on an invitation from her and spending time there while he sends the man away to be arrested at the station for the period of time that he sees fit. This may sound absurd, but it is that behaviour of human beings and it requires attention. [*Interruption*] And it has biblical antecedence. I like that. Thank you, Member for San Fernando East. Wonderful! And it has been described by the Member for Diego Martin East, as other horrible circumstances.

So when we accept that in hot pursuit, or in very extreme circumstances, one can enter into someone's domain without warrant, we are saying that when it is prearranged in a law, it gives rise to all kinds of nasty possibilities and, for that reason and that reason alone, we have problems.

When we come to an analysis of that Government's behaviour, Mr. Deputy Speaker, we have been told in this Parliament by the Prime Minister of this country, and I just want to make the point, if you would be kind enough to bear with me, that the PNM was perpetrating a violent overthrow of that Government. Out of the blue! And you will recall that a very astute, well-known and professional man, J. P. Madeira, rather than accept the Government's nonsense, he investigated that wild suggestion by the Prime Minister—I was about to describe him similarly, but I will not. He contacted sources high in the security forces who told him, “We know of no such thing”. When he contacted the Minister of National Security, the Minister said, “We know of no such thing”. But the Prime Minister was ranting, raving and frothing at his mouth about the PNM wanting to

overthrow. So the next thing one knew, the *Guardian* published a story, “Panday's alarm”, and called on him to get down to the business of managing the country, if he can manage the ability to do that, and he has not, or hush up. Next thing one knows, war with the media.

I am saying, with that as an example of what could come from this Government, we have to be concerned about the potential use of that kind of authority for political purposes, although I know, hope and am confident that the police service will be strong enough—notwithstanding the attacks by the Member for Pointe-a-Pierre—to withstand any such intervention by the Government against the people of this country; but let me proceed. *[Interruption]* Member for Pointe-a-Pierre, Mr. Regis is testimony to what I have said.

Mr. Deputy Speaker, the business of domestic violence is a very strange and psychological one. I am not a sociologist or psychologist, but I assessed the situation as follows. When a man begins to abuse his spouse, or a wife her husband, what happens—as I assess it from my reading—is that the victim becomes or begins to become dehumanized, not only in reality, but in the mind of the attacker. Because, the more one beats upon the victim, particularly if there is no resistance, the victim, it appears, becomes more and more helpless as the months and years of that vicious cycle roll on. The more that happens, the more the perpetrator feels stronger, the less human the victim becomes, so no longer is he attacking a human being in his psyche, but he is attacking a thing.

I want to make a similar example and draw from the situation that took place in Treblinka and Auschwitz in the Nazi concentration camps. When they captured the Jews in those years, to boil, cook and fry the six million of them that, sadly, Hitler and his band of thugs did, they arrested fat, healthy, ordinary people. They did not just take them and kill them. It is hard to kill a human being. One has to be a beast in human form to just kill a human being, but, they put them in these concentration camps. First of all they shaved everybody's hair so one could not tell who was man from woman, they dressed everybody in a bit of a sackcloth, so one could not tell who was who. They then starved them and beat them for many months so they became gaunt and thin with cheek bones protruding. It is much like the Minister of Education and the Prime Minister wanting to do us all in Trinidad and Tobago to give us all the same book. *[Laughter]* They dehumanized them. Having completely dehumanized them, then it was easy to kill them because they were not killing a human being.

I always seem to think that in a situation of confrontation with an attacker, one must maintain his humanity. I am saying, if he comes to rob one and one says,

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

“You want my watch, bracelet and ring; here they are”, but one maintains one’s strength and human dignity. It is harder for him to be violent. But if one shrinks, cowers and begins to freak out, he becomes the attacker, the relationship between the two human beings changes and then injury is more likely.

The point is, Mr. Deputy Speaker, these are the kinds of things that the Government needs, by way of educational programmes and otherwise, to address. Because we have a problem, as the Minister said a moment ago, with violence in general in the society; domestic violence is but a part. I find this Government very hypocritical in many ways. I commend them for bringing this legislation, it is good for Trinidad and Tobago, but it does not absolve me of the responsibility to tell them that I sincerely find that they are hypocritical.

Everybody understands that drug use—marijuana, cocaine, all kinds of drugs—contributes to violent behaviour. Everybody understands that! Everybody understands that alcohol plays a very important part in the whole business of violence, road accidents and, in particular, domestic violence. When a fellow sits in a bar on Sunday—this Government legislated that alcohol be sold in supermarkets. This Government legislated that alcohol be sold on Sundays and public holidays. This Government did that two years ago right here. The Member for St. Joseph even stood up and defended it gallantly and miserably! But you know something, when the man sits in the bar—

**Sen. Dr. Phillips:** May I be allowed to say something?

**Mr. F. Hinds:** Most certainly my lady, particularly given the way you are so well attired today.

**Sen. Dr. Phillips:** Thank you. Mr. Deputy Speaker, I just want to respond to one of the last points the Member for Laventille East/Morvant was just making. Just to alert him to the results of some research which was done on the matter on which he was just speaking. It says here that, domestic violence is not caused by alcohol or drugs; childhood problems; stress from work or other areas of life; a physical illness; insecurities; racism or poverty; inability to express one's feelings; financial problems; appearance or behaviour of the victim. It says, domestic violence is a result of choice and that people should not hide behind this list of things.

**Mr. F. Hinds:** That is one study. Of course, there are many other views, and I appreciate the point the Minister is unsuccessfully trying to make.

However, when you say something is as a result of choice, a human being makes choices, but that human being is influenced by a number of things, a number of ideas, theories, his own physical—*[Interruption]* Member for Nariva,

stop bouncing up and down like a wooden animated object, just be quiet. I am sorry, but please, I am trying to address the point the Minister has made.

**Mr. Deputy Speaker:** If the Member spoke to me directly, he would not see the Member for Nariva jumping up and down.

**Mr. F. Hinds:** Most certainly. I should have said bobbing. *[Laughter]*

When a person makes a choice, that choice is sometimes informed by other elements. I can deal with the point, but let me proceed. You see, if one looks at the nature programmes, I saw one recently, just to say briefly in respect of that. One will hardly find two male lions fighting with each other, they may scuffle over food, but they understand each other's strengths. The young man who attacked and beat the 87-year-old woman and robbed the 60-year-old retired pensioner would hardly run into his colleague who is of equal force. He decides who he will attack. While he makes a choice, while he decides, he picks the house. So while there is an element of choice and I accept that, that choice is informed. And alcohol influences one's ability to decide and choose. *[Desk thumping]*

So when the fellow leaves the bar at 7.00 p.m., having gone there 10 o'clock Sunday morning, and goes home—with the permission and the authority of the Government, supported by the Member for St. Joseph, because he could drink as he wants on Sunday—and starts to torment his wife and children, he must know who is responsible for it and his choice is affected by that fact. *[Interruption]* Mr. Deputy Speaker, I wish to continue undeterred.

We heard the Minister of Legal Affairs, the Member for Siparia, point out that in San Fernando, for example, there were 301 applications for protection orders under the current legislation, in the end, only 100 applications were finalized by the court. As a practitioner in this area of law myself, I can tell you in many cases—because as I said, they are social problems dressed up in legal clothing—oftentimes when the woman takes the action to go to court, that is a last resort position, when she is really being tormented, when the family on both sides cannot restrain the attacker or the abuser—as I will loosely call him now—as well as they should, so she comes to law.

The point is, oftentimes they approach the court, they get an interim order, or once the action is filed in the court, the other party, the aggressor, realizing that the offended person is serious, curtails that behaviour and that could probably be responsible for the wide gap, the disparity between the number of applications and the number of finalized orders. I have had many cases where the action was started, the behaviour was rectified, because the complainant demonstrated

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

seriousness and then the other party withdrew and, at least, curtailed his behaviour. That sort of thing. Sometimes, they do not bother to come back to court, the matter just falls away. That is how it goes.

Let me continue dealing with the Bill. In clause 21(3) it lists in that domestic violence register that the Commissioner of Police should keep and maintain a number of the items that ought to go into those reports. It says:

- “(a) the name of the parties;
- (b) the relationship and sex of the parties;
- (c) information relating to the history of domestic violence between the parties;
- (d) the date and time the complaint was received;
- (e) the type of abuse and the weapon used, if any.”

**11.05 a.m.**

I consider that to be extremely important taken in conjunction with the third item which I read, information relating to the history of domestic violence, I want to say this. Before you consider giving the police untrammelled rights to enter into people's homes without a warrant, even the problems I had highlighted for which there is such grave potential, I would want to think that it can very well be a situation where the police might be able to enter without a warrant just as a compromise. I am just throwing it out because we are not supporting it in its present form, but you may wish to consider that the police should have a dossier on the particular home and the offender, and the address.

If, for example, the Santa Cruz police, or the Mayaro police or the police in the district generally, received a number of complaints from that home which they would have investigated and found not to be trifling or frivolous, so that they know in that home there is a very aggressive woman there, or a very violent and aggressive man there, in those circumstances they would be able on call to enter without a warrant because there is a history, or record of it.

For the police to merely receive one call just like that from a man like David or from a man like the sergeant of police about whom I spoke, or from some other person, and rush into a man's home without any history, or antecedent, that could be very much to ask. So I throw that out to the Government for its consideration.

Mr. Deputy Speaker, in clause 23, the clause which gives the police power to enter and arrest without a warrant is what we have serious concerns about. Clause 23(2) says:



“Where a police officer has been refused entry on to premises and has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence and failure to act immediately may result in physical injury or death, the police officer may enter those premises without a warrant, for the purpose of—

- (a) arresting the person whom he suspects of engaging in conduct amounting to domestic violence;

There is an offence known to law as false arrest, malicious prosecution, and evidence would have to be led in order to succeed in those actions that the police officer acted maliciously and prosecuted maliciously or arrested in circumstances where it was not at all warranted according to law. With this provision in the legislation, even if the police officer acted like Uriah the Hittite, or like the David of biblical fame, this subclause gives him protection because he would have been acting, not on his own, but as a result of a call received; he can look to this for protection. And action for malicious prosecution or false imprisonment would be very, very difficult to be found against him in the circumstances. That is another reason we have serious concerns about.

You see, the Government moved an amendment to which the Minister made reference a while ago, and when they came with that raw clause giving the police that untrammelled power, the Government came with an amendment and it claims in these amendments to have put in additional tiers of protection and this is one of them. It says:

“Where a complaint is made against a police officer by a person...”

So taking into account the fact that people may complain against the unlawful or improper intervention of the police without a warrant, the Government, in order to deal with this when objections were raised in the other place, came with this provision which says:

- (6) Where a complaint is made against a police officer by a person resident in premises alleging that the officer’s entry onto the premises under subsection (2) was unwarranted, the Police Complaints Authority shall investigate the complaint and submit a copy of its report to the Commissioner of Police and the Director of Public Prosecutions within 14 days of the complaint having been made.”

That offers no protection to me, because the police officer did what he did, all I can now do is go to the Police Complaints Authority who will, in his own time,

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

investigate this matter and report it to the Commissioner of Police, bearing in mind that the police officer who went would have already reported in his terms on the report he is expected to send to the Police Commissioner.

This is really paper thin and offers no real protection, particularly in the light of the subclause I have just read, showing that even an action would be difficult because the police would have had what appears from the statute to be lawful grounds to have acted in the way he did once he received a call, once they told him that he shall investigate and he went in without a warrant. So this does not satisfy our concerns. It does not. It is *ex post facto* and reporting the matter to the Police Complaints Authority, the Commissioner of Police and Director of Public Prosecutions really does not protect me. I need protection not *ex post facto*, but beforehand. So before the police officer enters my home, it must be a proper basis, he must do it upon solid basis, either in the examples which I have given: in hot pursuit, in the emergency scenario I have demonstrated, or if he has an opportunity to get clearance from the responsible officer, the Justice of the Peace, or the magistrate. This does not offer me any satisfaction.

It goes on:

- (7) Where the investigation of the Police Complaints Authority finds that the entry under subsection (2) was unwarranted, the Police Complaints Authority shall also submit the report to the Police Service Commission and such report may form the basis of such disciplinary action against the police officer.”

If they find that it is warranted, they then send it to the Police Service Commission to discipline who? The constable who went in to arrest? Who took instructions from the sergeant to go to No. 4 Joel Street in some part of the country to investigate? He is going to be nice and clear. The legislation authorizes him to do it and it would be very difficult to demonstrate the unreasonable conduct of which I have spoken for the reasons I have given.

Madam Minister, I submit that these two provisions really do not answer the seriousness and potential for abuse about which we are complaining. It really does not take us very far.

**Hon. Persad-Bissessar:** Are there any suggestions?

**Mr. F. Hinds:** Yes, I suggested it in your absence. If you were here listening to the debate as I sat and listened to you, you would have heard.

I continue. In clause 23(4), there are again three items that should be contained in a report that would be made to the Commissioner of Police, and they are:

- “(a) the reasons for entering the premises without a warrant;
- (b) the offence being committed or about to be committed; and
- (c) the manner in which the investigation was conducted and the measures taken to ensure the protection and safety of the person at risk;”

I suggest—now we have a problem with the clause but we know you. We know that notwithstanding our pleas in this House, you bulldozed your way, it is your time now, and you will do it notwithstanding what we say, so we understand that by your conduct. I am saying, if that is the approach you wish to take, we cannot restrain you, though you need a three-fifths majority in this one, but if that is the approach you want to take I would suggest that you add to that list, reasons for the failure if it demonstrated that it was a failure or the call was unwarranted.

In other words, if the purported victim calls and says, “Emergency! Come down!” And the police rush in without a warrant, these are the items you list here that should be reported to the Commissioner of Police. I am saying added to that, you should state the reasons the thing failed. In other words, the commissioner should now, in his report, say that the person who called was trifling, frivolous, there was no evidence of it, and that sort of thing so that, in future, another police officer shall not respond to a complaint as the Bill says earlier.

I hope you appreciate the point I am making. In other words, the caller, the address, the house would be known to have in there a frivolous and vexatious mad person perhaps, or a vindictive, wicked or malicious person who calls and the police cannot be coming over and over without warrant to the man’s house, so you should have the reason for the failure so, in future, the police would at least be able to make reference to that reality and not abuse the man’s constitutional rights over and over again. That is the point I am making. A word to the wise is sufficient. That assumes that I am speaking to the wise.

The Member for Diego Martin East pointed out the absurdity of the definition of domestic violence. It is now broadened to include financial abuse. I think he dealt with it, but I want to touch on the matter before I proceed.

“‘financial abuse’ means behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person’s access to financial resources so as to ensure financial dependence;”

This does not say whose resources. So if the woman for example, complains that she is a housewife, the man earns \$15,000 a month as a stipend somewhere, or closer home, the man earns about \$20,000 per month as a salary, and she is

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

unemployed. She makes direct contribution to the home no doubt, but she complains that she is being financially abused because he is not giving her cash. Could it be said that he is abusing her because he does not give her access to resources? Which resources? Whose resources?

If, on the other hand, in accordance with old and antiquated law, the wife's income was the husband's income and she could not get a loan from the bank unless he signs, then. But this does not say whose resources, it says nothing. It is wide, it is vague, it is very UNC, it says nothing really, and I think it should be taken out.

Another absurdity we detected is the fact that domestic violence is defined as follows:

“‘domestic violence’ includes physical, sexual, emotional or psychological or financial abuse...”

Look how inelegant.

“‘domestic violence’ includes physical, sexual, emotional or psychological or financial abuse committed by a person against a spouse, child, any other person who is a member of the household or dependant;”

So someone can be dependent on me. I live in Belmont and someone dependent on me lives in Mayaro not belonging to my household, and I can be called to book for domestic violence, but worse than that, the domestic violence definition refers us to the First Schedule which lists a number of offences and the Member for Diego Martin East already pointed out the absurdity of the offence under the Malicious Damage Act, Chap. 11:06

“Setting fire to a dwelling house, any person being therein, Sec. 4”

That can be considered domestic violence according to the UNC.

“Conspiracy to set fire, Sec. 10”

That is domestic violence.

“Misuse of telephone facilities and false telegrams, Sec. 106”

According to the UNC, that is domestic violence.

“Attempting to destroy buildings...”

“Children Act, Chap. 46:01

Begging, Sec. 5”

Begging could be considered domestic violence. It just does not add up, and I am happy that the Minister recognizes that and is prepared to make the necessary adjustments to the legislation, and I hope that the main adjustment of which we are complaining, clause 23, would be taken into account.

We have already pointed out and I wish for the record, to address the question of visiting relationships. What does that mean?

“‘spouse’ includes a former spouse, a cohabitant or former cohabitant.”

That is fine:

“...a cohabitant or former cohabitant,”

I think we need to be more specific, because two persons could be divorced in 1980. Can one come in 1990, under the domestic violence legislation because they are a former spouse?

*Motion made*, that the hon. Member’s speaking time be extended by 30 minutes. [*Mr. K. Valley*]

*Question put and agreed to.*

**11.20 a.m.**

**Mr. F. Hinds:** I am much grateful, Mr. Deputy Speaker, and to my Chief Whip, the Member for Diego Martin Central and all in this House for extending my time.

Mr. Deputy Speaker, spouse—in this country two males or two females cannot marry so we know that we do not have the difficulty of that in this definition. But, in terms of cohabitant: two young men from Siparia can be working in Port of Spain and occupy a home, no homosexual relationship, ordinary occupation sharing the rent as happens. So, there is an issue between them. Is it proper to countenance that one can come for protection under the domestic violence legislation? Is that the sort of thing that is contemplated, or should he not come under general principles of law? Or a former cohabitant?

The Government now adds visiting relationship, so a fellow meets a girl, she lives at a certain address, he has visited her three times—

**Sen. Dr. The Hon. Phillips:** There is a time limit.

**Mr. F. Hinds:** There is a time? There is a time in respect to visiting? Well, if there is, that is happy news. Where is it?

**Hon. Persad-Bissessar:** Look in the definitions section.

**Mr. F. Hinds:** But we just added in the amendment “visiting relationship”. Or in the amendment? Yes, well let me see what the definition says:

“a person who is or has been in a visiting relationship with a person of the opposite sex for a period exceeding twelve months.”

Well I see the attempt, but you see how absurd it is. What about 10 months? You will be visiting constantly. The trouble is not so much in the time period.

**Hon. Member:** You could have a child.

**Mr. F. Hinds:** In fact, yes, one can conceive a child in 10 months. *[Interruption]* I see. So the point here is—

**Sen. Dr. The Hon. D. Phillips:** When there is a child there is—

**Mr. F. Hinds:** Just a moment my lady, be patient. I have been patient with you. *[Interruption]* The point here is, it is the very concept of “visiting relationship” that is troublesome here, because the person is not living there, the person did not live there before—all right, but that is the Government’s approach to it.

[MR. SPEAKER *in the Chair*]

It is to be noted Mr. Speaker, that in clause 5 of the Bill, under the rubric: “Power to make a Protection Order”, The court determines whether it will make the order or not, on the balance of probabilities. That is the civil and lower standard known to law, the higher standard being “beyond reasonable doubt” which is that which is applied in criminal cases. The balance of probabilities is a lower standard, it means the court could listen to both sides and it weighs it. If there is a likelihood that it is correct, then the court will impose the order. The court weighs it on the basis of the balance of probabilities. But yet, the power to enter without warrant: the affront on the Constitution that that power gives, is not on the balance of probabilities even. It is simply on an unsubstantiated—yet unsubstantiated—call or report from the caller. You see the inconsistency? You see how the Government is intellectually unsound and obviously does not think things properly through? Because you allow the police officer to come in.

Remember the Constitution is no ordinary law! The Constitution is the supreme law of this land. If in criminal law you need the higher standard of beyond reasonable doubt, we have argued here before, that to effect the Constitution, the Constitution tells you you need certain specified majorities. You are now allowing a police officer to run into someone’s home—wanting to get

that special majority in this debate on the basis of a yet unsubstantiated call. If the man finds himself before the court, the court decides whether it will grant the order in respect of the complaint on the balance of probabilities. That is absurd! Intellectually unsound! I want to urge you in the words of Iwer George: "Think it over, think it again." It does not come right, think it over. But as usual, you insist and you leave a lot of tidying up for us to do when we come into government again shortly. But we are willing and we are very able. We have good reason for saying so. Every time the Member for Point-a-Pierre danced we won another seat. He danced like Pulwatie from Princes Town, and the more he danced, the more we beat them.

Let me continue, Mr. Speaker, and disregard the comments of the Member for St. Joseph, my friend. Previously—and the existing legislation, I seem off my head, to recall—the interim order was granted for six months. Yes, the interim order was granted for six months. This legislation extends it to one year, I think that is good. If the parties cannot settle the matter because the interim order is yet to be finalized, I think that is a good provision. We can support that. It would save the time and trouble of having to come to court again and again in those circumstances. But usually these matters are resolved within the six months. In most cases the call is an urgent one; the court respects that and treats it accordingly, failing which, it simply falls off the books as I have said, because either party would not pursue it: the make-up behaviour is improved as a result of the approach to court and that sort of thing.

I take the point made by the Member for Diego Martin East: this is new terrain for Trinidad and Tobago. This is an attempt to break new ground to deal with an obvious problem in our society: violence, in particular domestic violence. Because we do not have a sufficient body of experience in the thing, I take the point from the Member: we ought, particularly in respect of clause 23, to proceed a little more cautiously if we are proceeding in that way at all. There should be some system whereby the activity under this legislation could be reviewed. In other words, I believe that Parliament ought to have an opportunity to review the statistics compiled in the execution of this legislation after a certain period of time, because Parliament is being asked to do these things and we do not know it will work: this is new ground. I think it is only proper, and I urge the Minister to consider an opportunity for Parliament to have a look at the statistics; hear what the police have to say; hear what people have to say and review it at some point to see whether, in fact, we are headed on the right road. That is a suggestion and I hope that the Minister will take that into account.

*Domestic Violence Bill*  
[MR. FINDS]

*Thursday, July 29, 1999*

**11.30 a.m.**

So, Mr. Deputy Speaker—Mr. Speaker, I am sorry. I mean no disrespect. Those are our concerns in respect of this piece of legislation and, for the record, I want to say in closing that we support any move to bring comfort to those persons who are being abused, whether it is in the privacy of their homes, in their work places, or anywhere in Trinidad and Tobago; we support that. We generally support the purport of this piece of legislation. We have no trouble with that. Our concerns are as we have expressed them, and I know you will regard them as serious concerns and I trust that we will address them in one way or the next.

I join the Member for Diego Martin East and the other persons on this side in supporting it in principle, but have some difficulty with the particular proposals which we challenge.

Mr. Speaker, I thank you.

**The Minister of Local Government (Hon. Dhanraj Singh):** Mr. Speaker, I rise here in support of the Bill before this House, a bill entitled the Domestic Violence Bill, 1999. [*Desk thumping*]

While the Member for Laventille East/Morvant was on his feet, he indicated that the Government should re-think the legislation, and I just want to remind him that inaction and lack of action today will allow the problem to continue. If we do not take a decision today in this Parliament, the problem of domestic violence will continue. He quoted some words from a calypso or something, but I want to ask the Member for Laventille East/Morvant: How many more must die before we sit here in this Parliament, before we put our minds together in this Parliament, to solve this problem? This society is not prepared to take any position that we “coulda”, or we “shoulda”, or those kinds of things. The society today wants action.

I must compliment the Attorney General—

**Mr. Hinds:** Oh boy! [*Laughter*]

**Hon. D. Singh:**—for bringing this legislation to the House.

**Mr. Speaker:** Order! Order!

**Hon. D. Singh:** The problem of domestic violence has plagued every society. It is a problem that has been around since the creation of man. Violence begins from the birth of a child. You know, when a child is delivered in a hospital, the first thing the doctor does is to slap the child on his buttocks.



**Mr. Hinds:** In the first 14 minutes.

**Hon. D. Singh:** Mr. Speaker, we would have to look at these traditional forms of doing things to see whether they are having an impact on society.

The problem of domestic violence has reached escalating proportions in the society. It is resulting in death and, therefore, we must take action here. Trinidad and Tobago is no exception and, as we all know and read on a daily basis, the problem is something that is on the front burner in the society. On our election platform in 1995, we spoke about “those who do the crime, will do the time”. Since that time, this Government has come to the Parliament with several pieces of legislation to deal with crime and violence in the society. Crime and violence is one of the most important problems that this society faces at this point in time.

Through the Attorney General, several pieces of legislation have been brought to the Parliament to deal with the crime situation and those pieces of legislation have been having a positive impact on the level of crime in the society. This Government has also improved the quality of service as regards the service provided by the police. We have given them more vehicles and better equipment, and we are housing them in better police stations, so that they can deal with the level of crime. But, while we are having a positive impact on the criminal activity out there, the violence in the home and in the family seems to be escalating.

Mr. Speaker, this Bill before us here is specifically designed to deal with the problem of domestic violence. It is a pity that legislation has to be enacted to deal with a problem that affects the family. For too long in this society, those in authority have done nothing to deal with this problem in any meaningful way. Other countries have passed legislation to deal with this problem. We are now attempting to deal with this problem through this Bill.

This Bill has far-reaching implications and, when one listens to the contributions of the Members on the other side, we know that in their hearts, they support this Bill. We know that they are committed to this Bill.

Concerns were raised about clause 23(1) and (2). These subclauses give the police powers to enter a home without a warrant for the purpose of giving assistance to person or persons who have suffered or are in imminent danger of suffering physical injury. This has been one of the major stumbling blocks in dealing with the problem of domestic violence. There is no agreement between both sides as to how to proceed on this very simple point.

We, in this society, can no longer wait while Rome is burning, or should I say, while the home is burning. We can wait no longer. We cannot sit back anymore.

*Domestic Violence Bill*  
[HON. D. SINGH]

*Thursday, July 29, 1999*

The Senate has attempted to deal with the problem by proposing amendments that seek to place safeguards as regards the abuse of police powers. The Senate has done that for us, and we in this Lower House must demonstrate our maturity by coming together to support this piece of legislation. We must do that for the children, the wives, the husbands, the brothers and sisters out there who are burning, so to speak. Like the Senate, the Lower House must show its commitment and its mettle in dealing with this problem once and for all. Failure to act here today will be a dark day in the life of this society.

Trinidad and Tobago is a beautiful place. For all of us, Trinidad and Tobago is paradise. I have no desire to live elsewhere. I have no interest elsewhere and in this society, as we go about our daily business in trying to make Trinidad and Tobago a better society, a total quality nation, this is one of the steps that we must take today to making that dream a reality.

The Member for Laventille East/Morvant spoke about the requirement for the police to respond to every complaint or report of alleged domestic violence. We seem to have a problem with that. But when you are drafting legislation, the legislation must cover everybody; it must cover all complaints. We cannot put that the police must respond to some complaints; we must put that the police must respond to all complaints.

Mr. Speaker, you and Members would know that under this Government, the police have been given more equipment and vehicles with which they can more readily respond to calls made on the various departments. Think about the situation before 1995 when no police station had any vehicles. At least today, the police stations have vehicles with which to respond. Therefore, the point the Member or Laventille East/Morvant was making about the police not being able to respond to every complaint and that they did not have the ability to respond, I believe is a non-point. I believe that this Government has done much to give the police the necessary equipment with which to respond much more easily.

While the Member for Laventille East/Morvant had a problem with the police, in today's society, we trust the police with our very lives and, as a developing nation in which we are seeking to strengthen all the institutions, I am confident that the police can handle the responsibility that is required of them as outlined in this Bill. [*Desk thumping*] I am confident that the police can do that.

Mr. Speaker, let me again compliment the Attorney General and the Ministry of Social Development for bringing this legislation to the Parliament.

I thank you.

**Mr. Eric Williams** (*Port of Spain South*): Mr. Speaker, I thank you for recognizing me. I wish to make a short contribution to the Bill before this honourable House, an Act to provide greater protection for victims of domestic violence.

For the education and elucidation of the Member for Pointe-a-Pierre, this matter is brought properly before the House by the Minister of Legal Affairs and not the Attorney General, nor the Minister of Social Development whom he has just wrongly praised. I say this because credibility and trust have to do with the alignment of word and deed [*Desk thumping*] and if even anybody thought that this Government was serious about this particular piece of legislation, the fact that it has used as one of its poster persons, that particular Member on this particular Bill, removes every shred of credibility that this Government has on this matter. [*Desk thumping*] We could have listened to almost anyone else, and it is not that individuals are not without fault, Mr. Speaker.

**Mr. Assam:** You must have dignity in the House.

**Mr. E. Williams:** Mr. Speaker, it is the dignity that the Member for St. Joseph speaks about, that we are speaking about here. [*Desk thumping*]

**11.45 a.m.**

Mr. Speaker, I have had cause to mention to several Members of this House, but one in particular, that civility costs nothing and buys everything. [*Desk thumping*] I want to continue to commend that to my very good friend from Pointe-a-Pierre.

**Mr. D. Singh:** Your wife left you!

**Mr. E. Williams:** Mr. Speaker, there is no doubt that there are many heinous crimes committed in domestic situations. There is absolutely no doubt about that, none whatsoever. When one looks, however, at some of the remedies that are being proposed and, in particular, clause 23 of this Bill, those who have gone before me on this side have been very careful to point out our objections to that particular clause.

The law has been expounded on at length by my colleague from Laventille East/Morvant, so I do not propose to go too much further down that road, except to say—as the Member for Diego Martin East counselled us before—this is a bend in the road. We are trying to change course, make an adjustment. Quite

*Domestic Violence Bill*  
[MR. WILLIAMS]

*Thursday, July 29, 1999*

often, a bend in the road could be the end of the road if we fail to take the bend. In this case, with this particular clause 23, there are several instances in which we pointed out our concerns, the potential for abuse, the moving into uncharted territories in a particular way. In fact, I saw in the newspaper recently where the Member for Fyzabad, a Member of this Government, had cause to intervene in a matter which he believed to be an unjust action by certain officers of the state. So we are dealing with a situation that is imperfect, and lest we offend or go too far, we continue to stand and say that we have a problem with clause 23 and it is either we remove it or if not, somehow amend it.

This Government continues though, to give us some problems with regard to its credibility; I want to get back to that. The hon. Minister who is visiting with us, was at pains to point out that domestic violence is not caused by any particular social or environmental condition. Mr. Speaker, again, my colleague responded but I have to say that one has a choice. If one takes the question of responsibility and breaks it down into two words, you have "response" and "ability"; the ability to choose one's response in a particular situation. One of the things I would like for us to look at is this, we have victims—there is absolutely no doubt about that and, in fact, the family has become a victim and society is becoming a victim to these heinous acts in domestic violence, but the question I want to ask and the point I want to make is this: we do not have victims without perpetrators. So when the Minister said that none of these environmental factors cause domestic violence, I believe that may not be true.

We have a situation where people are choosing to behave in a particular way, but it is possible that their choice is demented, their ability to respond appropriately in a stressful or any particular situation is demented based on several things happening in the wider society and environment. I want to take the point that alcohol as a factor, not a cause, in domestic violence cannot be understated. If we now have a situation where alcohol is available almost at any time—[*Interruption*]

**Mr. G. Singh:** It was so before.

**Mr. E. Williams:** Thank you for your expert witness on that. The fact is that alcohol is a contributory factor in domestic violence.

One of the other institutions in this society which help to counsel persons, to shape society, is the church. This Government within the past two or three years has removed the tax break for deeds of covenants to churches. On the face of it,

that may seem to be purely an economic decision, but when one remembers that in the good book, the Bible, it points out that where one's treasure is, one's hearts would be, what we have done is removed one of the factors which caused our society to be a more church-going and, therefore, stable society, and that again, is a contributing factor: it removes one level of restraint in the individual. By itself it is not a cause, but it is a factor.

When one looks at the fact that for the same period January 1999—May 1999 compared to the same period for 1998 that we have 222 more serious crimes in this country, then clearly something continues to go wrong. We are saying that all of these acts are choices, yes, but what are the contributing factors? What informs the choices? What are we, as persons in governance doing to assist and provide the environmental circumstances which help to shape the choices that we make? What we are doing to take our citizenry from dependence and continuing them along the road of independence towards interdependence? What are we doing? Why is it that the economic circumstances of this nation, as faced by the individual, are continuing to deteriorate?

When the previous administration came into government, unemployment was at 20.3 per cent. When the previous administration left, it was approximately 16.4 per cent. Based on momentum from the many projects that were left in train, it got down to 13.1 per cent, but today it is now at 15 per cent, and rising. Clearly then, in the society, the economic circumstances of individuals are changing in the wrong direction. I want to ask: is that a causative factor? Is that one of the things influencing the choices that we make?

When we remove the tax credits for credit unions, where the average man could save and have access to financial counselling and, therefore remove some of the stresses that face him; when we go and have a Marriage Act where we now have “quickie” marriages so that we can get married more quickly and, therefore have less counselling and less time to figure out if we are making the right choices; when we legalize casinos to have gambling; when we do all of these things, what are we, in fact, doing? While each one of these things, in themselves, may not be a cause, what we are doing is creating an environment in which the institution of marriage is placed under further stress. [*Desk thumping*] When these things happen in human relations, the choices that are made become more and more irresponsible. Clearly, we need to address our entire approach to governance and how we treat with elevating the level of the minds that exist in our society.

*Domestic Violence Bill*  
[MR. WILLIAMS]

*Thursday, July 29, 1999*

I did not want to have too much to say on this matter because a lot of the legal side has been presented, but it just seems to me that one needs to look overall at the Government's programme and see what is going on that is causing us to breed more and more perpetrators, which in turn causes us to have more and more victims. It is not that the victims themselves set out to be victims, but we are creating situations—and the statistics show it—where all types of crime are on the rise.

Mr. Speaker, it is said that where habits are simple and the minds truly elevated, then a society is in the best state. Clearly, our society is not in the best state and it is getting increasingly worse. With those few words, I commend to the Government, please review and think through the measures that you have been placing before this honourable House and, indeed, have been railroading through, quite often against strenuous objections. But, in particular in this instant Bill, we are deeply offended by clause 23 and we will advise you to reconsider in that regard.

Thank you.

**The Minister for Tobago Affairs (Dr. The Hon. Morgan Job):** Mr. Speaker, we have been exposed to an abuse of policemen, a subversion of the dignity of the office of the policeman; a kind of orchestrated calumny against innocent and humble men only doing their duty, but it is my purpose and business to now give comfort to these gentlemen.

A few days from now we will be celebrating Emancipation Day, and that is about law. The people in this country are not sufficiently possessed of the understanding and meaning of the rule of law. I think we can do ourselves a great deal of good if we expose children to the understanding that all the English common law and the rights that citizens possessed, at that time, by the United Kingdom and its possessions, were afforded to slaves at the time and their children, in perpetuity, as a result of the Emancipation law on August 1, 1834.

We have a set of people who have subsequently come up, especially in recent times, whose mission in life, whose *raison d'être* on earth, is to abuse our total colonial heritage and to injure any respect we might have for law. We see the consequences: a generation of young people who are wild in furore. We also see the consequences in the way the Members opposite come into this Parliament, today and days before, to literally abuse policemen, to say that we do not trust them, and that we have no reason to write any law that would afford any policeman the opportunity to go to the aid of a citizen in distress, perhaps in dire distress concerning their own lives. We just heard the Member for Port of Spain South with the same kind of story: telling people that poverty and unemployment cause crime.

When the hon. Minister from the other place was here this morning—and I am sure all the people over there are possessed of the understanding that from the beginning of time we had to deal with crime. I said it before and I want to repeat it for the benefit of the Members over there: they talked about the Bible, and the Member for San Fernando East is always praying. There is a story in the book of Genesis, Mr. Speaker, about Adam and Eve, and they had two sons called Cain and Abel.

When Abel was being lawful and doing all his rituals and his smoke was going up to heaven, the other brother got jealous and murdered him. Mr. Speaker, we could not get richer than Cain and Abel. They owned the whole world.

**12.00 noon**

**Mr. Manning:** Are you suggesting that you will murder me?

**Dr. The Hon. M. Job:** Mr. Speaker, Adam and Eve—

**Hon. Member:** Politically.

**Dr. The Hon. M. Job:**—and Cain and Abel possessed the entire earth. The universe belonged to them and there was a murder. Therein lies a tale. When these people come and day after day incite people to believe in this causal connection that is not there, that if you are unemployed you must beat up your wife, if you are unemployed you must rape your daughter, if you are unemployed you must commit domestic violence, it is specious and tendentious. It does not derive from any consideration of logic. It is merely a kind of Machiavellian mischief devoted to the purpose of canalizing emotions for a particular political objective which is the ascendancy to executive power. It has nothing to do with the Bill, Mr. Speaker.

So let us get back to this question of the police and these people saying things here which would lead the mind to such a disastrous interpretation of the role of a policeman in this Bill. Clause 23, the one that they are so vehemently and stridently in opposition to—and for the benefit of the national audience let me repeat it because I do not think they really set and put clause 23 so that people could understand. So if you would permit me I will read what clause 23 says. Clause 23(1), which deals with powers of entry and arrest without warrant, says:

“Where a police officer has been invited onto premises by a person apparently resident in those premises for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury...”

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

is in imminent danger—focus on imminent, Mr. Speaker:

“at the hands of another person in a situation amounting to domestic violence the police officer may, without a warrant, enter the premises for the purpose of giving assistance and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of.”

Clause 23(2) says:

“Where a police officer has been refused entry onto premises and has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence and failure to act immediately...”

notice, Mr. Speaker:

“failure to act immediately may result in physical injury or death, the police officer may enter those premises without a warrant, for the purpose of—

- (a) arresting the person whom he suspects of engaging in conduct amounting to domestic violence;
- (b) giving assistance to a person who has suffered injury;
- (c) ensuring the welfare and safety of a child who may be on the premises; and
- (d) preventing any further breach of the law.”

Mr. Speaker, we are talking about immediacy, urgency, where a second counts. There are four things that come not back, they told me when I was a little boy in primary school, one of them was the lost opportunity. When you follow these people over there, many more will die. This is not a question. I talked about the Emancipation Act because I want these people to understand that everybody on this side and the country at large understands the importance of civil rights, we understand the importance of constitutional rights. We are not talking here about righteousness as in, “I am a righteous man or I am a good man”. I am talking about the rights that the law affords and accords to every citizen to protect them from other people, including politicians, including Prime Ministers.

I see the Member for San Fernando East is sleeping. I would urge him to awaken. [*Interruption*]

**Hon. Members:** He was not sleeping.

**Mr. Manning:** I was merely closing my eyes.



**Dr. The Hon. M. Job:** I apologize. I saw your eyes closed. [*Interruption*]

**Mr. Manning:** I may be bored, Mr. Speaker, but I am not asleep.

**Dr. The Hon. M. Job:** I want to repeat: the law is here to protect every citizen from every other citizen, including Prime Ministers, including former Prime Ministers because you can be ambitious to become possessed of power again and use that power to injure people. That is what the law is there for. We know that. I know that. You understand that? But if you are going to deal with the rights of citizens you have to think in terms of probability.

How do you, in the best interest of preventing incidents like we have known to happen, perhaps like the case in, I think it was Valsayn, where the policeman was, in fact, on the spot in the yard, and this woman went into the house and the man chopped her up and killed her inside the house. He was there, but apparently the laws and the circumstances under which the policeman was operating did not tell him he had any right to go inside the man's house. He stood up in the yard and the woman got chopped up right there! Then these jokers over there are telling us that you have to go back to a judge and jury and all kinds of people and in the meantime not only the woman will be killed, the children will be killed and whoever else they want to be killed, they could be killed.

Mr. Speaker, that kind of sophistry must be exposed for what it is. That kind of sophistry is damaging and dangerous. Listen to another instance of this thing. He wants to know in Schedule II—to show you how these people use language, not for the purpose of elevation and debate and for a didactic purpose, but rather to ruminate on nonsense in this House, better to spend time to achieve their particular purpose—why should blowing up a house be considered domestic violence? The intention of the law—and maybe they might write it over—but it is clear to me and to any reasonable person and any potential victim that if you blow up a house with a child or a woman in it, or plan to blow up a house with a child in it, that has to be domestic violence. What else are you going to call it?

There are people in this country who have burned down houses with children in them. There are people who have done that deliberately. They want to get rid of this woman, they throw pitch-oil—I had a cousin who has been killed that way. I had a relative who died that way, Mr. Speaker. They threw pitch-oil, a Molotov cocktail, and “bu’n up de fella” on the bed, “bu’n down de house” with him in it—dead, dead. You understand? [*Interruption*]

**Mr. Speaker:** Order please, order please.

**Dr. The Hon. M. Job:** So I am not talking about what is likely to happen. I am dealing with things that have happened, therefore domestic violence has to

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

encompass, in the context of our society, burning down houses with women and children in them.

**Mr. Hinds:** Member for Tobago East, the point that was made in that regard is this. In those circumstances the police will charge for arson and murder. I do not see in those circumstances the police charging under the domestic violence legislation. What we say is that those things are separate offences in themselves, not necessarily to be regarded as domestic violence.

**Dr. The Hon. M. Job:** Mr. Speaker, clearly, these people did not read this Bill and perhaps they do not live in Trinidad. When I say do not live in Trinidad—[*Interruption*]

**Mr. Speaker:** Order please!

**Dr. The Hon. M. Job:** Mr. Speaker, you can be physically located in a place and not be there, you know. You would be somewhere else. There are many people who are physically located in Trinidad but they are not here, therefore these people are not here, because this Bill is not about finding out who murdered whom after the fact. This Bill is about preventing people from being murdered. [*Desk thumping*] They do not understand that. Like they do not understand simple English! [*Interruption*]

I said we have a Constitution here that protects everybody's rights. Do you not hear that? We are not here to subvert—[*Interruption*]

**Hon. Member:** You are going good. Do not get vex.

**Mr. Speaker:** Order please, order please.

**Dr. The Hon. M. Job:** We are not here to subvert constitutional rights, Mr. Speaker. This Bill is about prophylaxis. It is about prevention. It is about creating the circumstances that will permit certain actions to take place and they ignored all that and carried on a torrent of abuse, each and every one of them, against the police. It is important that I stay on that because part of the problem we have in this society is not only a disrespect for the police but a disrespect for law.

There are thousands of people who said here in July 1990 that Abu Bakr should have killed Robinson and he should have killed this one and that one, people who have grown up under the law, at least, who ought to have recognized—but as I said, I congratulate the people who voted PNM in the last Local Government election because they have vindicated me. If they have no other power they have the power to vote against this Government. What more can you ask for?

**Mr. Manning:** Against corruption and tyranny.

**Dr. The Hon. M. Job:** No, they have a power in law to vote against any government, which is what they did to you and that power you may yet come to rue it again. So I say that every time we get up in this House we must demonstrate a reverence for our understanding of the meaning of the supremacy and the rule of law, and we have not been doing it here in terms of what I am hearing.

I have here in my hand a *Review of the Trinidad and Tobago Police Service, Summary Report* by D.J. O'Dowd Esq., QPM., BA, MSc, CBIM, Chief Constable. I want to tell you something because all the speakers on the other side got up here abusing the police in a most unnecessary manner. These people had 34 years and some months extra in government. They could have had more but he chose to give it up. He squandered his opportunity. You know, it reminds me—these people are glowing in an ambience of hubris consequent on recent events. You must remember Shakespeare when he said that: “There is a tide in the affairs of men, Which taken at the flood, leads on to fortune, Omitted—[*Interruption*]

**Mr. Valley:** And that is exactly what we are doing.

**Dr. The Hon. M. Job:**—Omitted, all the voyage of their life, bound in shallows and in miseries.” You see, “Omitted”. You have lost the opportunity. They had 34 years to deal with the problems that they had. Mr. Speaker, hear what the O'Dowd Report said.

“We also found that the reports of three of these previous reviews...”

Now there are many others, eh?

“(Darby, Carr and Bruce) contained many relevant recommendations aimed at improving the efficiency and effectiveness of the police organisation and establishment but the majority had not yet been implemented.”

The Member for Laventille East/Morvant gets up and attacks policemen. He said, “The point is the police are not effective”. He said that. It is in the *Hansard*. He said that the police are not effective whether they have vehicles or not. “We do not trust policemen.”

The Member for Diego Martin East got up and said that policemen are going to start to conspire with their outside women to shoot the lawful husband so that they could get the man's property. It is in the *Hansard* record. I have it here. The Member for Diego Martin East said:

“No, it is not unusual. This is why I say one has to look at the cultural norms in Trinidad and Tobago...”

[*Mr. Hinds rose*]

**Mr. Speaker:** Is it a point—[*Interruption*]

**Mr. Hinds:** It is indeed a point of order. [*Interruption*]

**Mr. Speaker.** No, no, no, please? Which is the Standing Order that you are claiming it—

**Mr. Hinds:** Section 36(5). [*Interruption*]

**Mr. Speaker:** Okay, please!

**Hon. Member:** Take your seat. [*Interruption*]

**Mr. Speaker:** I am not aware of any improper motives which have been imputed to any Member of the Chamber. Please proceed.

**Dr. The Hon. M. Job:** Mr. Speaker, this is a very serious matter. We have a police service which must serve all of us. Their motto is to protect and serve. There are many children in this country, thousands of them, who have no respect for mother, father, priest, God nor man, and there is a tradition in this country where we must respect law and rightful order, at the same time we have a set of MPs who get up here every time and malign the police.

Hear this. We are passing a law to protect women and children. We cannot pass a law for a particular policeman. We cannot pass a law for a particular woman. We have to pass a law that is general in its applicability and as wide as possible to encompass all the cases that we can reasonably, as human beings, deal with. But the Member for Diego Martin East gets up and says, “No, I do not want this law, you know, because you have to understand Trinidad, and in Trinidad:

“Let me give a hypothetical situation. A man and a woman are in a cohabital relationship. The relationship goes sour, or the woman has an outside man. The outside man is a policeman...”

That outside man is a policeman, and that is Trinidad and Tobago. It is in *Hansard* here. You will never believe this. He said:

“No, it is not unusual. This is why I say one has to look at cultural norms...”

So the cultural norm in Trinidad and Tobago is for every policeman to have an outside woman and that they are likely to conspire with this outside woman to kill the man so that—this thing is abominable, Mr. Speaker. It is outrageous to the extreme! I feel very dishonoured to be standing in a Parliament with people who are thinking like that about the policemen who have to serve me.

**12.15 p.m.**

Mr. Speaker, from the beginning of time: talk about Adam and Eve. I have here all the ordinances of man; I have Kautilya—Arthashastra; I have the Bible with me. All of them deal with law, in a sense that there are no good men. There is one “fella” sitting opposite me who believes that he is a good man. I know of no such men on the planet earth. We do not make law for good men, especially good men who may become Prime Ministers. They are the most dangerous, dictatorial and Mephistophilian, and subversive of all the rights and privileges that people have.

This idea that is coming out here—that our policemen are generally possessed of outside women and they are so evilly intended that you cannot pass any law that would allow them to go and protect innocent women and children. Because in order to better acquire the property, resources and the flesh of their outside women, they are likely to commit murder in the guise of protecting people. It is here! I did not write this. I did not tell the Member for Diego Martin East what to say! Everyone of them had a variation on this theme. Policemen! They had no regard for them, no respect at all, whatsoever! They did not say, well, this is an aberration, you might have an evil policeman like some of those who are in jail. Do you know this Government has appointed a Commission of Enquiry into this Ramdhanie matter? *[Interruption]* I am not going into details. This Darby Commission of Enquiry is demonstrating to all and sundry, what we all knew. I won't say what we knew; but it is demonstrating what we all knew. And I am saying that we ought not be subject to the kind of tirade; the kind of assault; the kind of ambushing of the dignity and integrity of honest people in the police service as I have sat here and listened to. These people were totally delinquent. Mr. Speaker, hear from the Darby Commission of Enquiry Report again.

“Prior to our visit five different independent bodies had examined aspects of the police service during a time-span of 33 years.”

Almost the entire period of PNM Government.

“Apart from a few noted typical exceptions we found a consistent pattern of executive inertia, with non implementation of all the sound recommendations. It is clear that the Trinidad and Tobago Police Service has had insufficient funds for a considerable period of time and this has impacted upon the efficiency and the effectiveness. There has also been a clear lack of good management and skills training at all levels. Issues such as excessive bureaucracy, outdated systems and procedures, over-cautiousness have all

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

played their part. If the police service is to become more efficient and effective, it needs urgently to pursue fundamental, cultural change.”

All this is here. They did nothing about it, but they come into Parliament, one after the other, to abuse the police.

When they had the Darby; they had the Carr; they had the Bruce; they had so many commissions telling them exactly what to do to help the policemen to be more efficient; to recruit them; to train them. As I speak to you here, one of them is talking about a spurious and a specious call—somebody made a telephone call when they set up this thing—Mr. Speaker, with modern technology, I am surprised to hear an engineer—I do not know if it is a statement on the intellectual backsliding of UWI—coming here with all this modern technology, not understanding that there is a caller ID system and all these kinds of things where you can trace a call; find out what the call was about; who made the call and all that. All these things. If you want to write it in the law, do just that. But do not come and say a policeman is going to use the telephone as part of his conspiracy to murder a woman’s husband because he wants to get with her. This is not a generality. It cannot be. This law is about helping particular individuals to deal with situations that we all know have happened and will happen again.

The Member for Diego Martin Central got up and asked: What is the UNC doing to prevent domestic violence? As if the UNC is God. *[Laughter]* Nobody “ent” say they are God Almighty. That is why we want a law! Because we know that domestic violence is not something that is invented by us; “Manu” dealt with it; Kautilya dealt with it. And when they are talking about the kinds of things that should be or should not be domestic violence, that is way back in Vedic times. Defamation! Simple defamation was considered under the same set of laws that we are dealing with now. Aggravated defamation! Verbal intimidation! I did not write Kautilya’s Arthashastra! It is all here. If a person has sex with another with injury, but is either incapable of carrying it out, or pleads diminished responsibility like anger, intoxication or loss of sense, the fine shall be 12 bands.

Way back then in Vedic times they understood that, you are trying to do this now and then they are coming here now to say, why are you all calling that domestic violence? “If a fella ‘macoing’ a woman and stand up in front of her house all the time, why are you all calling that domestic violence?” There was a statement in the newspapers from some tape that I was reading, where one killer was saying that one of their procedures was to go and stand up in front of people’s house and mark their movements. “Maco” is a Trinidad word, everybody understands what it means. You know people go and create intimidating

circumstances which Kautilya knew about, which the people in the Bible knew about and you have to prohibit them from interfering with the privacy and the personal life of people who are law-abiding. You see all of that is what they do not understand.

I have said in this Parliament before I said outside of it—people here do not understand what is the sacredness of the press. They do not understand it! They make noise all about. You are sleeping in your bed one morning and somebody comes “boom, boom, boom” and wake you up. And they feel they have a right to do that. If you go and tell them, they would probably chop you up because they figure they would be listening to the Opposition.

This country of lawlessness keeps inciting people; telling them if they are unemployed they must go and kill people; if they are unemployed they must go and take people’s property; if you are unemployed you must come in front my gate and intimidate me; you know, if I do not like you I must do that. No, Mr. Speaker, we have to be very serious. Do not come here and ask: What is the Government doing to prevent domestic violence? We are passing a law. We have an education system; there are radio programmes; we are talking to people. Dr. Lasse went to Tobago—I met him at the airport—to talk about noise and environmental pollution, and the fact that we need to bring laws to regulate all that. When you come here and talk about Uriah, the Hittite’s wife and how David sent a messenger, “Tell him send Uriah in the heat of the battle”, because he wants to get Bathsheba—I do not know if he remembers that in that same story—in the book of Kings—David suffered grievously as a consequence of his misdemeanour. The Lord did not leave it unchastised. You do not go and thief people’s wife and you come in parliament boasting about that, as though it is something good. Do you understand? That was a grievous offence. David did suffer for it. As a consequence—when David was in his dying bed, there was a Civil War—one of his sons, Absalom, wanted to take over the place; many people got killed. It is there! You go to church every day and pray so you must know about all of that. *[Laughter]* So do not come in here to use these kinds of specious and tendentious arguments.

In the context of talking about prevention and what the Government is doing, they made some, again, specious arguments about culture. Talking about Barbados—and we are not like Barbados—and you can pass this kind of law in Canada and England but you cannot pass it here because Trinidad is so different. Mr. Speaker, let us spend a few minutes on that. There is a great mistake in this country concerning what we mean by culture and the extent to which culture

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

determines people's behaviour. We are part of the Caribbean and the antecedent circumstances to the Caribbean people are the same, whether you were in Jamaica—[*Interruption*]

**Mr. Speaker:** I allowed that one to pass although it was very unkind but it was picked up in the *Hansard*. To say to a Member who has been sent here by a constituency that he is just a night-watchman and put there to pass time; it is better if you do not say that. Think about it, and then to continue—it compounds it. Please!

**Dr. The Hon. M. Job:** Mr. Speaker, they said these laws may work in the United States of America; these laws may work in Canada; they may work in England; they may even work in Barbados. Barbados may be a completely different society; just because it is an island in the Caribbean does not mean that it has our history and our experiences.

**12.25 p.m.**

Mr. Speaker, listen to me carefully. I know you were listening to me all the time, but I want to emphasize this point. We are in the process where all of those people over there, I have not heard a single one of them say that they do not want the Caribbean Court of Appeal. I have not heard a single one of them say that the Privy Council, in its judgments in the past, was subversive of our interests merely because the court was located in England. I have not heard that!

So, we are going to have a Caribbean Court of Appeal, we have Caribbean lawyers travelling up and down, we send some of them to Cave Hill to study law and some of them are studying law at the Hugh Wooding Law School right here, and they come here and say that laws have to be particular to every island. This is the logical implication of this nonsense. That when one writes a law, one has to write a law for Bequia, for Carriacou, one for Petit Martinique, one for Tobago and there are even people living in little Tobago, so write a law for little Tobago too. All over the Caribbean, we are different because these laws may even work in Barbados, but they cannot work here.

**Mr. Manning:** Mr. Speaker, I thank the hon. Member for Tobago East for giving way. I wonder if what the Member for Tobago East is saying is that as one makes law it must not be relevant to the society for which it is being made, and since each society is different, there may be nuances to each law as it applies to each society. Is he agreeing with that or not?

**Dr. The Hon. M. Job:** Mr. Speaker, I was going to deal with that as I develop it. As I was saying, we are going to have a Caribbean Court of Appeal that has to



deal with all the Caribbean islands. So, we have a set of antecedents—remember I talked about the emancipation law of August 1, 1834? We should tell the children more about that, because they said that we became inheritants of all the British common law, whether they were in Jamaica, Barbados, Grenada, Petit Martinique, Tobago or any part of Trinidad. Therefore, we cannot come to this Parliament with this idea that merely because we do not like a law, we start to argue that we want laws that are peculiar to every subculture in Trinidad and Tobago.

There are people here—I talked about the code of Mano—they have an antecedent, they still read *Ramayan* and sit all over the country and, to a large extent, many of their inside family relationships are determined by their understanding of many laws that originated in the time of Mano. Are we going to write different laws in Trinidad and Tobago for the Member for Siparia, a different law for the Member for Pointe-a-Pierre, the Member for Couva North or the Member for Caroni East?

We have a Constitution here, Mr. Speaker, where all the people came together and said, “Okay. We are satisfied with this” and then we write laws with which we all agree. We are not going to say that we need a separate law to deal with every little subculture within Trinidad, or between Trinidad and Grenada. That is preposterous, ludicrous and absurd. It does not merit any great deal of understanding, but I thought that in order to vitiate the argument, I should make the point.

I should also make the point that this Government is not here to abolish domestic violence, because it is not within the purview of this Government as sovereign to do that. We cannot command obedience in the sense that we say one must do what we want morally in terms of training one’s children in relating to one’s man or outside woman. What we have to do is pass a law where it is the duty of the state as sovereign to protect them where we can. That is what this law is about. So, all those things they are asking us to put into this law which have to deal with prophylactics, they are better dealt with in the sense of education, schooling, non-governmental organizations, churches; all of them have to do their little bit.

The disintegration of the family in some catchment areas of Trinidad and Tobago leaves children in jeopardy. They do not get the right training. They are exposed to television which is a great source of misunderstanding of what the rule of law is all about. I said that before. These people were part of that process. They did not understand that the curriculum that is imposed on many children in Trinidad and Tobago has nothing to do with what goes on within the school walls. It has to do with all those learning and teaching experiences that have to do with Patra and dub and that little girl who came here shouting—Foxy Brown!

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

Those are teaching experiences. Those are curricula experiences. What goes on, on the block. The little boy who is a cocaine runner. All of the little girls who are being interfered with. There are statistics which say that between the ages of 13 and 15 in some catchment areas, 80—90 per cent of the girls are sexually active. These situations are not situations where one can just pass a law to lock up everybody. One cannot do that. One cannot come, when we are dealing with a Domestic Violence Bill that is of importance to the victims, the near victims and the potential victims to ask the Government what they are doing about prophylaxis for the environment, the culture and so forth. It does not make sense. It is just filibustering.

Mr. Speaker, the Member for Laventille East/Morvant was asking if domestic violence must include psychological abuse. Why not! And unsubstantiated reports of a caller. How can he come into this Parliament and say that one has to substantiate the report of a caller when somebody's life is in jeopardy? There is no time. It is a matter of urgency. Somebody calls in and says, "I am being pursued with a purpose to murder me. Please come." The Member is saying that one has to substantiate that call. By the time they do that, two or three people are dead!

**Mr. Hinds:** I never said that!

**Dr. The Hon. M. Job:** I do not understand these people. Are they serious in their mandate to protect people in this country, or have they come in here with a specious and sophistical purpose? The Member for Port of Spain South goes back with the argument about when PNM was in power they had 12 per cent unemployment, and now that the UNC is in power, there is 15 per cent unemployment, so that is putting marriages under stress and there would be more domestic violence. What does this have to do with this Bill?

We have a Bill where we have to argue what is right, what is not right, what can work and what cannot work. They come here to waste people's time talking about 15 per cent unemployment and that the UNC is putting marriages under stress. What is the connection? What is the causal nexus between the unemployment statistics and the fact that this Government, of which I am a part, is putting marriage under stress? A child in first year would find difficulty in establishing any close connection. This matter is so remote from the matter at hand! The distance between the edge of the known universe and where I stand is probably closer to us than this thing.

Merely as a means to poison the minds of the innocent and the gullible are those who are likely to fashion their thoughts according to passions of a tribe,

because that has nothing to do with it. Crime on the rise, Mr. Speaker, has nothing to do with the Bill, if indeed crime is on the rise. I said here a few days ago that there is a thing called a gestation period. Things take time to come to fruition.

The people who are committing crimes today were not born yesterday. The people who have been victimized by the circumstances that were created by the PNM, it did not happen three or four years ago. No criminal who is raping and marauding in this country is four years old. I am yet to find a five-year-old child who has been raping anybody. I read in the newspaper about a report where a little girl in a primary school was raped, but they did not say the perpetrator was five years old.

Indeed, it will be past credibility—I do not see anybody here who will believe that there is a three-year-old rapist anywhere in Trinidad and Tobago. So, when they are coming here and talking about these things, they are mistaking, mischievously, miscalculating and misleading the minds of the people to believe that this Government is the cause of all the things they are talking about. It cannot be by any set of relationships between things. They cannot come to a conclusion that this Government is the cause of the social degeneracy that is manifesting itself as all of this domestic violence, all of this crime and the consequences of illiteracy.

They talk about dependency and how they are going to train people out of dependency. Who is trying to train people out of dependency? When the NAR government came into power in 1986 and they tried to do that, they marched from Cedros to Toco, up and down this country, saying that massa come back. Massa come back to impose slavery on poor black people. Massa came back and all the then Prime Minister was trying to do was say that we are living in a new world, a new reality. The state can no longer be mother, aunty, tanty, “nennen” and godmother.

One has to understand the question of individual responsibility and independence. We have to structure a relationship so that the income from the Consolidated Fund is no longer used to institutionalize dependence and make everybody believe that the purpose of the state and the Government is to be benefactor, and that everyone is entitled to a job. That is what they are trying to do. They are coming here mischievously and amazingly talking about breaking dependence when they are the ones who, as a matter of purpose and policy, have crafted, created and institutionalized dependence in this country. I wonder if they understand what they are saying.

We have generations immersed, nurtured, fashioned, fabricated by those antiquarian and subversive ideas of the PNM, making them believe that if they did

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

not get a “10 days” they did not like them, and that the reason Governments come to be in this country is to tax other people so that they might expand the crash programme: DEWD, the Unemployment Relief Programme, whatever they want to manufacture as a welfare programme of entitlement. That is what they did to their own people. I did not do it. The Member for Couva North did not do it. Dr. Lasse did not do it.

They spent the better part of thirty-three and a half years doing it wilfully and with a vengeance and success that is amazing in its consequences. Then they stand up there like Pontius Pilate washing their hands in a bathpan of water, pretending that they had nothing to do with it, and after thirty-three years, we are the ones who create dependence in this country. What could be more vile and wretched as a calumny?

When are we going to rise up against this malfeasance? And they intend to get away with that. When are they going to stop this abuse of Parliament? Every opportunity they get, they get up—whether they are talking about the Domestic Violence Bill—and they talk about corruption. Today we heard it again, and we are going to hear it later on this evening, and they will never point the mind of one citizen in this country to their neglect, their culpability, their lack of diligence, their wilful abandonment of duty in terms of structuring the law, structuring the regulations, structuring the rules, pointing the mind to that moral universe, that attitude that would be subversive to corruption and would have injured every politician who was so corrupt. They never did it, but every day they are getting up here speciously and saying corruption, corruption, corruption. It is the same way they are introducing all these remote and extraneous affairs that have nothing to do with this Bill and the purpose of this Bill, which is to define some laws, to institutionalize them so that we might better protect the interests of young women and children.

Mr. Speaker, I do not believe, listening to these people and their opposition to clause 23, that they understand the meaning of the English word “immediate”. Immediate in time and being, something is present, urgent, immediate. I cannot wait! No time to wait! I have no time to go and make a file, to go to a judge, to a jury, to a Justice of the Peace, to summon a mob of witnesses. It is immediate! That is what we are dealing with, and these people come here to filibuster and delay, to introduce all kinds of partisan tactics devoted to the purpose of mere opposition for opposition sake; devoid of any direction or any motivation in the interests of potential victims, people who would be dead if we do not pass this legislation.

Without clause 23, women and children all over this country—who, as we have seen in the past, could have been helped and were not helped because we did not have appropriate legislation—would be done to death for no other reason than the Members of the opposite side are devoted to using Parliament merely for the purpose of aggrandising power, of acquiring power; totally distant from the understanding that they serve people, real human beings, some of who have been chopped up and abused in the most callous and inhuman way.

Those are the people to whom this legislation is dedicated to helping, and we do not have time to waste talking about files and whether or not one must check a telephone call or if it is a real call, and we do worse than that. We spend the time maligning honest policemen. I have many relatives who are policemen, Mr. Speaker.

**Mr. Speaker:** Honourable Members, the sitting of the House is suspended until 2.15 p.m.

**12.40 p.m.:** *Sitting suspended.*

**2.15 p.m.:** *Sitting resumed.*

#### ARRANGEMENT OF BUSINESS

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, we would like to suspend further debate on the present Bill which is before this honourable House, and to start the debate on the Criminal Injuries Compensation Bill, in that the Opposition spoke person has certain commitments and we would like to accommodate her by agreement.

**Mr. Speaker:** Once there is an agreement we will accordingly suspend the debate on the Bill, which we were just doing and we will then come to Bill No. 2 on the Order Paper.

*Agreed to.*

#### CRIMINAL INJURIES COMPENSATION BILL

*Order for second reading read.*

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That the Criminal Injuries Compensation Bill 1999, be read a second time.

Mr. Speaker, the Bill contains a policy whereby the state would pay compensation to the victims of certain crimes as mentioned in the first schedule of

*Criminal Injuries Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

the Bill. It is really a starting point for the concept that the state ought to be able to assist by providing support to victims of crimes. It is not intended that this would be the full extent of the crimes or the victims of crimes, for which the state would support and provide relief, but as the starting point, the administration has decided to go with this first step.

Mr. Speaker, the principle is, that it is recognized, that when one is a victim of crime or a dependant as a result of a crime which has been committed, apart from the loss which one suffers, as a result of the injury or the death, one can be put in certain psychological, mental and also some pecuniary disadvantages. If one has to wait on the normal court processes, whatever one obtains ultimately would not be able to provide some form of redress for the interim and, it is in that context that the Government recognizes, that if one is a victim of crime, one may be able to file a civil action against the doer of the crime, but by the time that case is finished and even when it is finished, the person may not be able to recover from the doer of the crime, because the person may be a person of straw. If one also is a victim of crime and one has to wait on the courts, and the courts ultimately make an order for compensation, if the person does not have the money, it would be a default order for imprisonment. So the principle is, that the state ought to find ways and means in which to assist victims of crimes.

Mr. Speaker, the United Nations have looked at these issues and under the *United Nations Declaration of Basic Principles for Justice for Victims of Crime and Abuse of Power*, there is a manual for the implementation of those declarations. In that manual, under Victim's Compensation and Restitution, under the heading State Compensation, I propose to quote from that document it says:

“The purpose of state compensation programmes:

Crime victim compensation is one of the pillars of victim assistance. For many victims worldwide, it serves as the primary means of financial aid in the aftermath of victimization.

While restitution laws requiring compensation, to crime victims date back to the 1800s, there is one important distinction between the two sources of financial relief for crime victims. Victim compensation does not require the apprehension and conviction of the offender to provide financial relief to the victims, while the physical and psychological impact of crime may be the most obvious and serious toll taken by a crime, the financial impact can also be devastating.”

Mr. Speaker, there have been several models of state compensation and the model we have adopted is the one which has been used in some of the

commonwealth countries. What we have adopted is that the state, is giving a form of *ex gratia* payment, it is not damages, but the state has to find some mechanisms, in order to make this available and under the Bill, there is this Compensation Board which has been set up. I will quickly go through the provisions of the Bill, in which an application would be made and it is not intended to have any legal arguments *etcetera*, so that one does not have to go with a lawyer. It is a discretionary power which the board would have.

It also provides in the Bill, that if ultimately the person receives compensation, the Bill provides the machinery whereby the state can recover those moneys.

Mr. Speaker, the compensation in this matter, under the Bill, does not depend upon whether the person is convicted or not, it does not depend on those issues at all. As long as a crime is committed and it can be established that the person has been suffering in accordance with the Bill, the person would be entitled to apply and would be able to get compensation.

Mr. Speaker, the Bill has been out for some time. The Bill has been approved in the other place and I would not go into the very details of the Bill, but what I may say is that if one looks at the Bill, one sees Part I of the Bill deals with particularly, what is the meaning of “criminal injury” or “injury”. It includes any harm—clause 3—or any damage done to a person physical or mental condition as a result of a crime listed in the first schedule, any disease deliberately, recklessly or negligently inflicted on another person and pregnancy arising out of rape.

### **2.25 p.m.**

Part II provides for the establishment, composition and procedure of this board. Mr. Speaker, clause 5 says that this board would be established. Clauses 6 and 7 provide for the composition of the board and that is self-explanatory. Clause 8 says there should be a chairman and clause 9 says that:

“The Board shall be responsible for receiving and considering applications for compensation and deciding what compensation, if any, shall be paid.”

Clause 10 deals with the meetings and procedures of the board. Clause 11 says that:

“In the performance of its functions the Board shall act in accordance with any general policy directions of the Minister.”

Clauses 12 and 13 make provision for the seal of the board.

Part III of the Bill deals with the staff of the board. I do not think that I need to go through that, the contents are self-explanatory, and it provides that persons can be transferred on secondment, *et cetera*.

Part IV deals with the financial provisions. Clause 19 says:

“(1) The Board shall establish a fund consisting of such sums as are appropriated by Parliament from the Consolidated Fund for the purpose of meeting its operating expenses.”

One sees that there will be two appropriations: one for the operation expenditures and, one also in respect of the compensation matters. Clause 20(1), deals with the appropriation of moneys for the payment of compensation to victims. There are procedures for the estimates which are to be provided for, obviously, budgeting purposes and the normal requirements in respect of the audit.

Part V deals with how applications for compensation would be made. Clause 24(1) states:

“(1) A victim or his dependant may apply to the Board for compensation in accordance with the provisions of this Act.”

There would be an application, as prescribed in the Second Schedule—which has a form—and the application would be supported by the medical certificate or the death certificate—as the case may be—and it provides for cases where the person is an infant or mentally ill, how it is to be done. The procedure for determining applications is outlined in clause 25, which states:

“(1) The Board shall conduct its own inquiries with reference to an application and may consider any statement, document or other information that may assist it in making its decisions.

(3) In determining whether or not to pay compensation, consideration shall be given to—

- (a) the nature of the injuries suffered; and
- (b) whether there was any provocation by the victim.

(4) In determining the amount of compensation, consideration shall be given to—

- (a) the amount received or receivable from any other source by the victim or his dependant, as a result of the criminal injury;
- (b) the conduct of the victim which contributed to the injury.”

There is a provision that if the person has been assisting in the prevention of crime or apprehending a person he should not be disabled from getting his compensation if he was injured. Clause 26 of the Bill deals with what the boards shall do, and it states:



“The Board, in considering an application, shall not be bound to entertain submissions from legal or other representatives of a victim or dependant and shall not be bound by the rules of evidence of legal procedure.”

The purpose of this is that the board, strictly speaking, is not bound to legal entitlement, it is an *ex gratia* payment, and one which the state, in its discretion, is providing. Clause 27(1) and (2) provide that the Board shall hear claims for compensation at the places mentioned and shall notify the applicant of the time and place, and the remaining subsections state that:

- “(3) Where the Board makes a decision to hear the applicant it shall be entitled to call and examine any other person.
- (4) The Board shall reach its decision on the basis of evidence and other information available to it at the hearing.
- (5) ...the applicant shall be entitled to be assisted in presenting his case by a legal adviser or by any other person of his choice.”

So, in other words, if there is a hearing, the person would be entitled to have his lawyer. Subclause (6) states that:

“The Board shall not be liable to the applicant for the cost of assistance by a legal adviser but may pay the expenses of other persons required to attend the hearing.

In Part VI, clause 29 deals with payment of compensation. It says:

- “(1) Subject to an application being submitted to the Board, the Board may pay compensation under this Act to—
  - (a) the victim;
  - (b) a dependant of the deceased victim; or
  - (c) the person responsible for the care and maintenance of the victim or dependant, where that person has suffered pecuniary loss or has incurred expense in the care of the injured victim or dependant, as the case may be.
- (2) Compensation may be paid in respect of—
  - (a) expenses reasonably incurred as a result of the injury or death of the victim;

*Criminal Injuries Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

- (b) loss of earning power as a result of total or partial incapacity of such victim;
- (c) pecuniary loss to the dependant;...
- (d) other pecuniary loss or expenses incurred resulting from the personal injury or death of the victim which the Board determines to be reasonable.”

Clause 30 states that:

- “(1) Compensation may be paid whether or not a person is prosecuted or convicted of the crime on account of which the application was made.
- (2) The Board may suspend consideration of any application for such period as it thinks appropriate on the ground that the prosecution for the crime, out of which the injury occurred, has commenced or is imminent.

Clause 31 says:

“Notwithstanding the incapacity of the person responsible for the injury or death by reason of age, insanity, or otherwise, compensation may be payable under this Act.”

Clause 32 says:

“No compensation shall be paid unless the application is made within one year after the date of the injury or death...”

So that there is a time frame. There are also grounds for denial, according to clause 33, where the person:

- “(a) was guilty of a contravention of, or failed to comply with, any law which caused or contributed to his injuries;”

Mr. Speaker, according to clause 34:

- “(1) ...the amount of compensation payable, under this Act, in respect of the death or injury of any victim shall be within the absolute discretion of the Board and shall be in the nature of an *ex gratia* payment.
- (2) No compensation shall be paid, in an amount in excess of twenty-five thousand dollars.
- (3) The Minister may, by Order, increase the amount payable generally up to a maximum of fifty thousand dollars.”

So instead of coming back to Parliament to increase the amount from \$25,000, the Minister is being given the power to increase the amount to \$50,000. Clause 35 provides that payment can be made in lump sum or in periodic payments. Clause 36 says:

“Where a victim or dependant to whom compensation is paid subsequently receives a settlement by way of damages or an award, he shall repay to the Board so much of that settlement that does not exceed the amount of compensation paid to him by the Board.”

Clause 38 provides that if there is false information, one can apply to the court. There had been some amendments to the Bill in the Senate. It provides in clause 39 that:

“When payment of compensation is made under the Act, and the applicant waives his right to pursue an action against the person responsible for the injury or death, the Board may be subrogated to the cause of action.”

Then, under clause 40, there will be regulations for governing the Act.

Mr. Speaker, if I may again, refer to the manual of the United Nations, one sees that there are also conditions applied there which means that the person must report the matter, must assist the police, and must submit timely applications. The principles which are stated in this document are enshrined in the legislation and very simply, it is a measure to provide some form of assistance to the victims of certain violent crimes which are committed after the Act comes into operation.

Thank you very much, Mr. Speaker.

I beg to move.

*Question proposed.*

**Mrs. Camille Robinson-Regis** (*Arouca South*): Mr. Speaker, before I begin, I would like to thank the Attorney General and the Opposition Chief Whip for facilitating my request today so that I would be able to present my arguments and leave the Parliament right after.

Mr. Speaker, I would like to begin by indicating that the principle outlined by the Attorney General in this Bill is extremely laudable, but we on this side have some concerns as we have examined the various clauses of the Bill and we do have some questions that we feel need to be answered.

Our first concern is the issue of retroactivity. Because, even though legislation normally is not retroactive, we have some pieces of legislation brought to the Parliament in the time of this Government where there has been retroactivity.

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

This Bill, in its Explanatory Note, says from the outset that:

“This Bill seeks to establish a system of State assistance for victims of certain violent crimes committed after the commencement of this Act.”

The first question that comes to mind is: what of the victims of Dole Chadee and his gang? I know that the Government had indicated, through its Minister of Social Development, that they would be paying some compensation to the family in Williamsville which was decimated by Dole Chadee and his gang, but if my information is correct, nothing has, as yet, been done. When this piece of legislation becomes law, then there would be no entitlement for those persons, because the Bill states specifically that it is only for crimes committed after the commencement of the Act.

So, I would like to find out if the Minister who would be administering this piece of legislation would be given the opportunity to make exceptions. In the section which deals with general policy directions, will the board, at any time, be given the opportunity to make exceptions, which not only involve the victims of Dole Chadee, but other crimes that have been committed and the perpetrators are well-known and have become notorious for crimes which had been committed prior to the commencement of this Act?

Additionally, we are of the view that some concern must be raised in terms of the Minister who would, in fact, be implementing the provisions of this Bill. It is strange that even though in the definition section of the legislation, it says that:

“‘Minister’ means the Minister to whom responsibility for social services is assigned and ‘Ministry’ has the corresponding meaning.”

This Bill has not been presented by the Minister of Social Development and it leaves us wondering: who would, in fact, administer this particular piece of legislation? If my information is correct, even when this Bill was presented in the other place, it was not presented by the Minister of Social Development and I do believe that the Minister of Social Development had no input at all in terms of the debate. So, I would just like to enquire as to who will, in fact, be administering this piece of legislation.

Mr. Speaker, as I talk about the role of Minister, I would like to ask you to look, first of all, at Part II, clause 6(1) which says:

“The Board shall consist of a Chairman and six other members, all of whom shall be appointed by the Minister.”

Immediately upon seeing this clause, alarm bells start ringing for us on this side. Because we have some concerns where the Minister is going to appoint the Board and, also, is going to give the board, as it says in clause 11:

“In the performance of its functions the Board shall act in accordance with any general policy directions of the Minister.”

There are other sections where the Minister features very prominently and we have some concerns as to whether this piece of legislation would become a political tool.

**2.40 p.m.**

Mr. Speaker, we raise those concerns particularly given the history of this Government where everything that they do always has that element of political interference. I raise the question to be assured that, in fact, allowing the Minister to appoint the board and deal very specifically with certain elements of the function of the board would not have serious political overtones in the conduct of the board's business. I am hoping that we will be able to get some clarification in terms of exactly how the Minister would operate.

We would even like to suggest that perhaps it might be safer to allow the board to be appointed by the Cabinet as a collective body because of the concerns we have in terms of direct political interference. As laudable as the intent of this legislation is, if it is tainted by political interference, it would not achieve any of the laudable objectives set out here.

Mr. Speaker, I would also like to make some amendments, I am not sure whether they have been circulated. They have been prepared and as I go through the Bill I would refer to the suggested amendments.

Clause 3(b) of the Bill which is the interpretation clause says :

“‘dependant’ means—

- (b) a person who was living in a cohabitational relationship with the victim for not less than three years before his death;”

Mr. Speaker, we on this side would like to suggest an amendment where the time be changed from three years to five years. It was an amendment suggested by our side in the Senate, given the other legislation dealing with cohabitational relationships which gives a time limit of five years for persons in cohabitational relationships benefiting in any way from that relationship. We would suggest an amendment which would make this legislation consistent with already existing legislation dealing with cohabitational relationships.

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

Mr. Speaker, we would also like to suggest an amendment to clause 4(1)(a) which says:

“This Act applies to a—

- (a) person who suffers injury;

The suggested amendment would be to insert after the word “injury” the words “as a result of a crime listed in the First Schedule.”

Mr. Speaker, we feel that the Act should be very specific because clause 4(1)(b) says very specifically:

“This Act applies to a—

- (b) dependant of a person who dies, as a result of a crime listed in the First Schedule.”

Mr. Speaker, for specificity, and a certain amount of clarity, we feel that clause 4(1)(a) should be amended to read similarly to clause 4(1)(b).

In terms of the composition of the board, clause 6(1) says:

“The Board shall consist of a Chairman and six other members...”

one who should be a medical practitioner, the Chairman himself should be an Attorney-at-law, two other Attorneys-at-law and it specifies the length of time they should be in practice.

“(d) a psychologist;

- (e) a representative from the Ministry with responsibility for social services;  
and

- (f) a duly appointed representative of the Tobago House of Assembly.”

Mr. Speaker, we suggest that after (f), a new subclause (g) should be inserted to read “a representative of the insurance industry” should be included on this board. We are saying that this particular piece of legislation is, or does contain quite a number of elements of risk analysis and a number of elements of insurance because we even see the term “subrogation” coming up in one of the clauses here.

We are therefore suggesting that a representative of the insurance industry would be able to lend further expertise to the board in terms of how it makes its assessment of the kind of damages or award specifically that should be given to the victims who are to be compensated by this legislation.

Mr. Speaker, clause 7(4) says:

“An appointment to the Board and the termination thereof whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.”

Mr. Speaker, with particular reference to the use of the word “revocation” the question we are asking is whether the Attorney General would be able to give us grounds on which someone’s appointment would be revoked. There are certain grounds which often come up in legislation like bankruptcy, mental illness, which are normally included in legislation.

**Hon. Maharaj:** Which clause is that?

**Mrs. C. Robinson-Regis:** Clause 7(4) where it says:

“An appointment to the Board and the termination thereof...”

And “revocation” is made as one. The legislation does not say how someone’s appointment can be revoked. We would like some clarification particularly with regard to the revocation of someone’s appointment.

Clause 7(7) says:

“Where a member is absent without leave for three consecutive meetings of the Board he is deemed to have vacated his seat.”

We are suggesting an amendment to that section, and that it says for clarity after the word “seat” “The Minister shall appoint another person to the Board as a member.” Just for the sake of clarity.

Mr. Speaker, as regards clause 8 which says:

“(1) The Board shall pay its Chairman and other members such remuneration as the Minister approves.”

Additionally it says:

(2) For the purpose of defraying reasonable travelling and out-of-pocket expenses incidental to their office, members of the Board shall be paid such allowances as may be approved by the Minister.”

Mr. Speaker, we would suggest that in keeping with what has been happening with regard to the fixing of salaries or remuneration for several boards, that the Salaries Review Commission be allowed to fix the remuneration and allowances even with regard to justices of the peace. I think the Salaries Review Commission

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

is being asked to fix remuneration and allowances and we suggest that instead of giving the Minister the authority to fix these salaries and allowances, that some independent body be called upon to fix salaries and allowances for these board members.

Clause 9 refers to the functions of the board and it says:

“The Board shall be responsible for receiving and considering applications...”

We on this side note that one of the clauses of the Bill does say that the board shall investigate all applications, but we feel that it would be a mechanism of assistance to the board if it has an investigating officer. Perhaps when the administrative structure is set up, an administrative officer may be someone placed on the staff of this compensation board that is being established, but we feel that it is important if the application for compensation is to be carefully and fairly considered, that there should be some stated mechanism for the board to be able to do its investigations.

We also note that the legislation indicates that even if someone is not convicted, the person who is the victim can apply to the board for compensation. The question which immediately comes to mind is, how is the board to know that a crime has, in fact, been perpetrated against the applicant if careful and detailed examination and investigation have not been done. We on this side are saying that there is clear need for an investigative capacity somewhere within the mechanism set up, so that the board can carry out its duties.

Mr. Speaker, clause 10(5) says:

“The Chairman shall have a casting vote only.”

This raises some concern because if the chairman is a full-fledged member of the board, I wonder why it was felt that he should only have a casting vote. Clause 10(6) says:

“The decisions of the Board shall be by a majority of votes of the members present and voting.”

A quorum shall be four members.

Mr. Speaker, we on this side suggest that the chairman should have an original vote and a casting vote in circumstances where there is some form of deadlock, because we feel it is important for the chairman to be able to participate fully in the deliberations and eventual decisions of the board and should not only have a



casting vote, but should also have an original vote and in the instances of a deadlock, should also have a casting vote.

**2.55 p.m.**

Clause 10(10) which says:

“Subject to this section, the Board may, by standing orders, regulate its own procedure at meetings.”

Mr. Speaker, we are asking: if the standing orders would be made by the board itself in order, as it says, to regulate its own procedures, would those standing orders have to be made in any particular way that, apart from just regulating the activities of the board, it would have a kind of quasi legal effect on the mechanisms which govern the operation of the board? We would like some clarification on that: if it is to be made by the board, if it is to be approved by the ministry or any other body which relates to this particular board which is being established.

Clause 11, which deals with policy directions, states:

“In the performance of its administrative functions the Board shall act in accordance with any general policy directions of the Minister.”

Mr. Speaker, we would like to suggest that the word “administrative” be deleted because it gives the connotation of the day-to-day functions of the board. We feel certain that the normal course and in accordance with the Constitution of Trinidad and Tobago, the Minister is charged with the responsibility of giving general policy directions to any organization over which he has some form of control. But we feel that, in order for the board to carry out its duties without too much interference, the board should be given general policy directions regarding its functions generally, and not its administrative functions which gives the connotation of the day-to-day administrative functions of the board. We are therefore suggesting that the word “administrative” be deleted.

Part III of the Bill deals with the staffing of the board, and it speaks very specifically about the secretary to the board. Clauses 14, 15 and 16 all deal with the secretary to the board. The concerns that we have regarding, this particular Part III, clauses 14—16, relate to particularly 14(2) which says:

“...the Secretary shall be the Accounting Officer for the purposes of the Exchequer and Audit Act and for that purpose shall be a qualified Accounting Technician.”

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

Mr. Speaker, we are not sure exactly what is meant to be achieved by this clause, because in ministries, the accounting officer of any ministry is usually the permanent secretary, and the permanent secretary does not necessarily have to be an accounting technician. We are asking the question whether there is any specific reason why the legislation specifies that the secretary to this board should be an accounting technician. The Companies Legislation states that companies should have a secretary to the board and, in most instances, the secretary to the board may be an attorney-at-law or someone who has the ICSA or the ACCA qualifications. We are just a little concerned over why it is specified that the person must be a qualified accounting technician. We feel certain that the board should appoint a secretary, as 14(1) says, who is “a suitably qualified person”. But we ask the question why “Accounting Technician” has been specified in 14(2)?

Clause 15 goes on to talk about the tenure of office of the secretary. It also talks about the length of time that the secretary should be appointed to the board, the mechanism by which the secretary may resign, and the fact that the board may terminate the secretary’s appointment.

Clause 16 goes on to say:

“The Board shall pay the Secretary such remuneration as the Minister approves.”

We have the minister coming up again. We are suggesting that, either the Salaries Review Commission or, a body established—which can go through a contractual negotiation with the secretary—should really be the body which determines the remuneration of the Secretary to the board. We are asking for some examination of this suggestion so that the legislation can operate in a way which does not give rise to concerns about political interference.

Mr. Speaker, I go on to clauses 19 and 20 which outline part of the financial provisions, as the Attorney General and Member for Couva South indicated. Clauses 19 and 20 talk about two appropriations from the Consolidated Fund. Clause 19(1) states:

“The Board shall establish a fund consisting of such sums as are appropriated by Parliament from the Consolidated Fund for the purpose of meeting its operating expenses.”

Clause 19(2) goes on to detail:

“(a) the remuneration and allowances of the Chairman and other members of the Board;

- (b) the remuneration and allowances of the Secretary and other members of staff;
- (c) other operating expenses of the Board.”

And that Parliament would appropriate the money.

Mr. Speaker, clause 20 indicates:

“Parliament shall appropriate moneys from the Consolidated Fund for the payment of compensation...”

This compensation fund will be administered by the ministry, when the Board writes to ask the ministry for funding for payment to victims.

### **3.05 p.m.**

I feel it may be a better option to have the Ministry administer the funding, pay the board and pay the persons who have to be compensated, so that two levels of funding do not have to be established and the Ministry can have some control through the Permanent Secretary over what happens to the funds that are appropriated for the payments to the board. I ask the Member for Couva South to examine that possibility so that it may be a cleaner operation, instead of having the board on one side dealing with funds and the Ministry dealing with funds, also.

Mr. Speaker, an examination of Part V which deals with Application for Compensation—before I go into the general policy that is outlined by these clauses, I would like to suggest a minor amendment to clause 24(5)(b) which says:

“a mentally and ill person...”

Just a minor amendment that the word “and” be deleted, so that it reads “a mentally ill person” *et cetera*. But in this particular clause 24(5)(b), it says:

“a mentally and ill person within the meaning of the Mental Health Act, the application may be made by the person with whom he normally resides or a duly authorised medical officer.”

Now, the definition or interpretation section does not authorise who is “a duly authorised medical officer”. Because this is a fund that will be operated from the state’s resources, would this “duly authorised medical officer” have to be a DMO? Or, would it just be someone who is registered with the Medical Board of Trinidad and Tobago, so that any medical practitioner would be able to make this application on behalf of the mentally ill person? Or, would it specifically be a District Medical Officer? Mr. Speaker, we would be grateful for some

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

clarification as to what exactly the legislation means by “a duly authorised medical officer”.

Clause 25 goes on to outline what would be the procedure for determining applications and subclause (4) raises some concern for us on this side, because it says:

“In determining the amount of compensation, consideration shall be given to—

- (a) the amount received or receivable from any other source by the victim or his dependant, as a result of the criminal injury;
- (b) the conduct of the victim which contributed to the injury.”

Now, the concern that we on this side have in relation to this particular clause relates to subclause 4(a) which talks about the “amount received or receivable”.

The question we would like to ask is: If the injury has occurred and the victim had some insurance policy by which he had been assured against such an injury, would it not be a little draconian of the state to say, “Because you had the foresight to insure yourself, then we will take that into consideration and give you less than someone who did not have that foresight.” We on this side feel that seems almost like being penalized for taking the time to protect oneself from all types of risk that could occur.

We feel that this is something that, perhaps, could be looked at again by the Member for Couva South in terms of the entire policy of this legislation which is set up to give some kind of compensation to victims. There should not be clauses which prevent persons from benefiting because they had the foresight to insure themselves against the kind of risk to which they were exposed, and from which they could gain some kind of compensation from the state. So, we are asking that an examination be made of that particular clause.

Clause 25(8) gives a definition of the members of the security forces. The question which we on this side would like to ask is whether members of the security forces would be able to apply for compensation under this legislation, or whether given the nature of their jobs, they would be excluded from compensation under this legislation? Because, given the nature of their jobs, they would be exposed to the kinds of risk to which persons who are victims under this legislation would be exposed, but they would be exposed in the normal course of their duties, but there is no indication as to whether or not they would be excluded by the legislation.

Clauses 26, 27 and 28 talk about the board not being bound by legal procedure, yet, it indicates that someone who makes an application to the board can, in fact, be allowed to have an attorney-at-law present and participating in the application. Additionally, the clauses indicate that the board will be able to call persons to give evidence as it says in 27(3) that the board:

“...shall be entitled to call and examine any other person.”

Now, the question is asked whether the functions of the board and the mere fact that it can call people to give evidence does not, to some extent, make the board a quasi-judicial authority, because it can call people to give evidence; it can rule on submissions by attorneys-at-law. Are these submissions only going to be submissions of fact? Would it be specific that any submissions which come to the board could only be submissions of fact? Or, is there going to be a mix of fact and law? The question that also needs to be answered is: If the board calls someone to attend before it and that person does not attend, whether the board would be able, in any way, to penalize that person for not attending once they are called to be examined by the board?

We are asking whether, in fact, the board should not be bound by some form of legal procedure and whether the board is not, in fact, a quasi-judicial board that is being established, given the fact that it is making determinations regarding criminal matters and regarding whether or not someone should, in fact, be entitled to some form of compensation from the state?

Further, clause 27(7) specifies that:

“All hearings shall be in private.”

The question must be asked: Why, in fact, should all hearings be in private?

Now, the courts of Trinidad and Tobago specify which matters should be public and which should be private and we would like to find out why all hearings should be in private because, in many instances, some of the injuries that have taken place are injuries which in the normal course, when the matter comes before the court, there would be public hearings in these matters. We ask the question: Why is it specified that all hearings should be in private?

Clause 28(2) says:

“The decision of the Board shall be final.”

This seems somewhat questionable because, normally, for even less occurrences than what this legislation seeks to deal with, when a board or a body makes a

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

decision, the decision is not usually final. There is usually some ability of the person who is the victim, or who has made the application, to appeal to some higher body, either some authority set up at the Ministry, or the courts of Trinidad and Tobago. If there is some reasoning behind why the decisions of the board shall be final, and it may be that because the compensation outlined here is really discretionary on the state, it may be that is the reason for the decisions of the board being final. However, if there is some other reasoning for the decisions of the board being final and persons not being given the opportunity to appeal, we would like some clarification regarding this particular clause.

Clause 33 says:

“No compensation shall be paid where the victim—

- (b) was injured as a result of the operation of a motor vehicle, boat or airplane unless the same was used as a weapon in a deliberate attempt to do the victim harm or to cause bodily injury.”

**3.20 p.m.**

Mr. Speaker, this seems a little curious, because in circumstances where the particular vehicle may have been used in the commission of a crime and not necessarily as the weapon which resulted in the crime being committed, or the injury being sustained, would there not be a valid case for an application for compensation in those circumstances? In circumstances where the vehicle was used in the commission of the crime, and injury was sustained, is there not an opportunity for someone to apply to the board and be compensated for the kind of injury that may have been sustained in those circumstances?

Clause 34(2) states:

"No compensation shall be paid, in an amount in excess of twenty-five thousand dollars." [*Interruption*]

**Mr. Speaker:** Hon. Members, the speaking time of the Member for Arouca South has expired.

*Motion made*, that the hon. Member's speaking time be extended by 30 minutes. [*Dr. Keith Rowley*].

*Question put and agreed to.*

**Mrs. C. Robinson-Regis:** Thank you, Mr. Speaker, and Members. The question that I would like some clarification on is in relation to clause 34(2) and (3). Subclause (3) goes on to give the Minister the authority, by Order, to increase

the amount to a maximum of \$50,000. The Member for Couva South did indicate that this was being done to allow the Minister the opportunity to increase the amount without necessarily having to return to the Parliament for this kind of increase. The question that must be asked is: what criteria would be used by the Minister in order to determine that the amount should, in fact, be increased? Would this be after the fund has been operating over a period of time or would it be done for individual cases, given the nature of the crime? What is the criteria that would be used to determine when and if the Minister should increase the amount of compensation?

The legislation at clause 36 goes on to indicate that a victim or dependant, who is compensated and subsequently receives a settlement by way of damages or an award, shall repay the board the amount he got from the board. The question I ask is: how is this going to be policed? How would the board be made aware that a particular person who has received an award has subsequently received damages or a further award and should, in fact, repay the board the amount of the award? There does not seem to be any mechanism for ensuring that this would, in fact, take place. So how is the board and the Ministry going to police this particular section? It sounds all well and good, but there does not seem to be any mechanism by which the board would be able to ensure that this particular section can be policed effectively.

Mr. Speaker, we are of the view that this particular piece of legislation is very laudable, but we have several concerns which I have attempted to outline and which we on this side would ask for clarification from the Member for Couva South. We are trusting that this would not be another piece of legislation that just sits on the books without being able to be properly implemented for lack of funds or, indeed, for lack of will.

In fact, we have seen this Government go through a series of pieces of legislation where, as laudable as the objectives may be, they are not implemented, either for lack of funds or because the kind of bureaucracy that has been set up makes it impossible to implement the legislation. It is not only in legislation that we have seen this happening as well but, in several instances where the Government has come to Parliament, in circumstances where they have asked for reports of commissions of enquiry, and certain findings have been arrived at, it then fails to implement what it had initially set out to do as a policy objective. We are requesting, therefore, some assurances that if this legislation is to be implemented, all the mechanisms be put in place to ensure that it does not become bogged down by bureaucracy or tainted by political interference.

*Criminal Injuries Bill*  
[MRS. ROBINSON-REGIS]

*Thursday, July 29, 1999*

We would like some answers to the issues we have raised, and with those words, I thank you.

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I thank the hon. Member for Arouca South for her submissions made in this matter. May I quite quickly try to explain on the floor of this House some of these matters before we go further into committee stage.

The first point raised by the hon. Member was that the Bill should state which Minister is going to be responsible for the Bill. One knows that is not how it is done in matters like these, and under the Constitution the Prime Minister would request the President to indicate what is the portfolio of particular ministers. That is really the minister responsible, because every time it has to be changed we would have to come back to Parliament. [*Interruption*]

**Mrs. C. Robinson-Regis:** Thank you, Member for Couva South. The point I was really making was not which is the minister, because the interpretation section states quite clearly which minister would be responsible. My concerns were that the Minister of Social Development has made no input in the Parliament, because given the fact that this is the Minister who is stated in the legislation then our concerns were that it was being moved by the Attorney General. Even in the Senate, the Minister of Social Development appeared not to have taken part in the debate.

**Hon. R. L. Maharaj:** Mr. Speaker, I find that is so unimportant because one knows that what is very important is that in drafting a Bill, working out the policy, ministries get involved. This is a Bill which was not on the scene under the last administration, it came on the scene with the Law Commission. The Law Commission looked at the Bill and had all the ministries involved. The Ministry of Social Development has played a very important role in the formulation of the policy.

As a matter of fact, if the hon. Member would have read it—and I am sure she did—she would have seen that in another place we went through the history and saw how all the different legislations would compare. We looked at different situations and the different ministries which played a very important role.

So that although the Minister of Social Development had not spoken, it is not our policy to put all the Ministers who have an input in a Bill. Sometimes a Minister may not have any input in the Bill, and the Minister moves certain Bills. So moving the Bill or speaking in Parliament is no indication as to which Minister would be responsible.



**3.35 p.m.**

Mr. Speaker, in relation to the other point as to whether it should be the Cabinet or the Minister, the hon. Member would know also that normally in appointing a board the Minister does not take it upon himself to do so. The list of recommended board members goes to Cabinet and Cabinet makes the appointments. In other pieces of legislation which have been passed over the years during the PNM administration and the NAR administration, you would find no reference to the Cabinet appointing the board. There is a reference to the Minister but one takes that to mean the Minister acting on the authority of Cabinet.

The hon. Member made the point with respect to dependants where the person is living in a cohabitational relationship with the victim for not less than three years and thought that it should be increased to five years to meet the principle in the Cohabital Relationships Bill. That was a point that was argued at length in another place and the policy and philosophy behind it are, in a matter like this you will readily have people who are in a cohabitational relationship for less than five years but they will suffer that kind of loss. It was felt that in relation to compensation, which is an *ex gratia* payment as opposed to the enforcement of a legal right, there would be no harm by the policy being if one is in a cohabitational relationship for three years.

Mr. Speaker, in relation to the point as to injury, the hon. Member's point is taken but I think it is dealt with in the Bill. If one looks at the meaning of victim, and that is the point that deals with injury, it must be an injury which is relating to an offence in the First Schedule. If one looks at "victim" one would see:

"victim" means a person who suffers criminal injury or is killed by an act or omission of another person which act or omission is a crime listed in the First Schedule."

and then "criminal injury" or "injury" is defined to relate it to a crime listed in the First Schedule. So that has been dealt with.

In relation to clause 7(4) which deals with the circumstances under which a board member may be removed, Mr. Speaker, these are matters of company law, but one knows that the shareholders can remove members of boards in circumstances and one does not put all these things in legislation. As to whether this board should be a board under the Salaries Review Commission for the review of terms and conditions, it is not one of those matters because it would mean that boards like these would have to be under the Salaries Review Commission, which really is not the norm in Trinidad and Tobago.

*Criminal Injuries Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

I think we should understand that this concept is really the executive arm of the state giving an *ex gratia* payment to individuals, not to everybody who suffers damage or injury. It will be dependent upon the need as specified in the Act and, therefore, one could have normally done it, as it has been done in other countries, where one makes an application to a Minister and the Minister has a committee and the committee decides. We decided that we should go the route of some other countries. Even the United Kingdom had a criminal compensation board which was not under a statute and it was found that situation produced certain difficulties and therefore we decided we should set up the board by a statute and we should be able to say *ex gratia* payment. So that it is really not providing legal rights. A person is not entitled to this compensation as a legal right. It is, in effect, assistance given because of the particular circumstances.

This board consists of these individuals and one sees the different fields from which they come and, if I may say so, it would mean that the Minister would have to interfere with all the members of the board in order to control the board. One knows, Mr. Speaker, if that argument is correct then the whole concept of boards in Trinidad and Tobago would have to change because then ministers would not be able to have boards under the purview of their ministries and there would have to be different concepts.

I think the point is well taken and one wants to ensure that there is no political interference in these matters and, as far as practicable, we can have measures which would prevent this. But this is a matter in which basically it is an executive act. I could tell the hon. Member, Mr. Speaker, one knows that even in matters like these now the distinction between judicial and quasi-judicial is of no consequence because the law is, it has nothing to do with whether it is quasi-judicial. As long as a person or an authority exercises duties and powers which affect the rights of individuals or legitimate expectations, courts can intervene. So that the importance of it being quasi-judicial or otherwise is of no great consequence, in my respectful view.

With respect to the reference to clause 11 about the general policy directions of the Minister in respect of the Board's administrative functions, that is a matter which was inserted in the other place and it was felt that if "administrative" is put in, it will ensure that the Minister will have no jurisdiction or power to interfere with the actual award of compensation, but only with respect to the administration.

The accounting technician. If I may explain that point; in a ministry one has the permanent secretary as the accounting officer but the permanent secretary is

not an accountant, or not necessarily an accountant, but the ministry has accountants, accounting technicians, deputy accountants, all kinds of accounting officers. This board would not have that but this board would have to see about accounts and, in the formulation of the Bill, based on the discussions with the Ministry of Finance and the different Ministries, accounting technician is a post in the public service and it was felt that the board should have an accounting technician as an accounting officer to satisfy the requirements of the Audit Act.

Mr. Speaker, with respect to the points made of legal principles, it is not intended that this board should be a court. It is not intended that it should even be a situation where you will have long legal arguments. What is intended is that the board, on its own, could make its decision but if the board wants to have a hearing there will be a hearing not bound by legal principles. As a matter of fact, a commission of inquiry under the Commission of Enquiry Act could make its own procedures not bound by any rules of evidence, but it still can give persons the right to be able to appear before the commission. As a matter of fact, at the present Commission of Enquiry one sees that persons did not have lawyers and, in effect, the persons applied and the Commission agreed that the person should have a lawyer. The commission also has the power under the Act to make its own rules and procedures.

In respect of subrogation—and it is a very simple principle—if for some reason the person who has been paid this money has got moneys in excess of what was paid to him or her from an insurance company, then the board would be entitled, in place of the person, to be able to recover the amount of money that was paid. The whole purpose of the Act is to assist the person if the person is in need. In relation to having a person from the insurance industry on the board, Mr. Speaker, it is not one of those kinds of situations. As a matter of fact, insurance does not apply to this matter at all in the sense of assessing what is to be paid. One sees the guidelines which are mentioned. So, Mr. Speaker, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole House.*

*House in committee.*

**Mr. Chairman:** Hon. Members, we have a list of amendments which has been filed by the Member for Arouca South. I take it you all have it before you.

*Clauses 1 and 2 ordered to stand part of the Bill.*

*Clause 3.*

*Question proposed, That clause 3 stand part of the Bill.*

**Mr. Imbert.** Mr. Chairman, on behalf of the Member for Arouca South I think the point she was making was that in other legislation that deals with cohabitational relationships, the period is five years.

**Mr. Chairman:** I think what you do is move that the amendments as circulated be considered.

**Imbert:** Okay, Mr. Chairman, I would like to move that the amendment to clause 3, as circulated, be adopted. It reads as follows:

“‘dependant’ means—

- (b) delete the word “three” appearing between the words “than” and “years” and replace with the word “five”.”

Mr. Chairman, I believe the point that was being made was that there is other legislation which deals with cohabitation and which has a period of five years and that this is inconsistent with other legislation.

**Mr. Maharaj:** Mr. Chairman, I did mention on the floor of the House that the rationale for this is that this Bill is not a Bill to give effect to any legal rights to compensation. A Cohabital Relationships Bill was to create the legal rights and the question of three and five years was fully explored. One of the main arguments for the three-year period is that there are many people in Trinidad and Tobago who would fall under the three-year period and if persons are injured and they could fall under the Bill they would be denied. The Government adopted a policy that it would go for the three-year period.

**Mr. Imbert:** But in the other legislation why not make that three as well?

*Question put and negatived.*

*Clause 3 ordered to stand part of the Bill.*

**3.50 p.m.**

*Clause 4.*

*Question proposed, That clause 4 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 4 (1) (a) be amended as follows:

After the word “injury” and before the semi-colon insert the following, “as a result of a crime listed in the First Schedule.”

**Mr. Imbert:** Mr. Chairman, can we discuss it?

**Mr. Chairman:** Please go ahead.

**Mr. Imbert:** I believe what the Member for Arouca South was seeking to achieve was a much tighter Bill where there is specific reference to the crimes listed in the Schedule. If one looks at clause 4 in its present form, it just says “a person who suffers injury” and no reference whatsoever to the injuries listed in the amendments.

**Mr. Maharaj:** Mr. Chairman, I would excuse the hon. Member. The word “injury,” is defined—if you look at the definition under clause 3—“Criminal injury or “injury” includes any harm or damage done to a person’s physical or mental condition as a result of a crime listed in the First Schedule...”

*Question put and negatived.*

*Clause 4 ordered to stand part of the Bill.*

*Clause 5 ordered to stand part of the Bill.*

*Clause 6.*

*Question proposed, That clause 6 stand part of the Bill.*

**Mr. Imbert:** I beg to move that clause 6 be amended as follows:

“After subclause (3) (f) insert a new subclause (3) (g) a representative of the Insurance Industry.”

I think this is a very worthwhile amendment. I do not know what is the problem. Members of the insurance industry have to get involved in the assessment of compensation all the time. What is the Government’s objection to this?

**Mr. Maharaj:** Mr. Chairman, if I may say so, some insurance companies are the worst persons to pay claims, and to recognize the payment of claims. *[Interruption]* I said, some. That is a matter which has been proven in reports by the Supervisor of Insurance. We are not dealing with something for insurance companies to get, we are dealing with persons who are injured on the basis of existing principles of law—so that persons would be entitled normally to get some money and to use some sort of principles. That is why one has lawyers and psychologists for the people who suffer from trauma. One would see that one is

*Criminal Injuries Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

taking that factor into consideration in the definition of the Bill. That is why the insurance representative is really a non-starter for the compensation competition.

**Mr. Imbert:** May I, therefore, ask why do you not have someone who has a financial background on the board?

**Mr. Maharaj:** I think I explained that you do not need a financial background, you need somebody who is familiar with these kinds of matters in the assessment of these kinds of things. The financial people would be the worst people for this as well.

**Mr. Imbert:** So lawyers are the best. They would know these principles. Also doctors and psychologists would know about the injuries and you would have the social services department to determine whether or not they are suffering.

**Mr. Imbert:** Mr. President, I see we have some professional bias here.

*Question put and negatived..*

*Clause 6 ordered to stand part of the Bill.*

*Clauses 7 to 10 ordered to stand part of the Bill.*

*Clause 11.*

*Question proposed, That clause 11 stand part of the Bill.*

**Mr. Imbert:** Mr. Chairman, I beg to move that Clause 11 be amended as follows:

“Delete the word ‘administrative’ appearing between the words ‘its’ and ‘function’.

**Mr. Chairman:** Are you adopting the same attitude? I am asking whether you would like it to be considered.

**Mr. Imbert:** Yes, but nobody is supporting me. I think we need to talk a little on it.

**Mr. Chairman:** It seems as though the Member for Diego Martin East wants to have it considered. We would have a little discussion on it.

**Mr. Imbert:** I really cannot see the relevance of the word “administrative” and I cannot see the danger of deleting it. Would the Attorney General explain why it is so specific?

**Mr. Maharaj:** The Board has two functions: Operational and administrative. It also has another function. As a matter of fact, it decides whether people should get compensation, and in the other place it was thought—

**Mr. Imbert:** You do not want the Minister telling the board what quantum of compensation is to be given.

**Mr. Maharaj:** Who to give and who not to give.

*Question put and negatived..*

*Clause 11 ordered to stand part of the Bill.*

*Clauses 12 to 23 ordered to stand part of the Bill.*

*Clause 24.*

*Question proposed, that clause 24 stand part of the Bill.*

**Mr. Maharaj:** Mr. Chairman, I beg to move that clause 24 be amended as circulated which reads as follows:

“Delete the word “and” appearing between the words “mentally” and “ill”.

That point is taken. It was a typographical error. So we could treat it as a typographical error. It was really meant to be—

**Mr. Imbert:** No problem. Could I just enquire, with that particular subclause, is “a duly authorised medical officer” the definition?

**Mr. Maharaj:** “A duly authorised medical officer” refers to the mental health.

*Question put and agreed to.*

*Clause 24 ordered to stand part of the Bill.*

*Clauses 25 to 40 ordered to stand part of the Bill.*

*First and Second Schedules ordered to stand part of the Bill..*

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

*House resumed.*

*Bill reported, with amendments, read the third time and passed.*

#### DOMESTIC VIOLENCE BILL

**Dr. The Hon. M. Job:** Mr. Speaker, this morning I was in the process of laying my case in the context of what is a clear and evident interpretation of the behaviour of the Members over there. They did not see this Bill as a burden on them to do whatever they will, whatever they must, to protect the innocent; protect those in need in the country.

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

I took time off to refer to the question of Emancipation, not because I wanted to say that I read history and I am a student of it, but because it is of such quintessential importance for the people in this country to understand the meaning of the rule of law, and the responsibility of the Government to devote itself to protecting those rights which is the purpose of the law; to protect, on behalf of the poor, on behalf of the needy.

It was Thomas Hobbes—I think somewhere in the 17th Century, the time of Cromwell, somewhere thereabout—who said that in a state of nature for most people, life is indeed solitary, nasty, poor, brutish and, indeed, short.

**4.00 p.m.**

Increasingly, as a consequence of the neglect and abandonment of the very poor in this country by the PNM for so long, their circumstances have degenerated into a kind of Hobbesian law of nature where their lives are indeed poor, nasty, brutish, solitary and indeed short.

There are many women who, while they live in a country of more than one million people, are indeed solitary and lonely in their travail, their pain and their suffering. Many children are in such a situation. It is the purpose and burden of Government to use law to seek after the interest of these people.

They came here talking about cultural relativism and how the law could apply in Barbados but it cannot apply in Trinidad and Tobago. Mr. Speaker, you as a lawyer must have spent countless hours, yourself, reading about the Justinian code of AD 533 where there is this *corpus juris naturalis*. And the *corpus juris naturalis* had to do with law as general to all human beings. That is what it had to deal with. The people who succeeded the Roman empire and followed Thomas Aquinas and these people. They talk about natural law coming out of the same *juris naturalis*—natural law—applied to everybody; popes and all of these people.

What that was telling us is that throughout the world there is law that has to do with human rights that apply to all people. In 1776, the year that David Hume died, the American colonists rose in revolt and said in their declaration that “We hold these truths to be self-evident, that all men are indeed created equal, and endowed with certain alienable rights on which are freedom, protection according to the law, property, liberty, life, pursuit of happiness.

A few years after, the French Revolutionary National Assembly said much the same thing. The French National Assembly declared that there are simple and indisputable principles which show that each man possesses natural rights, which is the purpose of the government of the state: to protect liberty, property, security,



resistance to oppression. That is the purpose of government. Resistance to oppression! One must do that.

These women, children and deprived people that this law is purposed to protect—it fits into a long tradition where all human beings have that right. It is not a question of Barbados, Trinidad and Tobago, the Tobago Cays and Bequia. We are seeking to protect inalienable and inherent rights that go back a long time. These people with their cultural myopia and narrow-minded parochial relativism do not seem to understand that what this law is about has nothing to do with a particular subculture, and that whether or not the constitutional guarantees, as written in the Constitution, are referenced, there is no necessary disjunction.

There is no purpose here to subvert the Constitution. There is a purpose here to carry out the constitutional imperatives and demands that guarantee everybody their rights, but in order to give their case substance, they come here saying they do not trust any policeman, maligning policemen. The whole foundation of their argument against clauses 23 and 24 is that policemen in this country are not to be trusted to act according to law, as if, indeed, we have a police service, we should abandon it.

If, indeed, the attitude of the Members of the Opposition has a correspondence in reality, it must be that we need to import people from outside and fire everybody from the Commissioner right down, because their attitude, as I understand it, suggests to me that they do not understand that law is not something parochial in every incident. There is a whole body of law—British common-law and English common-law—that we have adopted. Emancipation again, it is something I have been saying. I want to say it again. Too many children grow up thinking that law in this country derives from what went on in Yoruba land, Africa, the Congo or in India. There is too much stupidity!

**Mr. Speaker:** Honourable Members, the speaking time of the Member for Tobago East has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [*Hon. R. L. Maharaj*]

*Question put and agreed to.*

**Dr. The Hon. M. Job:** Thank you to everybody on the Opposition side and the Government side for extending my time. There are few occasions when I have stood up in this Parliament where I feel so oppressed by the imperatives of duty to say the things I am saying, Mr. Speaker.

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

I am reading this thing and listening to these people and sensing a kind of flippancy, a kind of mischievous abuse of occasion without understanding that there is a horror story existing in this country daily where, because of the instruments that we have available to us, immense suffering goes unprevented, unhindered. Too many people are unprotected. They do not seem to understand that. This is not a question of PNM or UNC. It is a question of thousands of innocent people that we—and when I say “we” here, I mean all of us—are engaging. I am joining them in this necessary and noble purpose.

We ought not to be using the occasion to malign the police. We ought not to be using the occasion to indulge in a specious debate divaricating into discussions on culture and whether Barbados is like Trinidad or whether Germany is like Trinidad. That is tautological. Barbados and Germany are different from Trinidad. The United Kingdom is different in so many ways. It is, indeed, I say, tautological.

[MR. DEPUTY SPEAKER *in the Chair*]

What we need to appreciate is that not only in the context of the United Nations, or in the context of international law developed by people like Grotius and going back to ancient times, we have human rights and necessary imperatives concerning the protection of citizens that are germane, relevant and essential, whether one is in Barbados, Germany, Hamburg, Dresden, Krakow, wherever. This is what we are doing.

There is another mischievous and Mephistophilean purpose in that kind of attitude. Again, I say, they support those people who believe—let me go back to where I was. I got up in Mr. Sat Maharaj's compound and reminded him and all who would have listened to me, the Caribs were here and they arrived. I do not hear anybody having a Carib Arrival Day. The Spaniards came after them, they arrived, and there is no Spanish Arrival Day. The French and the Africans came also.

We agree that they were given an Indian Arrival Day, but that day ought not to be used to mischievously promote divisiveness in this country. All this is going to mean is that there will be a set of so-called Indians marching from Tunapuna to some compound somewhere to chortle and gloat. It will be nothing more than an occasion in divisiveness which we should abolish!

We need to understand that even if we came from different streams, the Ganges and the Nile, it is indeed a fact, Mr. Deputy Speaker, that in Trinidad and Tobago, as indeed in Jamaica and Barbados, our culture is built on a foundation which we cannot deny of Hebrew or Judeo-Christian ideas, of Roman law and Greek philosophy. Even if when we came here we brought other things to that

table, we are in this Parliament here. I do not know that this Parliament is modelled after anything in Nigeria! This teak Chair came from India as a gift, but India is a democratic country because they maintained their British traditions.

This is what this Parliament is about. Our freedom of speech, our Constitution—all of those things are rested on a foundation of culture and ideas which we seek every day in this country to deny and to induce, and to lead little children to abuse our history and our ancestors, wherever they came from, to disrespect the principles which guide our lives. We are suffering for it! So, to come in here and talk this nonsense about Barbados, and so forth, is to miss the point that every law that is passed here which is consistent with our Constitution does not necessarily have to address itself to some parochial purpose; to some purpose that says this is a unique environment, a unique occasion, so the law we have here must be different from the one we have in Barbados. That is engaging in sophistry!

I am saying, Mr. Deputy Speaker, that the kernel, the core of this issue of the opposition to clauses 23 and 24 is a misguided ambition to forget that we are here to protect innocent people. We are here to write a law that has a purpose peculiar in its attempt that has nothing to do with education, *per se*, the role of the NGOs, the role of family and the role of the school. When they ask, “What is the Government doing?” in the sense that rather than pass this law—because this question of domestic violence is not merely a legal problem, that too is tautological. We know that! I never tried to kill any woman in my life. I do not think that my friend here or anyone on this side, or even those over there, have tried to do that. That has to do with our background, who our parents were, which school we went to, which church we worshipped at, and which creed we obeyed. We all know that.

We have not done nearly as well as we ought to have done in terms of growing up people in this country, so we have bred a peculiar, ravenous and vicious class of monsters who feel they have some natural right to chop up people, if a woman “horn” them, or leaves them, or despises them, they must kill her. They feel so! That is a macho thing!

If a fellow even looks at their woman too hard, they feel that is a right to kill the fellow and beat the woman. There are crazy, sick people here! This law is not dedicated to dealing with that. This law cannot deal with that. No law can deal with that! So, to bring that into this debate, as if to say, rather than focus on nourishing, nurturing, schooling and culture we should abandon this and do that, we cannot, because we have a problem that is not of our making. I did not do

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

anything to make it. The Member for Couva North did nothing to make it. We are here to discharge our responsibility to frame laws that are consistent with the Constitution that will help the innocent, poor victims. This is what we are doing.

Again, Mr. Deputy Speaker, you will be amazed at paragraph 8(7) of the O'Dowd Report, in the recommendations here which reads:

“We were concerned to find that enquiries into cases involving missing persons, domestic violence, sexual offenses and child abuse were not carried out in a satisfactory manner, and in many cases the facts had not been properly recorded and circulation of details had not occurred.

Immediate action should be taken to improve the supervision of such cases, advice in the form of policy should be promulgated to the force, and adequate facilities should be made available for interviews and examinations in sexual and child abuse cases.”

A whole paragraph on the question of the failure of successive PNM regimes, the abandonment of executive responsibility to protect little girls, babies, children from rape and women from domestic violence. They did nothing! They sat on all these recommendations on all these reports and come into this Parliament to abuse policemen, to say that they do not want any law that gives a policeman the right to save a woman and a child, because they are going to abuse it. They understand that all of the policemen have outside women and they will set up some kind of conspiracy to shoot people.

They come in here and every speaker gets up and says this thing, not understanding that every word they use is symbolic in its meaning. Every time they use a sentence to degrade and undermine the confidence in the police, that has an effect on the street outside. This is what they do not understand. Every time they get up in Parliament and are here undermining the idea of the credibility in Government, they do themselves harm.

#### **4.15 p.m.**

We were commemorating 1990 two days ago, and they did not understand what I said on sundry occasions, that the atmosphere had been created by people in the calypso tents, Parliament and politicians that allow people to believe that murder was an appropriate political instrument and, in the same way, they are leading the minds of innocent people to believe that the police are a set of rapists and sexual monsters who would, indeed, use their official position to create conspiracies to murder innocent men in order to get their wives. That is what they are talking about and they have said nothing consistent with recommendations to

upgrade the police, give them counselling, to educate them, to edify and select the best police—nothing! nothing! nothing they have said.

So that I have spent much time making my point, that this Bill ought to be supported just as it is. I do not see any need to amend clauses 23 and 24, because I do not know that the police in this country are such a dangerous instrument to the welfare of everybody, that instead of helping and saving the few lives that we can by those two clauses, we must abandon them, because the police are wantonly excessive in their sexual gluttony and for that reason, we cannot put those two clauses there because we know, as a matter of fact, that they are going to use them to create conspiracy; undermine the constitutional guarantees of our rights to privacy and property; they are going to invade our houses unlawfully; there would be no protection against that kind of thing, from this set of police bandits and police criminal that we have. I do not believe that.

I believe that law is always about making tradeoffs. Every jurisdiction in this world has laws that are called human right laws; and laws to protect people from private invasion by unwanted persons and situations like that. Whether you are in the United Kingdom, or America or wherever, every country has that; but if you are going to live in a community, like Aristotle says, “Man is a political animal because he lives under law”. I do not know that the animals in the field has ever demonstrated that they have legal code like us—they have a constitution—you understand.

So that under every jurisdiction that we know, there are situations where they say, that the law would be void in a particular case, in order to protect the community and our best common interest. This is why there are states of emergency and their peculiar circumstances, where within the body of law, one can go to court and justify the fact after, because that was a situation that the Constitution, probably, did not cover for adequately. One cannot write everything in the law.

So that what we are saying here, is that these little babies that are being killed; the women and innocent people, for whom we are trying to put clauses 23 and 24, so that that precious thing call life, which indeed, it is the purpose of the Constitution, to preserve, and for all of us to preserve, that even in one case, the second case, the third case or one year, we can save one. It is worth it. I do not know how one values somebody’s life, but I would feel very sad and burdened, if I know that we did not put clauses 23 and 24 there, and then I would sit down some evening looking and TV and say, “But you know, if we had clause 23 or clause 24 together in the legislation maybe that woman would have been alive;

*Domestic Violence Bill*  
[DR. THE HON. M. JOB]

*Thursday, July 29, 1999*

maybe that child would have been alive or maybe that baby would have been alive". I do not want to have to live with that.

I am appealing to those people over there, to rethink their opposition to clauses 23 and 24. I am appealing to the Member for Arouca North, Arouca South, Tunapuna, or all of them, to understand that our purpose in this Bill is not a UNC purpose; it is not a Government purpose; it is not a purpose for people in Caroni, Naparima; it is not a purpose for Tobago, it is a purpose for all those potential victims, who I believe and everybody on this side believe, most of the women group in this country believe and who all of us know are in grave danger.

Mr. Speaker, I have the honour to say again, I support this Bill, in its entirety. I hope that the Opposition would find a way to extricate themselves from the box they have put themselves in, with respect to clauses 23 and 24 and to rethink their opposition to those clauses, in the interest of prevention, in cases where grave danger is suspected. I know we do not have the time to do all the things that they want us to do, to say that we are making it consistent with the Constitution, in terms of protecting the privacy of individuals. Mr. Deputy Speaker, thank you. *[Desk thumping]*.

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Deputy Speaker, I join this debate at this time because of the intellectual dishonesty of the previous speaker.

Mr. Deputy Speaker, we have had roughly 60 to 65 minutes of the previous speaker harping on clause 23 and making, quite incorrectly, the claim that we on this side somehow lump all police officers as persons who cannot be trusted and so forth, when the fact is, the Member knows that is not correct. The Member is aware, quite clearly, he has the contributions of the Member for Diego Martin East, the Member for Laventille East/Morvant, both of which he has distorted here for purposes known only to himself. He spends 65 minutes, as though he has developed this "jumbie", to shadow and then spends 65 minutes knocking it down, for what purpose? Completely tangential to the basic debate and what we were saying.

Mr. Deputy Speaker, at the same time he is doing that, he refers to the "Ramdhanie Enquiry", which in fact, implicates certain police officers. So while he is aware, yes, there seems to be some corrupt police officers, the same point that we were making over here, he attempts to generalize and say that we are castigating all policemen. That is intellectual dishonesty; and then he goes to Hobbes and Locke at this point; a whole set of nonsense. *[Desk thumping]*.

I sit here every time that Member gets up to speak because I respect academia, and if you tell me an individual has a Ph.D. I say that he ought to be worth

something, but after listening to him on a number of occasions, I have to ask, which university really degraded itself to give a Ph.D. to that person? He cannot hold one point. He starts from one point and he goes all over the world and you are trying to listen to understand the point he is making and you are lost every time.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, I am not causing any trouble. I know you came back here because you think I am. I can assure you, I am not. On your return, since this is the first time that I am on my feet, since that little altercation in the last meeting, I want to say again how very sorry I am to have contested your ruling.

Mr. Speaker, coming back to the Member for Tobago East, again, the Member for Diego Martin East made the point that even if in Barbados, they have a provision allowing police officers to enter one's home, without a warrant and so on, we have to understand our society. Our society is different and, therefore, in our circumstance, we are not recommending that; and he goes off on that.

Again, the level of intellectual dishonesty that we see coming from that Member from Tobago East—and I would ask him that when he comes to the Parliament to refrain from that type of debate. He says a number of things. I think in today's *Express* he was making the point, castigating his Prime Minister. I do not know how he can sit in the Cabinet of the Prime Minister and be castigating him in such terms. I mean, I wish I had the *Express* to quote exactly what the newspaper reported him to have said! I do not know how he does it! I really do not understand!

#### **4.25 p.m.**

Mr. Speaker, let us understand a few things. First of all, we have said here that we are in agreement with the legislation. We are not saying that today. I can go back to our election manifesto of 1995. This is what we were saying. On page 41, under "Women's Affairs", we spoke about "Violence against women". We said:

- "Priority will be given to the prevention and eradication of violence against women in all its forms. An integrated approach will be adopted to eliminate this challenging problem.
- Specialized centres, using the gender perspective in their programmes, will be instituted to give therapeutic support for victims of violence and for the rehabilitation of aggressors.
- Special training will be provided for judicial, legal, medical, social and police personnel in order to reinforce existing laws and to ensure the fair

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

treatment of female victims. Support and collaboration will continue for the initiative of community-based and Non-Governmental Organizations (NGOs) in redressing this problem.”

So that we were talking about a holistic approach to the problem.

Under “Social Development”, and I will have to refer to this later on in my contribution, we were talking about a review of existing legislation with the aim of updating the Domestic Violence Act. So that, it was a fundamental part of our policy position that yes, there was a Domestic Violence Act legislated sometime in 1991 but yes, there was the need for revision. In our manifesto of 1995 we said quite clearly that if we were re-elected to the Government, we would be looking at that.

That is why after the Member for Siparia made her contribution, I told her quite clearly that I thought it was an excellent one. But one may note, that the *ad hoc* committee referred to by the Minister never recommended clause 23. Nowhere in this report would one see a recommendation giving police the right to entry without a warrant to anyone's home! Nowhere in this report! So one has to ask: from whence did it come? In the 65 minutes spent by the Member for Tobago East, he argued a *non sequitur*. After he leaves the Government, he goes back to Woodford Square, living nowhere, police can always come by him, he lives in a public place.

Mr. Speaker, let us revisit clause 23 and I want to read it. Clause 23(1) states:

“Where a police officer has been invited onto premises by a person apparently resident in those premises for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury at the hands of another person in a situation amounting to domestic violence the police officer may, without a warrant, enter the premises for the purpose of giving assistance and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of.”

First of all, we see that the police officer must be invited, either by the person who is being battered or by another person in the residence. This clause suggests that it can be a neighbour. The first thing that comes to mind, it seems to me, is that in the majority of cases, at least, if the person can get to a phone to call the police, that person can get out of the house. Because we are not talking about a neighbour saying that somebody is being battered and calls in the police, we are talking about the person or another person living at the residence inviting the



police officer. My understanding, in any case, is that at present, the common law principle is that if a police officer were to be so invited and he comes, he gets there and he realizes that someone is in danger, the common law principle says that he can enter, he does not need a provision in the legislation to give him that right. And if that common law principle is correct—

**Mr. Speaker:** Hon. Members, the sitting is suspended for half an hour.

**4.30 p.m.:** *Sitting suspended.*

**5.03 p.m.:** *Sitting resumed.*

**Mr. K. Valley:** Mr. Speaker, when we took the break, looking at the provisions on which the Member for Tobago East spent 65 minutes, clauses 23 and 24, I think the basic consideration here is that because of this clause there is the requirement for a special majority. In other words, because our Constitution provides for the sanctity of one's property as it were, and because one is really infringing by the provision in clause 23, there is need for that special majority.

I think as a general principle, whenever there is a situation in which we are infringing the Constitution, in other words, requiring a special majority for legislation, there is that need to look at that provision not once, not twice, but three times to ensure that it is really necessary.

We agree that in legislation we are talking about balancing rights, that is what we are doing here. Yes, we are looking at the rights of the victim for adequate protection, but we have to ensure at all times that the citizen's right is not infringed unduly and that is the basic issue; whether there is another way of achieving the purpose for which the legislation is intended without infringing the right of the individual.

I submit that the common law principle, which is well known in our country, that the police officer in hot pursuit, or one who is on premises where it is known that perhaps something is going to happen, as long as he has reasonable cause so to believe, can enter without a warrant. I am not a lawyer, I am a layman and that is my understanding and it is confirmed by the debate continuing here today. If that is so, I am saying that there is absolutely no need for clause 23 in this legislation whatsoever.

Mr. Speaker, in our country, the exceptions have a way of becoming the norm. Sometime ago when we were passing, for example the Value Added Tax legislation, we included in that legislation a six-month leeway for the state to refund business persons when a refund is due. If an individual, or business person

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

who owes VAT does not pay on time, there is a penalty interest and other charges. However, the state says look, it is going to take some time so we would allow a six-month period for refunds.

Mr. Speaker, today that has become the norm, that you cannot get a refund from the Value Added Tax section and the Minister of Trade and Industry ought to know this because business persons are complaining. I am complaining that one's cash flow and overdraft is high like a kite, and because they say the law allows us six months we have no money and we take it for six months. Similarly, if we are to infringe the citizen's right through this legislation, then we are going to find that this is the norm. The policeman would have to get a call and he is going into the person's home because the law allows him so to do; and I am saying that we are talking about infringing the right granted by our supreme law, the Constitution, and we ought to be extremely careful. That is our case with respect to clause 23.

When one looks at clause 24 one really needs to consider whether in a country that has a respect for the fundamental rights and freedoms of the individual, we would want to include this clause in the legislation. This is not recommended in this report. From whence did it come? This is what clause 24 says:

“Where an Order is in force and a police officer—

- (a) is satisfied, by the way of complaint, that a breach of the Order has occurred; or
- (b) believes on reasonable grounds that a person has committed or is committing a breach of the Order,

he may detain and arrest that person with or without a warrant.”

Mr. Speaker, in a sense, I think this is very much akin to our concept in Parliament about urgent business of public importance. One cannot come on Monday, or call on a Monday and come on the Friday morning to file a matter of urgent business. If it occurred on Monday, then you can go by way of a Motion on the Adjournment. Similarly, an order is in force, a police officer is satisfied by way of complaint that a breach of the order has occurred so he knows that, but before he goes to the man's home, before he goes to arrest him, get a warrant. What is the emergency? This has occurred, you know, somebody has complained or he believes on reasonable ground that a person has committed or is committing a breach of the order. Get a warrant. Why are you infringing the right of the individual in this way? Why are you allowing that right of arrest without a

warrant in a country where we have a respect for the rights and freedoms of the individual?

Mr. Speaker, as I have said, the general point is that as long as there is a feasible alternative, especially in a situation like this, we shall uphold it. When I did this debate, because of another concern I had arising from the contribution from the Member for Tobago East, in that while the Minister of Culture and Gender Affairs was making her contribution, I enquired whether the Government had any policies to minimize the incidence of domestic violence in our country and, of course, she attempted to point to some policy positions. The Member for the Tobago East, referring to my inquiry suggested that I wanted the Government to play God; that he saw this issue as one simply of punishment: that a crime has been committed and there must be punishment.

**Dr. Job:** Mr. Speaker, I did not say punishment, I said prevention and I did not say that you want the Government to play God merely to punish people.

**Mr. K. Valley:** Mr. Speaker, I do not have the *Hansard* here, but I remember clearly that he said, “he wants us to play God, I am not God.” From where it counts, I know that whenever you speak about crime, you speak about prevention and punishment. Society has a duty—and society here in the sense where we are really speaking of those in charge of government. There is a duty, a responsibility to ensure that there is an environment such that crime would be at its lowest, whatever type of crime and that the Government must see itself as having a responsibility to develop plans and programmes so that the incidence of domestic violence is extremely low. Now with any crime, domestic violence included, there are two components, one of course, is the individual’s mental make-up, but the other causal factor would be societal. We know as a fact, that domestic violence, really, is contributed to greatly by frustration.

To the extent that the Government can advance policies and programmes that can ease the level of stress and frustration—in all its forms: especially stress and frustration caused by economic circumstances—I think that would contribute to reduction in domestic violence.

**5.15 p.m.**

Mr. Speaker, I am confirmed in my view when I look at this report chaired by the Member for Siparia, the committee suggested some non-legislative recommendations. The report states:

“The Committee re-emphasises that the law cannot operate in isolation but must be seen as a component of a holistic community approach to the reduction of the incidents of domestic violence.

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

As is the case with every other problem that affects citizens generally, the Committee is of the opinion that the State must bear some of the responsibility for providing solutions to the problem of domestic violence.”

Nobody is asking the Government to play God. We are asking the Government to do its job. There are certain plans and programmes that any government can put in place to reduce the incidence of domestic violence. It continues:

“In this sphere, the Committee views education as a key to the successful implementation of thoughts, ideas and opinions which could be used as a method of prevention and rehabilitation in incidents of domestic violence.

Education is viewed by the Committee as the means by which behavioural change can be effected to reduce domestic violence.

The Committee is mindful of the fact that its recommendations especially in regard to the non-legislative recommendations to solving the problem of domestic violence, may incur some financial expenditure, both initially and on a recurrent basis.

Having regard to the seriousness of the problem and the absolute necessity to deal decisively with domestic violence in the interest of the survival of our society, the issue of financial cost should not detract from the greater human and societal cost. The Committee considers that provision should be made for the cost of these programmes in our national budget as a recurring item of expenditure, that should include participation of NGOs and religious groups.”

Mr. Speaker, as a general problem, we see that over the last three and one half years we have had this concentration on punishment, and to my mind little or no emphasis being placed on the issue of prevention: providing the environment with healthy alternatives. We see it with our young people. We see this government spending lots of money on all types of things: Miss Universe was the last one. At the same time they are spending \$130 million on Miss Universe Pageant, they are closing the Conservation Corps, YTEPP, Youth Camp. After the election they closed down the URP.

The Government seems to fail to appreciate the relationship between things: that this is a system. If you fail to provide healthy alternatives, especially to our young people, then what are you doing when you get rid of all these programmes? In our time there was the Geriatric Adolescence Programme and other social programmes to employ our young people. They are no longer there. I am asking the Government—while we know that yes, criminals must be punished—but a government has the responsibility to reduce the number of criminals that we have

in this society. The Government's responsibility—perhaps primary responsibility—is improving the quality of life of all our citizens. That is the central theme from which we approach a debate of this type.

Listening to the Minister of Culture and Gender Affairs this morning, one got the impression that even the programmes that they have at present, are after-the-fact programmes: the hotline. A lady is being battered, she calls the hotline or the safe house after the fact, or even counselling, after the fact. What I am saying, if we can do some type of study and determine what are the factors. She told us a very interesting thing this morning: that some study—I am sure it had to be a voluntary programmed poll—that none of these factors influenced domestic violence, that domestic violence is a question of choice. We agree, it is a question of choice. I think the Member for Port of Spain South said it quite clearly: that it is a concept of responsibility. Responsibility, the ability to respond in a particular way. As long as when we analyze that, we see clearly that that has to do with the environment: the options faced by individuals at different points in time. And to the extent that we have healthy alternatives, well then the choice will be in a particular direction. If we do not have them, if there is an absence of those, then the choice will be in another direction.

Mr. Speaker, I want to put into the record some of the recommendations made by this committee which the Members on that side, perhaps, failed to consider. Some of the non-legislative recommendations:

“Extensive public education on the use and methodology of the Domestic Violence Act by victims in their own right (including issues of service) to encourage self-reliance and empowerment;

Public lectures, seminars and workshops at the Village Council (community), Regional Corporation (county), and National levels targeting general and specific interest groups on the causes, effects and solutions to instances of domestic violence including resolution conflict and mediation. NGOs and Religious leaders should be intimately involved in the process of education.”

Mr. Speaker, in the last Local Government Elections the Government fought that election on the whole concept of community involvement. That has been our theme since 1992. Of course, it was extremely amazing that the Government came to a Local Government campaign without a manifesto. That is by the way.

I think what this committee is pointing to is the importance of community organizations: the importance of the village councils and the community groups;

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

the fact that they can assist considerably in our fight against domestic violence. Long ago—if we were to view olden societies, the concept of the extended family and so forth—one would find that the incidence of domestic violence in those societies was extremely low. I think if one were to graph, would see an upward sloping when you look at domestic violence and the movement to the urban folk continues. As we move towards the nuclear family one would have higher incidence of domestic violence. Therefore, if we can strengthen our communities—some of the things that are being done—the community policing and so forth—would be the right direction. We need to lay more emphasis on building community groups: the Village Councils; we need to empower them, Mr. Speaker, we need to rely on the NGOs, we need those public lectures and so forth.

The point I am making here, quite simply, is that our approach to government must be different. Yes, we have had too much legal punishing crime legislation. We need some policies now to deal with the soul: with the human being, to avoid his getting to that point, his getting on to crime. That is basically the point I am making.

**5.25 p.m.**

The other point made by my good friend from Tobago East—from time to time, he makes a point—was that for 34 years, the PNM was there and did nothing with respect to domestic violence. The lie to that is seen most clearly when you are seeing that there is an increase in domestic violence over the last period. As I say, they do not understand relationships between things. They do not understand.

When they look at Best Village and so forth, all they see is people “wining” on stage, they do not see communities getting involved with people working on a project. They do not see the emphasis on communities, villages and so forth. The mere fact that domestic violence has been growing at a faster rate than the increase in population suggests that something is wrong and we need to concentrate on that. [*Interruption*] I am saying that is a community activity and in all community activities, the more that there is, you would find a downward trend in domestic violence.

With these few words, Mr. Speaker, I assure the Government that the PNM supports the initiative with respect to updating the legislation on domestic violence. As I mentioned, as a fact, that was mentioned in our 1995 manifesto, under the “Social Development” section and, again, under the “Women’s Affairs” section of our manifesto. But, like so many other pieces of legislation, while we agree with the principle, we have difficulties with the details.

Because, this Government would tell you one thing but then, they slip in things in the legislation. You get the feeling that they are not really interested in passing the legislation; that, in fact, they are doing it merely for public relations, because every important piece of legislation which comes to the House, there is that little catch.

It was there in the Constitution (Amdt.) Bill—the hanging bill, as they call it. Now, I see the Attorney General being able to carry out the death penalty although that Bill was not passed, you understand?

**Mr. Maharaj:** I told you that I would do it. You tried to stop it.

**Mr. K. Valley:** So that one sees clearly that there was no need for that legislation. The real intent of the legislation was to compromise our rights and freedoms and we saw it quite clearly, and we said, “There is no way you are doing that.”

**Mr. Maharaj:** Dole Chadee would have gotten away.

**Mr. K. Valley:** Dole Chadee would have gotten away. How did he get away? The Bill was not passed here and he is still in the other land. But, you cannot fool us. We were here before. We have an institutional memory that dates back to 1956; remember that.

When you look at this Bill, Mr. Speaker, you want to know how serious they could be with this Bill when they ask the Member for Pointe-a-Pierre to participate in this debate. Do they understand how that has damaged their credibility on this piece of legislation? How could they?

**Mr. Humphrey:** How has it?

**Mr. K. Valley:** Ask the population. This is what they do not understand. That is why they were surprised on the night of Monday, July 12 because they do not understand what is happening. When you take a confessed—

**Mr. Assam:** If we were surprised, you were surprised, too.

**Mr. K. Valley:** I was not surprised. I said it quite clearly. I said any time you all were able to win an overwhelming majority, I would go.

**Mr. Speaker:** Order.

**Mr. K. Valley:** Remember. I say that because I knew that I could have confidence in the population of Trinidad and Tobago. If you think what they did

*Domestic Violence Bill*  
[MR. VALLEY]

*Thursday, July 29, 1999*

on the 12th was a joke, you would see what they would do next year. You wait and see.

**Mr. D. Singh:** Valley, stop fooling yourself. What does that have to do with this Bill?

**Mr. K. Valley:** Because you do not understand the basic fundamentals of government. Understand that.

Then, my friend there would talk about the Opposition attempting to undermine the credibility of the Government. Well, I could tell him that they need no help. They are doing an excellent job in undermining the confidence of the Government. The problem is that they are doing such a good job, they may undermine the whole concept of politics and politicians. That is the problem.

So, Mr. Speaker, we support the legislation in principle. We cannot support clauses 23 and 24 of this Bill. We cannot, under any circumstance and unless they are taken out or amended in such a fashion—*[Interruption]* You know we will do that. We are not afraid of that. We will do that. We have no problem. Unless we can have those clauses amended suitably, or deleted, of course, we will be unable to support the legislation.

I thank you, Mr. Speaker.

**The Minister in the Ministry of Planning and Development with responsibility for the Environment (Dr. The Hon. Vincent Lasse):** Mr. Speaker, I rise to make a contribution to strongly support the Domestic Violence Bill, 1999.

Before getting down to my presentation in substance, I wish briefly to address a question which was raised by the hon. Member for Diego Martin Central with reference to the Member for Tobago East and his contribution; not that I am competent to defend the Member for Tobago East; I think he can do that for himself but I think, sometimes, when a speaker would not have an opportunity to defend himself, or speak a second time, simply for the record, I would like to clarify certain things.

This is in direct reference to the Member for Diego Martin Central indicating that there was some intellectual dishonesty when the Member for Tobago East made reference to the contribution of the Member for Diego Martin East. Mr. Speaker, I will not venture to try to analyze or interpret what the Member for Diego Martin East said, but I would simply read into the record, which was the point made by the Member.



**Mr. Imbert:** It is in the record already.

**Mr. Maharaj:** Read it. You read it. Do not worry with them.

**Dr. The Hon. V. Lasse:** The Member for Diego Martin East in his contribution, started by saying that in principle he agreed with the Bill, but then he went on to touch on clause 23, and I will quote him. He said:

“Mr. Speaker, the clause with which we have the greatest difficulty is clause 23.”

Then, he went on to make certain assumptions which related to the reputation, if one may say so, of a police officer. He said:

“Let me give a hypothetical situation. A man and a woman are in a cohabital relationship. The relationship goes sour, or the woman has an outside man. The outside man is a policeman and this is not unusual in Trinidad and Tobago.

**Hon. Member:** That the outside man is a policeman.

**Mr. C. Imbert:** No, it is not unusual. This is why I say one has to look at cultural norms in Trinidad and Tobago when passing legislation like this. So, the woman has an outside man who is a policeman. She calls up the police station—[*Interruption*] I say this is not unusual—calls her outside man and says, ‘My husband is beating me! Come!’ That constitutes invitation; gives the policeman reasonable cause to believe that the woman is going to suffer violence. He enters the premises; nothing is happening; the poor man is peacefully sitting watching television; but it is a set-up. She may wish to get his property; she may wish for him to be murdered. So, the policeman comes in, shoots him dead and then says, ‘He was choking the woman when I came in and I could not get him away.’ Or, ‘He was about to stab her with a knife, so I shot him.’ Who are the witnesses to this crime? The woman and the outside man. These are real life situations and in passing legislation, one must not be flippant.”

The Member for Tobago East was trying to interpret what the Member said. However, as I always say, those who live in glass houses must not throw stones. The Member for Diego Martin Central then accused the Member for Tobago East of intellectual dishonesty.

Mr. Speaker, I am aware of the fact that this Bill was passed in the other place and it is now left to this honourable House to do what is the only logical thing. This Bill comes at a time when there exists in our society and in the international

*Domestic Violence Bill*  
[DR. THE HON. V. LASSE]

*Thursday, July 29, 1999*

community, an increase in domestic violence. We are all aware that “domestic violence” has been defined and, in some instances, as in the United States, it is defined as virtually any criminal act committed by one family or household member against another member of that household. This is what they term “domestic violence”.

Now, the offence could include assault, property destruction, harassment and also telephone harassment, intimidation with a weapon and reckless endangerment. Based on statistics, domestic violence is frightening, not only in Trinidad and Tobago but internationally, and I shall come to some of the statistics here in Trinidad and Tobago. But, permit me a while to dwell on what happens internationally.

In the United States of America, every nine seconds a woman is beaten by a husband or partner. Also, the majority of battered individuals have children who are hurt either physically, emotionally, or both, by violence which takes place in the home.

Mr. Speaker, we can also see that domestic violence is the most common, yet the least reported crime, not only in Trinidad and Tobago but in most parts of the world. This is true because, in most instances, because of what some call the dependency syndrome, or simply because of fear of the aggressor, the victim is afraid to report such crimes. In some instances, the battered individual accepts the deception of what we call in Trinidad and Tobago, “make up”, so to speak. Elements of this crime include aggravated battery which requires that the defendant either causes some type of bodily harm to the victim, or makes contact that is insulting or provoking to the victim.

Mr. Speaker, this occurs when the victim is put in reasonable fear of receiving an immediate battery or beating. In other words, the victim fears that he or she is about to be beaten, in most cases by the aggressor. There is also the question of stalking an individual. The final element I wish to refer to is unlawful restraint. This occurs when a defendant unlawfully detains a victim against the victim's will; this occurs very frequently in Trinidad and Tobago.

**5.40 p.m.**

The Bill before us is designed to address the matter of domestic violence. When we look at the Explanatory Note it states:

"The object of the Bill is to offer victims of domestic violence greater protection by—

increasing the power and jurisdiction of the Court;  
enlarging the scope and ambit of the Protection Order;  
providing harsher penalties; and  
giving the police greater powers in respect of their ability to intervene in domestic violence situations."

It should be understood, Mr. Speaker, that these measures would not, in themselves, solve all instances of domestic violence, but the legislation is designed to prevent.

The hon. Member for Siparia in introducing this Bill gave its genesis. It has been stated that a committee of distinguished persons prepared a report, a draft Bill was submitted to the Law Review Committee, and then the Attorney General gave instructions to the Law Commission to consider two Bills and come up with the Bill which is now before this honourable House.

It is to be also noted, that persons who practise this aspect of the law, women's groups and non-governmental organizations, also contributed to this Bill. So for the Members on the other side to come to this honourable House and make the point that this Bill is a "UNC Bill" is devoid of logic. As far as I am concerned, and they are aware, the widest possible consultation was held. I am sure that the women's groups who attached the highest priority to this measure would be offended by any attempts made to block the passage of this Bill, simply because Members on the other side are desirous of making political mileage.

As I see it, Mr. Speaker, no Prime Minister, present, past or future, or no political party, could be responsible for domestic violence in Trinidad and Tobago. However, what would be negligent behavior is if the Government fails to put measures in place to arrest the swelling tide of domestic violence in Trinidad and Tobago. Therefore, this Government is acting in a very responsible manner in dealing with the whole question of domestic violence. I am of the firm view that Members opposite are not looking at the scope of the problem and the remedies advanced in this Bill. Because from all the contributions I have heard so far, they seem to be concerned with only one or two clauses.

I wish to refer again to the contribution by the hon. Member for Siparia who outlined in detail the scope of the problem. The Member cited the following: one, the brutal domestic violence murder which occurred in May of 1997, while at the same time providing copious data on a yearly basis relevant to women and men. The hon. Member dealt at length with the Percy Grant matter where Mrs. Grant

*Domestic Violence Bill*  
[DR. THE HON. V. LASSE]

*Thursday, July 29, 1999*

lost her eyes due to domestic violence. She also mentioned that in August of 1996 there was a spate of domestic violence murders. She went on to state that within five days of August of 1996, three women and two children were brutally slaughtered as a result of domestic violence. These were, as far as I am concerned, concrete examples placed before this honourable House.

Mr. Speaker, permit me at this time to quote from a publication entitled the "Guiding Principles," from the New York State Office for the Protection of Domestic Violence. With reference to the "Scope of the Problem," it has stated:

"Domestic violence occurs in epidemic proportions, impacting an estimated 6.2 million American women every year, and causing more injury to women than car accidents, muggings, and rapes combined. It is a lethal crime, which claims the lives of four women on average each day, leaving hundreds of children motherless each year. Yet women are not the only victims; at least half of all men who batter their female partners also abuse their children and it is estimated that 1 out of every 20 individuals 60 years and older is victim of elder abuse. Domestic violence has its roots in a long history of social and legal traditions that have permitted and supported men's abuse of women and children in family relationships."

Having said that, statistics also show that the vast majority, which would be about 91—95 per cent of victims of domestic violence are women who are abused by male partners.

I ask the question: do the Hon. Members opposite wish us to introduce weak laws? Why are they against clause 23 which states—and I must refer to it:

"Where a police officer has been invited onto premises by a person apparently resident in those premises for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury at the hands of another person in a situation amounting to domestic violence the police officer may, without a warrant, enter the premises for the purpose of giving assistance and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of."

So what we are dealing with here is a police officer trying to deal with an immediate situation and this would be: arresting the person who he suspects is engaging in conduct amounting to domestic violence, giving assistance to a person who has suffered injury, ensuring the welfare and safety of a child who may be on the premises, and preventing any further breach of the law.

The fact is, Mr. Speaker, that in many instances it has happened where a police officer may have even been on the scene and the crime was still committed. If it is that a police officer has probable cause to believe that a crime is about to be committed, why should he leave the scene of the crime to go to get a warrant and return. That, I submit, would be too late. The Members opposite are only concerned with the fact of clause 23, and that is flawed, it is devoid of logic, because it does not make sense for one to be on the scene of a crime that is about to be committed, leave the crime scene and then return at a time which will be too late.

As I said earlier, the question of clause 23 as raised by the Member for Diego Martin East was not sufficiently ventilated so that we can be convinced that that clause should not be in the Bill. So why are the Members opposite against a police officer taking immediate action to prevent a crime about to be committed? We have had instances where a police officer was on the scene—and this happened not too long ago—and a crime was committed in his presence. Let us be serious, the measure is designed to prevent a murder taking place and, as I see it, the strongest clause in this Bill is clause 23 which would give some teeth to the legislation.

Therefore, I would conclude by saying that if the Members opposite are concerned about the lives of their constituents, then they must, out of necessity and common sense, support this Bill. I thank you, Mr. Speaker.

**Dr. Keith Rowley** (*Diego Martin West*): Mr. Speaker, I would like to make an intervention at this stage, on a matter which is of great concern to all of us in Trinidad and Tobago. I am a little put out by the fact that my colleagues on the other side seem to take this matter in the wrong way.

Recently, I was in my constituency office at a function last Christmas at a children's Christmas party. [*Interruption*]

**Hon. Members:** Recently, and that was Christmas?

**Dr. K. Rowley:** Yes, recently in terms of years, that was a matter of a few months ago. I was sitting with some adults, and among them were five women. During the conversation we got to talking about domestic violence, and the five women started talking about their experiences. Four of the five women had some horrendous stories to tell. I was a bit shocked because statistically what are the chances of meeting 80 per cent of the people complaining that they were either—and some of the stories, Mr. Speaker, were horrible, and I did not think I knew anybody who experienced that kind of thing.

**5.55 p.m.**

I say this to bring home the point that we are not unaware of the evils of domestic violence. We are not unaware of the need for the state to do something

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

about it. However, what we do know is that it is not the kind of problem that the state can solve by providing some kind of panacea, because the root causes are so varied. It happens to all peoples at all levels in the society, it happens to people you would never think would experience it or who would do it. So it is a problem for which no single direction would take you from cause to factor to solution.

So when Members of the Government, like my friend from Tobago East, talk as though the Government has found its panacea in clause 23 and the Opposition is trying to object to it and therefore we are preventing some solution from being brought forward, that is not correct at all. I want to reiterate that we are happy that the Government has brought this Bill to Parliament and we would want to support some legislation like this that would, at least, contribute to bringing about some measure of relief at some time for some person who had been experiencing the rigours of domestic violence. However, if we raise a concern about a particular aspect of medicine, it does not mean that we are against the profession of medicine.

Mr. Speaker, I usually do not want to follow on from the Member for Tobago East but he speaks with such conviction and such passion that I am driven from time to time to bring him to the place where he has been before. I sat here this evening and I heard him pontificating, as usual, about the PNM being the worst and the Opposition being the worst and so forth, how we mean no good and we can do nothing. But, Mr. Speaker, when I came here this afternoon I was told that the Member for Pointe-a-Pierre intervened in the debate. I did not hear what he said but having a knowledge of what had passed in the public domain before—  
[*Interruption*]

**Hon. Member:** What had happened?

**Dr. K. Rowley:** I am talking to the Speaker. Mr. Speaker, I am trying to avoid that. [*Interruption*] Talk to him, Mr. Speaker.

**Mr. Speaker:** Order.

**Dr. K. Rowley:** Knowing what we know about his history and hearing that he had intervened in the debate, I was curious to hear what he had to say as a contribution to the solution to the problem, because sometimes if you are part of the problem you can become part of the solution. I was told he, however, did not say anything of any great consequence and certainly not about the information that made him infamous.

To come back to my friend, the Member for Tobago East, when it was made public by the admission of the Member for Pointe-a-Pierre that he was one of the

contributors to the domestic violence spectacle in the country, my colleague from Tobago East was asked, what would he do if he finds out that Members of the Cabinet are persons in this country who are exemplars but there are also people in the Cabinet who beat their wives? That question was put to my friend for Tobago East at the time when this matter of the Member for Pointe-a-Pierre was in the public domain. He replied saying, "I would have difficulty staying in a Cabinet with any person who commits the act of domestic violence".

That was his position and I thought that was a reasonable position. Then when my friend from Pointe-a-Pierre owned up to a certain number of strikes over a certain period of time, my friend from Tobago East had absolutely nothing to say on the issue, yet he came here this afternoon like Pontius Pilate, climbs up on a height as usual and wants to dump on the PNM as if we somehow have a credibility problem and cannot contribute. So you understand, Mr. Speaker, why I have a difficulty understanding what the Government says and does because there has to be a certain element of sincerity of purpose if you want to be believed and if you want to be trusted.

We have said that we have a concern about providing an opportunity for policemen at large having access to people's homes without restriction in an effort to curb domestic violence. Mr. Speaker, we are not being unreasonable, you know. There are laws in this country which permit the police to do certain things. In many instances those things do not involve entry into your *sanctum sanctorum*, the home. But in making those laws, those who went before us and those who understood what laws mean and what making of good laws meant, in some instances in our current legislation there is a restriction allowing a police officer only above a certain rank to do certain things.

If I am wrong, Mr. Speaker, I am sure that with your experience in the courts and your legal training you can correct me immediately. I am sure, however, that there is legislation in this country which gives the police power to do certain things but it prescribes it by saying only an officer above a certain rank. Now, that is in recognition that we need to be careful in whose hands we put a certain power. That is not to say, as my friend from Tobago East tried to say, that if you express a concern about the potential for abuse that you are anti police. He holds himself up as some defender of the police and my colleague is supposed to be against police and so forth. That is not what he was saying.

If that is the argument I could tell him, Mr. Speaker, I would be surprised if there is any Member in this House who is more supportive of the members of the police service of all ranks than I am. As a matter of fact, when I did the thing I

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

only do once—when I got married—my best man was a junior police officer. You understand? *[Laughter]* You understand? But you will have difficulty convincing anybody in the police canteen—I do not know. I am not casting—*[Laughter]*

**Mr. Speaker:** Order, order.

**Dr. K. Rowley:** Mr. Speaker, I am not casting any aspersion on my friends from St. Joseph and Diego Martin Central. I was just telling you how important the occasion was to me, and that person who is your best man is somebody who you care a lot about and that person was a police corporal who is my best friend. But, Mr. Speaker—*[Interruption]*

**Mr. Speaker:** Did I hear the Member say a policeman would ensure that you got there?

**Dr. K. Rowley:** No, Mr. Speaker, I always intended to get there. There was no chance of me absconding on the day.

**Mr. Speaker:** You were taking no chances.

**Dr. K. Rowley:** I always intended to show up. But the point I am making is that—*[Interruption]*

**Hon. Member:** What about the previous occasions?

**Dr. K. Rowley:** Mr. Speaker, can I get protection from the Member for Diego Martin Central?

**Mr. Speaker:** The hon. Member is protected. You see, when I have to try to get protection for you from somebody from whom I cannot get protection, you understand my problem?

**Dr. K. Rowley:** I understand our predicament, Sir. So, Mr. Speaker, when we express our concern about providing the members of the police service, of which I think there are 5,000 or 7,000 officers in the police service, with that authority to enter a home, any home, without a warrant, at any time, we are, in fact doing two things. We are saying that we are providing the police with the mechanism to assist a woman in distress—honourable intent—but we are also saying that we are overturning something which we held virtually sacred up to that point and it requires a very, very good reason to do it.

Yes, assisting a woman in distress is a good reason but the question I ask myself is this: to what extent is that provision really going to contribute to the reduction of acts of domestic violence and how many persons are going to be served and saved by virtue of policemen being able to enter, as called, without a



warrant? Because, Mr. Speaker, given how this domestic violence thing goes, I really do not believe that such a measure is going to be a major contributor in reducing the instances of domestic violence. Invariably the record will show that by the time a situation reaches the point where that emergency is required, it may be that it is too late or opportunities would have arisen before for action to be taken to prevent that emergency point from being reached.

What we are doing in trying to provide this mechanism for the police, to me, is striking at something which I hold dear. I speak here, Mr. Speaker, from my own feeling without any pretence—and I am not going to be swayed from this position because whether I am in politics or not I intend to live in this country. My involvement in politics is so that I can contribute to building a community—  
[*Interruption*]

**Mr. Speaker:** Order please, order please.

**Dr. K. Rowley:**— where my fellow citizens and I can live in a certain way. I would become very uncomfortable in this country if a law is passed which permits a police officer of any rank to be able on some pretence, as described in this Bill, where a neighbour or somebody could call and say they have good reason to believe that domestic violence is being committed in my house and that then gives any police officer the right to enter my house without a warrant at any time of night or day.

Mr. Speaker, there is nothing I hold dearer in this country—you see, when I am on the street, when I am in the Parliament, when I am on the beach, I can deal with all kinds of things, but you see that place I call my home, that little spot in this God's paradise that I call my home, I have no intention of casting a vote to give any and every policeman the right to come in there any time he feels, because somebody might have said that I am violating my wife. I am not doing that because I do not believe that is a panacea for domestic violence. I do not believe it is going to be very effective in any way. One thing I am sure about is that I am going to be very uncomfortable in a country where the police have that power.

My friend from Diego Martin West pointed out that it is not as if a policeman now under the current law, when made aware that a woman is in trouble and her life is at risk, there is no provision for some kind of action to be taken. As I understand it, again I would say I am not a lawyer, if a person's life is at risk a member of the community can intervene justifiably to save a life. However, to tell me you want to provide a law giving people like Clint Huggins and Duncan and others the right to come into my house any time of night or day, if that happens it must happen without my vote. I am not voting for that, I am sorry.

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

If the women of this country believe that for not doing that I am against women and I am supporting domestic violence, so be it. I am sure many women in Pointe-a-Pierre voted for my friend from Pointe-a-Pierre.

**Hon. Member:** They love me.

**Dr. K. Rowley:** They love him, yes. You understand? If they can vote for him with his record I think they will vote for me too with my record. So this threat that if you vote against the Bill it will have some political consequence, that cuts no ice with me.

**6.10 p.m.**

In fact, the last time I was threatened here, it was from a Member from out in the East, a place called Arima. He told me if we did not vote for the Freedom of Information Bill we would pay a price for it in the Local Government elections. Well, we paid the price. We got the seven seats in Arima: nice price to pay.

**Mr. Maharaj:** Very cheap.

**Dr. K. Rowley:** When he told me that they had six seats—we voted against the Bill—we got seven seats. So do not threaten me. It tells me something, when the Government, in seeking to pass laws—the only way they can try to persuade the Opposition to support the Bill. We are making laws in this honourable House and we want to make good law and their approach is to threaten us with the outcome of some impending election. We say the PNM is above that. We are 43 years old. They cannot threaten us. We are about passing good law. [*Desk thumping*] And we are not afraid of defeat. We would not go about talking about you win, when in fact, it is patently clear you lose. You have lost what you had and more, but you are claiming victory. We have tasted victory, we have tasted defeat. So we are out of that crucible that our fore is that we are now in a position, as we always were, to know what is right and what is wrong. This Government has a difficulty with that.

And as my colleague said, they seem to be driven more by the need to be seen to be doing something, than the substance of what they are doing. If the Government backs up from time to time, and observes that substance has more value than form, we would be saved from a number of national embarrassments. On the score of threats that the Opposition cannot vote against this Bill because it is called the Domestic Violence Bill—unless the Government is prepared to consider our concern about this matter of *carte blanche* for the police to enter any home in this country at any time, having been informed about the possibility of

domestic violence in the way that this Bill describes, there will be no voting support from this side. The Government will vote and pass it but the record will show, we would have said that to do so, would be to break down a pillar which we think is too important as part of our national foundation.

There are two things in the management of the law that are extremely important. One is the writ of *habeas corpus* and the other is the warrant. Those who laid our foundation did not design and put in place the protection of the warrant. Likely, those who sought to enshrine into our laws the writ of *habeas corpus* did not do so lightly. They understood the extent to which these two little things can impinge on the quality of life in any country.

Mr. Speaker, in countries that suffered the worst abuses from agencies of the state or from the central government, those two things: the writ of *habeas corpus* and the warrant had no place in those communities. In the absence of those two pillars of democracy and freedom, do you know what flourished Mr. Speaker? Fear. Even when nothing wrong is happening to you personally, at the moment, fear takes over. You talk to any person who lived in Eastern Europe. Ask anybody who read and understood the Nazi era. Talk to anybody who lived in South America, when these two things were not part of the legal system, and they would tell you: fear. Many persons you meet might not have been affected personally but the ethos of the community—because this thing could happen and has been happening—the community becomes one where the absence of that skeleton of freedom creates a general pall of fear over the country.

Let us not take the warrant lightly. So in order to offer a questionable panacea, we say we would let policemen go into homes without a warrant.

**Hon. Member:** No way!

**Dr. K. Rowley:** Policemen have homes too. So when they get up and say to question this is to attack policemen, every policeman in this country has a home, too. And if you talk to them, many of them would tell you they do not want their colleagues to have that power over them. They too, have the feeling I have, that inside my house this is the one spot where I must feel secure and if anybody wants to come in here there must be a system which says that I would be protected reasonably. The reason a warrant is required is that the officer granting the warrant is perceived to be so responsible that a case has to be made out of some sort, and the officer has to be convinced that there is justification for that entry, and then a warrant is issued. That is the protection.

If we are saying now that we are going to do away with that, the question I ask: How do we demonstrate that it is going to be an effective deterrent to the

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

horrors of domestic violence? We do not know that. It might work in one or two situations, but the wider good is not going to be served.

There was a time when I had absolute faith in banks. I used to believe that whatever goes on in the bank was accurate. Over the years a little thing happened here, a little thing happened there, and I am now at the point—rather than having absolute faith in the numbers that banks give you and your statement—  
[*Interruption*] Mr. Speaker, I crave your intervention from that individual.

**Mr. Speaker:** The Member for Point-a-Pierre is taking it a bit too far.

**Dr. K. Rowley:** If there was anybody in this Chamber who should keep quiet in this debate and not be noticed is that gentleman. As I was saying, I used to take the bank's numbers without question, to the point where I did not even balance my account. But over the years, a little thing happened here, a little thing happened there, and I am now at the stage where I am making a point to check—because errors are made there as anywhere else. I did not think so at one time.

I live in this country and I can tell you—I know that some people in the police service are not fit to be there. I can say so without fear of contradiction—not fit to be there. And we know that efforts are being made to minimize or eliminate such persons. They are part of the community. When I read in the newspapers about the gruesome murders that took place on the North Coast, and for a while we had no person held for that murder; then one day I bought the newspapers and discovered that the person who was apprehended for that murder was a police officer; that, to me, was a chilling revelation. It frightened me. Because even before that—I do not know if my friend from Tobago East had—I spoke about my best friend being a police officer; I can tell you the other side of the coin.

I went to the Queen's Park Oval one day to watch a test match. I was sitting on the cycle track and three fellas came and stood in front of me and all I said was "How do you expect me to see the game now?" One fella turned to me and asked: "What did you say?" I said "I paid to come in here and I would like to see the game, you are standing in front of me." That was about 11.30. in the morning. That gentleman terrorized me for the whole day—from 11.30. until the match was finished at 5.00 o'clock in the afternoon.

**6.20 p.m.**

The terror was that the man took an identification card from his pocket, showed it to me for me to see that he was a police officer and said to me, "As of today, my address has changed. I would be living in your rear end from here, and

when we leave here this afternoon, you are sleeping inside, because I am going to plant something on you and you are not going home”.

Mr. Speaker, I had to seek the company of a mayor to accompany me to my car, and they were walking behind me, intent on doing what he said he would do. The mayor had to accompany me to my car! That is how I left the Queen's Park Oval, because a member of the Police Service of Trinidad and Tobago did that to me. I am not talking theory here. There is that type, and with that kind of experience—they could laugh, but this is not a laughing matter.

The vast majority of policemen are hard-working, decent, dedicated citizens, but we have one or two bad eggs in there. We only want one Clint Huggins or one Duncan to give the whole service a bad name and make me afraid. When they have that opportunity, as given by law, to enter my house any time on that pretext, I have to ask when they come to the door, “Suppose this is another Huggins?”. What is my position?

We are saying that we are not prepared to pretend. I think it was Justice Deyalsingh who said in giving a judgment in the court that notwithstanding what we may want to believe, there is good, and there is evil in this world, and insofar as the population of policemen represents the community, there is good and there is evil and we have to be concerned about how that minority of evil will use opportunities given to them.

Mr. Speaker, the Government will try to convince us, yes, vote for this because that is how we think, as a Government, we can impact on this problem of domestic violence. I say, well, what about the easier routes of bringing some relief somewhere else. From my information and my own personal knowledge—because I do have some knowledge of it; I live in this country—much of the root cause of domestic violence comes from social conditions and social opportunities. My colleague from Port of Spain South talked about the economically and socially challenged.

I was not here this morning, but I asked what happened and I was told that one Member from the Government said that research has shown that the use of alcohol is not a causative factor for domestic violence. Not the ones I know! I know of many instances. I have school friends who have experienced domestic violence and it normally happens on pay day or month end where money is made available. People drink and then they either come home and, in an intoxicated state, carry out these heinous acts, or even after they sober up and come face to face with the shameful reality that they have used up all of their money in the rum

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

shop and the mother says, “What do I do for food now? What have you done with the money”, out of shame, the reaction is blows. “Doh ask me nothing!” It is blows!

I know many people who grew up in those alcohol-related conditions. I am surprised to hear that there is a little research which could tell me that the use of alcohol is not a contributor. When the Government says that, I question the Government's database because, Mr. Speaker, if we really want to help immediately those women who are experiencing the shameful treatment of domestic violence, the most important thing the Government can do to help now is to create an alternative place for such a woman to go because usually, when one finds a situation of domestic violence, the woman has had a series of experiences in the home before, and sometimes, she would like to leave the situation, but she has no place to go. So, she stays there and sometimes it gets worse to the point where it ends up in somebody being grievously wounded or harmed beyond repair.

We say that if such a woman had access to a well-supported system of halfway houses or similar kinds of institutions, when the situation develops in the home that the mother and the children—because usually today, children are involved. It is not just the mother walking away. Children have to be taken away too. If we had support systems that would provide security and reasonable support for such women, maybe some of them would move out of their threatened situation. Instead, what we have are a few houses supported by the hard work of a few people, and where the state could have made or was making a contribution, the state voluntarily withdrew that contribution.

In one breath, they are offering us this pseudo-panacea by removing the protection of the warrant for all of our citizens to allow the policemen to protect the few who might be exposed, but where they had an opportunity to provide that few with support, when they presented the budget and were allocating the national resources, they deliberately removed the support from such persons.

I make reference, Mr. Speaker, to the budgetary provision that removed contributions to NGOs. Remember that famous or infamous development? The Government, in trying to attract as much tax revenue as possible, brought a provision to this House to remove contributions to all NGOs—not selectively—and as a result of that, persons who otherwise were making contributions to support the halfway houses, where they could have got more halfway houses and those who are working would have got more support, this Government that says it cares so much about people who are exposed to domestic violence, as a budgetary measure, removed that system and caused a substantial amount of revenue to those houses to dry up.

When the Opposition and others outside of this House brought to the Government's attention the possible effect of that measure, the Government pretended to understand. So, the Minister of Finance, in winding up the budget debate said, "We will make \$10 million available for distribution among NGOs to make up for the loss of revenue that we acknowledge will come about as a result of this budgetary measure for the removal of the deeds of charity".

Mr. Speaker, at my last check, the Government had not kept its word and had made no money available outside of the budget as had been promised. In that body of NGOs that was doing yeoman service were the people who were providing a support system at the halfway houses for the same battered and threatened women that the Government comes here today and pretends to want to support, and they want to do it by dismantling our system by wanting to do away with the warrant.

I am saying that the warrant is important to me and everybody else in this country. I am not prepared to give up the warrant as a first attack on domestic violence. As we attack domestic violence, we can attack that bastion in other ways. Until they demonstrate to me that they have exhausted the other avenues, leave the warrant alone. It is not a panacea; it is not a solution.

If the Government kept its word with that \$10 million and some of that money had gone to help people to establish halfway houses or to support the halfway houses where some women get some sort of support and refuge, I would have said that the Government is serious. But when the Government puts the Member for Pointe-a-Pierre to talk in this debate, and the Member for Tobago East gets and say what he said this afternoon, I am convinced that the Government is not serious! The Government is about shadows and not substance. The Government is not as caring as it wants to appear. The record will show that.

I defy any Member of the Government to get up and tell me that they did not make the commitment to the NGOs of \$10 million, and that was made before the Miss Universe Pageant! They could not find the \$10 million to give the NGOs to support the elderly and those others who are at risk—children and others—but they found \$100 million dollars very easily to host a beauty contest.

They are finding money to pay contractors loss of profit because they are giving the contract of a certain bonded contractor to a preferred contractor, and while Contractor A, who is the bonded contractor, is not being allowed to supply, they are paying him loss of profit money, and then they are giving the contract to another contractor who supplies and earns a profit too. While they can find money

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

for that, they have never found the \$10 million to give those who are in greatest need.

You understand, therefore, Mr. Speaker, why I cannot support the Government's measure, because the Government will put it across as though law is the solution. My friend from Couva South is following a maxim which is well-known around the world. Doctors say "medicine is the solution", teachers say "education is the solution", lawyers say "law is the solution".

**Mrs. Persad-Bissessar:** And what do geologists say?

**Dr. K. Rowley:** Geologists say "rock is the foundation"! [*Laughter*] It means you can build from here but we acknowledge that there have to be others. The Attorney General's approach to legislation is the volume—the more the merrier. He could bring as much law as he can here. It is how the law is applied and what effect it is going to have that is going to be important.

In this case, I think, Mr. Speaker, that I am able to demonstrate that if the problem is domestic violence, as we agree, if the solution is that we want to minimize and hope to eliminate the scourge, and if the Government is to have a role, that role can be played without destroying what we need to keep in place, and the Government, when they get up to wind up or respond, do not respond by trivia. If they can destroy my argument by saying, "We have done that. We have given the \$10 million" or even \$5 million of it, tell us that, because as of now, they stand accused for not doing what would have helped.

After we pass this law here, maybe for the whole year, no policeman may ever have to enter anybody's house, but for sure, if they had given the \$10 million last year and this year, I am sure there would have been instances where some unfortunate woman and her children would have either been supported, secured or would have been helped to leave an environment of violence which was their home.

It does not end there, Mr. Speaker. I said that the Government cannot put an end to domestic violence, but the Government can contribute to creating an environment in which domestic violence is reduced. By how much, I do not know, because the Government could establish policies and create an environment where some of the causative factors are not being brought to bear on people's lives.

Mr. Speaker, you were here when this Government came to the Parliament in its first budget and told the country that one of the things it will do in the year



1996 was kick in a \$60 million social mitigation programme. That programme arose out of a loan that had been negotiated by the previous Government which this Government reviewed and signed the loan contract in July, 1996. The Government offered that \$60 million which was available in that loan contract, a social mitigation programme.

Given the number of people who are economically challenged, and in that environment of economic challenge we have social depravation, and in there we have an important contributor to mayhem—domestic violence. If the Government was going to spend \$60 million in a social mitigation programme across the country, we would expect that such an expenditure would have been Government's contribution to eliminating or, at least, ameliorating the circumstances around which domestic violence flourishes.

**6.35 p.m.**

The Government of Trinidad and Tobago, three years later has not spent 60 million cents, on any social mitigation programme because the Government, through its lack of performance, in keeping the conditionalities which were required by the IDB, has been unable to draw down on any other than the initial payment from the Bank, and the Bank has since refused to make any more money available to the Government; and there died the social mitigation programme.

How many women might have been saved because an economic bright spot might have been created somewhere in this country: Tabaquite, Mason Hall, Cedros, Tunapuna. If you spend \$60 million, you could thief half, as they might have done, but it is difficult to spend \$60 million dollars and not do something useful somewhere.

But the bottom line is that such a person never had that opportunity because the Government was not able to carry through a programme, which the previous Government had started and a programme which would have brought some relief to some people. There are very few Government programmes that serve all the people at the same time. Different people are serviced by different programmes, depending on where you are geographically, demographically and socially, because different programmes impact on different areas and different people.

This social mitigation programme was meant to impact on those persons who were at the lower end of the economic scale in the country. It was meant to reduce the number of persons who were below the poverty line. This Government's action or lack of action, resulted in none of those funds being made available and, therefore, when the Government comes here and says, "law is the solution, more

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

laws, Jacobian laws” we say your emphasis is wrong, because the Government seems to think that the solution to this problem is punishment. We are saying the Government would have greater success in eliminating this problem, if it focuses more on prevention, not punishment. [*Desk thumping*].

In many instances, punishment comes too late for the victim. So to have the major tenet of this Bill, intervention by the police, by that time it might even be too late. There are numerous instances. If I come back to the point about my friend from Tobago East talking about, well, you know, we should not be concerned about one little piece of mischief here or one errant policeman there.

Only today I was reading the newspapers and I saw where a couple from south Trinidad—some Presbyterian couple, lay readers in the church—suing some newspaper, claiming that the couple’s telephone number was published in the newspaper by some malicious person or whatever, indicating that the occupants of the home in which that telephone existed were prepared to provide telephone sex and prostitution opportunities and the people were terrorized by phone calls from people—would-be participants—and they tell their story in the affidavit as to what their lives were like, by the simple action of their telephone number being published in this way. It could have been accidental or malicious, but their lives had become a living hell. They lost their friends, some members of the family who shun them, because they thought that this is what they were involved in. They are now suing for relief. Little matters like that can destroy your life.

At the same time we want to save some people’s lives, we could be destroying other people’s life, if, in an instance of malice or mistake—let us suppose the police with good reason, as they might have, ends up at the wrong house and ends up in the house of my colleague for Arima saying that they have information that he is beating his wife. This is the famous rape charge matter, where once you are charged and you win the case, you spend the rest of your life trying to explain the verdict, because as far as the society is concerned, you were on a rape charge and your life is never the same again. Mr. Speaker, you understand.

When we say that we are concerned that the solution may cause more problems than it might solve, we are not saying so lightly.

*Motion made*, That the hon. Member’s speaking time be extended by 30 minutes. [*Mr. C. Imbert*]

*Question put and agreed to.*

**Dr. Rowley:** On the question of what can the Government do in the basket of possibilities to treat with domestic violence—I am sorry my colleague from

Siparia is not here, because I want to ask, what has happened to the promised family court?

Mr. Speaker, in a number of situations that we know of, domestic violence occurred over an extended period, because of the absence of the intervention of an effective family court. We as a country agree to that and we think that the general sentiment, across the country is that the coming into being of a family court, which would allow more expeditious treatment, as well as, sensitive treatment of matters of a domestic nature, would go a long way in defusing some of the tension that exist in some households.

The Government gave a commitment,—I cannot remember the exact commitment—but I know our colleague for Siparia gave a commitment that the Government was going to move expeditiously to establish the family court. Maybe it is established and I do not know. I would like the Attorney General, when he is winding up, to give a little indication as to where we are at with the family court, because that is one of the things that will make some positive contribution to this domestic violence scenario.

When people feel that things are broken down beyond internal reconciliation, if there is a functioning family court system that they can go to, maybe in many instances, that aggravation between people might not reach the end where they make the news in the kinds of ways that we would not like to see.

So we would like the Government to tell us when we can expect the family court. I would like to believe that the Government still thinks that the family court could be made a contributor and if the Government thinks so, what has been the hold-up with that family court? When it comes into being, it may make a greater contribution than this question of removing the warrant, to allow any policeman to enter people's homes on the suspicion that they might be threatening to commit domestic violence or that they have committed domestic violence.

**6.45 p.m.**

Mr. Deputy Speaker, we have heard some accusations being made at an enquiry that is going on now. I hope at the end of the day that some of it will turn out to be untrue. Because if some of the things that we are hearing coming out of the Ramdhanie enquiry are true, I cannot see how the Government can take the position that the warrant is something that we can dispense with in such a cavalier way, albeit towards a noble intention. But, there is a common statement that the road to hell is paved with good intentions. This might be one of those paving stones.

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

We do not want to discover that we pass this legislation here and then the next concern we will have in this country, having not solved the domestic violence problem spectacle, we add another dimension to our problems and that is, we hear about instances where people claim that their privacy and their presence have been violated by officers of the state under a provision as made for in this law.

I have an uncomfortable feeling that if the Government does not take our concern on board, and either places restrictions on this measure or replaces it with something more palatable, maybe not tomorrow, maybe not next year, because sometimes it takes a while for those who will abuse it to get the opportunity or to understand how it can be abused; it takes a while, but I have no doubt that if we put this there on the statutes, somewhere along the way, that issue of violation of the home will be added to the violation of the person in the home. I have no doubt. Because, I think I understand the society and we have enough elements in our society who will seek to create problems for us.

So, Mr. Deputy Speaker, I want to summarize by saying this: the Government can do a lot to bring about some relief to persons who are exposed to the scourge of domestic violence. The Government should do everything towards that goal. The Government must do whatever it can, and this Bill is just one of those things that the Government should do and we want to support it, but we cannot support it at that cost, that potential for abuse.

We are saying there are other things it can do and if it really wants to do it in good faith, having raised it here, and I raised it here before, the matter of \$10 million to the NGOs, among which is counted the halfway houses. If the Government really wants to help, it could make an immediate contribution in keeping with its commitment which it made in a budget debate in this House. Keep that commitment and then they can say, with our support, that Government is funding the support for people who have been identified as victims of domestic violence, especially children. If they do that, they can, quite rightly, take credit for making some contribution. If they also conduct governmental affairs in such a way that they can access the moneys available for that social mitigation programme, then they can quite rightly say, and take credit for impacting positively, when they expend those moneys on persons who will access that programme.

I see my friend from Princes Town shaking his head: I hope he is not trying to indicate that the money cannot be spent like that, because that money is under a policy loan, it is not tied to any particular action. While it comes with the agricultural sector loan, the Government is free to spend it in whatever programme the Government sees fit, but to get the money, the Government has to

do certain things in the agricultural sector. Because that sector's management has been so disastrous, the Government has not been able, it has not met its targets, so the non-performance in agriculture has denied the Government \$60 million of a social mitigation budget which it could have used in the health sector, social reform sector, the NGOs support sector. We are saying if the Government really wants to work on the people's problems, then it will perform in such a way as to be able to access those moneys which are available to it and, at the end of the day, it all hinges on credibility and commitment.

The Government comes here and says things, it pretends to be concerned, but it has left undone those things which it ought to have done and it has done those things which it ought not to have done. And, no amount of brouhaha, righteous indignation and Mephistophelian clichés from the Member for Tobago East will exonerate the Government from being rightfully accused of having not performed effectively in the area that the Government is charged with performing, because the Government cannot change people's minds when they want to react to crimes of passion. The Government cannot legislate against jealousy. The Government cannot legislate against the inner evils of persons. The Government cannot legislate for people who will hide from the fact that they are experiencing certain shortcomings in their development. All of these are situations which result in domestic violence; no Government can legislate against those things. So we will have that aspect of it with us for a long time.

But what the Government can do is implement things such as support systems, early identification, and new programmes and, as I mention new programmes, one of the reforms of the social services system which we were following was one which had required a redistribution of our social workers on a social grid. Divide the country up into a grid and deploy social workers in such a way and in such numbers that we will be able to identify problems such as domestic violence, child abuse, elderly neglect, drug abuse, drug addiction and so forth, and the social worker would have known exactly where these problems lay so that they could have been targeted for solution, long before they become disasters.

Recently I had the opportunity of visiting Guernsey, an island off the British coast. I asked about the unemployment situation—because it is a pretty wealthy location—expecting a figure expressed in percentage, because I expected a low percentage. I was a little surprised when the answer came in absolute. They said, “We have 174 unemployed people”, and I was very impressed. They had their system so organized that they could identify exactly who are unemployed, their age group and their skills, so they speak about the unemployed in absolute numbers. Such a system is as close to perfection as one can get.

*Domestic Violence Bill*  
[DR. ROWLEY]

*Thursday, July 29, 1999*

When our reform social service operates along that kind of line, so we can identify the drug abuser in the home before he becomes a drug disaster and we can identify the children who are victims of domestic violence and we can identify the households where domestic violence is a problem before it makes headline news as a murder case, then we can sit back and say, as a Government, as a people, as a Parliament, we had a problem and we have taken steps to rectify it. That is what Government is all about—solutions and evolution.

This Bill is an attempt at a solution, part of the evolutionary process towards bringing about support and the ending of a situation that we find quite unacceptable, but the Bill contains elements which are unacceptable to us on this side. It is like a new pair of shoes with a grain of sand, beautiful to look at, but uncomfortable to wear.

Mr. Deputy Speaker, we appeal to the Government to take our concern on board. We support the measure, but we have difficulty in supporting it with the current arrangement where the warrant, that pillar of freedom, that pillar of security, the absence of which brings a harbinger of fear; we think that is too much, we have gone too far in that direction and it is not really a situation of “we cannot do it, we want freedom”.

Mr. Deputy Speaker, the Government has been told, they know our position and if they would like our support and involvement then we can discuss the matter at committee stage or wherever, and pass the piece of legislation which will be just one part of the attack on the scourge of domestic violence.

Mr. Deputy Speaker, I thank you. [*Desk thumping*]

**The Minister of Labour and Co-operatives (Hon. Harry Partap):** Mr. Deputy Speaker, I crave your leave to make a brief intervention in the debate on this important piece of legislation and, as well, to offer my support to the Domestic Violence Bill.

Permit me, Mr. Deputy Speaker, first to congratulate the hon. Attorney General and the hon. Ministers of Legal Affairs and Social Development for bringing this Bill to Parliament. The hon. Minister of Legal Affairs gave a detailed explanation of the important provisions of this Bill and she left us in no doubt as to the importance of this Bill and its implication for the protection of women and children trapped in an abusive environment.

This Domestic Violence Bill is yet another manifestation of this Government's concern for the welfare of women, children and, indeed, the family unit in our beloved country. Since coming into office three years, nine months ago, this

Government has demonstrated its commitment to people by putting on the statute books measures aimed at protecting women, children, and the family as a whole. The record will show that we have passed the Maternity Protection Benefits Act, the National Minimum Wage Order, increases in the old age pension, the rationalization of textbooks in primary schools, and a host of other legislation that impact directly, and in a positive way on women and families in Trinidad and Tobago. [*Desk thumping*]

Mr. Deputy Speaker, my friend, the hon. Member for Port of Spain South, made a feeble attempt to raise questions of credibility and trust. He extended this feebleness with the implication that there is a credibility and trust problem on this side. Unless the hon. Member for Port of Spain South believes his propaganda and remains enthusiastic in lies, half-truths and innuendoes, let me plead not guilty on behalf of the Government Benches.

**7.00 p.m.**

This Bill has one main objective, but four main avenues used to achieve that central objective. The main objective is to offer victims of domestic violence greater protection, but to achieve this, the Bill provides for increasing the power and jurisdiction of the court; enlarging the scope and ambit of the protection order; providing harsher penalties; and giving the police greater powers in respect of their ability to intervene in domestic violence situations.

Mr. Deputy Speaker, the laudable objective of this Bill is to offer greater protection to victims of domestic violence. That protection is made manifest only if the victim can be assisted at the most critical time in the cycle of domestic violence, that is, if the victim can be shielded from an abusive relationship. This Bill will lose its impact if we water down the provisions.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, our friends opposite are inclined to disagree with provisions in clause 23, and that seems to be their major problem. What does clause 23 say?

Clause 23(1) provides for a police to be invited:

“...onto premises by a person apparently resident in those premises for the purpose of giving assistance...”

The police can enter without warrant to prevent an abuser from committing violence, or further violence on a victim.

Clause 23(2) makes certain provisions to rescue a victim of domestic violence.

*Domestic Violence Bill*  
[HON. H. PARTAP]

*Thursday, July 29, 1999*

“Where a police officer has been refused entry on to premises...”

Clause 23(3) and (4) place certain safeguards to prevent an abuse of the process by the police.

Mr. Speaker, in another place, amendments were made to include clause 23(5), (6) and (7). These amendments further protect the society from abuse by police in circumstances where they have to enter premises as outlined in clause 23(1) and (2). So I am really at a loss to understand why the Opposition are not comfortable with the safeguards in clauses 23(3), (4), and those added in clauses 23(5), (6) and (7).

As I understand it, if we consider what the Opposition is demanding then this Bill will become a toothless mongrel. It will not protect a victim when he or she needs that help urgently. We cannot and we should not water down the law. If we remove one word, one comma, from clause 23, it would destroy the backbone of the measures needed to provide an immediate response to protect our women and children who are abused to the extent where their lives are threatened.

Mr. Speaker, I really cannot understand the objection to clause 23. The Member for Diego Martin Central in his contribution accused us of responding after the fact. This is an unfair criticism. Here, we are attempting to act before the fact, and the PNM Opposition is putting all kinds of roadblocks to prevent a piece of progressive legislation from becoming law. I warn the Opposition, the women of this nation will not forgive its recalcitrance. You may have to pay dearly at some stage.

I urge my friends opposite to rethink and lend their support to save our women and children from abusive relationships that can lead to grievous bodily harm, or even death. We must act now.

Thank you.

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, in the light of the comments which have been made in relation to the provisions of this Bill with respect to the fundamental rights and the dangers, I would like to address my comments in respect to those matters.

Mr. Speaker, I think that one must understand that there is always a difficulty when law is attempting to take away or restrict fundamental rights, and one would always feel apprehensive, because one wants to be very careful that what one is doing is the right thing. I want to show that it has been recognized by the United Nations that if domestic violence is to be effectively prevented, as far as the law



side is concerned—and I say the law side, if I may use that expression—because I recognize that no law would be able to solve the problem of domestic violence.

Mr. Speaker, it is sometimes forgotten that the rights about which we are talking, when it comes to domestic violence, include the rights of women. There are also the rights of women not to be violated, beaten, or subjected to that kind of treatment, and because of the relationship between man and woman, historically it is believed that a man generally has the right to inflict violence on a woman. Normally, if there is not that relationship, whether it is a marriage relationship, or a cohabitational relationship, the police would listen and prosecute the person for wounding and he can suffer three or four years in jail.

What has happened under our law is that although there is law which gives the police power to arrest without a warrant, and to enter premises without a warrant, the police over the years adopted the attitude that in respect of domestic violence matters they are not going to exercise those powers because they are not going to get between husband and wife and man and woman relationship, if I may use that expression.

As a matter of fact, if one looks at the existing law in section 22 one sees where if a police officer believes, on reasonable grounds, that a person has committed or is committing an offence on section 18 of this Act, he shall make an arrest. He can arrest without a warrant.

When one looks at section 18 one would see the restricted circumstances under which the police can intervene. There must be a protection order and the respondent must be present when the protection order was made and if he was not present, he would have been served and if he contravenes that order then an offence is committed.

Even though there is, under the Criminal Law Act of Trinidad and Tobago, an Act passed in 1936 and amended in 1979; section 2 and section 6 were amended in 1979 during the PNM administration. They introduced law in Trinidad and Tobago to give the police power to arrest persons without a warrant, and in certain circumstances, to enter premises if they believe there is reasonable cause that an offence is committed. I want to put on the record that under section 3 of the amended Criminal Law Act, which was amended in 1979 says:

- “(2) Any person may arrest without warrant anyone who is, or whom he, with reasonable cause, suspects to be, in the act of committing an arrestable offence.

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

- (4) Where a police officer, with reasonable cause, suspects that an arrestable offence has been committed, he may arrest without warrant anyone whom he, with reasonable cause, suspects to be guilty of the offence.”
- “(6) For the purposes of arresting a person under any power conferred by this section a police officer may enter (if need be by force) and search any place where that person is or where the police officer, with reasonable cause, suspects him to be.”

So we have law which gives the police the power to arrest a person without a warrant, also law which gives power to the police to enter premises to effect that arrest; and we have law which gives the police the power that if he believes there is reasonable cause to arrest someone, to arrest that person. There is law where the police can go on to the premises.

Mr. Speaker, even though that law was in place, the police decided over the years, even from 1979, that they are not going into premises in which there is a husband and wife relationship unless it is expressly stated that it relates to domestic violence matters because—and one can understand them—an arrestable offence, if I remember correctly, is a serious offence with imprisonment of at least five years. Some of the domestic violence acts do not carry that imprisonment. So the police have decided over the years that they are not going to do that.

What happens now is when a report of domestic violence is made to the police, the police takes the report which is recorded and the person is advised to go to the community police or try to get a protection order. The statistics have shown that the law as it is, is not sufficient to save persons from losing their lives as a result of domestic violence.

The hon. Minister of Legal Affairs in her contribution read the statistics which show that from 1990—1996, 41 women were murdered in cases of domestic violence; 39 children were murdered, a total of 79 persons.

The hon. Minister of Culture and Gender Affairs, this morning in her contribution, in answer to the Member for Diego Martin West, gave some of the other measures, apart from law, which the Government has taken in order to deal with the prevention aspect of domestic violence, but in her contribution, she said 23 persons in 1998 were killed in circumstances involving members of the family but most of them were committed by spouses.

**7.15 p.m.**

We do not have the figures for 1997, but in 1998 there were 23 persons killed, which makes from 1990—1998, excluding 1997, over 100 persons died because

of domestic violence. Mr. Speaker, I think this is a matter which we must really look at very objectively. I have no doubt and I hope that the Opposition would look at it carefully, because if Trinidad and Tobago does not have this kind of law that we are trying to pass, innocent people are going to die because the police would not be able to prevent the death or the injury.

We have seen, from what has happened, that the Protection Orders and the warrants have not been able to prevent these people from being killed. We have seen that. Therefore, we have to look and see what the international community is doing in order to prevent that.

If I may read from *The Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice* issued by the International Centre for Criminal Law Reform and Criminal Justice Policy, which is, in effect, members of the United Nations Crime Prevention and Criminal Justice Programme. Mr. Speaker, it talks about the international movement, about the United Nations Commission on Crime Prevention and it talks about the resolution. I quote:

“At the sixth session, the United Nations Commission on Crime Prevention and Criminal Justice adopted a resolution on the elimination of violence against women which has been approved and adopted by the economic social council and by the general assembly in December of 1997.”

This resolution calls upon member states to review and evaluate criminal law and practice, to determine if they have a negative impact on women, and if so to modify them to ensure that women are treated fairly by the criminal justice system.

That resolution further urges member states to develop and promote crime prevention strategies that reflect the realities of women’s lives and address their distinct needs.

The resolution also includes a document from which I am quoting entitled *Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice*. I now go to page two under “Criminal Law” to Periodically Review the Criminal Law, then “Criminal Procedure”, Paragraph seven, I quote

#### CRIMINAL PROCEDURE

7. Member States are urged to review, evaluate and revise their criminal procedure, as appropriate in order to ensure that:
  - (a) The police have, with judicial authorization where required by national law, adequate powers to enter premises and conduct

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

arrests in cases of violence against women, including confiscation of weapons.

It says:

Perpetrators who commit acts of violence against women while voluntarily under the influence of alcohol or drugs are not absolved of all criminal or other responsibility or the police to ensure that the applicable provisions of laws, codes and procedures related to violence against women are consistently enforced in such a way that all criminal acts of violence against women are recognized and responded accordingly by the criminal justice system, to develop investigative techniques that do not degrade women subjected to violence that minimize intrusion while maintaining standards for the collection of the best evidence.”

We see that although it recognizes that there would be judicial authorization in respect of procedures, it also recognizes that in respect of the police, there should be applicable provisions of laws in order to ensure that the criminal acts of violence against women are recognized and responded to.

I have shown that there are instances where the police can enter premises if they believe that an offence has been committed, and if necessary, to use force, as long as there is reasonable cause to suspect that. In other words, it is not as the Hon. Member for Diego Martin West said, that it is to enter any home at any time. I want to read what clause 23 says, it does not say; to enter the house at any time.

Before I read that, however, may I read from a document entitled *Strategies for Confronting Domestic Violence—a resource manual issued by the United Nations Centre for Social Development and Humanitarian Affairs*.

“Part III:

Role of the Police”

May I go straight to:

“Entry to private premises:

Throughout the world, the power of the police and others to enter private premises is limited. This limitation is enshrined in national, regional and international human rights documents. It is an important guarantee which protects the lives of ordinary men and women from arbitrary state interference. In the context of domestic violence too great an adherence to these guarantees can protect the perpetrator at the expense of the victim.”

Mr. Speaker, it is so recognized that in the context of domestic violence:

“too great an adherence to these guarantees can protect the perpetrator at the expense of the victim.”

United Nations.

“In most jurisdictions, police powers of entry into private premises are limited to situations where they have reasonable grounds to suspect that a breach of the peace is occurring, or is about to occur, or where they have been issued a warrant that allows entry. If there is no indication that an assault has occurred or is about to occur, police do not have reasonable grounds to suspect such a breach of the peace.

In a typical case of domestic violence, police will be called by a family member or neighbours. They will be met by a member of the household who will tell them that nothing has happened. In the absence of a warrant, unless the police are invited in or are able to justify their suspicions that a breach of the peace has occurred or is about to occur, they do not have the right to enter. Entry can be justified if they hear suspicions: noises or signs of entry, otherwise if they enter premises by trick or force, they may face a legal suit or a disciplinary hearing.

In Israel and some Australian jurisdictions, new legislation clarifies police powers and extends them to the investigation of cases of domestic violence. This legislation allows police to enter premises if requested to do so by a person who, apparently resides there or if the officer has reason to believe that a person on the premises “A” may be under threat or attack or has recently been under the threat or attack or that an attack is imminent.”

Mr. Speaker, here it is that you have authority not only in Barbados, but authority in other parts of the world where it has been recognized that in order to deal with these problems, you have to be able to give the police that power. It goes on:

“In New South Wales, there is a provision in the legislation to the effect that warrants can be acquired over police radio telephone.”

In addition to giving the police that power, they also have a situation where they could get these warrants on the telephone.

I have here with me the Provisions of the Domestic Violence Bill of the Barbados Parliament, it is the *Domestic Violence Protection Orders Act, 1992* section 14(2). I quote:

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

“A member of the police force, referred to in subsection (1) may without warrant, enter premises for the purpose of giving assistance to a person on those premises whom that member has reasonable grounds to suspect is in imminent danger of suffering physical injury or has suffered physical injury at the hands of another person.”

I also have here the *New South Wales Crimes Act*—the amendment to Crimes Act, 1900. Section 3 57(f) of the an amendment states:

“The power of the member of police force to enter or remain in a dwelling house by reason of an invitation given as referred to in subsection(2) by the person whom the member of the police force believes to be the person upon whom the domestic violence offence has recently been or is being committed or is imminent or is likely to be committed in the dwelling house will be exercised by the member of the police force, notwithstanding that an occupier of the dwelling house expressly refuses authority to the member of the police force to enter or....”

**7.25 p.m.**

I am doing this in order to show that the Government is not interested in taking away anybody’s rights, passing any draconian legislation and trying to fiddle with the Constitution. I am saying this because it shows that the Government has taken certain commitments at the international level, including the recent conference in Beijing to, in effect, revise the procedure—our criminal law—in order to ensure that women are not discriminated against.

We have in Trinidad and Tobago a situation in which it is felt that we should not go this route; that we should allow the beating and killing of women to continue and not provide any protection. Here we have in this Bill, which, when I read and show the safeguards, one would see that the safeguards are such that it would be very difficult, if at all possible, for any policeman to abuse his power under this Bill.

Before I do that, there was a statement made in an article by an organization called the Coalition against Domestic Violence, and I want to put it on the record. It is published in the *Express* of July 1, 1999 at page 3 under the heading, “Coalition defends Domestic Violence Bill”.

“Stressing that too many women had lost their lives, their hearing, their eyes, their limbs and their unborn children to domestic violence, the Coalition against Domestic Violence yesterday defended the Domestic Violence Bill which gives the police the power to enter premises without a warrant.

The Coalition said it believed that it would be heartless and cruel to insist that a police officer go in search of a magistrate in the middle of the night to get a warrant before taking action that might well save a woman's life. It said this was a time when magistrates were seldom available, but when many acts of domestic violence took place."

The Coalition went on that:

"...the police already had the power to enter premises without a warrant in certain circumstances..."

And they quoted the instances.

Mr. Speaker, there is an article entitled, "A society that cannot trust itself" in the *Newsday* of June 20, 1999 at page 8. The author is Mr. Hamid Ghany and I think he looked at the situation and there is one passage in which he says, and which I will ask the Opposition to consider—

**Mr. Imbert:** No.

**Hon. R. L. Maharaj:**—talking about the Opposition:

"That does not answer the question of assistance to a desperate spouse facing a cutlass-wielding or gun-toting mate in the heat of a violently abusive argument. The police have to be trusted to answer those calls for help. If the society cannot trust the police, then we are in deeper trouble than we think."

Quite recently, when the Caricom Heads of Government were meeting in Trinidad and Tobago, they gave an award to a lady who has been very involved in the promotion of rights for women. That lady is Dr. Joycelyn Massiah and she made certain comments. I quote from the *Guardian* of July 8, 1999 at page 17 referring to Dr. Massiah. It said:

"...the battered wives' syndrome was one of the major recommendations that stemmed from the tribunal which was held last November in Barbados.

She said the Tribunal on Violence against Women in the Caribbean was part of a year-long United Nations Campaign for Women's Human Rights.

Massiah added that Trinidad and Tobago's move to allow police officers to enter the premises of suspected domestic violence without a warrant was a start in combating the problem."

Now, this is a lady who has worked over the years as an authority, a Caribbean lady who has studied these situations and she is saying that this is a start in combating the problem.

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

“She said: ‘Maybe it is somewhere to start. But there is a whole heap of other things we tend to play down...’

And she went on.

So, it cannot be doubted that legislation which contains these requirements are necessarily draconian. What one has to do is to ensure that there are safeguards so that if people abuse powers under legislation like this, there would be ways and means in which they would be brought to justice, they would be punished and the punishment would act as a deterrent for those things not to happen again.

The pervasiveness of violence against women in all countries has, therefore, become an issue of global concern. Violence against women cuts across all economic, age, ability, religious, racial, cultural, political and sexual orientation spectrums of society. Violence against women is a reflection of the structural and systemic inequality in society and a contributing factor to that inequality.

Mr. Speaker, violence violates women’s fundamental human rights and freedoms. The harm caused by violence undermines their ability to lead autonomous lives, free of fear and coercion, and imposes great cost on society. It has significant repercussions, not only on the health and well-being of women, but also impacts upon the community as a whole, since it leaves them unable to achieve their full human and economic potential.

Governments, therefore, have a duty to see the adverse effects of domestic violence and to take steps to arrest that problem. If they fail to do that, they would be acting unjustly; they would be acting unfairly and they would be acting unequally. They would, in effect, be showing that they are prepared to allow women to continue to face discrimination even in respect of the application of the criminal justice system.

There is evidence that shows that the impact of violence against women extends to their children. There is solid evidence worldwide that violent behaviour is passed from generation to generation. A child who witnesses violence in the home is likely to repeat that violence, either as a victim or as a perpetrator.

Mr. Speaker, I have shown that at the international level, the international community including the United Nations Commission on the Status of Women in respect of crime prevention, and even at the Commonwealth level at the Organization of American States level, they have all called upon states to take action to ensure, not only preventative measures are used, but the criminal justice system is so reformed and reoriented, that women will be protected.



Quite recently, Mr. Speaker, you would recall the concern of the Commonwealth Ministers responsible for women's affairs since their first meeting in Nairobi in 1985 and, more recently, their meeting in 1993. At the 1993 meeting, there was a Commonwealth plan of action on gender development, which was fully endorsed by the Heads of Government meeting in Auckland in 1995. It has one of the key strategic objectives to governments, that is, to promote and defend women's rights as human rights and outlaw all violence against women and girls. That is what this Bill is about. This Bill is to promote and defend women's rights as human rights and outlaw all violence against women and girls. It even goes further; it outlaws violence against a male spouse.

Mr. Speaker, let us see why they are so opposed to this Bill. Let us see what clause 23 says. Let us see if it gives all this blanket power that we are talking about, bearing in mind that under Part VI of the Bill which deals with police powers of entry and arrest, it is the duty of the police officer to fill out a form when there is a domestic violence report. Let us see what clause 23 imposes when an officer exercises the powers under it.

“Where a police officer has been invited onto premises by a person apparently resident in those premises for the purpose of giving assistance to that person or another who has suffered or is in imminent danger of suffering physical injury at the hands of another person in a situation amounting to domestic violence...”

So, we see that the person who would do the inviting is a person who is apparently resident in those premises, and the inviting of the police officer is for the purpose of giving assistance to that person or to some other person who has suffered, is suffering or is in imminent danger of suffering physical injury at the hands of the abuser amounting to domestic violence. The police officer, in those circumstances—it is only in those circumstances:

“...may, without a warrant, enter the premises for the purpose of giving assistance...”

So, the purpose the police officer can enter is to give assistance.

“...and shall take such action as is reasonable to prevent the commission or repetition of the violence complained of.”

Well, the police officer cannot go there to search, he cannot go there to use his power to do anything. The police officer first has to be invited by a person apparently resident, either on his or her behalf, or on behalf of somebody there,

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

who is in danger or is likely to be in danger, and the police officer is to go to give assistance.

“Where a police officer has been refused entry on to the premises and has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence and failure to act immediately may result in physical injury or death, the police officer may enter those premises without a warrant, for the purpose of—

- (a) arresting the person whom he suspects of engaging in conduct amounting to domestic violence;
- (b) giving assistance to a person who has suffered injury;
- (c) ensuring the welfare and safety of a child who may be on the premises; and
- (d) preventing any further breach of the law.”

He cannot go and detain the man for days; he has to arrest the person. When he is arrested, he must be charged and put before a court. But, he also has to protect.

Hear what the safeguards are. It says:

“Nothing in this section authorises the entry onto premises by a policeman for purpose of any search or the arrest of any person, otherwise than in connection with the conduct referred to in subsection (2).”

So, it expressly states that the police cannot do anything unless it relates to domestic violence with respect to that entry.

**7.40 p.m.**

Mr. Speaker, it goes further:

- "(4) Where a police officer exercises a power of entry under subsection (2) he shall immediately submit a written report to the Commissioner of Police, through the Head of the Division where the incident occurred, such report to contain the following information:
- (a) the reasons for entering the premises without a warrant;
  - (b) the offence being committed or about to be committed; and
  - (c) the manner in which the investigation was conducted and the measures taken to ensure the protection and safety of the person at risk."

At the other place there were certain amendments to that clause to add a subclause (5)

“The report referred to in subsection (4) shall be submitted to the Director of Public Prosecutions by the Commissioner of Police within seven days of receiving the report.”

So when the Commissioner of Police gets this report, apart from what system he has to investigate, the Director of Public Prosecutions would also get this report.

Where a complaint is made against a police officer by a person resident in premises alleging that the officer's entry onto the premises under subsection (2) was unwarranted, the Police Complaints Authority can investigate the complaint and submit a copy of its report to the Commissioner of Police and the Director of Public Prosecution within 14 days of the complaint having been made. Where the investigations of the Police Complaints Authority, find that the entry under subsection (2) was unwarranted, the Police Complaints Authority shall also submit the report to the Police Service Commission, and such report shall form the basis of disciplinary action against the police officer. This is quite apart from any criminal action that could be taken by the Director of Public Prosecutions against the police.

Mr. Speaker, let us look at this and see whether with those safeguards, and when one considers the problem that this Bill is seeking to address, whether it is not reasonable for a Parliament to take measures to ensure that over 100 people again would not die. Otherwise what would happen is that the abusers would be beating the system. They would be beating and circumventing the law and getting away with it in the sense that innocent people would be killed.

I know that the Opposition could adopt a different position from time to time, because that is its right, but when under our system a political party which has representatives in the Parliament agrees to and supports a measure, serious questions have to be asked as to why they would not support the measure when the time has come to make it law. One reasonable inference that can be drawn is that the Opposition is really not serious about protecting the rights of women and victims of domestic violence. [*Desk thumping*]

It is a matter of record, Mr. Speaker, that all the Members of the Opposition have supported this measure in the other place. It is also a matter of record, it was public knowledge, that the Independent Senators had some reservations about the Bill, and all but one supported the measure—[*Interruption*]—I think that one of them abstained. I am saying this to show that the fact of the matter is that this is

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

not a matter the Opposition should take lightly, and just say, "Having regard to the history of the police service and what happened, I do not think that we can support this measure."

I think we concede that, as everything else, there are bad eggs in every set up, and there are bad police officers, but there are also very good police officers. As a matter of fact, I would say that most of the police officers in the police service are very good, otherwise the police service would not have been able to exist as it is today. The percentage of bad officers must be very small, so we must not allow the fact that an institution has some bad people, or a section of it that is bad—if we can use that expression—to prevent us from taking steps to protect people's rights. What we have to do is put measures in place to ensure that if those people show their qualities and abuse their powers, we would have some machinery to detect them and bring them to justice.

The hon. Member for Diego Martin Central read from the recommendations of the committee in order to say, "Well, the committee did not recommend this so why is it here?" I think it is important for us to understand that the committee did a very good job. As a matter of fact, I would like to pay tribute to all the members and the head of that committee, the Minister of Legal Affairs. The committee did an extremely good job, but we understand that the committee was faced with certain difficulties. One of the matters in relation to the police is that it was thought that the police did not want to have these powers. The committee was obviously misled about this, because when this matter went to the Legislative Review Committee, there were discussions with the police. The police said that without these powers they would not have been able to be very effective.

If it is that you have a committee report and you said there was consultation and looking at the matter again, I do not think that you should hold on and say that because the committee did not recommend it, this is not very good. What you have to do is look at it and see whether it supports the public interest and if you feel that it does not, then it does not. After the report there was also public consultation on the report, and suggestions which came out of it. That is why there were several matters in the Bill which originally were not in the committee report, but that does not mean to say the committee's report was flawed, not good, or somebody else put things in it like that. It was as a result of discussions and consultations, because the whole aim was to get a Bill that was in the best interest of the people of Trinidad and Tobago.

In fairness to the Opposition, although they did not amend the Domestic Violence Bill from 1991—1995, it was passed in 1991, the Law Commission was

doing a study and when this administration took office that study was continued, therefore, you had both the Cabinet Committee and the Law Commission. They merged with the Legislative Review Committee with consultation and came up with this Bill. A member of the committee, Sen. Mahabir-Wyatt, has gone publicly and said that this is a very good Bill. So the people who are involved in it are saying that it is very good.

Just as we can come here and pass this law, if for some reason it is not working we can repeal it. The fact of the matter is, if it is felt that this Bill is in the best interest of the population, I think that the Opposition should really support this measure. [*Interruption*]

#### PROCEDURAL MOTION

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that this House sit in further consideration of this matter, and not necessarily its completion.

*Question put and agreed to.*

#### DOMESTIC VIOLENCE BILL

**Hon. R. L. Maharaj:** Mr. Speaker, there was also the point raised by the hon. Member for Diego Martin West in which he asked for some explanation on the family court. It is true that there was an announcement that there would be a family court in Trinidad and Tobago. In order to have a family court you must also have new rules for the family court, the rules have to be reformed. The function of reforming the rules for the family court lies with the Rules Committee headed by the Chief Justice. There was a judicial sector reform project which was started under the last administration and which, in effect, involved a reform of the rules. Those rules—the family rules, apart from the civil rules—have been looked at, and laid in the House. The legal profession has expressed certain views on them, but we do not have effective reform rules.

In addition to that, it has been found that if you just have a family court in which you merely transfer a judge, and you put him with the same rules in a different building, it would not be an effective family court. What is envisaged is to have a family court in a different building with different sets of laws and procedures in order to ensure all the adversarial elements are removed from the determination of these matters, and you have all matters being determined by the family court. You must also have the necessary social people and advisors attached to the court in order to effect the necessary reconciliation, mediation or, in effect, to give information to the court. So that has been the problem.

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

There have been developments, in that, there is a package of legislation known as the Children and Family Law Reform package which has been looked at. The Bills are ready and would shortly go to Cabinet, but some of the reforms to be looked at would involve having a new concept of a children's authority in Trinidad and Tobago which would remove some of the present deficiencies. At the present time, there is no identifiable body which would deal exclusively with matters relating to children. There are no co-ordinated means by which to treat children at risk or children who appear before the court. Children's homes and institutions are adequately monitored and the law is being operated on a basis of laws which have been in existence for a long time.

We also have an Adoption of Children Bill which will form part of the family law package that would deal with the new procedures under the UN Convention on the rights of a child. In order to deal with adoption, there would be a new machinery for adoption in Trinidad and Tobago which would, in effect, ensure that children who need to be adopted, can be adopted, and there would be very effective means.

In respect of the family court, there is a Family Court Bill which has been completed. The Bill provides for judicial process, which is more user-friendly, informal and sensitive to the needs of parties with relaxed rules of evidence for civil matters. The Ministry of Social Development and the Law Commission have been working on these Bills for the last two years and have come up with this package. There is an additional Bill to complete the package, the Children's Home, Residential Centres and Foster Care and Nurseries Bill which will set up a regime for licensing, monitoring and regulating these types of children's residences. There will also be a Miscellaneous Provisions Children's Bill which will give effect by standardizing the definition of "child" in the different legislations in Trinidad and Tobago, and would be dealing with matters like corporal punishment and so forth.

I do not want to go into details with these matters, but I wanted to assure the hon. Member for Diego Martin West that the family court is not a building. It is not just putting a judge with the same procedures in the building. It has been found that where there are family courts with revised procedures and with the appropriate rules, children and family can be saved. *[Interruption]*

**Dr. Rowley:** Mr. Speaker, I thank the Attorney General for the explanations and ask him: are we working against any kind of time-frame with the opening? What kind of time-frame are we looking at?

**7.55 p.m.**

**Hon. R. L. Maharaj:** These Bills were supposed to be drafted already but the technical people in the Ministry of Social Development were having some difficulty with some of the policy and it was last week Tuesday when it was okayed with the exception of one of the Bills. They should be going to Cabinet within the next two weeks and at the new session of Parliament they would be before the Parliament.

So, Mr. Speaker, I take on board what the hon. Member for Diego Martin West has said. I think that we have to agree, however, that it is a measure which I do not think any Parliament can take lightly and, therefore, I think that the approach which the Government would like to adopt, and the Minister of Legal Affairs will tell you more about it, is that we are not going to complete the debate tonight. We will start winding up of the debate but we would hope that the time we get will be used by the Opposition to reflect again because this is a measure which is in the public interest. It is a measure which the party supported, unless the hon. Members here belong to a different party. When the time comes and you do not want to vote for it, do not vote for it, but I want to give you the assurance that—[*Interruption*]

**Dr. Rowley:** Thank you again for giving way. While you are on that score, is the Government prepared to look at strengthening the protection aspect of those clauses to make them even more secure? Is the Government going to give any consideration to any review of what is already there to minimize this abuse? Could we still look at that?

**Hon. R. L. Maharaj:** Mr. Speaker, this Government has been a very accommodating and open Government and we are willing to consider suggestions made. If you look at the Bill's history, there were amendments accepted in the other place and we have amendments with safeguards. If the Opposition produces any suggestion we will consider it because the important thing in this matter is not to allow the policeman who goes into the home to abuse the power given and destroy the rights of people. The important thing is to ensure that if they go there they would respect the home but they would, in effect, protect the women and that they do not violate people's rights but if they do that there are safeguards to ensure that it would not happen again and there will be redress.

One understands the fears because one sees what happens in Trinidad and Tobago and there could be situations why people are afraid that a policeman can use this law, or would want to use it, in order to get his own way with people.

*Domestic Violence Bill*  
[HON. R. L. MAHARAJ]

*Thursday, July 29, 1999*

That is why we have all these safeguards because one knows that these things sometimes happens and we would be prepared to consider whatever additional safeguards are proposed. [*Interruption*]

Mr. Speaker, the hon. Member for Diego Martin Central asked me if I were over there whether I would support it? The fact of the matter is that I am not on that side, I am on this side and I do not have any intention of going on that side. [*Desk thumping*]

I know that we have said things in this debate about which we obviously feel very strongly and also about not compromising people's rights in certain circumstances, but I want to give this honourable House the assurance that this is a matter which gave not only me but also the Law Commission serious, serious concern. It was thought about for a long time and we looked at all—there are several countries which have gone this route but we have looked at it, we have had advice in this regard from the police who have told us that if they had this kind of power they would be able to save lives. As a matter of fact, in the meeting in which members of the police service were involved the police in effect said that if they had this kind of power they would be able to save lives, save injuries, and so it is a measure which we consider it was necessary to have. It was not a measure which we just put into the Bill.

Mr. Speaker, if we look at this Bill we would see that whatever reforms we intend to implement with this Bill the other reforms would be minimal if we do not provide the machinery whereby the police, with certain safeguards, can enter homes to prevent some of these matters. Thank you very much, Mr. Speaker.

**The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar):** Mr. Speaker, I thank hon. Members on the other side and on this side of the House for their contributions, their comments, their suggestions and, above all, their concern with respect to domestic violence and all the related consequences of domestic violence in our society.

Mr. Speaker, I would like to quote here. I remember when the committee was engaged in public consultations throughout Trinidad and Tobago in 1997 we went to the City Hall in Port of Spain for a public forum to deal with the report that the committee had produced. At that consultation we were all very touched and a bit surprised when a journalist went to the microphone and shared her—she was there as a journalist but she engaged and participated in that public discussion by going to the microphone. Her name is Suzanne Sheppard. At that time she was a journalist with the *Express*. She now works with the *Newsday*.



She went to the microphone and she said, “I want to tell my story”, and she disclosed for us a tale of such horror where she described her life subjected to domestic violence for over a decade and she writes here:

“More than a year ago...”

and she wrote about it afterwards. After she spoke in that forum at the City Hall she wrote about it in the *Express* on Tuesday, November 25, 1997. The headline is, “Please, no more empty promises”. She says:

“Rapists and wife beaters are not real men. Any man who uses a weapon—whether it is a gun, his fists or his penis—to harm, maim or kill a woman, is a coward with a fragile claim to masculinity.”

She continues:

“More than a year ago, I was moved to share my own story of surviving an abusive marriage because I was fed up of all the ole talk and useless babble about women as victims. People who clearly didn’t have a clue were standing up in public forums and spouting all kinds of nonsense about domestic violence, painting a picture of battered women as being useless, helpless, stupid, uneducated females.

I told my story because I wanted people to understand that domestic violence is a problem that cuts across all social and educational barriers. I also wanted to bring out into the open a situation that thrives quickly and best in secrecy.

From my own experience, gained during almost a decade of suffering and fear, followed by five years of healing and growing, I know how terrified women are.”

And she went on into it and what she was saying eventually was:

“As a survivor of violence myself, I want to see less talk and more action. Please, no more empty promises. Instead, let’s put systems in place to guarantee that women who need it will get immediate and effective responses when they shout for help.

I want to see more real men, especially those who are political, social and religious leaders, publicly condemning this type of violence and offering material and moral support to this cause.

I want the decision-makers of this country to come up with appropriate support systems and laws so that when a woman escapes domestic and sexual

*Domestic Violence Bill*  
[HON. K. PERSAD-BISSESSAR]

*Thursday, July 29, 1999*

abuse, she doesn't have to face another type of abuse in the police station and in the court."

Mr. Speaker, I spoke with Ms. Suzanne Sheppard today, she was in the Parliament earlier, and I mentioned to her that if she had no objection I would disclose what she had said to me. What she had written here is obviously public domain, but what she was saying today was the fact that when she went through her trauma there was no Domestic Violence Act of 1991. It happened—in fact, she said that 1991 was when she put an end to the whole traumatic situation and she left the matrimonial home. But her whole concern was that there was nothing that was immediate. There was no immediate response.

The horror that she described was that when she went home on evenings she never knew what she was walking into that house to find. She never knew what the rest of her evening would be like and she had nowhere to go; that when she went to the police station—and again I will come back to that because of the whole issue of the police and the role of the police in this matter—and she reported it, the whole attitude was that of which the Attorney General spoke, a man woman/relationship, husband/wife relationship where the police will not interfere. That attitude has always been there and that is part of the cause and part of the reason we need to put into the laws proper systems to ensure that there is immediate and effective response.

So if the members of the police service are uncertain of their roles, their powers and their duties in certain circumstances, it is for us as the decision-makers in this land to place within the law the structure and the mechanism to allow the police to operate free from fear. There are many, many things that have been done by the Minister of National Security with respect to sensitization of the police, the community police especially, so that they will be in a better position to deal with the whole issue of domestic violence.

Mr. Speaker, I only begin my contribution today and with your leave we will continue on another day. I thank you, Mr. Speaker. [*Desk thumping*]

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move,

That the debate on this matter be suspended to a date to be fixed during this session.

*Question put and agreed to.*

*Adjournment*

*Thursday, July 29, 1999*

ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that this House do now adjourn to Friday, July 30, 1999 at 10.00 a.m.

**Mr. Valley:** Mr. Speaker, please, the Opposition is objecting to the House sitting at 10.00 tomorrow morning. As a fact—[*Interruption*]—I am just stating, Mr. Speaker, and I want to ask the Leader of the House to reconsider. I think we have been having a good week. I think we have two matters, I understand, for tomorrow and even if we start at 1.30—because my Members thought, in fact, that the House would be sitting from 1.30 tomorrow and I think most of us—as you know, the week has been extremely short because of the sittings of Parliament on Monday and Thursday and we would really like to be able to have the morning free tomorrow, especially since it is the beginning of a long weekend and we have other commitments to take care of as well. [*Interruption*] No, no, but we have things to do. [*Interruption*]

**Hon. R. L. Maharaj:** Mr. Speaker, it is very unfortunate because we have had such a good agreement over the last two days, but when we indicated we would be sitting for three days we did say that it would be from 10.00 o'clock in the morning to at least 8.00 o'clock in the night for the three days. Mr. Speaker, I indicated to—I was about to say my learned friend—the Opposition Chief Whip that the hon. Prime Minister is moving the Orisa Bill tomorrow and he made all arrangements to be here tomorrow morning and I told him earlier on that I cannot really, at this time or even a bit earlier when he had indicated—and all Members have made the arrangements to suit this for the last two days. That was the understanding.

We were supposed to do today, which we did not have time to do obviously, the Acquisition and Motor Vehicles Motions. We plan tomorrow to do the Orisa Bill first, then to do the Acquisition Motion and then the Motor Vehicles Motion. That is how we had planned it. I am very sorry I cannot accede to this.

**Mr. Speaker:** Hon. Members, there were two matters in respect of which leave had been given for them to be raised on the Motion for the Adjournment. I understand that neither Member is here. I understand that there is agreement for them—[*Interruption*] No, I think the Member for Tobago has left. You know, I could speak about him. I know him better than that. So that by agreement these two matters were deferred for tomorrow.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 8.11 p.m.*