

Leave of Absence

Tuesday, February 19, 1991

SENATE

Tuesday, February 19, 1991

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon Senators, I have granted leave of absence to Sen. Robert Amar from today's sitting.

1. Report of the Auditor General on the Accounts of Trinidad and Tobago Television Company Limited for the year ended December 31, 1987. [*Sen. Alloy Lequay*]
2. Report of the Auditor General on the Accounts of Trinidad and Tobago Television Company Limited for the year ended December 31, 1988. [*Sen. A. Lequay*]
3. Report of the Auditor General on the Accounts of the Trinidad Mortgage Agency Company Limited for the year ended December 31, 1989. [*Sen. A. Lequay*]
4. Report of the Auditor General on the Accounts of the Trinidad and Tobago National Petroleum Marketing Company Limited for the period January 1, 1989 to February 28, 1990. [*Sen. A. Lequay*]
5. Administration Report of the Trinidad and Tobago Racing Authority for the period August 1, 1987 to July 31, 1988. [*Sen. A. Lequay*]

CARIBBEAN WATER AND WASTEWATER ASSOCIATION (INC'N) BILL

Presentation

Sen. Leonard Bradshaw: Mr. President, if you will excuse me, I would appreciate if this matter can be put somehow at another point on the agenda. Or if you do not mind, I will have some other Senator report on it as I need my spectacles to read it.

Sen. Dr. Krishna Bahadoorsingh: With your permission, I beg to present the report of the Committee appointed on Tuesday, December 18, 1990 to consider and report on the private bill entitled an Act for the Incorporation of the Caribbean Water and Wastewater Association.

**ST. JOSEPH'S CONVENT, PORT OF SPAIN PAST
PUPILS ASSOCIATION (INC'N) BILL**

Presentation

Sen. Una Charles: Mr. President, I beg to present the report of the Select Committee of the Senate appointed to consider the report of a private bill entitled an Act for the Incorporation of the St. Joseph's Convent Port-of-Spain Past Pupils Association.

ORAL ANSWERS TO QUESTIONS

Foreign Consultancy Firms

The following question stood on the Order Paper in the name of Sen. Wade Mark.

3. Would the Hon. Minister of Finance kindly state:
- (a) The number of foreign consultancy firms employed by the Government between the period January 1987 to December 1990?
 - (b) The number of foreign consultancy firms earmarked for employment in 1991?
 - (c) The specific purposes of their engagements?
 - (d) The existing and projected costs of these firms to the taxpayers of Trinidad and Tobago; and
 - (e) Are the reports of these firms accessible or made available for public consumption?

Sen. Alloy Lequay: Mr. President, the Minister of Finance again expresses his apologies for being unable to answer this question today. I have so indicated to Sen. Mark and he has respectfully requested that the question be deferred to the next sitting.

Question, by leave, deferred.

**Central Bank
(Employees)**

Sen. Wade Mark asked the Minister of Labour, Employment and Manpower Resources:

7. Could the Minister explain why it is that Central Bank employees are recognized as workers in other Caribbean states, while the workers of the Central

Bank of Trinidad and Tobago are still denied recognition under the Industrial Relations Act or even access to an independent industrial tribunal?

The Minister of Labour, Employment and Manpower Resources (Dr. The Hon. Albert Richards): Mr. President, this question seeks to elicit from the Minister why Central Bank employees are recognized as workers in other Caribbean states. My response is that it is not within the province of this Minister to know the rationale for legislation in other jurisdictions.

Sen. Mark: Mr. President, the question that is posed to the hon. Minister is, why in Trinidad and Tobago, Central Bank employees are not recognized as workers under the meaning of the Industrial Relations Act? That is the germ or the essence of the question that has been posed.

Dr. Richards: Mr. President, do you have a copy of the question before you?

Mr. President: Yes.

Dr. Richards: My reading of the question is to explain why Central Bank employees are recognized as workers in other Caribbean states. I think the hon. Senator probably phrased this question wrongly. Out of deference to him, I will try to provide him with the information that he requires.

The industrial relations status of the members of staff and employees of the Central Bank is, admittedly, unique in that such persons currently have no statutory means of redress for their legitimate grievances, under either their own Central Bank Act or the Industrial Relations Act. Notwithstanding the absence of statutory provisions in this regard, I am advised that at the present time there is established machinery within the bank which deals with disputes and other matters touching industrial relations between management and employees. The employees are represented by the Staff Association of the Central Bank, and the Bank is represented by a sub-committee of its management. As far as I am aware, the relationship between both parties may be described as cordial.

In addition, the Governor of the Central Bank has advised that a mechanism to deal with the grievances of Central Bank employees will be considered in the context of a revision of the Central Bank Act.

Sen. Mark: Can the hon. Minister indicate when those revisions are going to come before Parliament? The reason I raised this question is that the Central Bank employees have been—

Mr. President: This is for questions. You cannot make a statement. Just ask the question.

Dr. Richards: I want to indicate to the Senator again that the Central Bank Governor does not fall under my portfolio. However, I would indicate that Cabinet has agreed that expeditious steps be taken by the appropriate authority for the early revision of the Central Bank Act, and the Governor of the Central Bank and the Staff Association have been so advised.

Retrenchment and Severance Benefits Act

8. Sen. Wade Mark asked the Minister of Labour, Employment and Manpower Resources:

Could the Minister state what steps are being taken by the Government to strengthen the Retrenchment and Severance Benefits Act to ensure its enforceability?

Dr. Richards: Mr. President, no decision has been taken to amend the Retrenchment and Severance Benefits Act.

The following questions stood on the Order Paper in the name of Sen. Haji Ralph Khan.

Caroni Lands

- 12.** (i) Would the Minister of Planning and Mobilization indicate the acreage of land formerly of Caroni (1975) Limited, expropriated by Government for use by Government and other agencies from the time of the Company's takeover from Tate and Lyle to the present time?
- (ii) Would the Minister state what quantum of this distribution was utilized by Government and what percentage was turned over to the agencies?
- (iii) Would the Minister indicate to this House what is the total value of these lands so distributed?

**Caroni (1975) Limited
(Foreign Exchange)**

13. (i) Would the hon. Minister of Planning and Mobilization indicate the total amount of foreign exchange earned by Caroni (1975) Limited from the time of its takeover by the Government, from Tate and Lyle Limited to the present time?
- (ii) Would the Minister indicate what has been the aggregate of subventions granted to Caroni (1975) Limited within the period referred to at (i)?

**Caroni (1975) Limited
(Housing Policy)**

14. (i) Would the Hon. Minister of Planning and Mobilization kindly state what is the housing policy of Caroni (1975) Limited?
- (ii) Would the Minister indicate the number of qualified personnel who, though offered company housing facilities, turned them down in favour of cash housing allowances?
- (iii) Could the Minister inform this House whether or not this state of affairs is against the company's policy?

Sen. Haji Ralph Khan: Mr. President, I have had a request from the leader of Government Business in the Senate for extra time requested by the Minister. Although I am somewhat loath to acquiesce to that request, I shall give in under duress, I would say, because—

Mr. President: Senator, question time is for questions.

Sen. Khan: Thank you.

Sen. Alloy Lequay: For the records, may I respectfully request that the questions be deferred for two weeks? I have indicated to the hon. Sen. Khan that the Minister of Planning and Mobilization will not be ready with an answer for two weeks.

Questions, by leave, deferred.

BUSINESS OF THE SENATE

Mr. President: Hon. Senators, we are now under public business, and normally we would proceed with the bill that is going to be before us, but I crave your indulgence to allow us to deal with two private bills. The reports were presented by Sen. Bradshaw and Sen. Charles earlier, and there are two resolutions

on page 7 to adopt those reports. I do not think they are controversial. With your leave, I ask the Clerk of the House to call upon Sen. Bahadoorsingh.

CARIBBEAN WATER AND WASTEWATER (INC'N) BILL

Adoption

Sen. Dr. Krishna Bahadoorsingh: Mr. President, I beg to move that the Senate adopt the report of the Special Select Committee of the Senate appointed to consider and report on a bill to incorporate the Caribbean Water and Wastewater Association for matters incidental thereto.

[Secoded by Sen. Bradshaw]

Question proposed.

Question put and agreed to.

Report adopted.

Question put and agreed to, That the bill be now read the third time.

Bill accordingly read the third time and passed.

**ST. JOSEPH'S CONVENT PORT OF SPAIN PAST PUPILS
ASSOCIATION (INC'N) BILL**

Adoption

Sen. Neil Bhaggan: Mr. President, I beg to move that the Senate adopt the Report of the Special Select Committed of the Senate appointed to consider and report on a bill for the incorporation of the St. Joseph's Convent Port of Spain Association.

[Secoded by Sen. Charles]

Question proposed.

Question put and agreed to.

Report adopted.

Question put and agreed to, That the bill be now read the third time.

Bill accordingly read the third time and passed.

DOMESTIC VIOLENCE BILL

[FOURTH DAY]

Order read for resuming adjourned debate on question [January 29, 1991]:

That the bill be now read a second time.

Question again proposed.

Sen. Salisha Baksh: Mr. President, when one speaks of domestic violence, one focuses on women for very specific reasons: (a) men are most frequently the proponents of violence, (b) perhaps that aggression appears to be a male trait, just as caring seems to be a female one.

1.45 p.m.

But quite unsurprisingly the man who habitually beats his wife often abuses his children as well. What is important to understand here is that violence is the expression of a person who has no inner resources. And it is accurate to say that we do have a problem with violence in our society. All across the country, in every kind of home and neighbourhood men are threatening, punching, slapping, kicking, hitting, beating, burning, knifing, and shooting the women they live with. Unable to deal with his insecurity he directs his aggression towards those who are unable to strike back, thus the reason for the increase in cases of wife battering and child abuse.

It is becoming increasingly evident that domestic violence is far more prevalent than traditionally assumed. The facts about domestic violence are alarming. It is safe to say that it was not until the mid-seventies that activists first succeeded in sparking public attention to the problem. One of the critical underlying issues of wife abuse is that much of domestic violence remains unreported, unrecorded, unhindered, silent and invisible to the public.

Many abused wives do not call the police and do not reveal the identities of their assailants to the hospital authorities. They do not get a divorce, they do not leave the home. The resulting secrecy that surrounds husband and wife violence, therefore, leads to a perceptual ignorance of the routine everyday occurrences of violence that exist in normal families. What we have in our society, and not just our society but many other societies as well, is that much of the physical violence directed against wives, and common-law relationships find acceptance and tolerance from the authorities of social control.

Recently when reading a report on domestic violence, I came across this saying that pertains to the situation in Guyana and it says that:

"Teeth and tongue must bite."

The report further stated:

"Not only by this do we openly sanction violence and abuse in man—woman relationships, but we also hold firm to a position that whatever occurs between a man and his wife is their business."

We have an equivalent local saying for that:

"Never interfere in husband and wife business."

But this plight of women did not just begin yesterday or last year. It is something that has been going on and on. It is unfortunate and perhaps this is why so many in our society cannot and do not appreciate the seriousness of this problem. The legal history of wife battering amply demonstrates the point.

I would like to go into a bit about the legal history because I think it is necessary, especially because during our last sitting there was a particular member who came up to me and said, "Why are you women making such a fuss?" I will not embarrass him by calling out his name. I say this especially for his education and the education of other Members. Wife beating has been sanctioned legally and socially throughout history.

As early as 753 BC married women were defined as necessary and inseparable possessions of their husbands. The husbands authority to chastize his wife was explicitly written into English common law. Blackstone in 1763 explained:

"For, as he is to answer for her misbehaviours the law thought it reasonable to entrust him with the power of restraining her by domestic chastisement."

The husband's right to hit his wife was legalized in the USA in 1824 with the restriction that "he use a switch no bigger than his thumb." This law was overturned later on when the courts ruled that:

"The husband has no right to chastise his wife under any circumstances."

Unfortunately the courts qualified this statement by saying:

"If no permanent injury has been inflicted, nor malice cruelty nor dangerous violence shown by the husband, it is better to draw the curtain, shut out the public gaze and leave the parties to forget and forgive."

Thus the history of domestic violence. Even as legal measures and social services to deal with domestic violence are put in place, the real challenge remains. But taking legal action against your partner is a way of protecting yourself and

showing him, that his violence against you is illegal and unacceptable to you and to society.

Previous to this bill, the police themselves were uncertain as to what action to take, as many in the police service see their responsibility as cooling down the situation rather than acting as a law enforcer. It is gratifying to know that this bill says in no uncertain terms that domestic violence is illegal and must now be treated by the relevant authorities as such. Recent research suggests that violence is less likely to recur once a clear message is given that violence is inappropriate behaviour which will not be tolerated.

The family is the fundamental unit of our life. Thus public policies that support the family are imperative for the survival of our society. However, the bill in discussion does not place prime importance on the availability and effectiveness of service to the client. In order to prevent and protect our citizens, our children and our loved ones from domestic violence, what is essential is the creation of a comprehensive framework containing both legislation and concomitant support systems which will permit the law to operate efficiently. The truth is, I do not really believe that hon. Members of this House and this Government are aware of the sheer enormity of the horror that is domestic violence, in our so-called harmonious society.

Legislation without adequate supportive community resource, professional manpower and social institutions will remain hollow, meaningless and in effect what we are saying, a dead letter. In this regard the Domestic Violence Bill, which grants protection orders as empowered by a magistrate's court and provide police with the powers of arrest, only addresses one dimension of the issue of domestic violence.

In clause 7 (1) it says an application for a protection order may be made by the spouse of the person, the police officer, the probation officer, medical social worker, parents, *et cetera*. There is no provision that such an application can be made by neighbours and relatives who may be in a strategic position to detect domestic violence. This is a very important point to which I would really like the Minister to pay very, very close attention.

1.55 p.m.

We are very concerned that the Government is creating additional problems by including these cases under the umbrella of the already overburdened magistrate's courts to grant protection orders. This is reflected in the backlog of cases which

are currently pending in these courts. In this way, we are saying cases relating to domestic violence will naturally be added to the list of backlog cases, therefore, the main issue with the bill itself is whether the existing structure of the magistrate's court can adequately deal with this additional workload. This will inevitably tend to the effectiveness of administering the provisions of the bill so that the potential victim can have easy access to the court's protection.

In light of these problems in the magistrates' courts and due to the fragile nature of the problem of domestic violence, the fact that there is an absence of adequate facilities to respond to the needs of the victims of child abuse and wife battering; the fact that there are poor physical facilities and chronic overcrowding of children's homes, half-way homes and untrained institutional staff; the fact that there is an absence of adequate foster care and family rehabilitation programmes, the absence of country-wide psychological and therapeutic services, obsolete concepts of places of safety; the fact that there is an unco-ordinated *ad hoc* response to the problem of domestic violence and of course, most of all, towards the development of family support services.

Our recommendation is not a new one, it is an old story. It is the establishment of a separate court, a family court to deal with family matters at the magistrate's court level, with the power to hear such applicants *in camera*. It has been previously recommended that a county court should be set up or that the petty civil court should be upgraded to incorporate matters of this nature. This will therefore be consistent with the creation of an efficient judicial system. At the same time, the establishment of a family court—which incidentally was promised by this country's Prime Minister in 1989, and I believe it was at the Caribbean Regional Social Policy Conference—though a welcome development, care must be taken to ensure that this speciality court can achieve the objectives of its establishment.

Given the existing inadequacies in the necessary supporting social services which will be the backbone of the court's functioning and also in the proven inability of the law to respond effectively to existing family problems, there is an urgent need to create an avenue for a more creative and intelligent response to family problems in this country.

It is further noticed that a magistrate must issue a warrant in cases where the police are refused admission into the premises where the alleged domestic violence

offence is committed. One agrees that this is the standard procedure in a system of checks and balances in order to protect citizens against the excessive use of force by the police. Our main concern—and I do not know if it is my misinterpretation of this—is unless a magistrate is on call 24 hours a day in each district, the effect of the provision consequently seems to become nullified.

What we are further saying is that the bill is incomplete; it should also stipulate that once a victim lays a complaint and the offender is charged, the victim cannot withdraw the charge without running the risk of being charged with attempting to subvert the course of justice. We all know that one of the most frustrating problems faced by the police and lawyers alike is the tendency for abused victims to withdraw charges and make up temporarily with their spouses or, on the other hand, for the parents of abused children to desist from prosecution when some sort of deal is worked out with the abuser who is usually in most cases, a family member. Such a stipulation exists in the Canadian law and from reports received, worked well so far.

Under the Canadian provision, once a complaint is made and a formal charge laid against an offender, the person filing the complaint cannot back out or change her mind without facing the prospect of being charged with attempting to subvert the course of justice. This measure is not as harsh as it sounds, because too much police work and court time is wasted daily pursuing charges that are withdrawn at the last minute. What about the people working in organizations to provide support and crisis intervention services and systems? Think about their frustration. Also, the offender is usually a repeat offender and will almost certainly abuse the victim again.

We also strongly feel that the definition of “dependant” in this bill should be extended to include financial reliance, given the growing rate of unemployment.

The bill further states at clause 13 that if on the date of the hearing of the application, the defendant appears in court, but neither the applicant nor the victim appears in person or is represented by his attorney-at-law, the court can either dismiss the application or adjourn the hearing of the application. However, we feel this clause is insufficient to the extent that the applicant should be penalized for the non-appearance without a good excuse as in the case of crimes against property. Therefore, reconciliation is not an acceptable solution since a crime has been

committed and the respondent should be punished. This is simply what we are saying. Domestic violence should be treated as any other crime of violence.

Most attention concerning the role of the justice system has focused on police and, in particular, on whether or not police officers should favour arrest when they respond to calls involving domestic violence, but along with this bill, it is imperative to educate police officers, prosecutors, judges, magistrates. They need insight and expertise on the social as well as the legal aspect of family violence, including the rights and needs of victims. I say this especially taking into consideration clause 25 which requires a police officer to make an arrest when he believes, on reasonable grounds, that domestic violence is committed. The provision is designed to remove the inhibitions felt by the police officers in deciding whether to prosecute in such cases and to eliminate completely the present concept of domestic violence as a private family matter.

2.05 p.m.

The police departments throughout the country must begin immediately to educate officers about the dynamics of domestic violence. What we have found out is that police recruits receive very little training on this issue even though family violence constitutes a large proportion of their total case load and can often prove dangerous even for the officers attending the call. We know for a fact that the Rape Crisis Centre has been doing some work with the police service and we commend them but it is not enough. It is not the answer.

As a result of this lack of training, officers have real difficulty appreciating the needs of the victims, the characteristics of the batterers and the importance of intervening effectively, as early as possible in the cycle of escalating violence. By not acting decisively when they arrive at the scene of the assault, the police miss the opportunity to interrupt the cycle of violence which will inevitably become more severe.

When speaking of training for police, one must remember that the persons who call the police for protection are disillusioned by the response they get and begin to feel that there are no alternatives to their situation. This feeling of helplessness increases the person's existing lack of self-esteem, resulting from numerous beatings and continual terrorization. Furthermore, it is of vital importance that extensive workshops be held in every geographical area in order to enlighten the police as to the intentions and provisions of this bill, and so the nature and extent of their empowerment under this bill. I do not think this can be over-emphasized.

What the authorities need to know is that the experience of battered women can be likened to that of a hostage or a prisoner of war. She is subjected to random violence and often forced into isolation from her relatives and friends; she frequently is threatened with increased violence if she tries to take any action against her abuser. Never knowing if the reality of violence might lead to death, battered women can be immobilized by fear.

Economic dependence is another factor that prevents battered women from leaving. Therefore, the Government must address the whole question of creating support systems which will enhance the legal framework which it is currently seeking to establish. Legislation minus these support systems, we say again, will be totally inadequate and to a great extent, meaningless.

Mr. President, to be complete, what we are saying is that the bill is definitely a move in the right direction, but it definitely cannot work alone. Our focus for prevention needs to be at all levels: the individual level, the family level, the social level and the cultural level. At the individual level, what we are saying is to reduce conditions of infants and children which contribute to their becoming targets of abuse and to support the self-image and coping skills of parents. At the family level, what we are saying, is to improve the stability and satisfaction of family life and to promote policies which recognize and support the strengths of the variety of family structures which we can identify in Trinidad and Tobago. At the social level, what we are saying, is to improve schools, housing and unemployment security for families. At the cultural level, what we are saying, is to attack misbegotten social values which extol the virtues of aggression.

One must not forget that proper foster care will be essential during court cases. The need for counselling during this time will be of paramount importance, especially if the family, as a unit is salvageable.

Speaking of counselling, changes in the criminal justice systems in the treatment of domestic violence can create a range of alternatives to respond to and control this particular form of violence. As new methods evolve, magistrates and judges, play a very critical role in shaping the community response to domestic violence and, indeed, responding to cases that enter the criminal justice system.

There are some very basic ways which we are referring to that judges can be more effective in these cases. Even under a variety of legislative frameworks and these include: Restricting the defendant's access to the victim during the pretrial period; communicating judicial concern about domestic violence to both the

victim and defendant; considering a range of dispositional alternatives as an effort to impose sentences that reflect both the seriousness of the crime and the needs of victims and other family members; and strictly enforcing court orders and conditions of probation.

What we would like to make very clear here, is that we are in no way trying to tell magistrates or judges how to do their jobs. The point we are simply trying to put forward is that the final responsibility for the disposal of family matters rests with the magistrate or the judge and it is therefore imperative that the training of persons to whom such responsibilities are entrusted cannot be left to chance. That is what we are saying. In this regard, the National Family Services Co-ordinating Council recommended that the Law Association be asked to organize such training in the form of a series of workshops and in the long term such training be incorporated into the curriculum of the law school and police training programmes, a recommendation which we fully endorse on this side.

The story does not end there or the responsibility does not end there. Even the physicians have their roles to play. The consensus seems to be that physicians have a poor record of diagnosing battered wife syndrome. In all fairness the inability to diagnose the syndrome may be explained by the fact that the profile presented to the physician is vague. However, reports indicate that most physicians respond to interpersonal violence with discontent, blame and most of all, with total disbelief. The physicians' primary role, as we see it, is to identify the syndrome. Once the diagnosis is made with the proper back-up services, this patient can then be sent for the appropriate counselling. This is why we emphasize again the need for the back-up services to support this legislation. This legislation alone is of no use. We are just fooling people, we are wasting time by coming to this honourable House and spending hours debating this bill.

2.15 p.m.

We have mentioned the police, the magistrates, the judges and the doctors but what about the media. What role can the media play? Fact No. 1: The image of women projected by media constitute a main obstacle to eliminating discrimination against women and a main factor in preserving traditional sexist attitudes towards them.

Fact No. 2: A major obstacle in improving the status of women lies in public attitude and values regarding women's roles in society. The mass media have great potential as a vehicle for social change and must exercise a significant influence in

helping to remove prejudices and stereotypes, accelerating the acceptance of women's new and expanding roles in the societies and promoting their integration into the development process.

I would like to quote from a document. During International Women's Year, members of World Plan of Action have outlined a programme of action and made appeal to various government and non-governmental organizations and to those in control of media generally, to implement these suggestions and recommendations. I would like to read this—

- "1. The projection of more a dynamic image of women;
2. The taking into account of the diversity of women's role and their actual potential contribution to society;
3. The depiction of the roles and achievements of women from all walks of life throughout history, including women in rural areas and women of minority groups;
4. The development in women of confidence in themselves, and in other women, of a sense of their own value and importance as human beings;
5. As a parallel action to influence media consumers, men and women, but specially women, so that they refuse to accept passively degrading images of men and women and demand the projection of truthful images of both sexes in film, television and radio programmes;
6. International and national research to determine the image of women and men portrayed by media;
7. The exchange of information on the current situation of women in various countries;
8. The access to educate both women and men in economic, professional and cultural spheres;
9. The critical participation of women in all systems of mass communications;"

Basically, this is the plan that I think, if this Government is to take some examples, we would really solve that part of the problem. I therefore now call on this Government to mobilize all forces in order to change this image and replace it

by truthful, honest representation of women, who constitute more than half of this world's population.

Mr. President, the home appears to be an important training ground for violent behaviour. Many individuals who witness violent parental interaction as children, engage in physically abusive relationships as adults. We must not forget the one component of domestic violence—wife battering—and consider its relationships to another component, child abuse. There is a direct relation between the issue of women in crisis and the problems of children in crisis. Child abuse should therefore be investigated in all cases of battered-wife syndrome. There is a substantial body of evidence which indicates that children who are exposed to domestic violence suffer immediate and serious psychological harm.

Mr. President, the social welfare support is definitely not in keeping with the needs of the present. It is a fact. We have heard fine statements about combatting abuse and promoting the welfare of children from many government officials and personnel, including the Prime Minister himself. But it is time to hold this Government to account for these statements and to ensure that the commitments they have put on paper are implemented in practice, and that the legislative structures and resources necessary to carry out these policies are actually provided.

Again, we repeat—legislation without supportive community resources, professional manpower, social institutions, is hollow and meaningless. It leads to disregard for the law and the judicial process. Inadequate facilities for people in need of care; rehabilitation services; psychological and therapeutic services; untrained staff; inadequate funding will all conspire to undermine the effectiveness of the Domestic Violence Bill unless they are immediately addressed. I know for a fact that if we had said the following things that I am about to say, we would have been accused, as usual, of opposing for the sake of opposition and never appreciating what the other side is doing. So I will not use my words. I will quote from a report entitled "*A Situational Analysis of Women and Children in Trinidad and Tobago, 1990*". Incidentally, we share those views as well but, you know, perhaps they might be taken in a different manner. The report says:

"There is need to:

1. To re-organize the Ministry responsible for social welfare so that it can more properly address the varied needs of those requiring support on a

continuing basis. What is required is a structure that responds to needs in the different ways in which necessitous conditions arise.

The Ministry has to play a far more active role in providing advice to the other agencies in the welfare function but which are not directly under its control.

2. For professional upgrading of its staff and/or selection of personnel properly trained for this area."

We are also saying that every community or village must have a department of human services or family services or public welfare, or something, similar to which reports of child abuse and neglect should be made. Services should be community-based. If communities can be made to focus on their own social needs, ideas for how they can be helped would be generated.

The facilities for nurseries need to be expanded to ensure a much wider coverage for the population. There is need for more transition houses and second stage facilities. The need for effective child-care laws cannot be over-emphasized. These should be backed up by other social welfare laws and an enforcement agency. Just as there is an agency to enforce criminal laws, and an agency to administer health laws, there is need for an effective agency to enforce and administer child care laws and social welfare laws. This is something again that is not new. It was recommended previously to this Government and we are just trying to endorse what had already been said.

There is also need for organized systems of detection and management of child abuse and neglect, and domestic violence. We are giving solutions, we are telling the Government where it is going wrong. We are telling it, these are the problems and these are the solutions. We are showing the Government what path to go on. Sure, when we get there, they will eventually fall in line and see what is being done. But what we are doing here is telling you, this is the problem, this is the solution and this is how to deal with it in the future. This is what we are doing.

What we are saying is that we need organized systems of detection and management of child abuse and neglect and domestic violence; the use of the media, in highlighting problems and issues of family life in a realistic and positive manner. The media have to live up to their responsibilities. The public must also be informed about this bill and all its implications. People must know. We must ensure that victims have access to proper and adequate health services, legal

recourse, safe and secure shelter, income security, child care and treatment, to support their needs, values and their rights.

In the health facility, it is essential that personnel such as physicians, nurses, administrators and social workers, be trained in the identification of suspected abuse and neglect and be available—most important, to be available—to supervise and manage such cases.

Sen. Furness-Smith: Could the hon. Senator tell us whether she has prepared any study of the expense of providing all these things—all from A to Z? Has she any such figures to give us at all as to where she would find the money?

Sen. Baksh: I would like to entertain the Senator, Mr. President, but in due course he would know exactly what we are about, what studies we have prepared and what we are prepared to do when we do assume power.

Sen. Furness-Smith: Mr. President, the answer is, no. Is that it?

Sen. Baksh: Mr. President, as I was saying before this interruption, amongst these other things, day-care centers must now be made to accommodate senior citizens under the care of their daughters, in particular, who may have to engage in the labour market and need such services.

2.25 p.m.

There is an urgent need as well to establish more half-way houses to target certain populations. There is need to have effective policies in place in private and public institutions for dealing with abused children and with other forms of abuse and assault. There is need to have effective policies in place in private and public institutions for dealing with abused children and with other forms of abuse and assault. Without policies and protocol to back them up staff members cannot be expected to deal effectively with domestic violence which is often time consuming and emotionally challenging.

For employees who experience domestic violence the work place is often the only respite. Such feelings make the problem an on-the-job problem and therefore something that needs to be dealt with. It is not the function of the human resource professionals to solve employees' problems for them, but increased awareness, the desire to intervene and the use of appropriate outside resources can help victims of domestic violence to help themselves which is the most important thing.

Apart from our suggestion, there have also been other suggestions to this Government to help them because they are not able to do it themselves. I would like to quote here from a report. It is a report from the Trinidad and Tobago Society submitted on the occasion of the Social Care Awareness Week, and it says:

"The time has come for a review of our social policy with a view to the creation or enhancement of social services as appropriate if we are to prevent destitution and alleviate human suffering. The following seven point proposal is therefore submitted."

I will not go into the seven points, but they went into detail to tell this Government exactly how it should run its business. What I would like to do though, is to quote the section on education because so much emphasis is being placed on our young people as our future leaders. On the section on education it says:

"Early consideration should be given to the appointment of schools' social workers and education psychologists in schools in order to ensure each child gains maximum benefit from the education facilities. In a complex and changing society such as ours, producing complex, social and mental problems, this task should not be left to teachers and guidance officers only.

The removal of barriers to education is a multi-disciplinary task involving teachers, guidance officers, school social workers and education psychologists. Teachers and guidance officers are often the first to identify children who indicate the need for referral to the education psychologist or the school social worker. School social workers offer help to overcome social disadvantages which are often barriers to education and to healthy personality development.

Many factors give rise to social disadvantages, low or mid income in the family, poor health, poor housing, poor relationships in the family, all of which are obstacles to education. The task involves focusing on the family while helping the child, as helping children often demands helping parents or the family as a whole."

Sen. H. Charles: Would you not agree with me that this Government ought to be congratulated for setting up a full ministry of social development and family services?

Sen. Baksh: Well, perhaps if it were something *[Interruption]* I usually speak the truth. I think setting up—

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

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

Question put and agreed to.

Sen. Baksh: I think my hon. friend will have to hold onto that, because I would really like to finish what I am saying, which I think is much more important than whether he deserves congratulations or not. I thought I was very clear on whether he deserves congratulation. It would seem I may have to spend some additional time with him to get my message across. Back to this report. It says as well:

"School social workers therefore are often considered the main link between the home and the school. They are concerned with promoting family welfare and adjustments so that families may be better able to care for and socialize their children in a more positive way.

Problems referred to the school social worker often revolve around non-attendance, truancy, social handicap, poor parent/child relationship, behaviour and progress problems."

I am reading this in detail so that people will understand what is happening—

"It is well known that helping children often demands helping parents or the family as a whole. If for example, the social or emotional needs of the child are to be met, the basic needs of parents must at least be partially met. Parents who receive help and reassurance when needed are better able to give help and reassurance to their children in a more positive way.

There is also the need for family life education in schools adapted to a particular age group. For example, primary schools may concentrate on right attitudes while other schools may concentrate on relationship formation *et cetera*.

Measures should be taken to offer positive help to children of small groups such as rastafarians, earth people not attending school, and schools of all religions should be registered with the Ministry of Education."

This is a report submitted by people who are involved in this field on a day-to-day basis. It went into details to tell this Government what the problem is and what should be done.

At present, service organizations are not widely geographically dispersed and consequently this results in a majority of cases going undetected, and victims having no homes of refuge. In light of this there is an absence of reliable statistics which would give an indication of the true and valid picture of domestic violence.

Therefore, there is a need for all agencies in this country, which are responsible for dispensing the various social services, to become integrated into one holistic and accessible institution to serve the needs of families in the country. In this way there will be a maximum use of scarce human resources to respond to the family as a whole, rather than the provisions of fragmented services at present. Indeed the success of development programmes will only be forthcoming if the process includes a system of decentralization, self-help and self-reliance.

If this Government is not willing to accept that the whole is greater than its parts these intended pieces of legislation will never be put into effective action, because these bills must be seen and debated in the context of families, children, and young persons now at risk. We will fail in the nineties, as we have failed in the past, unless we have policies that focus on the real problems of our children, our families at risk and identify openly with them. I thank you.

Sen. Louise Horne: Mr. President, I have decided to explain how I am going to deal with this bill. I am commencing by saying where we are at the present time, and then some thoughts about the bill itself, the practicality of the bill, what women really want, and lastly my viewpoint.

Any survey, however cursory, of the world today, gives one the uneasy feeling that George Bernard Shaw was right when he said, "if the other planets are inhabited, this world is their lunatic asylum."

2.35 p.m.

With all our boasted technical and scientific progress which has enabled us to fly through space and listen to what is happening in almost every part of the world, society is still lopsided. Our physical and scientific progress has gone infinitely faster and has gone further than our social, political and spiritual progress. As a consequence, in this day and age we are looking for solutions to minimize domestic violence.

Just imagine, men being violent to women: women who share their lifeblood with them; bring them into this world, very often at the price of their physical well-

being; women who nurture them and make all sorts of sacrifices to promote their growth and well-being.

Mr. President, domestic violence is an almost universal problem and I think it important to endeavour to trace and understand its origin if we are to successfully minimize its occurrence. In the Old Testament, one reads of different forms and customs of marriage. If a man acquired a concubine from the prisoners of war, he must either marry her or free her, and she was not to be sold or mistreated. Therefore, one is led to understand that many women were sometimes mistreated in those days—subjected to domestic violence.

The Old Testament contains no information on the ceremony of marriage, and possibly there was no formal ceremony at all, except that in the book of Ruth one reads of the introduction of the wife to the house of the husband. There is an allusion to the spreading of the husband's garment upon the wife to indicate possession. So in those days, the wife was regarded as a possession, a chattel, and sometimes mistreated, subjected to domestic violence.

However, the long awaited Messianic age brought changes. In two accounts, both in Genesis, the purpose of marriage is stated with some differences. One says that man should multiply and be fruitful, the other that it is not good for him to be alone. All over, the principles of Christian love and unity make it impossible for the Christian to be regarded as a chattel. An appreciable number of the people in our country are Christians.

In the 18th century, Lord Lyttleton in his poem "Advice to a Lady" counsels as follows: Seek to be good but aim not to be great. A woman's noblest station is retreat."

Arthur Schopenhauer wrote a number of essays, and his work strongly influenced thinking in the late 19th century. He was of the opinion that women lacked rationality and capacity for reflection. Bernard Shaw's idea was that "vitality in a woman is a blind fury of creation." However, the greatest of the Greek philosophers, Plato, who lived between 427 and 347 B.C. and whose writings continue to be compulsory reading in the great universities of the world, dealt with the status of women in one of his well-known works, *The Republic*, and he started from the principle of the equality of the sexes.

True enough, many women still have a long distance to go before believing in themselves. The fear of success, the fear of being in authority, are major obstacles to a segment of our womenfolk who are more accustomed to following orders

than giving them. The inequalities of the social relations of gender, have the effect of creating strategy for economic realization of talents, based on the covert or overt principle of sexual apartheid.

There are women who are still bearing the burden of subservience and suffering from low esteem. Frequently, they cannot rise to the challenge. For example, in the *Sunday Guardian* of February 17 on page 7 under the heading "Calypso's Bed-fellows pushed off the bed", Michael Delblond comments as follows:

"Much as I regret to say this, the degrading ditties about women seem not to give any overwhelming offence to women."

However, in his autobiography, John Stuart Mills said, "No great improvement in the lot of mankind is possible unless a great change takes place in the fundamental constitution of their work and thought."

Mr. President, the Government has issued a national policy statement on women, and under the heading "Principles", I wish to read a few excerpts:

"A national policy for women must be placed within the framework of the country's total national development policy. The Government is committed to undertake progressive measures to eliminate the obstacles which hinder the development of women in the society."

Under "Policy Objects", one reads as follows:

"The Government has taken cognizance of the need for strengthening laws where women are disadvantaged and will examine the possibility of establishing mechanisms to offer redress to women who have been discriminated against on the basis of gender."

We are now debating a bill dealing with domestic violence. The bill is of great significance because it brings to mind women's place in this changing world. During this century, in this country women's pattern of life has been gradually changing. I crave your indulgence to briefly enumerate some of the changes.

In the field of education, secondary education for girls was available only for those whose parents could afford to pay for it, and a few who won bursaries. In 1933, a secondary school girl in this country sat the Certificate School Examination, now called "O" level and was first in the then British Empire. In 1938, one of our secondary school girls sat the Higher Certificate Examination and

won a House scholarship. In 1940, a secondary school girl won the Jerningham Book Prize. She was the best candidate in the under 18 age group. In 1982, girls were competing with boys. In 1936, a woman was successful in local government elections.

Events in 1937 resulted in women being included in the membership of trade unions. In 1940, the advent of World War II and the building of American bases in Trinidad provided many women with the opportunity to become gainfully employed outside the home, and in several instances their pay packet was heavier than that of the traditional breadwinner in the home.

The coming into being of the Social Welfare Department in 1943 made way for women to get into higher grades in the Public Service. In 1944, there was adult suffrage for all women and men over 21 years of age. In 1946, a woman was nominated to the Legislative Council.

The 1940s and 1950s witnessed the coming into being of women's organizations, which reflected the awakening of women of all classes to the necessity to struggle for what they perceived as equality. In 1948, the League of Women Voters was organized and among its objectives was to provide a platform for election candidates. Equal pay for equal work was initiated in 1949 in many fields of endeavour. In 1950, there came into being in San Fernando the Women's Educational Association. In 1953, a woman was appointed Consul for Liberia.

The Secretariat Circular No. 117 of 1956 informed that women appointed to the service on or before January 1, 1957 and who got married before or after that date could be retained, provided that their family obligations did not interfere with the efficient performance of their official duties.

A woman was appointed to the Senate in 1958, and in that same year the Caribbean Women's Association came into being; the co-founder was a Trinidad woman. In 1961, a woman held the portfolio of Minister. The year 1961 also heralded the introduction of the Common Entrance Examination which opened the door to free secondary education for primary school children of both sexes.

In 1962, women accepted the invitation of Government to comment on the draft Constitution for the independence of this country. In 1973, they accepted the invitation of the Constitution Commission to comment on changes in the Constitution. They spoke on women's right of equality before the law. Also in 1973, there was an amendment of the Divorce Act, to the effect that there must be

proof of the irretrievable breakdown of the marriage, and that meant not only adultery but also desertion, cruelty, *etc.*

The year 1975 was designated International Women's Year, and the Government appointed a National Commission on the Status of Women, which dealt with the participation of women in public life; the legal status of women; education and training at all levels; employment opportunities and conditions; the extent of women's participation in the labour force, and their position within it; the availability of health and welfare services including family planning; the influence of scientific and technological development on the position of women.

In 1976, the working wife was allowed to file her own income tax returns. Also, according to Act 52 of 1976, a married woman was deemed capable of acquiring, holding and disposing of any property which belonged to her immediately before marriage or at the time of her marriage and after her marriage. This was retrospective to 1937.

In 1980, the Government began the system of issuing special postage stamps to honour women for their contribution to the nation.

2.50 p.m.

Mr. President, you will agree that the 20th century has seen many improvements in the life of women in this country in the areas of politics, law, and education, as well as in the socio-economic areas. Equality of status is reflected in many of the new laws. For example, a divorced wife may have to pay palimony, and penalties under the Sexual Offences Act apply to both sexes.

Women have demonstrated that they can hold the highest office if they are given the opportunity. It has been proven in the Caribbean. I refer to the Prime Minister of Dominica. Mention can be made of the former Prime Minister of the United Kingdom, also the former woman Prime Minister of India, the President of the Philippines. In the male-dominated Indian sub-continent, Pakistan, Sri Lanka, Bangladesh, daughters of famous politicians, strive and succeed to climb into the political limelight.

Today, because of education and training opportunities, women have successfully invaded almost every occupation and profession with special reference to the citadels of business and government traditionally reserved for men. But in spite of the splendid use they have made of their academic ability, administrative

skills, disciplined leadership, devotion to duty, job performance with originality, verve and sustained brilliance, political acumen, oratorical powers, courage and practical knowledge of life and living, tradition and custom die hard.

According to a report in the daily *Express* of February, 18, 1991, out of more than 300 people on the teaching staff of the University of the West Indies, St. Augustine, only 50 are women. There is only one woman reader, one woman dean, and one woman professor. At the same time, almost half the student body is made up of women. It is suggested that women need support and encouragement to take the next step and enter post-graduate programmes and continue their research. It will take some time to eliminate the lingering residue of male chauvinism.

In Trinidad and Tobago, according to the recent census, females are just a little fewer than half the population. Obviously, their numerical strength is significant. Whether it is an effort to honour the national policy statement on women; whether it is the growing militancy among women, clamouring for social justice and equality of status; whether Government realizes the importance of their participation in national development strategies; or whether Government realizes that their health and well-being are basic to well-ordered and orthodox family life, which is the bedrock of national stability, the bill before the House is an attempt at providing a palliative to minimize some of the danger signals associated with crumbling family life.

I wish to draw attention to the fact that domestic violence is not only physical and sexual violence, but there is also the violence that leaves no bruises. I refer to mental violence. Some women are victims of sinister mental cruelty, and their scars go just as deep. Many husbands, to the outside world, are absolute charming people, successful and articulate, straight and decent to anyone outside the house, but privately, they are monsters, guilty of a systematic violence that shows no bruises.

There are men who undermine their wives so persistently, that in the end, those women have no sense of self-worth, no confidence in their abilities, no trust in their values or judgment, and life is a misery. There are untold numbers of women who endure a life sentence of the hidden brutality that knows no bounds; a brutality which ultimately ravishes a human life as completely and ruthlessly as any other form of violence. Mental violence must be considered as a form of domestic violence.

The majority of women so afflicted are nervous of taking legal action because of the lack of what they see as proof of their mistreatment, and because a bullying man will deny all and contest her petition. However, the irrational bullying of women by men is well recognized in law as unreasonable behaviour and deserves a lot more attention in our country.

In the explanatory note to this bill, one reads that one of the objects of the bill is to preserve existing marital, or other spousal or parental relationship and to protect those persons from exposure to violence. The very nature of the problem requires prompt judicial decisions and specialized services to sort out all the sensitive and intimate problems.

The bill states: that domestic violence matters can be heard in a magistrate's court. But why a magistrate's court, when it is years now that the lists of matters in those courts will take months before they can be heard? The bill provides that a magistrate can issue a protection order when violence has occurred, as well as when it is threatened. But Mr. President, the preservation of marital or other spousal or parental relationship in a family is dependent upon trust, concern, respect and affection. Can the man who feels that he has the right to inflict punishment on his wife when he so wishes, have such feeling towards her, when he knows that she has a protection order, which, if he flouts and is found guilty, the offence is punishable on conviction by a fine not exceeding \$5,000 or imprisonment for a period not exceeding six months, or both?

Can the battered woman have concern, respect and affection for her husband who hurts her so violently? She knows the terms of the protective order; where her husband is not to be; how he must not behave; what ought to be provided for dependants; what he must not take from the house; what he must give up. She knows that the court is concerned with the welfare of the dependants, their accommodation needs and the financial standing of the respondent, as well as who can make an application for protection. But not until her husband flouts the protection order, and a police officer believes, on reasonable grounds that her husband has committed, or is seen committing a domestic violence offence within the meaning of this Act, that he can be charged for an offence under clause 18 of the bill, which is \$5,000 or punishment for a period not exceeding six months, or both, and an offence within the meaning of domestic violence. Her husband must flout the protection order and a police officer make an arrest before she can get her husband charged for the criminal act of violence, apart from flouting the protection order. This a definite weakness of the bill.

It is only in this way that the perpetrator of the crime can be really brought to justice; can be charged for a criminal offence. With a protection order, a wife may continue to function in the house, not because of love or concern, but rather from duty and fear. As a consequence, the bill falls short—

Dr. Hosein: Will the hon. Senator give way? I just wish to correct her on the point she is proceeding on at the moment. Your understanding of the bill is a bit incorrect. You are implying that domestic violence offences, which are criminal offences, will be dealt with in the magistrate's court under this bill. That is not quite correct. This bill deals with the protection order. It is a matter separate and apart from dealing with the acts of violence. That is dealt with in the normal course of justice in the courts.

This bill only creates a new situation where an offence is only committed if the order is breached. I do not know if what I am saying helps Sen. Horne sufficiently but the line on which she is following is based on a misunderstanding of the bill.

3.00 p.m.

Sen. Horne: I hope that I will get injury time. Mr. President, let me tell the Minister that exactly what he is saying, shows up the weakness of the bill—this court for this and another court for that.

I was saying that the woman will continue to function in the house not because of love or concern but rather from duty and fear. As a consequence, the bill falls short of this expectation. Her husband has no respect for her and without respect there can be no living. So many parents forget that their behaviour towards each other shapes their children's behaviour towards their future families and other relationships throughout their lives.

Mr. President, domestic violence ought to be dealt with in a family court. At the present time conciliation and counselling services are required before divorce proceedings can be heard but legal practitioners have neither the time nor the specific training required to perform such services. Is there any court operating as a family court in the Supreme Court? As far as I am aware, one court grants *decree nisi* and another court deals with ancillary matters such as maintenance, custody and property settlements, etc. Some of these matters continue for months and years. Is there any agency assisting the courts by providing counselling and conciliation thereby providing a family court in the true sense of the word and expediting matters? Will this legislation give magistrates jurisdiction to grant restraining orders, calculated to avoid the exorbitant fees which attorneys charge?

"5 (1)(a) prohibit the respondent from being on premises in which a prescribed person resides or works;"

Mr. President, in cases of domestic violence the usual happening is that the woman flees the home, and may or may not take along a child or children with her, according to circumstances. The respondent does not leave the home. Many women do not leave because they come from homes where domestic violence is an accepted part of living. Others are ashamed to leave. There are those who do not leave because there is no escape route available. Relatives as a rule do not wish to become involved and in this country there are only two known places of safety, one in the north and the other in the south. The two voluntary bodies are struggling financially to keep their doors open. As usual, they have piloted the way.

As obtains in many other countries, the Trinidad and Tobago Government must provide housing support for battered women. I am sure there are voluntary bodies that would assist, if Government would pay for community care. In Britain, staff at these homes provide intensive support for women and children at such a crisis point in their lives. They go to the women's homes to help them retrieve their belongings; meet the needs of children who have been severely traumatized; provide advice and practical help and liaise with the police, solicitors, the courts, social services and schools.

According to an account in the *Sunday Times*, August 17, 1988, page C3 and I quote:

"There is now a very large development programme for new hostels as part of community care. Britain has made some progress since 1975 when the select committee on violence in marriage recommended that for every 10,000 people in the population, hostel places should be created for one woman and her children. The country is 1/3 of the way towards this target."

As I said before, Government must provide housing support for battered women.

Looking at the practicality of the bill, I make the following comments and observations. Clause 25 provides where a police officer who has reasonable grounds to believe that a person has committed or is committing a domestic violence offence within the meaning of this Act, can make an arrest without a warrant.

That is dangerous. Police officers will steer clear of such incidents in the light of their experience. This bill is primarily for a certain segment of the population. In addition, there are those who have the financial means and will take their problem to the High Court. There are those who will return to the house and make up before the wounds are healed. These are the women who value sexual satisfaction notwithstanding bodily violence; many of these are the women of a possessive, nature who accept domestic violence in their efforts to limit their husbands association with other women. As I said, there are those women who will return to the house and make up before their wounds are healed. The police have a lot of experience with such people. The victims do not appear when the matters come up for hearing.

Clause 9 states:

"The clerk shall fix a date for the hearing of an application for a protection order that is not more than seven days after the date on which the application is filed."

Is it really expected that these applications will be served on the respondent within seven days, when the norm in magistrate's courts is that notices are not served under three months? Who will serve these notices within seven days?

In a case of this nature the respondent is entitled to legal aid. To process an application for legal aid takes about three months. In the magisterial districts where there is one magistrate sitting to deal with every conceivable type of offence, such as in my home town Arima, there is an average list per day dealing with over 200 matters. What is the situation? How many magistrates do we have? How many vacancies exist? Will there be new magistrates appointed to deal expeditiously with the law envisaged here? The important word is "expeditiously".

Clause 29 states:

"Where it appears to the Court that it is not reasonably practicable to serve a copy of an application or an order personally, the Court may—

- (a) order that the copy of the application for the protection order or the copy of the protection order itself, be served by such other means as the Court thinks just; or
- (b) make an order for substituted service."

Mr. President, what would be the other means which the court thinks just? What means have they in mind? What will be substituted service? The Rules of the Supreme Court with respect to substituted service advice, leaving the document at the proper address or using normal registered post.

3.10 p.m.

In the *Trinidad Guardian* of Monday, February 18, 1991, page 3, under the heading "Be More Sympathetic to Rape Victims, Carmona Told Doctors":

"Rape victims usually undergo a living nightmare that sometimes lasts for 5 years before the trial begins in the Assize Court."

Five years, before it begins.

Will the magistrate use the rules of the Supreme Court or is it expected that the magistrate will have other rules for substituted service? Will it be stuck in some conspicuous part of the building as in the case of ejections? According to clause 30, litigants can go to both courts. One can go to the magistrate's court to make an application for a protection order according to clause 4. In the meantime the other spouse goes to the High Court for a restraining order to prevent the other party from coming into the house. The spouse going to the High Court will get his or her matter heard first.

Clause 18 explains that if the respondent breaches the protection order, he can be punished by a fine not exceeding \$5,000 or imprisonment for a period of six months or both. No mention at all of the criminal action, the domestic violence which gave rise to the order. You have to go to another court for that. That is what I understand.

The protection order which is provided under clause 4 is subject to a number of restrictions, listed under clause 5(1) and (2) which makes it a restraining order; an injunction. But this sort of provision already exists in the High Court jurisdiction. Is this bill providing concurrent jurisdiction with that of the High Court? Is the magistrate now to be vested with power to grant restraining orders and injunctions?

Clause 5(1) prohibits the respondent from causing another person to engage in the conduct referred to in paragraph (d) to (e) or sub-paragraph (g)(i). That is difficult to achieve. The respondent's mistress may molest his wife without his prompting. The users of public telephones cannot always be traced and with respect to verbal abuse of his wife by his mistress, he can always get around that.

Mr. President, what do women want? Women want a law providing tangible satisfaction for the raping of a wife. In 1986 there was the Sexual Offences Bill and many women spoke out against Government's decision to modify clause 4 of the bill which originally allowed a wife to charge her husband with rape and they were strongly supported in their view by clinical psychologists and gynaecologists.

A wife may refuse to have intercourse with her husband because she might be recovering from surgery, delivering of a child or physical ailment. Moreover, her husband may be promiscuous and having relations with a woman or women who are also promiscuous. Obviously the wife is at risk and she may contract sexually transmitted diseases. At one time it was more or less the common venereal diseases, gonorrhoea or syphilis. There are cures for them. But nowadays, it is AIDS. In such circumstances the wife is fighting for her life and also that of any child who may be conceived under those circumstances.

In the *Sunday Times* of April 9, 1989, under the heading "Legal Landmark gives hope to the Victims of Marital Rape", an excerpt reads as follows:

"On March 15, Lord Emslie, Scotland's Lord Justice General, sitting in the Scottish court of Criminal Appeal agreed with Lord Mayfield's argument, that "it is clear on the authorities that rape is an aggravated form of assault, and equally clear that it is a criminal offence to assault a wife.

I have come to the conclusion that the crime of rape cannot be treated as separate from assault."

The article continues—

"This development brings Scotland into line with many other countries where marriage is no longer a bar to a rape charge.

This is the case in most Scandinavian countries, the Eastern Bloc, and several States in the USA."

It is my hope that clause 4 of the Sexual Offences Act will be amended to extend that sort of protection to our people in Trinidad and Tobago.

This is a small country and, therefore, the communities are small and such family problems get around. Government may continue to talk a great deal about social justice for women, but quite shy of amending clause 4 of the Sexual Offences Act, because this is a male-dominated society and it is well known that many of our high profile men are woman beaters.

Women want representation at the highest decision-making levels of our country and not token representation. Representation of women's interests does not merely mean putting any woman in Parliament. Women want to select worthy advocates of their cause, whose prime concern will be to ensure that women's interests are properly presented, defended and promoted. Women want to be viable economic entities, not completely dependent on another person for their livelihood. Women want recognition of the indispensable role they play, in keeping this country going, through paid and unpaid household work. The economic value of household work is not included in the national accounting of goods and services provided, yet the society cannot survive without it.

Women want opportunities for employment in jobs of equal status with those in which men are employed. They have been knocking at the boardroom doors but there is only token success. There is talk that gender differences do exist between men and women managers. But women managers have many characteristics that are valuable in the context of a need for change and flexibility. People now view the manager as that of an enabler, a problem solver, who is good at involving others and whose style, interest, creativity and sensitivity play important roles.

The ability to make decisions while keeping several factors in balance, is something women managers do almost instinctively, because it is already dictated by the claims made on their lives, by the demands of home, family and career. Women want to be cherished as well as to achieve.

The hon. Minister said that the Caricom Secretariat has been asked to propose model legislation on domestic violence, to be discussed by Regional Ministers responsible for women in development issues at their meeting this month in Belize. Such a meeting is male-dominated and it will be interesting to learn how they propose to curb the tendency to domestic violence when one takes into account that the perpetrators are men in every walk of life.

The creation of the Ministry of Social Development and Family Services—to integrate all the departments, which deal with social welfare matters and the concern of women, children and the family, is a creditable move on the part of Government, but much else is just rhetoric. For example, since 1989, The Attachment of Earnings (Amdt.) Bill was debated and passed in both Houses, but is not yet proclaimed. The Succession Bill No. 27 of 1981 was debated and assented to but not proclaimed. Has the amendment to the Matrimonial Proceedings and Property Act, which allowed a petitioner for divorce

to be presented to the Court after one year been proclaimed? I would like to know.

I am of the opinion that women's organizations ought not merely to hold conferences and seminars, talk about the most prevalent violations of human rights and post recommendations to relevant government agencies, but they ought to lobby their parliamentary representatives and arrange for an appreciable presence of women to be in the public gallery when matters concerning women are being debated.

3.20 p.m.

In introducing the bill, the hon. Minister said that there is a tendency among women not to report acts of domestic violence and he thought that the statistics are unduly high when viewed in the context of the norm. My understanding is that the statistics represent merely the tip of the iceberg. In the San Fernando Assize Court, a prosecutor revealed that incest and child abuse are the two most under-reported crimes in the society, saying one of the reasons for this is that doctors do not report their cases to the police. He added that doctors' refusal to report these matters to the police result in manifest injustice to the rape victims. I forgot to quote my source, Monday, February 18, 1991, *Trinidad Guardian*.

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

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

Question put and agreed to.

Sen. Horne: Domestic violence in the home is a topic that is freely discussed by primary school children. Moreover those who say that there is no domestic violence in their home are accused of not telling the truth. It is amazing to hear eight and nine-year olds going to and from school talking about domestic violence.

Many mothers are taking their young children to karate classes to enable them to cope with violence in schools. Young women are participating in karate classes because they are not prepared to tolerate domestic violence, and a number of young men with karate skills, now earn a living of sorts by properly chastising men who beat wives. These are some of the happenings which will become standard practice in the twenty-first century.

As far as I am concerned, the abatement or minimizing of the problem is dependent upon close collaboration between church and state in order to provide the necessary education and services with respect to family life education. In his book *Future Shock*, Alvin Toffler said:

"Raising children, after all, requires skills that are by no means universal. We do not just let anyone perform brain surgery or for that matter sell stocks and bonds. Even the lowest ranking civil servant is required to pass a test proving competence. Yet we virtually allow anyone, almost without regard for mental or moral qualifications, try his or her hand at raising young human beings so long as these humans are biological offsprings."

There was a time when child care and the economics of parenting were taught as one of the aspects of home economics in certain schools. My suggestion is that the teaching of these subjects ought to be reintroduced.

One of the reasons for the early breakdown of marriage is the fact that the two persons did not make adequate preparation for the realities of married life. I have mentioned in a previous debate that Government ought to give tangible support to religious bodies which are dealing with the problem.

Roman Catholics who propose to marry must give three months notice to the parish priest, and it is obligatory for those who are getting married for the first time to attend the seven week preparatory course. There is also what is called engaged encounter. It is a weekend specifically designed to give engaged couples the opportunity to discuss face to face with each other honestly and intensively, facts about their prospective life together, their desires, strengths and weaknesses, goals, attitude about money, sex, children, family, and their role in the society.

The counselling is done by married people who are articulate and are selected by the church because of their experience, availability and willingness to serve. Arrangement is made for them to receive formal education on the subject. The marriage counselling services to which I refer are properly organized with headquarters taking care of registration of classes, information, *et cetera*. Again, my suggestion is that Government ought to assist with the expansion of these services so that Christians who plan to marry for the first time would receive every encouragement to attend such classes. It is more than time that the Government establish a family court in the true sense of the word. The counsellors and conciliating officers selected by the church could play an important role by

enhancing the value and usefulness of a family court. People needing assistance would have their problems treated on an individual basis, a practical way of healing rifts in family life.

In introducing the bill, the hon. Minister said that the causes of violence in Trinidad and Tobago, as stated in a report on analyses of the local situation, tends to support the theory that violence in the family should be understood primarily as corrective control, with alcohol, adultery, financial problems and economic frustrations surfacing as the more recognized contribution to violence. But the Government television station bombards the viewing public with advertisements which encourage the use of alcohol with special reference to young people.

Concerning economic problems as a cause of domestic violence, I am aware that the Minister of External Affairs is doing his part to get what assistance is available from India with special reference to handicraft. I hope that other government agencies which have a part to play in bringing about the realization of the project are as enthusiastic, so that many of our people will produce items of handicraft which are not usually found in the region. Apart from getting sales from visitors, I am hoping to persuade Government to emulate what is done in India, that is, inviting foreign buyers from shops selling exclusive luxury items, and assisting in finding foreign customers for purchasers of certain items of handicraft. The project operated in such a manner would in some measure minimize domestic violence due to economic problems in many homes.

On carnival Tuesday, I witnessed a middle aged man pull a young woman out of a band and in quick time he administered three cuffs about her face—domestic violence. In the band she was moving with a male companion belonging to her age group. The man told bystanders, who disagreed with his treatment of the woman, that she was his wife and on stage she indulged in indecent behaviour.

The DJ's took over the stage management at the Queen's Park Savannah and it was poorly done. Considering the number of bands wishing to cross the stage, there ought to have been a smooth and constant flow of the various sections and many of the masqueraders would not have had the opportunity to "bend down and wave" or "do what they want" as certain DJs, stage managers advised them to do.

That is why some people got into trouble and got blows. From what the irate husband said, his wife and her companion were not only bending down and waving, but got rather close together and gyrated. Pictures on pages 56 of the

Trinidad and Tobago Mirror of February 8, 1991, vividly illustrate the undesirable behaviour patterns.

One can well imagine that he was not the only husband to resort to violence as corrective control during the carnival days, because so many of our women seemed to think that the stage was a theatre and they were supposed to perform acts consistent with sexual activity in a bedroom, thus showing little esteem and respect for themselves and giving men the perception that they are toys, goods and chattel.

3.30 p.m.

A disturbing aspect of this situation is that our young children are emulating these undesirable aspects of the festival. From the kids' *Guardian*, Sunday, February 17, 1991, an excerpt from the contribution by a retired school principal reads as follows:

"I hate to see children 'wining down the place' like adults. Children must behave like children.

The Ministry of Education should take a close hard look at this year's celebrations and consider all the implications of Colin Lucas's 'Dollar Wine' tune on the minds of the innocent children.

Some of what I saw on the road in the children's bands was disgusting. I am sure many parents were also ashamed."

Mr. President, until we get all aspects of the communication media to assist in restoring moral values, establish a family court, amend the curriculum in our schools, support the religious bodies in their efforts to provide counselling and conciliatory services for families in need, and educate our women so that they understand and inculcate the basic requirements of family life, families will continue to be fractured and domestic violence will continue unabated.

Mr. President, the demise of communism and the shift over of the countries in the Eastern bloc to the democratic style of government have eroded much of the political and strategic value of the Caribbean states. There is the world-wide trend towards unification of Europe, South East Asia and Western developed countries. These countries are forming large trading blocs. As a consequence, the trade concessions on which we have been relying for years will cease. Foreign loans which are so essential to our overall development will be directed to the new Eastern democracies and the war devastated Gulf States.

Ever so often we are told that the minuscule Caribbean states must come together, pool resources, and speak with one voice in order to survive. I propose to support the bill with the hope of seeing another bill which would propose laws of greater practicality because the women of the country constitute a reservoir of underutilized and latent talents, and there is need to recognize them, provide the necessary opportunities, support and encouragement for them to make their contribution if we are to survive as a people in the 21st century.

Thank you.

Sen. Gerald Furness-Smith: Mr. President, I congratulate the hon. Minister on bringing forward this bill. I am convinced that there is a very, very real problem which he is attempting to address in his bill. I am quite sure from what one has heard today and before, and from my own experience many, many years ago when I did matrimonial work, that a great many women and children are being abused in the worst kinds of way. The Minister is very right to try and do something about it, and I will support him if something practical can be done in the shape of this kind of bill to provide some relief.

I really do not think it is our business to try and cure all the evils that apparently are afflicting a large section of the family life of the nation. One listened with great interest to Sen. Baksh's impassioned explanation of how much further the hon. Minister ought to go. I am sure everything she said was absolutely right, that we ought to have this, we ought to have that, we ought to have dozens of psychiatrists, homes, economic help for any parent who is poor and, as a result, having trouble maintaining his family, leading to violence and dissatisfaction.

All these things we ought to have, but I am yet to hear from her or anybody else here, or anybody else in the country for that matter, some practical way for Trinidad and Tobago to have all the things that it ought to have. Ten years or 15 years ago when money was no object, nothing was done then to implement all the things that ought to have been done, and I am afraid the fact is that opportunity has gone.

I find it very disappointing that people aspiring to political office should, on every occasion, find fault with the Government because it has not done everything which could be said to be right for it to do, even though the Government was so incredibly foolish as to set it all out in full in its election manifesto and then subsequently make that part of its Government policy. I for one know that politics is the art of the impossible. At my age, I have long learnt that it is not a matter of

getting a good government; it is a matter of getting a government that will not be too bad.

They say that this Government is unpopular, therefore, I for one would like to see some possibility of finding a Government that would be better. I would really like that. I would like to hear it. I listened closely for three years when we had our predecessors in the Opposition to hear whether they had learnt anything from their little experience at the end of 1986. I am listening closely today with an alternative set of Opposition speakers. I am yet to hear anything which suggests, if we were to change, that we would not have something much, much worse, even though I find myself disagreeing all the time with what the Government has done and is doing and the stupid remarks its Members make almost every time they open their mouths. I still do not see any sensible alternative.

Really, Mr. President, to suggest that this bill of all bills is politically motivated casts doubt on the sanity of those making that suggestion. It really does. I think the ordinary people of this country should be looking and are looking for a little sanity in their Government, and if they are thinking of changing, as we are told they are, they will be looking very closely at least for a certain level of sanity in those who aspire to replace the present Government. I do not think they are asking for such sanity to be certified, just the plain commonsense demonstrated by politicians' public pronouncements which our friends here have an opportunity week by week to make.

So to turn to this present bill, which I have to confess, the more I look at it, and the more I hear comments about it by sensible people like Sen. Horne, to whom I am very grateful for bringing this debate down to a commonsense level, it is a difficult bill. I am told by the obviously highly competent lady in the Law Commission who is responsible largely for its drafting that the precedent for it came from Australia, the capital state of Canberra to be exact, but that it has been considerably improved to put in all kinds of new aspects, no doubt to meet the highest aspirations of those responsible.

Now, I do not pretend to know a great deal about what women think. I am not like the average, robust Trinidadian male who prides himself on the multiplicity of his intimate experiences, but maybe I have had the advantage of quality to replace my lack of quantity of that experience. When I took advice, as I do on such questions, and I said to her, this was an Australian bill, I was told immediately, "But kangaroo is not manicou, you know." Now, that is a good illustration of what

I call the good commonsense of Trinidad women. I want to make it clear right now that absolutely nothing I say is against doing something to protect Trinidad and Tobago women or children. To my mind, they are some of the best people in this world, Trinidad and Tobago women, and of course we have some, as we know, having the experience we have in this House.

This essentially Australian bill with embellishments, I asked, "Well, has it been in force?" "Yes, it has been in force without the embellishments in Canberra in Australia and it is reputed to be working well." But this tells me that this is an experimental bill; we are breaking new ground. Now, there is nothing wrong with that if the cause is just, as I believe it is. We have done it before very successfully with the Industrial Stabilization Act and the Industrial Relations Act. I think that was something which Trinidad and Tobago spearheaded in the shape of legislation most successfully, and no doubt we can do it again here.

All I am pointing out is that it requires very careful consideration, and that careful consideration has to be right here. I hope that not only the Independents but the Opposition Members will be able to give us the benefit of their close attention to detail once they can forget that their basic purpose here is not to chastise the Government but to help the people of Trinidad and Tobago.

3.45 p.m.

Contrary to what the hon. Minister stated, this bill does change the law very significantly. He is not correct to say it does not make any change in the law; it makes some very serious changes in the law and it affects rights; it represents a significant extension of the rights of a very wide class of people and the consequent diminution of the rights of a very wide class of persons.

Firstly, it extends the right to be protected in the courts to a *de facto* spouse. Members will notice that the expression "spouse" includes *de facto* spouse and a *de facto* spouse is defined specifically in relation to a person. It means a person of the opposite sex who is living with the first mentioned person as the person's husband or wife, although not legally married. We are giving legal rights to such a common-law relationship. I have nothing at all against a common-law marriage. My understanding is, all marriages were once common-law. Once you took a woman to be your wife, she was married. That was the original common-law situation. I have no moral hang-ups about this. My problem is a practical one.

To just what unions does this language extend? I must put the question. Nowadays, I understand that young people "shack up" together. At what stage

does that “shacking-up” become a *de facto* spouse situation? One week, two weeks, three weeks, one month, six months? I was talking to somebody the other day and he said: “No, three months.” Where do you draw the line? Also, does it extend to a union which is frankly adulterous? Does it extend to the union of a man and, the person who is euphemistically referred to as, a “deputy”? And how many “deputies”? In my great respect for Trinidad women, I also have to acknowledge the great respect I feel for these men who are reputed to have so many “deputies”. But only one is said to be essential. Is this to be a relationship? Do we recognize this relationship when the husband or wife are separate? Or is it just a straight “deputy” situation?

Before we apply the law to that situation—it is one thing to know about common-law husbands and wives, it is another thing to pass a law in which a magistrate has to make orders against these people on the basis that there is a *de facto* spouse situation. We have to address our minds as to exactly what is a *de facto* spouse. Quite frankly, reading this, I really do not know. Maybe in committee we will be able to discuss it further and find some happy compromise. Quite frankly, in that discussion, I want to know where marriage stands now. Do we still acknowledge marriage as having any relevance? Have the bishops and archbishops been consulted on this? If you are going to recognize *de facto* spouses, for the purpose of this bill, then it seems to be a little wedge in the door and there is just one more nail in the coffin of matrimony. I find it difficult to understand nowadays why young people get married at all, because as Sparrow said many years ago, why, when you can get it all for nothing.

What is the purpose of getting married? The answer, in my book, is to have a family and to bring up children properly. I am inclined to the view, and I am hoping to be enlightened by my other friends in the Senate, that the law should not take account of these institutions outside of marriage unless there are children involved. That is my suggestion. But how it will work out when one gets into the small print, I really do not know.

This bill extends these same rights to dependants which is defined as follows: “‘dependants’ in relation to a person includes”

One has to remember that the word “includes” means any dependant in the ordinary use of that language—and also includes:

- “(a) a person over the age of eighteen years;
- (b) who normally resides or resides on a regular basis with the first mentioned person; and

- (c) who by reason of physical or mental disability, is reliant on that first mentioned person for his welfare.”

We all do not like the idea of old people being thrown out on the streets or left without support, or people who have epilepsy or some disability, which means that they cannot support themselves.

3.55 p.m.

Is it right to bring social legislation to protect those people into this bill? If the state wishes to provide for those people, as maybe it should, if it can find the money, let it pass the necessary legislation to provide payment for these people so that they can depend on the state, rather than on their families or whoever it is. I find there is something very strange about the state, by passing this bill, telling anybody who happens to have been so kind as to take his crippled aunt into his house to support her—he may have supported her for two weeks, two months or three months, but she is dependent on him or his wife's aunt, or his wife's father—then for the rest of his life he is made responsible for the support of that person. I just have worries about that because it does not seem right. If the state wants to introduce legislation for comprehensive social services for that kind of situation, then that will be fine, if it can afford it, but to do it by the back door like this, seems highly questionable.

The next point is, while I entirely agree with the principles of this bill in trying to do something about the serious cases, the really horrible cases one hears about, this bill is much wider than that. One needs to look at the crux of the bill which is clause 4. This is the real section which gives the magistrate his powers in this bill. Everything else flows from clause 4. This starts:

"Where, on an application made in accordance with this Act in respect of a person, the Court is satisfied, on the balance of probabilities, that—

- (a) the respondent has engaged in conduct that constitutes a domestic violence offence and unless the respondent is restrained, the respondent is likely to engage in further conduct that would constitute that or another domestic violence offence;"

I have no complaints about that at all. Domestic violence offences are defined—I checked them. They constitute, almost all of them, quite unacceptable conduct by any person. They are, of course, all serious criminal offences, most of them exposing the criminal to a sentence of 10 years penal servitude. They are felonies and are totally unacceptable, whether in the home or anywhere else. So I have no problems with (a). Then we turn to (b);

"(b) the respondent has threatened to engage in conduct that would constitute a domestic violence offence and unless the respondent is restrained, the respondent is likely to engage in conduct that would constitute that or another domestic violence offence;"

Now here we come from the actual doing of these horrible acts, to a threat. If I threatened anyone here to murder him or to commit some sexual offence, that would be a serious matter. We are talking about language in the home and I think we can all agree that the kind of homes we are dealing with, are not particularly sophisticated homes. Most of them, I suppose, will be rather unsophisticated people. To make language of any kind in a home situation an offence where there may be all sorts of provocations—again I know what Sen. Horne was talking about, when she mentioned bullying in the home, but that works both ways.

Women who are physically weaker, many of them have sharper tongues and they know how to use them. In fact, I believe, many of them use them in order to provoke, to get some reaction and so forth. The spectrum is vast, the kind of incident that can happen, and we are passing laws to say that a threat can bring the force of the law onto a person. Now, of course, the answer to that is—and I can see Sen. Tiwary making notes to castigate me later on—that the magistrate also has to find that "the respondent is likely to engage in conduct that would constitute that or another domestic violence offence." So that we have a protection there. The magistrate has to be sure, but only on a balance of probabilities, that because of this threat the respondent is likely to engage in such conduct. How the magistrate is to decide that on the balance of probabilities, I do not know. Except that, if a woman has been advised to make a complaint under the Act, she will give evidence that she is fearful of this and she believes the whole thing, and what can the magistrate do?

It would be exactly like what the good Archbishop of Canterbury accepted in the Divorce and Matrimonial Act in England, which we accepted, word for word, here. There was a protection there because the judge can only give the divorce

when he is satisfied that the marriage has broken down. The good Archbishop, who was taking a religious position on maintaining the status of matrimony, was persuaded that was a protection. Of course, it was no protection at all because the judge had evidence from one party that the marriage had irretrievably broken down and the Court of Appeal quickly told the Roman Catholic judges—who were inclined to be a little critical and started opening up the question because they felt that they had to be satisfied that the marriage had broken down—that you cannot administer this Act like that. So that went through.

In this case once the complainant comes to court and says that "the man threatened me with this horrible thing", whatever it was, using perhaps some rather coarse expression, and "I believed it", maybe, because five or 10 years ago he actually had done something wicked, nevertheless, that is (b). I myself, am prepared, having regard to the objectives of the bill, to accept (b) but I am just pointing out the dangers and the inconsistencies.

4.05 p.m.

Now we come to (c):

"(c) the respondent has engaged in conduct of—"

I would leave out "such" because I believe that is being amended.

"an offensive or harassing nature in respect of a spouse of the respondent, a parent or a child or dependant of the spouse or of the respondent that the spouse or the parent fears for his or her safety or for the safety of a child—"

Now this is where I have grave difficulty with this clause—

"conduct of an offensive or harassing nature"

Now really, there is a big definition here. Now again it is not only conduct of an offensive or harassing nature in its ordinary sense, whatever that may be, but it includes—

"(a) the persistent intimidation of a person by the use of abusive and threatening language;"

that is the bullying that Sen. Horne spoke about, I suppose—

"(b) the damaging of the property of a person;

(c) the persistent following of a person from place to place;

- (d) depriving a person of the use of their personal property;
- (e) the watching or besetting of the house or other place where a person resides, works, carries on business or happens to be;"

Then finally, rather out of context—

"(f) the wilful or reckless neglect of a child or dependant person;"

Now, it seems to me, that goes too far. I remember, Mr. President, and you may remember, the old song, "I am standing in the lamplight at the corner of the street, in case a certain little lady comes by." I am not going to sing it. A very charming little ditty. There were plenty of others too, and really, for a young man in love, standing and watching the street or place for a certain little lady to come by, that is part of human life. It seems to me that these sort of things—I agree that it is possible that they could be very malicious but it is equally possible that they are not. For the same reason, I have worries about putting it into an Act of Parliament that somebody could make a complaint and add an allegation that she is afraid, and the man could be brought to court.

Assuming one accepts the above, I have worries about the procedure being created. I think previous speakers have touched on it already. This is a new jurisdiction. We already have a Family Law Act; we have the High Court; the Magistrates have their ordinary criminal jurisdiction under the Summary Court; we are creating a new jurisdiction. I see that in the Minister's amendments he has accepted the suggestion I made, that we really need to—if we are going to pass this bill—bring in all the procedural powers of the magistrates.

Then one comes to this question which again has been touched on. Sen. Baksh, in her presentation; I thought rather ironically, because she is clearly very much in favour of the objectives of the bill, made a very forceful argument against this bill, because the truth is that the bill is not complete. I do not see what is the purpose of giving a magistrate power, however wickedly the husband has behaved, to keep him out of his own home, unless the magistrate at the same time can make an order for the maintenance of the family in that home.

How are we dealing with those problems on a practical level? At that stage we really get to the root of the sadness of this whole terrible situation. In order to make this work, in addition to this protection order, there would have to be another application for maintenance and the two things are not tied in. I do not know what the answer to that one is. Of course this underlines what Sen. Baksh

said, that by itself, legislation is not the answer. She is right in that you would not have a real, proper and full answer to this problem without all the other things she mentioned which, of course, will cost billions of dollars that the hon. Minister does not have and is not likely to have, and which Sen Baksh, when she—if she does—gets into power, will not have either.

Nevertheless, I do not think it is fair to berate the hon. Minister for trying to fool the people with this bill just because he cannot do everything at once. He is honestly trying to cure a problem. I hope by the end of this process in the Senate we will have a bill that might work. I hope we will. Then again, in this bill, there are different standards being adopted from those which have been worked out in the High Court. Different language is used for various standards. I am not saying that this language is necessarily worse, but I think you will find that the magistrates, in exercising this jurisdiction, would like to be able to apply the learning which has developed in the High Courts, common-law jurisdiction, and statutory jurisdiction in family matters.

I would like to be sure that what is being introduced into this bill has the support of precedent behind it. You see, one of the problems of adopting legislation from Australia is that the cases, if any, on that legislation, will not be available here. I was told we do not want—

Dr. Hosein: Thanks to the hon. Senator for giving way. I just want to take the opportunity to correct him on this point about adopting legislation from Australia. We drafted legislation based on our own attempts to deal with a problem that exists here in Trinidad and Tobago which is very similar, indeed throughout the Caribbean. We had public consultations and seminars, and it is out of that process, while the drafting style is one thing, the attempt was to deal with a local problem and indeed the very wideness of the bill that you have referred to on other occasions, is because this bill was designed to deal with our situation. So any line of argument that uses the point about Australian legislation, may I advise the Senator that it may not be wise proceed.

Sen. Furness-Smith: With all due respect to the hon. Minister, we know about the problems in the Caribbean, but broken families and abused wives are not only to be found in the Caribbean. That is a worldwide problem, almost, except, of course, in Tobago. But in almost every country, and increasingly in almost every country, there is this problem. I give the Minister credit for tailoring his bill to the particular problems here, but as we know, when it comes to the drafting,

particularly when you are breaking new ground, it is to the greatest benefit to have a precedent which has been tried somewhere else.

I understand that this is a precedent based on Canberra, Australia, and when it comes to the magistrate for interpretation and the Court of Appeal, on appeal from the magistrate to know whether he was right in his interpretation, it would be of the greatest help if we had some learning and precedents on it and not have to wait for years and years for matters to go to the Court of Appeal in Trinidad. That is all I am saying. There is, in fact, quite satisfactory English legislation but it is very simple and it gives the magistrates the power to do what I believe we are trying to do here.

4.15 p.m.

It is not so ambitious, but they certainly have all the problems that we have in Britain and that is working and there are cases on it. I have this unease when I see pages and pages of virginal drafting which are going to have to be thrashed out at the expense of poor people in Trinidad and Tobago. They bring a case and they get an order and then the husband takes it to the Court of Appeal, and we find that because the Act was not clear, the order is dismissed and the poor woman has to come again. That is all. I am hoping that we would introduce language which would be quite clear and simple by the time we are finished; but we have a long way to go.

Of course, finally, there is the very serious worry about imposing this additional burden on the Magistrate's Courts and indeed on the police force. The police force, I am sorry to say, appears to be quite unable to meet the challenges already placed upon it. We are asking them and equally the Magistrate's Court to take on all the broken families in Trinidad and Tobago.

Personally, I do not believe it is going to work like that. I gather neither the hon. Minister nor Sen. Baksh has any idea of the number of households in which domestic violence is going on. I do not know whether it is a guess. I gathered from something Sen. Baksh said, I may have misheard her, but it was about perhaps half of the families in this country. If that is so that is a monumental task to put that right. I have great misgivings about giving the police force, in its present condition, freedom to knock on the door and arrest the head of any household. I go for the bill, but I do not go for the police—

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

Motion made, That the hon. Member's speaking time be extended by 15 minutes. [*Sen. L. Horne*]

Question put and agreed to.

Sen. Furness-Smith: Thank you. I am in favour of the bill in principle but I am not in favour of letting policemen knock at people's homes on any allegations, because we know that allegations are not always true and the police are quite capable of inventing allegations to support some wickedness. They go into people's homes and they find cocaine or marijuana which the police themselves plant. That kind of thing happens all the time.

Here we are expanding the law in this big way, to bring the police into ordinary people's homes. I do not think that is right. We are asking the magistrates, I presume if the bill is to work, they will have a lot more work, which as Sen. Horne pointed out they do not have time to do. I know from my experience many years ago, in husband and wife business, you cannot really find the truth of the matter, if you are not in the bedroom with them. How is the magistrate really going to be able to do justice in these cases? In the conditions under which magistrates work and the continuing threat of a list of 200 cases, how can they spend the time? Because you start dealing with a particular incident on a particular day and you find yourself going back to the beginning of the marriage. You have to really get a whole picture of the marriage before you know who was right on this particular occasion. It takes hours.

This is why I found husband and wife work extremely laborious and unrewarding. We are imposing that extra burden—of course the magistrates may do it on a "Palm tree" justice kind of way but then we will not have justice because a magistrate will have to listen to what the wife says and make an order without regard. I believe the promoters of this bill will think that if that protects women, that is right. I do not agree. Either we protect women in accordance with the law and justice or they will have to go on as they were before. I am sorry.

Thank you, Mr. President.

Mr. President: The sitting of the Senate is suspended until 4.55 p.m.

4.25 p.m.: *Sitting suspended.*

4.55 p.m.: *Sitting resumed.*

Sen. Diana Mahabir-Wyatt: Mr. President, I would like to address a few comments on the general subject of domestic violence and then go on to speak about a few of the specific aspects that have been raised in relation to the bill itself, and also to reply to a few of the comments that have been made by Sen. Furness-Smith.

It is with a particular kind of relief that I note that this particular piece of legislation has finally come before the Senate. I think it is long overdue, and I think that the bill itself is, in fact, not an unreasonable bill. I think it is a good bill, except that, again in my view, I do not think it quite goes far enough.

In another capacity, I am Chairman of Trinidad and Tobago's Coalition against Domestic Violence, and I also operate one of the shelters for battered women and children that was referred to by Sen. Horne. In both those capacities for a number of years now, I have been dealing on a day-to-day basis with issues of domestic violence which have been largely ignored in the society for years. I think that perhaps one of the problems is—and I am saying this very carefully because I do not want it to sound in any way prejudicial—because largely the concerns of women and children in the society have not been considered terribly important, not really priority issues when it comes to legislation specifically, but also just basically when it comes to social development. This is important because 90 per cent of the victims of domestic violence are women and/or children. This would include both male and female children in terms of the definition of the Act itself.

There are, of course—and people will always ask this—adult males who are victims of domestic violence. They tend to be elderly people, very often people who are physically or mentally handicapped. I would like to say that the extent of domestic violence and abuse of handicapped people in this country is abominable and has not really been taken much into consideration at all. We also have had many instances of people who are themselves perpetrators of domestic violence who, because violence breeds violence, at a certain point in time either the wife or the children that have been abused will then turn around and abuse the abuser. In fact, I gather that the four women who have been convicted of manslaughter were all convicted of killing their husbands, having been abused for a number of years, and of the two women convicted of murder, I believe one of them murdered her husband.

The comparable statistics for men, I was very surprised to learn, are not available because of the term “domestic violence”. There are 100 men who have been convicted for murder in Trinidad, and the Prison Service could not give me an idea of how many of these were convicted for domestic violence because they said that they do not keep the statistics that way, which was, I thought, a little bit curious because they certainly had them for women.

Mr. President, I hope that you will bear with me for a minute because I am not really addressing this bill from a theoretical point of view, or even from a legal point of view, initially, because this is something that I deal with everyday, day in and day out, all year round. I deal not only with victims of domestic violence, women and children, but I also deal with the perpetrators of domestic violence, which would be the men and the women who commit domestic violence.

One of the things which is commendable in this bill is that it addresses both women and men. You do not limit the definition of perpetrators, the abusers of domestic violence to men because it is not just men who commit domestic violence. It also provides protection, both for male and female victims of domestic violence, as well as for the handicapped, the dependants, the elderly, and so on. I think that this should, and I hope that this will, go a long way towards making up for the official neglect which has been really national policy more or less when it comes to questions of domestic violence.

I think that an awful lot more needs to be done. I think, like everybody else, that a lot more needs to be done. I recognise that the support structures have to be there. I think from simple questions of justice and equality that much more needs to be done, but I have long learned that whenever women get up on their feet to talk about justice and equality for women and children, they are politely listened to and automatically turned off. So one of the things that I would like to do is to address this whole question not specifically and not just from the point of view of justice, but also from the point of view of economics.

My argument is simply that the present extent of domestic violence in Trinidad and Tobago is just costing the state too much, and I do not really care who is in power. The social costs and financial costs of domestic violence are enormous. Violence breeds violence, we all know that. Children who have been brought up having seen their mother being regularly battered and abused are brutalised themselves early, and we tend to behave as adults the way we were treated as

children. Both men and women having gone through this experience, in my experience, are far more likely to repeat this in terms of their own lives later on. I would like to also make a point: women are not martyrs or saints. Women also commit domestic violence, mainly on children. It is no better if it is committed by women than when committed by men. It is still, as far as I am concerned, a criminal act.

We have seen the extent to which violence is spreading in the society. It is already too high. It is getting higher all the time. The street violence we are experiencing is enormous. It is not unconnected with the unchecked amount of domestic violence that goes on in the society. As there is a greater use of alcohol and drugs, whatever inhibition or inhibiting factors people were taught at school or at home in terms of dealing with stress, seems to just go, and in any sort of stress, whether you are talking about armed crime or robbery, there is more violence attached to it. There is more violence attached to vagrancy. There is violence in schools. We all know of children carrying knives to school. We are breeding violence in terms of the community. As we saw in August last year, this is very expensive to the society in terms of increased costs of police and regiment, and we are now talking about courts and the prison system. These are just the beginning.

These are not the entire financial costs to the country. I am glad Sen. Furness-Smith brought up the point about where are we going to find the money to deal with all the things that have to be done. The point is that very little of our financial resources nationally are being used for preventing domestic violence, and I think that this is one of the things that this bill does try, at least in concept, to approach.

We have, as has already been said, orphanages that are full to overflowing. They are overfull with children who were abandoned by their parents, very often I have discovered, by mothers who simply could not put up with the level of domestic violence in their own lives and just abandoned the children. The orphanages themselves are overcrowded. Children there have often been subject to the harshest kind of discipline which takes the form of violence, physical beating, and despite quarrels and reports that people made in the community to the way children in orphanages are being treated—copies of reports which are available—nothing very much was done, again a reflection over the years of how little concern the problems of children really were.

The prison officers, Mr. President, to whom I have spoken, have estimated that something between 75 and 80 per cent of the inmates of our national prisons, people who are the recidivists, who keep coming back, are in fact products of childhood neglect and abuse. They come out of institutions such as the boys' training schools and reform schools. It is a very costly exercise. We are still not dealing with the full question of domestic violence. It has been up until now a non-issue, and I think that we all recognise that there has been almost a national acquiescence, that violence in the home is somehow natural. If it is violence in the street, that is one thing. If you are beaten by somebody in the street, that is one thing. If you are beaten by somebody in the street, the police should help you and it is a criminal act. But if you are beaten in the home, this is really something that you know the cause of only if you happen to be there, and very few police want to get involved.

In fact, at this point in time, very few people bother to report cases of domestic violence to the police. They report them to the Rape Crisis Centre; they report them to The Shelter; they report them to the Coalition Against Domestic Violence. This is really because they think that most people have grown to accept that the police attitude of non-interference in domestic matters is going to apply.

In instance after instance, we have had women who have come to The Shelter or called asking for help and they report that they have talked to the police, called the police, gone to the police, and the police have told them they cannot do anything to help unless something actually happens. In one case, this was said to a woman who had her arm broken by her husband, and she came in a cast. The husband was doing the same threatening and harassing behaviour which was building up. She went to the police and was told they could not do anything unless something actually happened, and it very often seems that "actually happened" means death.

People do not wait until there is a policeman around to commit this kind of abuse. They do not do it in public, it is done at home in private. There is an International Day Against Domestic Violence; it is October 25. Just as a matter of interest, on that day on October 25 last year, one of the women who had been resident with her eight children in The Shelter for a period of three or four months was brutally hacked to death by her husband. She had left The Shelter the week before to go back to the matrimonial home with five of the younger children. The three older girls refused to go because they had also been abused. While she was there, she was hacked to death.

The week before that, there were three different reports in the press about women who had been killed by “close male relatives”. The week the mother of eight was killed, there was an 18-month old child raped by her uncle, and probably mutilated for life. These were only the cases that made the press. Most cases of domestic violence do not make the press. Last week, there were two more women who died as a result of domestic violence.

Those weeks in October were not unique. This happens all the time. Last week, two more were reported. It is interesting to note that if you really want to find out about the reports and follow them up, you have to read the weekly press, because the *Guardian* and the *Express*, while they will report deaths by traffic accident, vehicular accident, and drug related violent crimes, do not very often report the death of women as a result of domestic violence.

Domestic violence is not just an emotional issue. It is a war. People die every week as a result of this. The statistics are easy enough to come by. People have been injured and maimed for years, and this idea that we do not want to interfere because it is husband and wife business is really a reflection of how we, as a society—and I am not blaming just the state alone because the society—have been responsible, in a sense, for violence against women and children by condoning and setting up conditions in which it can operate.

Unfortunately, battering and rapes by policemen or sexual assault by policemen of women who come to report instances of violence against them, or even of women in their custody, are not exactly unknown. I do not want to be reported as saying this happens all the time, but unfortunately people who are involved in the Coalition Against Domestic Violence and the shelter movements have learnt by hard experience that many members of the police force and the regiment, the military, generally are themselves batterers.

I was a little touched by the reference earlier to people learning karate to protect themselves. We have recently had several cases of people who are karate teachers who themselves have been applying that karate against women within their spousal relationships.

5.10 p.m.

Women and children who are battered by police and military for obvious reasons do not go to the police for protection. They are afraid to do so. From this point of view, I have a certain amount of sympathy for Sen. Furness-Smith's

concern about handing over extra power to the police in this regard, but I do not see that there is another way.

Recently the Government has set up a juvenile bureau and counselling service. At the moment, it has 10 people. It has been doing an extremely good job and I have nothing but the highest of praise for this unit of the police. They are quick; they are efficient; they are caring and they treat matters of domestic violence with great seriousness and dispatch. It is something which I think has been a step forward in terms of the whole question of dealing with it in the country.

This law, and the presentation of this law before the Senate is another sign that things are perhaps changing in relation to domestic violence. Obviously, the law by itself is not enough. The point has been made, and I do not have to repeat it, but I think that domestic violence is not really the concern of the Ministry that is responsible for Social Welfare alone; it is the concern of the ministries that are responsible for Finance, National Security and Labour. The number of man hours/woman hours lost and productive working hours lost by women who call in with yet another case of flu or another migraine headache because they do not want people at work to see their black eyes and broken lips, can only be estimated.

One of the things that has to be done in relation to this law is a massive public relations or public education campaign. It is very much a matter which should concern the Ministry of Education as well. One of the things that we have got to bear in mind that we have never really understood, but maybe this law would focus people's minds on it, under clauses 26 and 28, is that violence against family members can constitute a crime, and that includes serious—and I emphasize the word, serious—verbal threats and harassment. The public education aspect of what happens as a result of this bill is vital.

The country has got to be made aware that any person who commits acts of violence against a spouse or child—I am not saying just against his spouse, against her spouse, or child too, or dependant, because many people—unfortunately because of the way we are so short of support services—who have retarded brothers and sisters or handicapped brothers and sisters living at home, very often can take out their social frustrations and stress by means of violence against them as well. We have got to get people to understand as well that anybody who commits these kinds of acts of violence is committing a criminal act which has never been recognized. Just as wife battering is a crime, sexual assault is a crime. Anyone that forces sex upon another person whether it is a child or an adult, is

committing a criminal act. I agree with Sen. Horne that the police, the judiciary and the public have got to be educated to understand the importance of this—not to trivialize the matter, not to minimize it. People are dying. They die every week, this has to be addressed.

Preaching, as so many people do, of the sanctity of the family and the sanctity of marriage, has often been used as an excuse for not taking action against people who are perpetrators of domestic violence. I think that any family in which physical and emotional violence is common is not a family, and it is certainly not sanctified. It is some kind of unholy alliance or connection of victims and criminals. Any marriage in which one partner physically or sexually abuses another is not sanctified either. It is a criminal relationship.

The education campaign which I am suggesting is not going to be expensive. Sen. Furness-Smith can take some comfort in that. This can be done through the existing education system. It just needs some change in terms of the curriculum for training teachers, that teachers must become aware of the importance of this as well. I do not think that the Act itself should have to address a broad spectrum, or all the ills in society. It should only try to address those things that it is here to address, but there certainly has to be a lot of outside work as well.

In one sense, I find that the law does not go far enough. While it provides protection orders for victims of domestic violence by allowing an order to go before the magistrate's court, which is a simpler, quicker and cheaper procedure than what women have been having to go through up until now, all this does is to ensure that the criminal abuser has to keep away from the particular victim mentioned in the Order unless he is charged with an actual criminal offence under the Offences against the Person Act. Otherwise, he is free to wander around and find someone else to batter. When you find somebody who is prone to committing acts of violence, they do not just keep it to one person. What they will do on getting a protection order to prevent them from committing an act of violence against, for example, a spouse—and I have known instances where both women and men have done this—is threaten the parents of that spouse who live somewhere else or even the brother, sister or anybody who has offered that particular battered person assistance. Abusers have gone to their homes, have shouted and yelled at them, have broken up furniture, have committed other kinds of violence. This bill provides protection against the initial victim, but unless criminal action is taken, he is free to wander around and harass other people.

This bill, according to the explanatory note, is being passed in order to "preserve an existing marital or other spousal or parental relationship". Only if the person who is the abuser breaks the protection order he will be arrested, otherwise he goes scot-free. Even if he breaks the protection order, goes back and beats the person that was protected under the order, his punishment is a mere six months in prison or a fine of \$5,000. This gives a good illustration of how important women and children are in a society.

In the Malicious Damage Ordinance, section 34, any person who unlawfully and maliciously kills, maims, or wounds any cattle, is liable to imprisonment for seven years. Not six months. No such punishment is going to be meted out to someone under section 18 which deals with the Domestic Violence Bill, so I would hardly find that its provisions are excessive. Someone who threatens to maim or kill members of their own family will, in fact, get only six months if he has broken a protection order.

Clause 10 of the bill provides for process serving. Not having the experience of some of my fellow Senators in terms of the legal aspects of dealing with procedures, I cannot make any detailed recommendations on this, except to say that it can be very time-consuming. We have found that with women who are trying to get such an order, that trying to find people, they hide, they get reports that you are coming. It can be extremely stressful, very difficult and time-consuming. I am just wondering if this could not perhaps be a threat to the effectiveness of the bill and hope that, perhaps somebody would take a look at that.

I do not know if the bill could use some other procedure like filing in a public register. If the procedures under this bill get bogged down in paper work, the people who most need the protection are going to suffer and this is what this bill is intended not to do. At the very least there should be 24-hour access to a special magistrate or a group in different areas. Acts of violence do not just take place during working hours of magistrates. They take place during the night; during the early hours of the morning.

5.20 p.m.

There are many times when we have incest victims, neighbours will call about screaming children, both male and female, who have been subjected to the worst kinds of abuse and who need help. Some of them cannot often wait until you can find a magistrate's office that is going to be open in a couple of days. I know this

probably does not belong in this bill, but as a general policy I just hope that perhaps the Government would take a look at it.

One of the things the bill does not do is provide legal representation for victims of domestic violence who need to get the protection orders under this bill. I know I will be told that the Legal Aid Department can take care of that. From experience, I must say that this Department is grossly understaffed and totally inadequate when it comes to dealing with cases of domestic violence. We try and try and it is very difficult to get help. Outside of that, it is very expensive and I must admit that most members of the legal fraternity are not anxious to work on a voluntary basis to help victims of domestic violence. It is quite expensive to get help for people who need it legally. Domestic violence is not like land acquisition. It cannot wait to go through a cumbersome procedure. As I said before, people's lives are at stake.

Just a few last points in terms of the general bill itself. I do agree that we need counselling services for men who batter, particularly. We often get men who batter coming in and stating that they want help, but there are no services which are easily available. There are programmes which have been developed but we just do not have them. I would think that this kind of counselling should be compulsory for anyone who is convicted of a domestic violence offence, under the Offences Against the Person Act. If they are going to be charged and have to go to jail, this should never be done without giving counselling because it just makes the situation worse. They come out of jail and the resentment which is built up causes the whole situation to escalate.

Counselling services are just needed to be available, generally. I do not expect miracles and I do not expect Government to, all of a sudden, begin to provide dozens of shelters all over the country. I know perfectly well that the money is not available. I think those few non-governmental organizations that are trying to—like my shelter the Halfway-House in South, and there are two others which are beginning to get themselves organized—I think in a sense because the bureaucracy is less they probably run more cheaply and more efficiently anyway. I would like to make an appeal for some realistic and financial help for those shelters that do exist.

It is not fair to say that the Government has not helped us at all. In fact, last year The Shelter did get a small Government grant which is being increased by \$10,000 this year, for which we are extremely grateful. It means that we can pay for maybe a month's expenses out of that. We run shelters where government,

medical officers, medical social workers, policemen, mainly government officers, send people to us to look after. We run them 24 hours a day, seven days a week and throughout the year and it does cost a fair amount of money to run these. It is just not food, clothing and medical expenses, because they come literally without anything but the clothes on their backs. Very often we have to buy school books, shoes and toiletries. It is expensive and the money which has been allocated by the Government, either for the Halfway-House or for The Shelter, is very little.

I am not blaming the Ministry of Social Development and Family Services for this because I realize that there are budgetary considerations and the budget allocations from Cabinet, reflect Cabinet's priorities. I am also getting back to my economic point, arguing that if more were perhaps allocated to deal with this question, we would be spending less, for example, in hospitals. It is quite true to say that it is very difficult to come by statistics, even from the hospitals themselves, about domestic violence because most of the women who come to us, say that when they go to the hospitals for treatment, they say that they fell down the stairs, or they had an accident or they fell against a wall, because either the person who takes them to the hospital is the person who beat them in the first place, or they are ashamed because of the social stigma of weakness. Because you are beaten they look at you as though you are weak and, therefore, people laugh at you.

The bill is a good beginning. It is only a beginning, but I think everything has to start somewhere. I think the facilities that are necessary for incest victims, or battering is one of our greatest problems. The young ones get so badly hurt that they end up in hospitals and the hospitals have to send them back. They can try to send them to the existing shelters but they are not really set up to provide that 24-hour a day intense counselling and care which is needed. There is just nowhere for victims like this to run to, and there are no rehabilitation programmes at the moment for batterers, male or female.

Hopefully, if the police do take their duties seriously, and if the bill does work in the way that it is intended to, there is an argument that we would not need shelters anymore. I would be very glad about that. It means that the person who does the abuse would be sent away from the home, but they would only be sent away for a year. We all know that the existence of this law will not, in fact, by itself, provide all the relief in actuality that is needed. What happens anyway at the end of the year? You will just sort of wait until he comes back and then beats everybody up again and then ask for another protection order? There are questions which have to be answered.

As I said, it is a good beginning. I think, with this as a beginning, if we can get a genuine national programme to prevent the continual spiralling of domestic violence, generation after generation, we would save a lot of money in the health costs; judicial and legal fees; police and prison services; productive time loss by female workers and child-care cost at orphanages. The money is a long-term investment, but it is one which I think will pay off in the long term. As a result, I think there is a great deal in this bill which should be supported.

I would like to make just a few final comments in reply to Sen. Furness-Smith. He has pointed out that this bill, does in fact, change the existing law, it does not just consolidate it. To an extent, I agree with him. It extends the rights of women and children; it extends the rights of people who have been victimized by domestic violence and it extends their rights to be protected. That, to me, is something to the law's benefit, not to the law's detriment. I did find the worries that the hon. Senator had about *de facto* spouse were, I do not quite say, understandable. I think that there are other legal rights which are granted to common-law spouses. I think that if you check the National Insurance legislation you will find the national insurance benefits are provided for common-law spouses. If you want to know what a *de facto* spouse is, or what sort of a union, I suspect that this is not something which is entirely unknown in this society.

5.30 p.m.

In fact, a significant number of domestic unions and arrangements in the society are *de facto* common-law arrangements and the general understanding—and certainly the understanding of the court—as to what this means would apply. The question as to how many deputies, was a fine one and I thought I should address it. How many deputies should be considered as *de facto* of spouses, I would think that any number of deputies or *de facto* spouses should be covered under this law, if domestic violence is involved.

If somebody is going to be violent with one deputy, the chances are very likely that he or she will be violent with other deputies. As far as I can understand it, this law is intended to address the problem of domestic violence, not adultery, not matrimonial concerns, which I think are addressed under another law. I do not think that this bill is, in any way, a nail in the coffin of matrimony. I think what the law is intended to do is to respect and provide protection for people who are subjects of domestic violence. I do not think that this is really the place to say that

only those who are legally married should be protected. I think anyone who is subject to domestic violence should be protected.

Insofar as the question of dependence is concerned, again I understand the hon. Senator's concern on this, but I do not quite agree with his argument that what the bill contemplates is a situation where you have an old auntie whom you do not want to throw out on the street. It is only in an instance where, if such a dependant is subject to domestic violence, that the bill begins to operate in relation to whoever these dependants are. I think it is right to bring these people under the protection of the bill because there are so many people who are, as I said earlier, perhaps retarded, physically handicapped beyond the point where they can work, who are adult, who are dependant on a brother or sister, and we have had numerous instances of the most horrible kind of domestic violence against those people who are helpless dependants of a family or a household.

This provision, I think, was put in the law in order to protect those dependants from domestic violence, not from vagrancy. The point about vagrancy was completely lost on me. This law does not, to my reading of it anyway, make anyone responsible for the support of the old auntie for the rest of her life. This bill just says you cannot commit domestic violence on her if she is dependent on you in any sort of a relationship.

The concerns about clause 4—I followed the hon. Senator's arguments on clause 4 very closely, but I kept coming back to the opening words to this clause that it had to be the court that is satisfied. The court had to be satisfied, not just that a threat had been made, but also that such an action was likely to take place. It is not just in unsophisticated homes that domestic violence takes place. As I mentioned earlier, I have had considerable experience over the years running a shelter and being involved in the Coalition Against Domestic Violence; and some of the homes in which domestic violence takes place are very sophisticated indeed and this implies to both men and women.

While I understand the concerns about the threats in subclause (b), I wonder if I could just take a moment to explain, because I know that most people do not understand about domestic violence. There is a cycle that is involved in domestic violence. First of all, you get beaten and you discover something new about yourself and something new about your partner; and the new thing is that you can be beaten by somebody whom you love and he discovers he can beat you. Usually the next step in the cycle is that the abuser comes back the next day very

apologetic: "I did not mean to do it, I love you, I cannot understand why I could ever do anything like this." He brings gifts and promises that he will never do it again. It is at this point in the cycle that so many women who have reported a case to the court or to the police, say, "never mind, he still loves me. How can I do this?"

The next step in the cycle is that tension starts to rise and blame starts being put on the person who was the victim of the domestic violence. It was not just the abuser's fault, there are other things that are involved. Then the threats start and the domestic violence happens again and you go right through the cycle. The only changes generally are that if the cycle does not get broken at some point in time, that the periods during which it takes the cycle to go, get smaller and smaller until it is broken. Either the person leaves, or is killed, or police intervene, or something.

Perhaps if there was "and" between (a) and (b) it might help, Sen. Furness-Smith, I do not know. When it comes to 4(c)—and here again I do understand that this is hard for people who are not involved in this sort of thing to come to grips with. Somebody who is an abuser at this third stage of the cycle, is not only abusing his immediate family, spouse or child, but will go—time and again, we have had many instances—sometimes before he beats the wife, for example, and threaten her aged parents and her sister who might have helped her; break up things in the house or just stand around and yell at them. It is not a question that you can even vaguely compare to the lovesick swain standing on a corner. It is someone who stands on a corner shouting abuse or who stands on a corner obviously threatening.

I have a certain amount of faith, perhaps more than Sen. Furness-Smith does, that if the court has to be satisfied, this will not be something which is taken lightly. It will not be just a casual matter of a husband whose wife has left home, standing outside wishing gently that she will come back, or standing outside the place where he thinks she is, hoping she will come back. My experience is not like that at all. We get threats; we get violence. The standing outside, I do not think any court would object to, whether it is a male or female standing out there. But believe me, in actuality, the threats of the violence; the harassing and the besetting is very threatening and frightening particularly to older family members.

The last point that I would like to address has to do with clause 5 (1)(a) and this relates to the question of removing an offender from the matrimonial home.

The matrimonial home, generally speaking, in the majority of the cases, is the domestic home, if you want to put it that way, in which both parties have contributed. In my experience, it is far kinder to leave the people who have been abused in the home and surroundings in which they are familiar, where they are less emotionally and psychologically threatened, than to take them away from the home, doubly penalizing them. I mean first they get battered and victimized, and then they are further victimized because they are battered.

I understand the points that have been raised about the problem of taking somebody away from his own property but I do think that the purpose of this law is to perhaps protect batterers because it must be far preferable to anybody who does that to be taken away from his home than to go to jail. What this clause, under the protection part of it, is saying, is that we are not going to throw you in jail under the Criminal Offences Act, what we are going to do is just remove you from your home.

I do not think it is enough, but the fact that such a person is removed from his home instead of being put into jail, certainly does not indicate to me that his civil rights are being attacked. I think it needs to be legislated, because if they cannot legislate for this, what you have to do is provide housing for all those suffering families that have got to be displaced as a result and shelters only provide shelter for short periods of time. That means that people who had been on the receiving end of criminal acts—and while I accept the—*[Interruption]*

Sen. Furness-Smith: I gather that if (c) was connected with either (a) or (b), it will be acceptable. I gather that you are saying that the mischief is a cycle and that there is either violence or threats of violence. My question is whether (c) would only be applicable if it could also be shown that there were incidents under (a) or (b) as well.

5.40 p.m.

Sen. Mahabir-Wyatt: That may be a possible way of dealing with the problem but it certainly is a definite cycle and it usually happens this way.

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

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

Question put and agreed to.

Sen. Mahabir-Wyatt: Thank you Mr. President. I will not take that long. Just a last comment. I had originally intended to argue that we must also provide in this particular piece of legislation for a provision allowing for a place of safety, because it was not covered in the bill. I gather that it is going to be taken up under a new amendment which is coming up to the Children's Act so I will not pursue that. But in clause 3 (c) of the definition of "prescribed offence" there seems to be an omission. Under (c) there is a reference to the Offences Against the Person Act and the offence covers sections 12, 14, 16 and 17. I believe that section 15 was left out. Section 15 has to do with strangling, because strangling is something which is usually done.

Also in Clause 16 (3) which has to do with the protection order, I strongly recommend that an interim protection order remains in force for a period not exceeding 30 days, because of the same problems to which we referred earlier, about crowding the Magistrate's Courts and delays that take place.

Just in closing, I would like to make one small comment in relation to the point that was raised about the Australian slant or use of the Australian model as a base. I cannot comment on the case law aspect of it, but what I know is that there is U.K. legislation and I am very familiar with this because for a number of years now people who have been involved in domestic violence have been looking at various different models in the United Kingdom, the United States, Canada and elsewhere. Some of the provisions that are in this bill were made as a result of interventions made by us. I did not know that it was based on the Australian model, but I would think that it is far more appropriate to use an Australian model than a U.K. model simply because Australia is a smaller country with very few social resources.

The U.K. system which I admire is much better than ours in that it has all kinds of social support services which, because they are there, the legislation can be simple as it is. We cannot afford that. We cannot afford some place to put people who are victims of domestic violence, so we must have the kind of provision that is here, that says, take the abuser away from the home rather than the home away from the abused. I think partly because we lack the support services, this is an appropriate model.

I would like to recommend that we support this bill. Thank you very much.

Sen. Una Charles: Mr. President, as I stand to support the Minister in bringing this piece of legislation to the House and doing all in his power to see that domestic violence in our society—I would not say, is gotten rid of, but at least

there will be some sort of protection for women, children and even husbands under this bill.

I congratulate him for taking the effort to do it. I listened carefully this afternoon to the contributions and I rise with a certain amount of authority to express my feelings and the feelings of many people in the society, how they seem to think about domestic violence. If I have to say in a few words what I think domestic violence is at this present time in this society, I would say it is a cancer. It has reached its highest peak in our society. It has destroyed many families and will continue to do so, if the people who are involved do not try to do something that would give us a sense of belonging, a sense of thinking what is going on in the society, a chance to at least let our voices be heard.

While women and children are some of the people who are mostly affected, I believe that domestic violence has reached its highest peak and it has crossed all borders. It has no race, definitely no political gain, I believe, to be derived from it; no special class of people. It goes beyond position in our society; no sexual barriers. Domestic violence is a cancer to society. There is a crying need in the society for men, women and children to speak out. Domestic violence has reached the point where families no longer believe it is a private affair.

At one time, if you were hit by your husband you would be afraid to speak. I am telling you it is no longer so. I do not believe it. In the higher society, it may be so, but among the grassroots nobody wants to hide that she is beaten. The abused wants to speak out. Children want to talk with children in the schools. They speak with the teachers in the schools and they tell them what is going on because they are beginning to realize that maybe if they speak out somebody will hear.

I believe it is the voices of the masses that have caused the Minister to look closely and bring this piece of legislation that would grant some of the people in the society some sort of protection. Education is the most important factor in this bill. Many of the things which were said here this afternoon, I believe if true education had gone into this bill, would not have been said.

5.50 p.m.

If the bill had been studied properly and the families that we are speaking about are being studied carefully one would realize that no woman, after taking the pain to go through a period of her time to choose a husband, would want to get rid of him just because of one lash, or because of licks. Women, especially, have been

the driving force of holding families together in this society. They are the driving force trying all in their powers to protect their children, and they would go to the extreme even to try to help their husbands.

If you go to the Alcoholic Anonymous Club, you will find that women go there to seek advice to help their husbands, even if they are being battered under the influence of alcohol. They go to the extreme. If something is being placed in the law that would say, "Okay. I can go to a policeman, and if he can get a social worker, or if he can get somebody to talk to get my husband to be converted before the situation reaches to the extreme of getting rid of him," they will do it.

I believe this bill is providing them with a means of communicating and holding their families together. I do not believe all will go to the extreme. I believe husbands will do the same. When they consider whatever might be the problem in their homes, they have some place they can go to, somewhere where they can relate and ask to communicate with their wives and children. I believe the law is making it possible for families to be able to communicate, especially with policemen.

I know of a woman who went to the police station to complain about her husband on several occasions. Today she is dead because the police said they could not interfere. Law is being introduced and the policemen would be trained to handle these situations. I believe—because sometimes people tend to take things to the extreme—sometimes it could be just a family misunderstanding.

I have known a woman since I was a child—I think I was about seven or eight years. Her husband came home under the influence of alcohol and started to beat her. She took an axe and split his head. Up to today, they are still together. It might seem funny, it is something that happened during a certain period of time when the two of them were at their highest peak. After counselling in the Catholic Church with the priest at the time, who acted as a peacemaker between the two people, they were able to proceed with their lives and their children are now big men and women in the society and the family is still there as a foundation base. The axe is still there. What I am saying is that in spite of the law, we know that there are other things that have to work with it.

There are certain things that I want to express. I am sorry Sen. Balbosa is not here, but I hope the message will be conveyed. Maybe the brand of woman that he goes around with in political places might tell him or make him feel that this is something political, but I believe it has crossed all borders. It is unfortunate for

him to come here and try to convince us that the Government wants women to support it and that is why the bill was brought here. I wonder sometimes. Is it that the same way some people decide to ride women to reach in power that they come here and try to fool us and feel that everybody is doing the same thing? I can defend my Government with that. Under the Government of Trinidad and Tobago, women are rising. We women are rising.

The Parent Teachers' Association should be playing a role. I thought that PTAs would have played a better role in family services when they were invited into the schools. Parents were advised to come into the schools and sit with teachers to provide a better family service. In some of the schools today, teachers do not even want to recognize PTAs.

There are many programmes, and I wish that Sen. Baksh could listen to this one. Unlike what she said, there are many social programmes to handle some of the family services that you spoke about. I would go further to say that in 1989 and 1990, there were programmes run under the Ministry of Social Development where voluntary social workers were invited and were trained to go back in the society to deal with some of these family services. I think they had something like four or five programmes in 1989, and they had almost the same amount in 1990. I am sure in 1991 there will be more programmes like that where voluntary social workers were trained for at least two or three weeks. Different courses were handed out. We were trained in dealing with people involved with drugs, people with AIDS, with domestic violence in the society; how we approach such families.

I want to truly commend the Minister again, even the past Minister who did it under the Ministry of Social Development. These programmes you are requesting are already out there, and that is why we are asking now for the law to be put in place so that when we find these problems and they go to the extreme, we have a place where we can deal with them.

After listening to Sen. Baksh drawing reference to the different types of programmes, I started to question whether she was telling us that it is only in the poorer class of people there is this domestic violence. I heard her talk about unemployment, and feeding the people. I want her to know that people who even have money to feed their children and their wives properly are the most destructive ones when it comes to domestic violence in this society. I believe they have more strength to beat and money to defend them when they are finished beating.

Sen. Moonan: Mr. President, could the hon. Senator tell me the number of people in the upper class who are being battered? The Senator made a wide statement, could she tell me the number?

Sen. U. Charles: Can you tell me the number of poorer class of people who are being battered? If you can tell me that, I will tell you the answer.

You see, for too long we make people feel and make people believe that the poorer class of people are animals, they are victims of a society that nobody else wants to share a part of, and there is always divide and rule. No, no. Some of us who come from down below there have enough pride and enough ambition in us to know that our families are the most precious things in society, and we are to protect our society; we are to protect our families; we are to protect our menfolk, and I feel strongly on that. I feel strongly on that. Our men are just as the high society men, although they are grass-roots men, and they contribute equally to the safety of our children if given an opportunity to do it. We will defend them.

That is why I am saying that all we need is a piece of legislation that will say, "Okay, our society has a cancer; our society has a disease and if there is something placed where we can look for protection or where we can seek out something valuable and get something valuable out of it for our children's sake, we are going to do it."

Our children are very precious also in society, and I strongly condemn domestic violence in children. I know children might be afraid to stand and speak out at all times. I also know that they are growing and they will grow with a sort of hate, a sort of destructive element if domestic violence against them continues. It is important now. I know, for me I am going out there and educate women to let them know what are the chances they have and what they can do to implement whatever it is to protect the children of this society from violence.

Sen. Furness-Smith is a person I really admire and I like to hear him speak a lot. I am sorry he is not here. When he was speaking about the family—I am all for marriage, but I know some common-law relationships that are going on without a touch by anyone. I know of common-law relationships that are the best that anybody could boast about, so why not give them the same protection?

6.05 p.m.

I also know that maybe he is worried about what is happening in the bill where the extended family is dealt with. I also know of families who mind their children

and for some reason or the other, they went out on their own and they failed. They then returned home to mammy and daddy with the children and want to beat daddy and mammy out of their homes. I am glad that the law is there to protect these daddies and mammies too.

Putting it altogether, I am saying—and I am appealing to all the Independent Senators who know the law and can deal with the law, to try hard and do not let us prolong it to the extent where we go and come and keep arguing, before we accept the original clause. Try your best, put your hands together and give us the best of the law as it comes. Be reasonable and give us what we need to protect us.

I want to extend the same invitation to the Opposition because I know of many families who would feel proud and honoured to know that in this Senate, we produced something that is worthwhile working for in Trinidad and Tobago. Thank you.

ADJOURNMENT

Sen. Alloy Lequay: Mr. President, I wish to take the adjournment at this stage and to indicate that after discussions with the Leader of the Opposition and a few Members of the Independent benches, we would want your agreement to defer Private Members' day next Tuesday in order that we can continue the debate on this bill and, in fact, continue for as many consecutive Tuesdays as may be necessary to finalize this particular bill.

I do not anticipate that we will conclude the debate next Tuesday because I know that there are at least six Senators who would like to make their contributions and with the number of amendments that have been tabled, the committee stage might be a lengthy one. So we would continue on consecutive Tuesdays until the bill is completed.

With those remarks, I beg to move that the Senate do now adjourn to Tuesday, February, 26 at 1.30 p.m.

Mr. President: Before I put the question, I just want to say that it is up to the Senate to decide, and not the Chair, as to whether we want to agree with what the Leader of Government Business has proposed.

Assent indicated.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.10 p.m.