SENATE

Tuesday, September 10, 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. Haji Ralph Khan, from today's sitting of the Senate. He is ill and is unable to attend.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I am advised that His Excellency the President has appointed Dr. Collin D. Sealey to be a temporary Senator during the absence from the Senate of Sen. Motilal Moonan, with effect from September 09, 1991.

OATH OF ALLEGIANCE

Sen. Collin D. Sealey took and subscribed the Oath of Allegiance as required by law.

CENTRAL TENDERS BOARD (AMDT.) BILL

Bill to amend the Central Tenders Board Ordinance No. 22 of 1961; brought from the House of Representatives, *[Minister of Justice and National Security]*; read the first time.

PAPER LAID

Report of the Auditor General on the accounts of National Maintenance Training and Security Company Limited for the year ended December 31, 1990. *[Sen. Alloy Lequay]*

ORAL ANSWERS TO QUESTIONS

Faculty of Medicine
(Tuition Fees)

50. Sen. Wade Mark asked the Minister of Education:

Could the Minister of Education state the rationale for the similarity of tuition fees which exist for both Caricom and non-Caricom students at the Faculty of Medical Sciences at the University of the West Indies, Mt. Hope?

The Minister of Education (Hon. Gloria Henry): Mr. President, two weeks ago in answering questions posed by Sen. Mark, I provided an explanation of the basis on which fees at the Faculty of Medical Sciences, Mt. Hope are set. Essentially, the institution was intended to be self-financing and, therefore, all students are charged the economic cost of a place at the institution.

In the case of students who are sponsored by the Government of Trinidad and Tobago, it is the Government which picks up the tab. In all other cases, it is the student or his sponsor.

The admissions policy was designed to provide places for non-nationals who will be required to pay the full economic cost. This was the strategy by which the institution could derive its income and become self-supporting.

Nationals who failed to quality for sponsorship were admitted to the programme by allocating to them the places originally reserved for non-nationals, on the condition that they paid the fees which were equivalent to the economic cost. This is not discrimination. Under normal circumstances, they would not have gained admission to the faculty at all. If they are given the opportunity of utilizing places reserved for fee-paying non-nationals, they are expected to pay the fees.

Sen. Mark: Could the hon. Minister indicate whether the Government of Trinidad and Tobago has any intentions of addressing the differentiation that exists in the fees for Caricom students and non-Caricom students? Is there any intention on the part of the Government to address that?

Mrs. Henry: I am not in a position to answer that question right now.

Sen. Mark: Is the Minister aware that in countries like England, Canada and the USA, there is a differentiation of the fees between persons who are coming from other regions of the world to study in England and America, and those persons who are residents of those countries?

Mrs. Henry: Yes.

Sen. Mark: Well then, what steps is the Government taking to deal with the situation? This is the question I am asking. The arrogance of the Minister is clear.

Mr. President, if we are going to pursue this line here, where the Minister is not responding, I do not know if it will make sense, because I am raising questions and she is not responding to me at all. I do not understand the attitude of the Minister at all, but I will pursue; maybe she will come around.

Medical Programme
(High Cost)

51. Sen. Wade Mark asked the Minister of Education:

Is the Minister aware of the fact that the high cost of the medical programme at the Faculty of Medical Sciences, Mt. Hope, is creating a further division with respect to the accessibility of education and training between the higher income earners and those in the lower income categories?

The Minister of Education (Hon. Gloria Henry): Mr. President, I am aware that access to the Faculty of Medical Sciences is based, first of all, on academic merit. I am also aware that because of the relatively high cost, the Government has provided sponsorship for 35 students into the medical programme, based on academic distinction. I am also aware that the Government has made places available to nationals for medical education where there was none before.

If the good Senator is concerned that many local families are having to make sacrifices to keep their children in medical school, so am I. If he is concerned that some parents and students find it difficult to make the financial sacrifice, so am I. It has always been clear that medical education is costly and for most people a considerable sacrifice is required.

Sen. Mark: Could the Minister indicate whether she is aware that the high fee structure at the Medical Sciences Complex is denying, at least, some 95 per cent of the population intended, as well as qualified, in accessing places at the Faculty of Medical Sciences? Is the Minister aware that the high fee structure is causing a denial of those persons who are willing to study?

Mrs. Henry: I am not about to answer.

Sen. Mark: Mr. President, I think that you should intervene here because there is need for order.

Mr. President: You are not a newcomer to the Senate. The Chair cannot force any Minister to answer a question at any time. The purpose of a question is to seek information. Sometimes some people ask questions here that I am satisfied that they have information and they are trying to see if the Minister is aware of it. I do not know if that is the case on this occasion.

1.40 p.m.

Sen. Mark: Could the hon. Minister indicate whether she is aware that a number of students who have gone through second year and are owing outstanding

fees have received letters from the Bursary indicating that if they do not satisfy those outstanding fees, they would not be able to register in October 1991 for 1993?

Mrs. Henry: I am well aware of what is happening at the Faculty of Medical Sciences. I also answered a considerable part of that question two weeks ago, if the Senator would remember.

Sen. Mark: Could the Minister indicate finally, what attempts the Government of Trinidad and Tobago is making to at least alleviate the fee-paying crisis that confronts our students at the Medical Complex? Could she also indicate what specific plans the Government has to relieve and to assist those students who face the possibility of not entering the third year of their course at the Medical Sciences Faculty?

Mrs. Henry: I recall having responded to that particular question two weeks ago.

Sen. Mark: One final question, could the Minister indicate whether the Government would be open to examining the possibility of deducting or having some kind of arrangement, where interest that is paid on loans by students become deductible?

Is the Government favourably disposed to such a proposal so that the students can be assisted? Can I ask that question?

Mrs. Henry: I am not going to respond.

Sen. Mark: I am asking whether I can pose it to you?

Mrs. Henry: I am not going to respond.

Sen. Mark: Mr. President, I know that you cannot force the lady. The people will force you out. Thanks very much. This is the worst that I have experienced so far.

Mr. President: Sen. Mark, next question please.

Community College
(Establishment of)

52. Sen. Wade Mark asked the Minister of Planning and Mobilization:

(a) Could the Minister state to what extent Government is serious about the establishment of the proposed Community College?

(b) If the Government is serious about the college's establishment, could the Minister indicate what financial allocation has been made, if any, by the

Government to facilitate the establishment of the proposed Community College?

The Minister of Planning and Mobilization (Mr. Winston Dookeran): Mr. President, I assure the hon. Senator that the Government has approved the establishment of the proposed Community College and necessary action is being taken in this regard, including preparation of the draft legislation.

In addition, appropriate steps are being taken to secure the involvement of all the participating institutions and all those who may have an interest in the implementation plans for the Community College.

With respect to the second part of the question, I assure the Senate that with the establishment of the Community College, Cabinet has directed that a detailed budget should be prepared and submitted for its consideration.

Sen. Mark: Mr. President, if you can guide me, I have a series of questions here and I am wondering, is the Minister answering all these questions today, or is he answering two or three? I am not too clear.

Just before you proceed, could I just formally seek leave of the Senate to suspend the relevant Standing Order which limits the number of questions in one Senator's name on an Order Paper to three, to allow the Minister to respond to the remaining questions on the Order Paper, that is 53—61?

Question proposed.

Question put and agreed to.

Community College
(Overall Development Trust)

Sen. Wade Mark asked the Minister of Planning and Mobilization the following questions:

53. Could the Minister state whether the proposed Community College forms part of the country's overall development thrust as it relates to science and technology?

Community College
(YTEPP/AIM Inclusion)

54. Could the Minister state whether the YTEPP and AIM Programmes would be ultimately incorporated into the proposed Community College's curricula when it comes on stream?

Community College
(Institution to be Incorporated)

55. (a) Could the Minister of Planning and Mobilization identify which training institutions and colleges would be incorporated into the proposed Community College, both in the short and long term?

(b) Could the Minister state when the Community College is to be launched?

Community College
(Recruitment)

56. (a) Could the Minister indicate what criteria, if any, will be used to select the leading officers of the Community College including the President?

(b) Could the Minister state whether there is any intention on the part of the Government to establish an impartial committee to screen and select candidates for these positions?

Community College
(Administrators)

57. Could the Minister state whether a Board of Governors or Trustees would be established to govern the Community College, and if so, what criteria would be used to select members of the same board?

Community College
(Tuition Fees)

58. Could the Minister state whether the Community College will be charging fees to its students when it comes on stream? If so, could the Minister indicate the quantum of money to be charged?

Technical Institutes
(Effects or Conditions of Service

59. Could the Minister state how the inclusion of the various technical institutions and colleges would affect the terms and conditions of employment of the present members of staff of these said institutions and colleges?

Community College
(Role of NIHERST)

60. (a) Could the Minister state what would be the precise roles of the National Institute of Higher Education (Research Science and Technology) and National Training Board when the Community College comes into being?

(b) Could the Minister outline the specific functions and authority of the Chairman of (NIHERST) National Institute of Higher Education (Research Science and Technology)?

Community College/YTEPP

61. Could the Minister state whether there is any intention to harmonize the YTEP Programmes with the programmes of the Community College as is practised in other developed countries?

The Minister of Planning and Mobilization (Hon. Winston Dookeran): Mr. President, with respect to the above questions, I would give the full answer so that we need not do them one by one.

The Community College is part of a larger rationalization of the country's post-secondary and tertiary education system. We do recognize that our economic and technological development depend on our country significantly increasing its educational participation at all levels.

It is the intention of this Government that the Community College, with its broad mission will be integrated with other initiatives to form a coherent strategy for post-secondary education and training; including training in science and technology.

One of the expectations of the Community College is that it will facilitate the career enhancement of the YTEPP and AIM graduates. In the longer term, many of the training needs being currently met by YTEPP and AIM would adequately be catered for by the Community College, when it becomes functional.

There is an awareness of the need to ensure that such programmes and their related legislation complement each other. Discussion of Community College, National Training Board, the Board of Industrial Training and legislation to this effect has been taking place between the Ministry of Education and the National Institute of Higher Education (Research, Science and Technology).

It is proposed that the Community College will encompass a nucleus of institutions namely; San Fernando Technical Institute; John S. Donaldson Technical Institute; Eastern Caribbean Institute of Agriculture and Forestry; Trinidad and Tobago Hotel School; the School of Languages; the College of Nursing; the College of Health Sciences and the Information Technology College. Consideration will be given to the incorporation of additional institutions when circumstances warrant such inclusion.

It is anticipated that the necessary legislation would be introduced in Parliament later this year. It is noted that the college will start operations for the 1992—93 academic year. Legislation which is currently being drafted would lay down the rules for the employment of the president and other staff of the college.

With respect to the question pertaining to the intention of the Government to establish an impartial committee to screen and select candidates for these positions, the answer is, yes. The Community College draft legislation has provision for a board of governors. It is intended that the representation on it would be broadly reflective of the diverse community and professional interests.

The question of fees has not yet been addressed and will be addressed in the context of the budget proposals. Alterations in the terms and conditions of employment of the members of staff are now contemplated. However, based on the draft proposals, it is anticipated that the college will be a statutory authority in its own right. It is envisaged that matters such as appointments, transfers and discipline will no longer be handled by the Teaching Service Commission or the Public Service Commission in respect of such institutions as the John S. Donaldson and San Fernando Technical Institutes, where the Commission performs such functions.

It is proposed that bodies such as the National Institute of Higher Education (Research Science and Technology) and the Ministry of Education which are currently responsible for institutions that will form part of the Community College, will modify their missions in accordance with the new legislation. It is expected that specifics on these developments will emerge from the discussions and consultations that are now in progress.

1.50 p.m.

Act No. 20 of 1984, which governs the operations of NIHERST, states at section 4:

"That the Institute shall be managed by a Board of Governors."

Section 6 of the Act provides for the Chairman to preside at all meetings of the Board. Section 10 provides for documents and Board decisions to be signified under the hands of the Chairman. The Act, therefore, gives the Chairman the leadership role in the management of the institution.

The harmonization of the YTEP Programme with those of the Community College is envisaged as part of the planning of the establishment of the Community College.

Thank you, Mr. President.

Sen. Mark: Could the hon. Minister indicate precisely, in his estimation, when the Community College would come on stream?

Mr. Dookeran: I did indicate, Mr. President, that subsequent to legislation being approved by our Parliament. In terms of our timetable, we would expect the Community College to commence operation in the 1992/1993 academic year.

Sen. Mark: Could the hon. Minister indicate who is now going to determine the terms and conditions of persons who are presently employed in those various institutions that are going to fall within the ambit of the Community College when it comes on stream, since the commissions that normally do so are not going to do so in the future?

Mr. Dookeran: That is part of the legislation that will be before us, in order to prescribe the exact terms and conditions which will be governed by the Board of Governors, but this matter is still to be finalized prior to legislation being submitted to Parliament.

Sen. Mark: Can the Minister indicate, for instance, the number of institutions that are going to fall under the ambit of the Community College that is to come on stream in 1992/93?

Mr. Dookeran: Well, I did identify in my answer the specific institutions, which I will repeat: San Fernando Technical Institute, John S. Donaldson Technical Institute, Eastern Caribbean Institute of Agriculture and Forestry, Trinidad and Tobago Hotel School, School of Languages, the College of Nursing, College of Health Sciences and Information and the Information Technology College. These are proposals which are contained and will be the subject of discussion when the appropriate bill is brought to Parliament.

Sen. Spence: Would the hon. Minister agree for his statement to be circulated**.** It would be easier to digest it if he is able to do so.

Given that the University of the West Indies has had over 40 years experience in tertiary education, would the hon. Minister not consider it appropriate for the Government of Trinidad and Tobago, perhaps, to request the university's advice on the setting up of this tertiary institution?

Mr. Dookeran: Mr. President, it is for the Parliament to agree that the answers be circulated.

The University of the West Indies has been involved through the School for Continuing Education in the task force that was established some two years ago in order to formulate the proposals for the consideration of Government, and in that context, I would expect that the participation will deepen as we finalize the details of these proposals.

Sen. Mark: Could the Minister indicate, for instance, whether the Implementation Committee, which was responsible for overseeing the establishment of the Community College, still has that authority or whether it has been removed to some other place.

Mr. Dookeran: Mr. President, in 1987 the Government established a task force, with the specific terms of reference to examine the possibility and the feasibility of establishing a community college, the context and the form of such an institution. The task force completed its report with technical assistance from other community colleges in Canada and the United States and the report was subsequently accepted by Cabinet. Cabinet thereafter charged NIHERST with the responsibility of setting up the implementation plan and it is in that context NIHERST remains the institute that is working up the implementation plan for the community college. The Implementation Committee which is being referred to, I believe, is an internal committee that is being established within NIHERST for this purpose.

CHILDREN (AMDT.) BILL

Order for second reading read.

The Minister of Social Development and Family Services (Dr. the Hon. Emanuel Hosein)*:* Mr. President, the bill before us is an amendment to the Children Act, Chap. 46:01, and it purports to provide a legal framework for the ready dealing of children at risk in circumstances not presently catered for in the existing Act.

Over the past two decades or so, there have been no shortage of lobbies on behalf of children at risk or studies for that matter and recommendations on their behalf. In 1987, Cabinet appointed a committee to examine the entire delivery of family services in Trinidad an Tobago and to make recommendations, *inter alia*, for the integrated delivery of family services in the most cost-effective manner, paying special attention to women and children who are the victims of domestic violence, including child abuse and neglect.

The Cabinet of Trinidad and Tobago has had the benefit of two comprehensive reports on this subject: First of all, the Child Abuse Report of 1987/88 and the Report in 1987 on the Delivery of Family Services in Trinidad and Tobago. A Cabinet-appointed committee has only recently examined in further depth the issues relating to children at risk and publication of this report is imminent. A common recommendation contained in all of these reports is a demand for a more flexible legal device for guaranteeing protection of children at risk. Legal devices found in sections 10, 11, 12, 15 and 44 of the existing legislation, that is the Children Act, for protection of children at risk, apply in relatively narrow circumstances.

The Children (Amdt.) Bill before us empowers the court, according to the circumstances before it, to make an order for children at risk, other than those found in sections 10, 11, 12, 15 and 44, such an order to be known as a Care Order. This amendment, I should say at the outset, affords with Government's commitment, to ensuring that its laws and administrative procedures safeguard effectively the rights of children, and also fulfils Government’s obligation as a signatory to the UN Convention on the Rights of the Child.

The bill purports to extend the operation of the Children Act by providing, in the proposed section 12A, an order known as the Care Order so that children at risk in circumstances which at present fall without the present Act may be placed in less damaging environments.

2.00 p.m.

It is imperative to place the amendment in the context of the Act which it amends in order to appreciate exactly how the amendment is to work. Part 1 and section 44 of the Children Act identify certain behaviour which the state finds unacceptable and which may result in state intervention of the caring of children. Thus, for example, it is a crime for a person over 16 years, who has the custody, charge or care of a child, to wilfully assault, ill-treat, abandon or neglect that

child, in a manner likely to cause unnecessary suffering to his health, both physical and mental. If that person is convicted, committed for a trial or bound over in respect of any of these offences of cruelty, or for any other offence referred to in part 1 of the Act, then and only then, can an order be made by a magistrate committing the child to the care of a relative or some other fit person named by the court. That is what we refer to as a section 12 order.

A limitation of the present section 12 order, however, is that it cannot be made if the child or young person has a parent or guardian who has not been convicted or tried for the offence, even if that parent is otherwise incompetent or unfit to parent the child. In another instance that is, by virtue of section 11 of the present Act, where an offence so described above has been or there is reason to believe has been committed, a constable or any person authorized by a magistrate may take the child to a place of safety and a child so taken or one who seeks refuge in a place of safety, can be the subject of an order relating to its care and detention until a charge against the person committing the offence has been determined or a reasonable time has elapsed for a charge to be made. The section 11 order therefore is clearly of a temporary nature.

The Children Act also at present in section 15, authorizes the magistrate on complaint on oath, to issue a search or removal warrant to remove a child to a place of safety if there is reasonable cause to suspect that the child has been or is being assaulted, ill-treated, neglected *etc.*, in a manner likely to cause the child unnecessary suffering, or that an offence referred to in Part 1 has been or is being committed. Under this section the magistrate may commit the child to the care of a fit person.

Section 15, therefore, provides for the making of an order which is different to that made under 11 or 12, in that it is not dependent on criminal action being taken against the offender, nor is it a temporary order as in section 11. It is, however, clearly an order made as a consequence of a warrant to search for a child or to remove a child to a place of safety. Thus it, too, has limitations that impede its usefulness. Members should take note that because of an overlap between the proposed care order and an order made under section 15 of the existing Act, the Bill before us seeks to amend section 15 so that it will only allow the magistrate to issue a warrant for search or removal. The rest of it, of course, being unnecessary in the light of the present amendment.

The consequent placing of a child will then be made by the proposed new care order. Section 44 of the present Act allows any person without a warrant to bring a child, in specified circumstances, before the court. The court may then commit the child to a certified orphanage, or failing that, to a relative or other fit person, except in the instance where a parent or guardian is unfit to have the care of the child by reason of criminal or drunken habits.

The present section 44 also does not cater for the situation where children are at risk of future harm while under the care of parents or guardian. So that, something must have happened to the child, but the question of future potential risk is not taken care of. In essence, therefore, the orders which can be made under the existing legislation, that is the orders under sections 11, 12, 15 and 44, do not fully protect children at risk. Members should also note that at present a “fit person” is defined in section 23 of the Children Act to include:

> "...any society or body corporate established for the reception or protection of poor children or the prevention of cruelty to children."

You will note, Mr. President, that the bill in clause 7 amends the Act to remove any possible legal doubt that non-governmental organizations which, in fact, are receiving children are in fact fit bodies and may do so, notwithstanding that they were originally not established for the purpose of the reception or the protection of poor children or the prevention of cruelty to children.

The provision before us in proposed section 12A, is worded somewhat differently from other sections of the existing Part 1 of the Act relating to orders, such as sections 11, 12 and 15 and intentionally so. The making of the care order is not dependent on an offence under the Act having been committed. I want to emphasize this Mr. President: the making of the care order is not going to be dependent on an offence under the Act having been committed. Proceedings for a care order can be brought on a complaint on oath, not only by a person who the magistrate finds is acting in the interest of a child, but also a public officer so authorized by the Minister, in writing. Such an officer must be an experienced or qualified person in social welfare. This would allow the Minister to authorize social workers or other suitably qualified officers in the Ministry of Social Development and Family Services. That is, would make them authorized persons.

Members will note that section 11 of the Act has been amended to allow such qualified social workers to take a child to a place of safety as well. Those of us who looked at the existing Act will note that only a constable or a person

authorized by a magistrate may remove a child to a place of safety. A care order may be made as ancillary to any proceedings before the High Court or Magistrate's Court. This is another point I wish to emphasize. Thus, if it transpires during the course of a matrimonial matter, for example, that a child has suffered harm, is suffering harm or is likely to suffer such harm, the issue can be dealt with immediately by the court. So that the court will not have to delay the matter by having it heard independently, especially when circumstances are such that it is clear that the issue of the child's welfare warrants urgent attention.

The proposed care order will operate in the following way. A child could go to or be placed in a place of safety and the magistrate, rather than waiting for the charges to be laid against a parent, could make a care order placing the child immediately in the custody of the parent, subject to supervision, or a relative or other fit person. This should relieve the pressure on institutions which are already overcrowded or indeed are unsuitable for the holding of children who are not emergency cases. Also, if for example a child has been place with an NGO, it could immediately contact the social worker who could get a care order for that child to stay with the NGO. If that NGO finds alternative accommodation with a family, the order can readily be varied so that person or organization could, through the person authorized by the Minister, get the child to that family. Because it is an order under Part 1 all the consequences that flow generally, that is, from the orders in Part 1, will also apply to a care order. When making a care order, the court must follow the test of:

"The child's welfare being the paramount consideration".

This, Mr. President, is an innovation of terminology in the context of the Children Act. In other words, nowhere else in the existing Children Act is there such wording. Welfare is not defined in the amendment. However, there is jurisprudence on the meaning of the word, as I am sure the Members of the legal fraternity will appreciate. The new section 12A also specifies that the child's welfare is to be of paramount consideration. Again, on this issue, guidance is available to the courts from existing case law. The provision is unequivocal in specifying that the responsibility of the court is to the child and the fundamental question to be asked before a care order can be made is: What will such an order do to improve the child's overall welfare?

2.10 p.m.

Proposed section 12A specifies the criteria the court is to take into account when making a care order. These are, that the child or young person, first of all, has suffered or is suffering harm so as to cause serious concern for the welfare of that child or young person, or, two, is likely to suffer such harm. The test includes both past and present evidence. The reference to present harm is, in fact, a reflection of what is already provided for in Part 1 of the Children Act. The innovation, however, is the reference to future likelihood of harm. The harm has to be such as to cause the court to have serious concern for the welfare of the child.

Members will note that harm has been defined to include impairment of physical or mental health or development. This reinforces the concept that care is confined not only to physical needs, but also to mental needs, as section 3 of the present Children Act already adverts. The care order can place a child in the custody of a parent, a relative, or a fit person. The attention of Members is drawn to proposed section 12A (1)(a), where the court may order that the child may remain in the custody of the parents subject to supervision by a named person or authority.

In this regard, although the amendment widens the circumstances in which the state can intervene, it also reflects an assumption that bringing up children is the responsibility of their parents, and that the state's principal role is to help, rather than to interfere. This philosophy is not apparent in the existing orders.

Proposed section 12A also entrenches into the care order, provision for monitoring, which is not specified in other orders in the existing legislation. In this regard, it reflects an underlined holistic approach, rather than a strictly legal approach to the care of children. The care order will also apply to young persons up to the age of 18, which is in conformity with the UN Convention on the Rights of the Child. All orders at present apply to young persons up to 16 years of age. Because of the scope and the flexibility of the proposed order, there is potential for the orders made at present under sections 11, 12, 15, and 44, to be eventually subsumed.

In addition, children not presently catered for under the Act will also have legal access to protection by way of the care order. In particular, one has in mind those children who are in environments where their siblings are the subject of assault. For example, one is reminded of the case which provoked the 1987 lobby by social workers and medical and legal personnel, and that is the dramatic suicide of a

school girl who was the victim of incest and whose elder sister had already had two children by her father. I am reliably informed, Mr. President, that the victim was reluctant to leave home as she feared that her younger sister would in turn be abused in similar fashion.

The legislation before us, Mr. President, proposes to deal with such situations whereby not only the victim herself could be protected but also siblings of the victim who are at potential risks. That is the innovation, Mr. President.

Similarly, data compiled by social workers in my Ministry show an urgent need for legislation which will provide protection for children at risk from future harm. Such data may be summarized as follows:

(i) abuse of more than one child occurs in most families that have been reviewed;

(ii) that more survivors claim that the abuse starts about the age of six years;

(iii) although such cases are reported to the police, the vast majority do not reach the court;

(iv) that abusive behaviour by an adolescent male is often patterned after the behaviour of his father, hence there are many instances where both father and brother are sexually abusing girls; and

(v) in some cases both male and female are members of the same household and are being sexually abused.

The existing law does not adequately deal with all of the above situations. With the proposed amendment, social workers would no longer have to wait until a second or third child of the family is abused—the evidence clearly suggests that this is the pattern—but would now be authorized to move and to take to a place of safety a sibling at risk and thereafter to seek a care order for such a child. Likewise, under the proposed new section 12A, a care order may be sought even if criminal action is not proceeded with, or even if the matter, though reported to the police, does not reach the court. Members will recall that the present section 15, that is in the existing Act, may cater for such situations but it is very limited in its application.

Mr. President, what we are saying, therefore, is that the Children Act, at present, does not fully protect children at risk. The bill before us is an attempt to fill a significant gap that has been identified in the existing legislation.

Hon. Members will note that in clause 3 of the bill, that section 2 of the Act is to be amended so as to prescribe that reference to the Minister in the Act means the Minister with responsibility for Social Development and Family Services. At present, by administrative assignment published in the *Gazette* of March 15, 1989, responsibility for industrial schools and orphanages lies with the Minister of Education. The effect of this particular amendment, therefore, would be to terminate the existing administrative arrangement and place the responsibility for industrial schools and orphanages with the Minister for Social Development and Family Services, where we believe it should more appropriately lie.

Members are assured that the bill before us has not been conceived in a vacuum. Cabinet has already approved the administrative support structure which is a necessary adjunct to this bill. In March of 1990, Cabinet established the National Family Services Co-ordinating Council. The council comprises a multi-disciplinary team from Government and non-governmental organizations with, *inter alia*, the following terms of reference:

(a) to identify the gaps in the existing legislation in order to adequately provide to the care, protection and welfare for children;

(b) to particularly address the needs of abused, neglected and abandoned children and battered persons;

(c) to develop an ongoing national and community programme of public education in parenting skills and child care;

(d) to establish in conjunction with governmental and voluntary organizations, mechanisms for co-ordinating, integrating and developing at national and community levels the provision of services responsive to the needs of the family, especially the needs of abused children and battered persons.

The last mentioned term of reference reflects the state recognition of invaluable community service provided by the non-governmental organizations and the need for co-ordination of social services as a whole.

The bill before us is one aspect of Government's increasing presence in the co-ordination of these activities, in particular with respect to children, for it will provide a legal focus for the NGOs when faced with the reality of a child at risk seeking help, in addition to the establishment of the National Family Services Co-ordinating Council, a new division of the National Family Services Division was also created in March, 1990, in my Ministry.

Cabinet has recently agreed, Mr. President, indeed in the last few weeks, to the creation of 27 posts in this division, and just about $1 million has been provided for the hiring of staff in this division. Cabinet has recently approved administrative arrangements to urgently and immediately acquire the necessary qualified staff for the Family Services Division and, in addition, some of these persons have recently been approved and appointed.

Mr. President, the bill before us, therefore, amends the Children Act in a way that completes the total package of measures that are necessary to provide for all circumstances in which children at risk find themselves. I therefore wish to commend this bill to the Senate and seek the support of all hon. Members as I am sure that all hon. Members share the intention of Government in this regard, and I hope the specifics of the amendment will also find favour with all hon. Members. Thank you, very much.

Question proposed.

Sen. Salisha Baksh: Mr. President, I would like the hon. Minister to know that I have noted all his points as far as recommendations are concerned, and I would like him to know that I am definitely going to be bringing up those points again to reiterate the need for immediate action.

Mr. President, the United Nations declarations of the rights of the child states in principle two:

> "The child shall enjoy special protection and shall be given opportunities and facilities by law and by other means to enable him to develop physically, mentally, morally, spiritually, and socially and in a healthy and normal manner, and in conditions of freedom and dignity. In the enactment of laws for this purpose the best interest of the child shall be the paramount consideration".

This provision emphasizes that the law has a vital role in ensuring that the welfare of the child is given paramount importance. Thus every country should strive to provide laws which, firstly, are carefully directed towards the protection of children and, secondly, are designed to punish those persons who are guilty of ill-treatment, neglect, and abuse of children. This is by no means an easy task, as our law has to be reviewed, revised and updated to take account of the present reality of the increasing occurrence of child abuse in Trinidad and Tobago.

The present bill seeks to amend The Children Act, Chapter 46:01, by extending the protection provided for children who are the victims of child abuse.

Under the present law, Mr. President, by virtue of sections 11, 12, and 15 of the Act, a child or young person at risk cannot be removed from the custody of a parent or legal guardian unless—

(a) such parent or legal guardian has been committed, bound over or convicted for an offence;

(b) such parent or legal guardian cannot be found;

(c) there is reason to believe that the parent has committed an offence, or

(d) as a consequence of a warrant, to search for or to remove a child or young person who has been or is being assaulted, ill-treated or neglected".

Thus, Mr. President, if a child or young person has been abandoned, neglected, or ill-treated by his parents or legal guardians and as a result is placed in the care of foster parents, the latter has no lawful authority for the care they are providing to that child or young person unless one of the criteria mentioned previously is satisfied.

However, by virtue of clauses 4 and 5 of the present bill, two fundamental additions are made in the attempt to adequately provide for the protection of children. Firstly, clause 4 amends section 11 of the Act so that a person in the Ministry who is authorized to initiate legal proceedings for a care order is included as a person allowed to remove a child to a place of safety where an act, which is an offence to which the Act applies, is not only committed, but where there is reason to believe that it has been committed. Secondly, clause 5 purports to enact a new section to the Act which, among other things, allows any court to make a care order for the protection of a child or young person up to the age of 18 years if, in the course of proceedings before it, the court is of the opinion that the child or young person has suffered or is likely to suffer harm.

Mr. President, the definition of "harm", as stated in this clause, includes those actions which adversely affect the physical, social, emotional, or moral well-being of the child or young person. The effect of clauses 4 and 5 is that children and young persons can be removed from the custody, charge, or care of any person who is guilty of child abuse. But these amendments to the Act, although commendable, and might I add here long overdue, are not going to “single-handedly” solve the rampant problem of child abuse.

Permit me, to examine the present situation. According to section 11 of the Act, where there is reason to believe that a child or young person is being abused, or is exposed to abuse, such child may be taken by any authorised person to a place of safety until he can be brought before a magistrate.

By virtue of this provision, Mr. President, and in light of the slow-moving court process, the period of detention of such a child in a place of safety may vary from a few days to a few months.

Section 2 of the Act defines "place of safety" as:

> “any Police Station, or any hospital, surgery, or any other suitable place, the occupier of which is willing temporarily to receive an infant, child, or young person;”

Although the use of the word "temporarily" in the definition suggests that such places of safety are meant to cater for short-term visits, the reality of this situation is that the abused child or young person normally remains in that particular place for a prolonged period of time.

Further, clause 7 of the bill purports to amend section 23 of the Act to make it quite clear that a fit person for the purpose of receiving a child in need includes an agency or authority established and recognized by the Minister for the reception of children to whom the Act applies. Due to the fact that in Trinidad and Tobago there is no foster care or family rehabilitation service, these places have been referred to as unfit, they have been referred to as unsuitable, they are overcrowded, they are inadequate and unresponsive to the particular needs of children.

A thorough analysis of the situation as contained in the very report to which the Minister referred, a report of the Committee to Examine the Entire Family Services Delivery System in Trinidad and Tobago conducted in 1987, revealed that children were placed by the court in long-term custodial care, in the existing children’s homes with no direct agency or structure responsible for the issue of the child's rehabilitation or the restoration of the family unit.

At the same time, Mr. President, the committee identified numerous problems which plague the existing “places of safety,” and children’s homes. I am going to mention just a few because I am sure that most Members in this House must have read this report, but for the benefit of those who may have read but not understood some of the problems highlighted in this report are:

1. The majority of children in the institutions were not orphans. They were victims of broken family systems due to mental illness, deserting parents, poverty and abuse.
2. There seemed to be a tendency for graduates of the children homes to produce children who, in the absence of family support, needed to be taken into care, thus repeating the vicious cycle of the deprived child growing up in an institution.
3. The majority of staff were ill-equipped in terms of attitude and training to deal with the special needs of deprived children in care.

These are just some of the major problems.

Children's homes, Mr. President, in Trinidad and Tobago, are run by religious and voluntary organizations which receive subventions from the Government. But due to the escalating number of cases of child abuse and the lack of money, these institutions have not been able to provide adequately for the children and the young persons who live there. The only means of improving the present deplorable and unsatisfactory condition of these places is for the Government to recognize the need for a comprehensive, co-ordinated, an integrated community family delivery system or family support system within each community.

If the Government fails to implement this programme soon, then the children or young persons who are victims of child abuse will be removed from their homes and put in places in which they will be further deprived of their right to develop to their fullest potential.

Thus, Mr. President, what we are saying is that these children will literally be jumping from the frying pan into the fire. We must bear in mind that if we are going to address ourselves to the problems of children who need help, we must address ourselves to the entire problem. The true extent and scope of child abuse in Trinidad and Tobago is virtually impossible to determine. This is due mainly to the fact that there are disagreements over definitions and standards of evidence, and the lack of a proper system of reporting, collecting, and filing information received by agencies which deal with cases of child abuse.

Further, Mr. President, child abuse usually occurs in the privacy of the home, and as a result of this, many cases remain unknown and unreported. Nonetheless, we do know a great deal about the social conditions associated with abuse and neglect. We are all fully aware of it. These problems, Mr. President, are found

everywhere and are more prevalent in families with limited economic resources, unemployment and high stress.

However, although we must not get caught up in the numbers game, there is statistical data obtained from the report referred to earlier that give an insight on the reported cases of child abuse in this country. I am going to quote some of these figures. The following statistics were obtained from four major sources, namely:

1. The Chief Probation Officer Report of March 1986 to March 1987. In this report there were 208 cases of abuse of children of which 47 were physically abused and 61 were sexually abused;
2. A Child Psychiatrist's report, of January 1986 to April 1987. In this report it was quoted that there were 32 cases of child abuse;
3. The Police Statistics—195 cases of child abuse, which included 46 physically abused, 38 sexually abused, 83 neglected, 20 abandoned, and eight emotionally abused; and
4. Medical Social Worker's Report, San Fernando, for the year 1985 to 1986—34 cases of child abuse.

Mr. President, the truth is that throughout Trinidad and Tobago, there are many children who are abused and neglected, and it is high time that we formulate a comprehensive policy which includes programmes that will be effective in efforts to protect the welfare of our children and young persons.

Child abuse is a very widespread problem in Trinidad and Tobago, and the consciousness is growing that traditional child-care protection agencies are simply not equipped to handle it. It is no secret that they have neither the funds nor the staff to make the necessary impact; nor can we expect them to possess all the skills this multifaceted problem requires. What is needed is a new and broadly-based approach that will draw more effectively on the resources of the community.

Mr. President, this plan for preventing and treating child abuse involves many things. It involves the education for professionals and the public. Educating school children for family life has a place in preventing child abuse, at least, in the case of young parents who are almost totally unprepared for parenthood.

The police force has an important role to play, because it is their duty to protect and serve the public, which includes children and young persons. Special police officers are required to deal with child abuse cases; officers, who can

recognize the symptoms, who will be sensitive to the psychological needs of the victims, and who must be specially trained to understand the motive of those who commit the offences, and who know the unique characteristic of offences.

2.40 p.m.

The media, Mr. President, also have their role to play in community planning. Accurate, continuous reporting and monitoring of child abuse programmes in the community, is a valid function for the press and television, the print and electronic media. Enlisting the help of the media to change laws or financial allocations and to tell the public that families involved in child abuse can be rehabilitated, will help the community to be more concerned about its children.

While the provisions of the Act and the bill, relate mainly to children who have had the misfortune to be deprived of a normal home life, we must also keep in mind, the need to do all that is possible to save children from suffering this misfortune. We are saying, where a home can be so improved that it is unnecessary to remove the child from its parents, or that a child who has been taken away for a time can properly be restored to his parents' care, the advantage of this is unquestionable. To keep the family together must be the first aim and the separation of a child from his parents can only be justified when there is absolutely no possibility of securing adequate care for a child in his own home. Thus, if preventative measures are to be taken, the people working in social services, whether they are statutory or voluntary, must have the opportunity and the capacity to recognize the signs of incipient breakdown in families.

Medical practitioners, ministers of religion, teachers, social workers and others, must know what they are looking for, and how to recognize the danger signals. In order, therefore, to facilitate the discovery of all families in need of help, there should be some centre or body to which parents and others know they can turn for advice and assistance; some door on which they can knock, knowing that their knocks will be answered by people with the knowledge, capacity and with the willingness to help them.

But it is not enough simply to discover these problems, whether they are brought to light by the social services, voluntary groups or family-care services. Appropriate community services, both statutory and voluntary are necessary and they must be co-ordinated so that they can be made available quickly and fully, to all families in need of them. If children are to be prevented from suffering through neglect in their homes, they and their parents need help. If those in need of such

help are to be given it in time, they must first be discovered and their particular needs determined. Action should then be decided on a voluntary basis before compulsion by a court becomes necessary or justifiable. Only adequate and well-co-ordinated community services with clear and appropriate powers and duties can properly perform these functions of the ascertainment, diagnosis and treatment of the problems involved.

Mr. President, we regard such positive methods for prevention and for the building of community services as the first and main line of defence in the fight against child abuse. If in a particular instance they fail, or are clearly unlikely to succeed, it will always be possible to fall back on legal sanctions; but the more effective and successful the social services become, the less often it will be necessary to remove children from their homes and to bring their unfit parents before the courts.

Effectively resolving the problem of child abuse can only be achieved by multi-dimensional action. It is necessary for us to utilize all the resources available to their maximum potential. Laws have to be updated and matters such as mandatory reporting of child abuse cases have to be addressed. This is perhaps the best time to introduce laws to compel notification of suspected cases of abuse. Of course, this controversial issue must be addressed with caution. We would need to differentiate between (a), compulsory notification which would apply to certain professions such as teachers, medical practitioners, social welfare officers and community officers; and (b), voluntary notification which would apply to any person who suspects that a child is being abused. It must be clearly stated, however, that no legal liability would be incurred by anyone who reports a suspected case of child abuse, in good faith.

Further, the necessity for effective and efficient legal procedure has to be examined. Due to the special and sensitive nature of child abuse, there is the definite need for a family court with civil and criminal divisions and providing for the necessary ancillary social services. If such a court is established in Trinidad and Tobago, considerations should be given to closed court sessions, because many parents and children are afraid to become involved in court proceedings because their identities become known. This is a fact. There should be some measure of protection for the victims.

It has been truly said that the culture of a country can be assessed by the services it offers to its children. The benefits achieved for children represent the

most definite test of a nation's evolution and also run parallel to its social and economic progress. In Trinidad and Tobago, there is a definite need for this Government, or any Government, to fulfil its two-fold responsibility of firstly, providing for those children who have been abused or will be abused in the future; and secondly, supporting parents in their efforts by giving financial aid to families in need and by enacting legislative measures aimed at encouraging responsibilities towards our children.

Child abuse is a problem which affects all of us. We must not be content to shirk the responsibility by shoving it on one person. It must be a combined effort using preventative and curative measures. Always remember that children want what all human beings want. They want to feel that they, too, belong; they want to feel significant through their contributions and to feel that they count for something in the group or family. It is therefore the duty of parents, and when they fail, it becomes imperative on the state to give children what they want. Thank you.

2.50 p.m.

Sen. Dr. Ramesh Deosaran: Mr. President, first of all, I would like to commend the Minister for completing a job which he had started with the Domestic Violence Bill, in the particular instance of protecting members of the family. This bill as we can see is lighter, in the sense that it does not necessarily go too far into laws which already govern family life, except—and this is my major concern—that it seems to me, having sat here the last couple of years, that the court and the law are now taking over the family. It seems as if the management of family life, at least in this country, has become so unstable that more and more we have to either revise laws, or more particularly strengthen them in order to control what happens in the family.

Certainly, this is no aspersion on the Government directly because it seems to be part of a larger conglomeration of forces in the society, that is, today, the family in this country is in crisis, be it in terms of raw domestic violence; juvenile delinquency; or be it in terms, in the particular instance, of child abuse and the need to protect children.

If I can recall, there was a time when the protection of children was rightfully the duty of the parents. There was not only a moral obligation, but there was also a legal obligation, but what you have today step by step, is that we are using the court and the law to perform a function which traditionally had been that of

parents, be they in the nuclear family or the extended family. There is some justification for this because apparently things have changed. There is now more violence of different kinds, and for any responsible government, some steps must be taken to deal with that.

Just before coming here, I had the privilege of listening to the Executive Director of Servol, Fr. Gerry Pantin talking about this same subject, "Violence in the Family". When he was finished as to what caused it, there was almost nothing left out. In some cases, he said that it was in the genes of people to be violent; they had genetic dispositions; then he said it was poverty; urbanization; neglect; then he said it was the media as usual. So if all these things cause violence, then how can we begin to solve the problem? He said there was no comprehensive plan to deal with it, but certainly, as we had in our previous debate, the law will always have a difficulty in dealing with these things. I sympathize with those who bring social legislation because in my view, these problems do not appear overnight.

I think the last speaker was correct. In order to get a thorough profile of where the problems are more serious than in other places, what categories of causes that would need more immediate attention and so forth, you would need a stronger data base. The reliability of statistics in social welfare, or in crime—I think was the Minister himself would concede—has been a neglected area for a long time.

This matter of parenting in 1991, the problem of parental neglect today, to me, owes a lot to the way the educational expansion started about 20 years ago. We had a tremendous expansion in secondary education. That produced the advantage of widening the opportunity base in terms of quantity and places, but what it also did was to bring in a larger group of adolescents in a system which could not properly cater for their other needs, for example, parenting, career opportunities and the general question of family life thereafter.

You have raised the expectations of these people by bringing them more into secondary schools, but you could not subsequently provide enough opportunities to satisfy those expectations. What has happened from the 1960s throughout the 1970s because of that dismal gap between the rising expectations of youth and the lack of opportunity, was to produce a very frustrating cadre of young people, who one way or the other got involved with the opposite sex and unleashed their sense of incomplete responsibility, by producing children and leaving them behind in such a way, that today, we are faced with the problem of child neglect.

When you speak about young persons between the ages of 14—18, you are really speaking about children of secondary school age, but these are also children who will soon be parents and if at this early age they are victims of such abuse and such unstable modes of existence, it is quite likely that we will aggravate what I earlier called a crisis in family life.

3.00 p.m.

So when we speak about parents abandoning a child, as clause 5 section 12A(6) of the bill before us, or, showing neglect, I wonder, possibly, if there are not other reasons for these occurrences. One can understand clearly the evil in a parent taking up a piece of iron and inflicting direct injury on his or her child; or committing flagrant acts of sexual abuse, but when you come to matters of neglect, ill-treatment—I do not know in such grey areas whether we can make a safe judgment as to the causes that lead to such parental neglect because, quite possibly, the parents themselves might be subjects of neglect—I think the last speaker raised that point and I will not belabour it—in that parents themselves today are facing inadequate opportunities to look after their families in the proper way.

This is how I begin to see it. The families today are in crisis for a number of reasons and when we take the steps we are taking now—and I welcome this step, because it is indeed a helpful step, although I wonder why these regulations were not subsumed in the first place under the Domestic Violence Bill. It would have been, to me, a neater package and a more comprehensive piece of legislation.

We cannot deal with the issue of neglected children and child abandonment without having, for example—and I think it is time the Government seriously considers this—a population control programme. It is, to me, inconceivable, whatever rights a parent might have, whatever privacy he wants to endow upon his or her sexual liberties, certainly the products of such liberties and rights do have an impact on the socio-economic resources of a country, if they get reflected in more offspring than a home can properly manage. This really is not a violation of anybody's religious doctrines. It is a matter of reasonable economics for national planning, especially in cases where people insist on having more children than they can properly manage. To have agencies one after the other stumbling over one another to pick up the pieces calls for a serious review of family life, but in terms of population control, because these are the kinds of situations that aggravate some of the issues we are speaking about here.

I remember reading a report on poverty which was put out by the Central Statistical Office with some experts from, I think, the Netherlands, which suggested, and it was seen quite clearly for some areas of this country, that the poorer the family, the more children they tend to have. Perhaps you might say, facetiously, that they have little else to do in terms of recreation or perhaps they mistake procreation for recreation, but certainly I do not think we can sit back and have these kinds of procedures to deal with problems that are more fundamental in both their nature and in terms of the kind of solutions that they call for.

This, of course, is a controversial issue but certainly it is time that we stop and think about the laws of supply and demand and the capacity for families to maintain their respective integrities by taking on an amount of responsibility they can properly manage. It does not mean to say that poor people must not produce any offspring. Certainly not. But at the same time it does not mean to say that families that find themselves at the lower end of the poverty scale should make 10, 12 and 15 offspring. That is totally unreasonable because in such compressed conditions possibilities of neglect and abandonment would arise so we have to link this, for example, with a review on the question of population control in the way I have suggested.

Even when the Children Act speaks about a place of safety, if the Minister means, by a place of safety, St. Michael's Home for example, well he too would understand. There is a range of possibilities of fit persons but certainly if you include places like St. Michael’s then there is a problem. I have known about St. Michael's Home for Boys St. Mary's Home (Tacarigua Orphanage) for a long time and the conditions there have been appalling, for a long time too. One could say one could have done better. Yesterday I passed on the Diego Martin Road and I looked just to make sure whether what I saw some months ago was still there. The place is overgrown with grass, there is a big, naked concrete structure hanging loose, the place is dilapidated, it looks dangerous from the road, it looks infested with all kinds of vulgar possibilities, it is a place that is destitute certainly. We cannot call such a place a place of safety. In other words, I think you would have to consider whether or not such places are places of further neglect. I hope the Minister and in particular, his Government, does not take this as a personal criticism. We have not paid any attention to these ancillary services at all. We see them merely as dumping grounds with little emphasis on rehabilitation and more on containment—keep them quiet—and even that has not worked. In St. Michael's, particularly, there are additional problems of the tail wagging the dog because the

management of that place, for various reasons, has not been allowed to function as effectively as it should. When you tell me about a place of safety, I become a bit apprehensive and I am sure that the Minister would understand that there is some need to do some work, as he has pledged to do in the years ahead, possibly, on matters of that kind.

3.10 p.m.

I had some other questions to comment upon, but some of them were dealt with by the previous speaker, and I am almost sure my distinguished colleague, Sen. Alexander, will take up some of the other questions. But I want to come to what is really my major motive for rising to speak on this bill.

Yesterday, my colleague, Sen. Spence, indicated to me that while a report of a hold-up and the larceny of a motor car along the East /West Corridor, was being made at a police station, a mother came into the same police station complaining quite pitifully that she cannot control her children; and these were teenagers. Many parents today have lost control over their children. In fact, their children have grown up sometimes more than their parents have, in several ways, physically too. You see, whilst we are looking at it in terms of how parents or guardians abuse children—and you have some measures here where you have hard criteria; sucha as direct violence and leaving blue marks, but you also have soft criteria as neglect and abandonment—there are unexpected kinds of punishment which can find themselves being applied in the bill if the proper judgment is not made by the social worker or the responsible person, that can put a parent in undue trouble. In fact, under this bill a child could threaten to take his or her parent to court by putting in a claim under one of these provisions, especially if the parent persists.

A few of these cases might appear. I do not know. But given the tenor of things today, especially, if the parents insist on disciplining the particular child. Now we are not speaking about harsh flogging, necessarily, but I am putting before this honourable House and before the hon. Minister that we need more parental control in this country. That is a problem.

Children, especially teenagers, have gotten out of hand, not only in the schools they attend, but in the very homes in which they live. All I am asking is whilst I recognize neglect, and all the sympathies that all of us have for destitute and abandoned children, I think we must hold strain a while, to still give the parent an assurance that he ought to be in control of his own family and, particularly,

children. Because what usually happens in such legislation, everybody takes a one-way boat, whether it is domestic violence—everybody says, husbands beating wives like peas, and it gets all aggravated and exaggerated and we forget in the realm of reality, there is another story to be told.

In this case, the other story to be told, quite clearly, to children in schools, children in all homes, is that the parent or the guardian must still be in charge. That is why I express some apprehension as to where we are going when we have the court and/or the law, getting more and more involved inevitably—and I understand the reason—in trying to control and manage family life.

Sen. Rampersad: I thank the hon Senator for giving way. Might I say that I do not intend to be facetious, but you raised a very fundamental question there and I would want to know if you have some form, or can you tell us how you are going to legislate for more parental control?

Dr. Deosaran: You have me dumbfounded, because there are so many answers I could give you. Why do you think we should legislate for that? Why is it every time you speak about an event or a social process, someone feels that there should be legislation to tackle it? Maybe that is what his Government prefers to do. I certainly do not feel so, because you see, there is an implicit accusation here. Once you start taking the line of legislation so persistently, you will always be accused later on of failing. I thought that was what divestment is supposed to be. Why do you not divest in other areas as well? Divestment should not only be economic divestment. You should divest things more to family life if that is the case. But it is this zig-zagging that sometimes has me, and apparently yourself, in consternation. I would not recommend, really, a law for more parental control. All I am asking, quite respectfully, is that we do not subvert the principle of parental control and we should not make children feel, however briefly, that it is the other way around.

As I said, that is the major reason for my standing to speak. I have no problems really with the bill as far as the substantive issues are concerned. But after hearing stories or events, such as that related by my colleague, Sen. Spence, and being somebody in education and at university myself, I remain concerned at the extent to which parents have lost control of their children in terms of discipline, and in terms of guidance. We know all the possible consequences of this in terms of delinquency and criminal behaviour. I am not going to talk about the old time days or, bring back the old time days and so on. But certainly, there was something to

be said about parental control in those days, something which we have lost and that has been largely responsible for putting the family in crisis today.

When we speak about children's rights, I suppose I myself am very much in favour of it, but nothing should be said or done to subvert the presence of the parent in his or her home. If the parent is irresponsible, as might be evident in some cases here in the bill, let the law work against that parent. But do not use the law or project the law in such a way, that it undermines the concept and practice of effective parenting.

Mr. President, my last point has to do with a similar proposal that I made in a previous debate that we had, and that is, a legislation of this kind is such, where there are inevitably—no matter how carefully you try to define terms and the functions of public officers, certain nuisances, certain matters for judgment, such that it is always useful with a fresh piece of legislation like this, to get all the offices in the particular ministries together, with your senior technocrats and draftsmen, to explain both the intent and how the law should be effectively implemented by them. Because certainly, this is a bill that calls for keen professional judgment at certain levels. I believe we should not just pass the law and leave it there.

3.20 p.m.

Before that, or soon after that is done, I think all the officers who would be involved in this exercise should be called together under the programme I suggested, the Legislation Awareness Programme, LAP. Once again they will have an opportunity to "LAP" it up.

So, Mr. President, those are my minor concerns. I hope that the honourable Senate considers the last one to be a major concern today: the need for parents to demonstrate control in the family, and that they be allowed to do so as far as possible.

Thank you, very much.

Sen. Louise Horne: Mr. President, I welcome the amendment to this bill, because the proposals are to improve the well-being of our children.

In clause 5 the proposed section 12A(1) says, in part, that:

> "...the court may, with the child's welfare or young person's welfare as the paramount consideration, order—

(b) that the child or young person be committed to the care of a relative of the child or young person or other fit person named by the court".

According to the explanatory note, a fit person for the purpose of receiving a child in need includes,

"an agency or authority established and recognized by the Minister for the reception of children to whom the Act applies".

Nowadays, there are only a few voluntary agencies where children and young persons in need are accommodated. It will be useful to increase subsidies to such agencies to assist them in carrying out their aims and objectives. Also, there are a few established authorities which are recognized by the Minister for the reception of children to whom the Act applies, but they are also too few to deal with the problem.

Mr. President, to fill the gap, I am suggesting the creation of foster home services in various parts of the country.We now have an appreciable number of street children soliciting alms, practising petty stealing, rummaging bins for food, smoking discarded ends of cigarettes. We also ought to try to save from these children from eventually becoming drug addicts. The foster homes should be given guidelines, licensed, and monitored. I suggest guidelines because many of the young urchins find it difficult to come to terms with some of the behavioural requirements of certain of the established and recognized voluntary bodies dealing with the problem; what happens is that they quietly return to their life on the streets. For example, you take children off the streets, and you put them in fairly comfortable situations, but you cannot get them to follow certain regulations; to rise at a certain time, to assemble for prayers, sitting properly at a table to eat. These street children find it difficult to comply.

The foster homes can be monitored by medical social workers, county health visitors, probation officers, and psychiatric social workers. It is almost 30 years now since professional and voluntary workers in the area of child care have been advocating the establishment of foster home services for children or young persons who have suffered or are suffering from harm.

We do have children’s homes which have been doing a tremendous service throughout the years, but at the present time their administrative policies need updating and revamping to cope with those children and young people in their care.

Mr. President, Trinidad and Tobago is a signatory to the United Nations Charter on the rights of children, which emphasizes that the child has a right to be brought up in as near a normal home life as is possible. Our two large children's homes cannot provide that requirement, hence the call for foster homes in many parts of the country.

One of our children's homes with which I am familiar—I mean, familiar is a mild term—has many problems. At 16, the young people must leave. Many of these young people have nowhere to go. Many of them sneak onto the premises to get a meal or to sleep in some corner. There are others who have a parent, but are not prepared to live with a parent who neglected to visit them during the years they spent in the home. They also try to return to sleep in some unused place and drift about during the daytime. There are those who long to know their mothers, who never visited them, but the mother has either a legal or common law husband who was never told of the existence of the child in the children's home, so the welfare officer is cautioned not to bring the child to the home. Many a teenaged girl accepted at home is at risk of being sexually abused by her stepfather.

Of course, all is not darkness. Many of the children from these homes have done extremely well. They have been accepted in the Police Band, the Regiment, the medical profession, *et cetera*. But something has to be done for those without jobs and without homes.

Mr. President, imagine 16-year olds who, for years, have been fed three meals a day, provided with, among other things, a roof and a clean and comfortable bed, suddenly have neither food, nor roof, nor bed, and no gainful employment. In roaming the streets during the day, they contact pushers, get involved in that occupation, and eventually have money to spend. They get assistance from their former brothers and sisters who now get rewarded with gifts from them in exchange for securing a spot in the institution where they can sleep unobserved.

Some time ago, it was possible to get jobs for the majority of these young people. The situation now is quite different. We have just passed the Dangerous Drugs Bill, and I made mention of the fact that we must use every preventive method to wean our young people from the danger of dangerous drugs as a means of livelihood in situations where there is alienation.

The young people in this situation need the option of a hostel with administrative arrangements to take care of their requirements. Foster homes

would be useful and should be administered in such a manner that young people would not be turned out on the streets at age 16, but by that time would have imbued a certain attitude to life and would have been taught skills which would assist them in earning a livelihood. For example, there ought to be the facility to attend school at the primary and secondary level, such as obtains now in the home; facilities to attend vocational education classes to assist them on the road to self-employment. However, at age 18, a citizen is entitled to vote and, therefore, cannot be made to go to a home; rather, there ought to be the option to go to a hostel.

Many 18-year-olds living at home would like to leave in order to avoid the incestuous advances of fathers and other relations. Let me relate just two examples to illustrate the need for hostel facilities for those 18-plus youths. A father with three daughters had hoped for a son. When his eldest daughter was age 15, he put forward a proposition to her and she bore him a son. He was delighted. A couple months ago she became friendly with a young man in her age group, an 18-year-old. Her father recognized the friendship and now he beats her on a daily basis. She has nowhere to go. Her father's family do not want to get involved for fear of displeasing him. Her mother's family do not want to see her. She is still at school, but the problem is adversely affecting her work. She needs a shelter. Another 15-year-old complained to her mother that her stepfather was making advances to her. The mother refused to believe her and there was a quarrel. When the teenager went to bed that night the mother poured hot oil down the front of her daughter's body. She had to be hospitalized because of third-degree burns. When she recovered, there was nowhere to go, but back to her mother and stepfather. She eventually took up residence on the streets and now earns a living by showing passers-by the site of the burn.

At the present time, the Adoption Board provides a limited child-care service on a very temporary basis for infants, toddlers, and young children. The board identifies a number of people who hold children for adoption until they are placed, or for periods when the parent or parents are away from home for health or other reasons. Those people also hold children of single parents who are in need of psychiatric attention. They are paid $125 per week for a child, which leaves them very little remuneration when one considers the cost of feeding infants, toddlers and young children. As a consequence, at the present time, there is only one person working in that capacity, and the person lives in south Trinidad. The

problem is that $125 per week per child cannot meet the basic needs of the children they are holding in care, let alone provide them with a stipend.

Mr. President, most people who give their children up for adoption, do not have the means to support them. Therefore, for the infant, there has to be three or four meals a day, cleaning materials to take care of the child's clothing and surroundings, haberdashery for external bodily requirements, and there are many instances when a fee must be provided from the $125 for an adult to be in the house when the person in charge is out. It must be realized that they cannot leave the home without an adult in charge, and they must go at some time to collect the necessary provisions for the care of the children. The $125 per week per child is inadequate.

Mr. President, time and again I have mentioned in this House that the multi-mix consisting of local foods, which was put forward by nutritionists in the region and tested by CARIRI, ought to be tried in our institutions for acceptance, then an incentive ought to be offered to a manufacturer to produce it. That would appreciably lessen the cost of feeding our infants, but that would interfere with the profits of certain of our importers, so the local multi-mix formula is just suppressed. There is much concern about family planning, but not enough is stressed about the economics of child-rearing. It is always the woman who must use contraceptives, tie the Fallopian tubes. But what about the men? What about vasectomy? What about a sterilization programme? That, too, should get as much publicity as family planning and contraceptive use.

It is suggested that there ought to be established a children's service board which would organize and monitor child-care services and keep a register of child-care centres. The service is most important, particularly for the use of the Adoption Board. I know of a case where a mother sent her 11-year old daughter to stay with her sister as she was going as a patient to the maternity ward at the Port of Spain General Hospital. When she returned home, her daughter explained that her aunt's husband had sexual intercourse with her. In time, the 11-year-old became a mother.

There are a number of single women who are mental cases in need of psychiatric care who have been sexually abused. Their infants are usually at risk. Imagine a mentally deficient mother feeding a two-month old infant on green mango despite instructions from a health visitor. The operation of the Adoption Board can be adversely affected without the support of child-care services, and

Government ought to establish a children's service board, supply them with the necessary funding to adequately support child-care services.

Much has been said about the care of children. I agree with what the two previous speakers have said. I am not going to repeat the points they made, but what I am advocating is that whatever we do, we must not arrange any more duties for the magistrates, because they will not be able to cope, and family affairs, including child abuse, are matters needing immediate attention.

A great deal has been said about the care of our children, as I said, 30 years ago, and up to the present time many of us in voluntary organizations are looking forward to Government establishing the homes for children. The St. Mary's and St. Dominic's Homes cannot cope. The time has come for change. We have legislation, yes, but we want more than that. Government must decide, have these homes where children can really function as though they are in a home and many children would be happier.

About parents being responsible, that is a difficult situation. Mr. President, the seed for parental irresponsibility was sown in 1940, when the Americans came to Trinidad and Tobago to build the bases, and many women who were just housewives got jobs on the bases. As a consequence, from that time onward, there was not the time to take care of children and see that they really were diligent with their work; that they behaved; that they understood that they must obey. Since that time things have changed. So now we are talking about people who are parents who never really had to obey and come under proper parental rights and responsibilities. They do not want their children to be confined, and they do not want to have to take too much of their time with them. That is the problem: child-rearing is not taken in its right perspective. Many people think that you dress, feed and you take the child out sometimes, and responsibility ends there; the teacher must do the rest, and perhaps the priest. There is the saying, "I cannot take you on my chest any more". So when we talk about parental control, we have a big job to do to change the attitude of mind of parents who themselves were never controlled.

Mr. President, I do hope that the Government will do something about the children’s homes that we have—I am not even wanting to say St. Michael's, because its problems have been adequately explained. I mentioned St. Mary's because it is a place which I frequent. I do not know much about St. Dominic’s, but I know about St. Mary's. It is time Government act positively, because the situation is not only critical, but really dangerous. Thank you.

Sen. Robert Amar: Mr. President, I really had not intended to speak on this bill at all, because it appeared to me to be a very straight, simple and easy thing for us to come to the Senate and endorse it and get on with the business of the day because we could press on with the issues that maybe are burning.

I want to admit, however, that by listening to the last three speakers I became agitated in some of my thoughts. I know that child abuse is a very serious situation that we must pay attention to, and in a little analytic way, I made some quick notes which I want to put forward to the Minister.

Mr. President, I think that the issue of child abuse must be looked at in two phases: one, a present phase and, two, a future phase. I think we have to address the situation of how we handle the issues that are burning now, and what should we do to handle the issues that are coming, that we already have in the embryo stage.

I remember clearly going to a university programme a couple of months ago and one of the tutors at this programme drew to my attention—to a broad class—some of the problems that occur in the infant stage of human beings growing up. You know, he made one statement to the whole audience, he said, "One of the things is that when we, as parents, make statements to our children in their young life, we make some very stupid statements, like, we turn to the child and say, “take that stupid grin off your face”. That is wrong. We must address the future by making sure we address the education position *vis-a-vis* our teachers, relative to the way they must approach the children of today, and how they must relate to them.

I, for one, like most of you here, have children, and I want to share, as Sen. Deosaran has said, that I think one of the problems that we encounter today is teenagers' attitude. I have a teenaged son, so I could tell you what it is like, and it is difficult, because he is at the stage of his life where he feels he knows everything. How do you really address that, and how do you really encompass and take that into consideration when attending to the future problems?

In looking at it, the way I went about trying to solve that problem was by taking the problems that I encountered with my son and sharing it with parents whom I interact with, and getting a feel of what they did and what I did. One of the things that we lack in this society today is the communication. We are afraid to say that we have a problem. The greatest gift that the Lord could give any one of us is to know that we have a problem. The thing that we must all respect is, if we know that, we could fix it, but the difficulty is when we try to hide behind it and feel that we are special and these things do not happen to us.

Now, teenagers are very, very difficult. I do not have the answer. This is why I have gotten involved in trying to get myself more integrated with young people, to try to understand what really makes them go wrong, because I think we need to find out fast, because the child abuse really starts long before. As I said, it is in the embryo stage; we have to think about it at present and future.

My view is that in order for this to work, Government must definitely—as I think the previous speakers have said—pay specific attention to the education process. I think the last time I spoke in the Senate, I tried to define the difference between education and training. In this particular case, education means taking the experiences that we all have and trying to pass them on as quickly as possible in whichever format may be available, so that we can at least reduce the problem in a very rapid way. Now, if we are going to embark on doing something that is going to be tangible, I think education must be addressed very seriously.

I looked at television and I must tell you that one programme which I have seen in the last week which has done something, is the traffic management, and I wonder why we cannot get all the institutions that are in relativity to this kind of problem to start to educate fast. We have the media, we talk about state of the art, we just came off of a computer project at the Hilton where we talked about technology and the 21st Century. We must use the media we have, whether it be television, newspaper, or radio, to pass on this information consistently. We must also find a way as parents, to try to target how we are going to solve the future problems of the younger people coming up.

We have a situation that is facing us today where the young people are maturing at a level that we, as mature adults, have not matured. A 17-year-old today knows everything about sex. When we were 17, I think that we did not even want to hear about that, because parental mandate pushed us against even talking about that among our peers, so we hid behind walls to talk about it.

I think also, in order to address that issue, the church plays an important part. We, as people of the country who make the rules, regulations, and the laws, need to have a powwow with them, because I think they are—and I hope I am not misquoted—reflecting on some of these things today.

Sen. Deosaran made a very strong point. This population situation needs to be addressed. We cannot have this situation of people having 15 and 17 children and expect the Social Services to fix it. No matter what you do it is not going to be rectified. We have to rectify these problems at the source.

Although I agree with Sen. Horne, I think again, in looking at television just about six months ago, they have now introduced contraception for men. So I do not think we have a problem and we do not need to go and do vasectomies. Let us be realistic, when women tie their tubes and when men do vasectomies, that is the end of the production cycle. I think you have to keep your production options open, but you have to be cautious at the same time.

3.50 p.m.

The aspect of keeping the child abuse system under control calls for professionalism. I really do not believe that in this country we have addressed that, and I think the previous Members have spoken very fluently on the matter, say the St. Michael's School for Boys, for instance, which I pass by, is in a real dilapidated condition. I also spent some time visiting some of these orphanages and homes to get involved in understanding what is going on, and I can tell you that the level of professionalism really is not there. We must address that as a key point because we could put all the laws, we will end up just as Sen. Horne has said, going to court and doing what? Not solving the problems at all but only adding to the burden of the judicial system which is already encompassed with many responsibilities which it just cannot handle because it is over-worked.

There are two other areas, that I have found, which continue to create a serious problem of child abuse. One is career; and I talked about this once before in some forum. Some companies are addressing it but they are doing so at a very late stage. The maturity cycle of the young person has changed. What a 10-year old is capable of doing now is much different from what a 10-year old of our time was capable of doing, and I think we need to put into our system people like ourselves, who must visit schools, enterprises and talk. The only way to help this work is by constant communication, and there must be one standard of communication from everybody straight across the board. We cannot have variations. When I say that, I mean we must be focussing our attention on the specific object and getting the message across to the people very clearly.

When I looked at the whole situation, my whole idea of child abuse is that the medium to address it, is by the education process, by constant bits of information supplied to the population; by proper poster systems at schools, trying to point out to the children what is wrong and what is right. Smoking below the age of consent is something that we should talk about. After you pass that age of consent you can do what you want to do with your life because it is yours. There is nothing

wrong in educating them to see the "downs" and the "ups". I think the same thing applies to pregnancy. I think that we must make sure we pass on this information to our children very quickly.

Who says there is anything wrong in having a meeting in a school and talking about child abuse with 15-year olds? They are the ones who are undergoing the trouble. Why are we not having talk programmes with these young people? Why are we not having more forum meetings with them, and getting to find out from them what they think? There are many things that they can teach us, but we feel they are younger than us and we know all. I feel those young people know a lot more than we know. We know certain things that they do not, but they know the real life experiences and problems that they are having, and I feel that we are not giving them a chance to talk about these problems. We need to open up places that they can come without any kind of fear of victimization, and level and talk as they want. Maybe in the interim period it needs to be close-circuited, but after that when the confidence level is built, I think a mammoth number of young people are willing to come forward and say what they would like, and I think we need to make them air their views. They need to feel a part of the solution. You just do not enforce a law without getting them involved in what you want out of it, and how they can help us.

Psychology is something that I have found works, whether you believe it or not, on these young people. This reversed psychology thing, up to a certain age, pays off. I have tried it on my 13-year old daughter, and it works. They want something, you just find a way to apply the reverse psychology, and it helps. It does not work all of the time, but who says that we will have a perfect world. I prefer a 90 per cent efficiency than zero per cent efficiency. If we can work out a way to get them 90 per cent happy, I am satisfied with that; I would have done my job. Parents have to find a way—and I agree with Sen. Horne—to spend time with their children. I can only tell you from the mistakes I have made. I did not spend enough time with my children, and I see the gap between them and me, and this is a problem. How to fix that now, maybe calls for much more time.

I shall give you a little story before I close. We all complain we do not have any time—it was my biggest complaint also. There was a professor who always complained that he never had time, but he promised his son to do something and every time he had to do it, he kept putting it off, until one Friday afternoon he agreed, in principle, yes, he will do it. That Friday afternoon that son was so elated

that daddy was going to do this model plane with him. What do you think that little boy did when he came out from school? Book bag, out the school, down the road. Did he look left and right? He did not. What do you think happened? He got knocked down. So, the phone rang in his father's office, "Your son was knocked down and he is in hospital." What do you think happened? He said, "I am sorry, fellows, we got to close this meeting; I have got to leave." Everybody left. Do you know what was the most critical part of that? He arrived in the hospital and was talking to the son, but while the son was saying to him, "Daddy, it is nice to see you, " he said, "It looks as though we will not have time to build that model plane, after all." The son died. Imagine the psychological problems parents have to go through when they do not provide the time for their young children.

We talk about these things and just treat them as nothing. I can tell you from experience, if you do not really spend the time, the distance grows, and I am having trouble to bridge this gap. We have got to find a way to pass the message on to the population. How we would do it, I do not know. How we will get it done, I do not know. But I will tell you this much, we will get it done; and if we get that done, I think we would have a big plus against creating future child abuse, because we will be passing on to our young children what they should not do and what they must do. We will help fix that parental situation and population situation. The problem of child abuse is ours; it is not anyone else's. I thank you very much.

Sen. Wade Mark: Mr. President, there is an old philosophical saying that a society that has no compassion, no charity, is a society that has lost its soul. Trinidad and Tobago has joined a number of other developing countries, whereby the society has virtually lost its soul, and it is reflected, more or less, in the kind of treatment that is meted out to the children of our nation.

We on this side would like to state, from the very outset, that the measure that is being proposed in this bill—the issuing of a child care order for the protection of a child or young person up to the age of 18 if, in the opinion of the court, the child or young person has suffered, or is likely to suffer harm in its present circumstances so as to be the cause of concern for the child or young person's welfare, is a measure that has been long outstanding. We join in supporting the measure that has been introduced by the Minister, and we hope that at the end of the day when it gets approval, the necessary mechanisms, institutions, and infrastructural support systems would be put in place to ensure that this particular amendment to the Children Act, Chap. 46:01 really works.

Mr. President, what is needed is for the Government to match their intentions with the appropriate allocation of resources. I think that is the biggest problem that we have with this particular amendment. There is an absence of any social policy in Trinidad and Tobago. Vital social matters are viewed in very narrow terms, like the measure that is before this Senate. When we look at the vagrancy problem, we look at hunger and poverty in our various communities. We look at child abuse problems. What we recognize is that measures are introduced in the Parliament, outside of the Parliament, in a very *ad hoc* manner in an effort to address the problems.

4.00 p.m.

We put vagrants in a car park. That would never address the problem of vagrancy. We address the problem of hunger and poverty by establishing programmes called ECHO. That is not going to solve hunger and poverty in Trinidad and Tobago. The point I am making is that we need to have a more comprehensive and integral approach to the questions which I have raised. The real issue has not been addressed and that is why these problems keep cropping up.

As far as we on this side are aware, no serious effort has been made or has been undertaken to address the issue of social policy in an indepth and comprehensive manner in Trinidad and Tobago, both in terms of this Government, as well as in terms of the last Government. Economics is separated from social policy. The Government has not had any perspective on the social problems of our country. What we can say is that petty resources have been allocated to assist in addressing some of the problems, but yet the social problems persist. The basis lies in Government's policy. It has to do with the lack of prevention and early intervention; it has to do with an adjustment process without any human or social dimension.

It has been estimated that only 11 per cent of our orphans are true orphans in Trinidad and Tobago. The remaining 89 per cent have to do with the breakdown or the virtual collapse of family life in Trinidad and Tobago, that has come through retrenchment; sickness of one kind or another: physical, mental or even spiritual; the imprisonment of parents; migration—so many thousands of our citizens are fleeing to Miami and Brooklyn.

Sen. Hosein: Could I make an enquiry? I want to find out whether this idea of fleeing perhaps is the idea which motivated their leader to have a free exchange of capital, labour and people to the United States of America; whether in fact Sen. Mark is in agreement with that particular policy?

Sen. Mark: I know that my colleague, Sen. Hosein, is totally unaware of the runnings of the United States economy, but I can tell you for a fact that there is a gap in the supply of skilled labour in the United States of America.

Today, in Trinidad and Tobago, there are in fact research units established, seeking to monitor and supply information on skilled personnel and unskilled personnel; so that it is not a far-fetched idea. It is taking place everyday. In the United States, over one million persons are imported every year to fill the gaps. I do not want to pursue that matter any longer. At tea-time, we could probably have some discussion on it.

Sen. Hosein: I wanted him to develop his thoughts about the free movement of capital, particularly having regard to the fact that the week prior to the making of that statement, his leader and party also had some ideas about local business and about interlocking directorates and whether in fact they are against local business and pro-foreign business, having regard to the free movement of labour and particularly capital, which he described.

Mr. President: Leave that for another time.

Sen. Mark: Yes, I really want to do that. In fact, I was going to invite my colleague to come across because I know that they are becoming desperate and we would like them to come across so we could share these ideas with them.

Let me pursue this particular point. What happens to children who are removed from their homes as a result of harm, violence or abuse through these care orders? Are the persons earmarked to supervise them properly trained? My understanding of the situation is that the residential child care workers are not adequately trained in child development. They are referred to as juvenile home supervisors. Their qualification is basically the Primary School Leaving Certificate and there is a woeful absence of any training facilities in this particular area.

The psychiatric social work department which handles children's service is a virtual health hazard. How these dedicated civil servants continue to perform their functions in this condemned building at St. Ann’s, is anybody's guess, but this is a caring Government. A mere pittance of $30,000 is granted to that department to

deal with psychiatric patients. A children's fund which was established under the past regime to assist children of psychiatric parents was abolished three years ago by this caring Government. The $30,000 that was allocated to deal with these psychiatric patients, money now has to come from that fund to deal with the children of those psychiatric parents. The sum has not increased over the last four years. We say that this is a caring Government. We are talking about 40,000 out-patients and about 1,500 in-patients, people who are suffering from psychiatric disorders. *[Interruption]* Are you suffering from psychiatric disorder?

4.10 p.m.

There is need to conduct a census on abused children of mentally ill patients in Trinidad and Tobago. Child care is an extremely serious business. The children represent the flowers of our nation; the future of our society, but any analysis of the existing social props would reveal that they are not addressing the fundamental problems of our society and our community.

According to Article 40 of the Convention on the Rights of the Child, children who infringe the penal law by reason of acts or omissions, should be exposed to a variety of dispositions such as care, guidance, foster care, counselling educational training programmes, *et cetera*. I ask the Minister responsible for Social Development, in his winding up, to tell this Senate the precise date the Government of Trinidad and Tobago ratified the Convention on the Rights of the Child. We want to get that date.

The issue I am raising here as far as the rights of children are concerned, has to deal with precisely what provisions are being made or have been made to deal with the social, emotional, psychological, intellectual needs and vocational requirements of those children. Many of them I understand, under 18, were engaged in an activity which all of us condemned last July. What provision? They are children of this nation and they have committed a wrong and the court will deal with that, but I am putting the question to the Minister: What provisions have been made to deal with the psychological, emotional, social and intellectual and vocational needs of those children? There are many I understand, I do not know the numbers, but I understand there are a few 18-year olds inside there. We need to look at life objectively and to determine to what extent we can, in the event that something takes place positively, and those children come out tomorrow, how they are going to face society.

Sen. Rampersad: Thank you very much for giving way, Senator. Since you are on the point about emotional and all those fancy words you are using with regard to children, would you like to tell this honourable Senate, what is NATUC'S position, having regard to the position with excess funds, and the position you are raising with regard to the rights of children in this country?

Sen. Mark: I would ask you to address that to the President of NATUC. We are having a meeting on Wednesday, we will invite you.

There is the issue of self-help as well. Self-help in the absence of economic space and real opportunities could be interpreted as encouraging our children to help themselves. This Government could be breeding bandits in the country. Lack of economic space and lack of real opportunities in the context of a self-help programme, we could be psychologically preparing our children to help themselves. For instance, YTEPP, AIM, YESS, ECHO are not addressing the real problems of our children, particularly the youth. The real issue that has to be addressed is the quality of our education and what is taking place in our school system today.

Schools are being seen by many today as blackboard jungles. There is a complete breakdown in our schools today, and what is the social policy response of the Government? The social policy response is law and order; more security at our schools—not addressing the issue. What is required is what I call a culture of care in our entire society. What is needed is greater child care. There is need for a more sustained programme of nutrition in our country. Is the Government aware or is the Minister aware of the real human implications of the structural adjustment programme of the World Bank and the IMF at the micro level in our country?

A cursory glance at the nutritional status of first-year primary school students in Trinidad and Tobago in 1989 and 1990 is quite interesting. There is a report, entitled, *Final Report on the Nutritional Status of Primary School First-Year Students in Trinidad and Tobag*o. It was done in 1989/1980 and it was funded in part by the Ministry of Health and UNICEF and apparently the exercise was executed by the Nutrition and Metabolism Division of the Ministry of Health. This report is dated January, 1991. I will tell you what this report says about our children, particularly those who are first-year students in our primary schools today; and there are about 468 primary schools in Trinidad and Tobago.

The survey revealed the following facts: "33 per cent of our school children between the age range of 4 and 6 years old suffer from anaemia". This is in this

report here. Now, whilst this figure should be treated cautiously as indicated in this report, given the poor response rate, it noted the following:

> "In Guayaguayare R.C. where the response rate was 84 per cent, some 64.2 per cent of the children in that school, examined in 1989, were suffering from anaemia".

This report concluded that anaemia is a very serious health problem among children in the county of St. Patrick. I hope the Minister could put his hands on this document. You know I have a way of getting these things. People send them in the mail for me.

At Cocoyea Government as well as Gasparillo Government in the County of Victoria, where the response rate was 81 per cent, there was a prevalence of anaemia of 38.1 per cent. Just a little more than one-third of the children between the ages of 4 and 6 years in the county of Victoria are anaemic. This is in 1989, we do not know what is taking place in 1990 or 1991. Anaemia is a serious nutritional problem and it seems that it has gained some foothold in our rural communities, in particular.

There are serious pockets of undernutrition in the counties of Victoria, Caroni and St. Patrick, where it was estimated in 1989 that 13.6 per cent of the students suffered from malnutrition in Victoria; 13 per cent suffered from malnutrition in the county of Caroni and 11 per cent suffered from malnutrition in the county of St. Patrick respectively; first-year students. This was in sad contrast to 3.5 per cent in Tobago, which was very good; 4.2 per cent in St. George West and 4.8 per cent in Nariva/Mayaro. In other words, what this report reveals is that in certain areas of our country—St. Patrick, Victoria, Caroni, there is in fact a serious problem of malnutrition among children who are going to primary schools between the ages of 4 and 6. What we have is significant stunting in the population. It is revealed in this report. There is significant stunting in the population, particularly among those children who are over 71 months.

4.20 p.m.

Mr. President, 29.4 per cent of the children between five and 13 years of age turned out to be anaemic in the overall survey that was conducted.

Dr. Hosein: Will the Senator give way?

Sen. Mark: Yes.

Dr. Hosein: Mr. President, maybe you could guide me. I know that when any Member is quoting from a report, Members can ask to have the report laid. I am at a disadvantage because he is quoting from a report which I do not know anything about and I did ask him if he could send it across to me—

Sen. Mark: Yes. I would like to record this again, Mr. President. The report is *The Final report on the Nutritional Status of Primary School First Year Students in Trinidad and Tobago, 1989—1990*. The report apparently was done by one Mr. Sonny D. Alexis, a Ph.D. Nutritional Biochemist; it was funded in part by the Ministry of Health and UNICEF and it was conducted by the Nutrition and Metabolism Division of the Ministry of Health, January, 1991. I do not have sufficient copies to circulate.

Dr. Sampath: Mr. President, just two questions for clarification. The first is, in what year was the survey conducted and what age group? You see, what I am trying to pinpoint is the actual etiology of the malnutrition, whether it fell under the jurisdiction of the present Government or the past, considering that parental nutrition, breast-feeding *etc.*, has a lot to do with infant nutrition. The second is, do you have a classification of the types of anaemia? Because some of them are nutritional, some are genetic like sickle-cell anaemia which I know to be rampant; others have other genetic etiologies. Now do you have any classifications so we can get a truer picture of the source of anaemia you are talking about?

Sen. Mark: To briefly respond, Mr. President, I can assure Dr. Sampath that the survey was conducted—in fact you are anticipating me because I was going to provide you with all that information but, seeing that you have requested it. I will deal with it. This survey was conducted in September, 1989 when you know your Government was firmly entrenched at that time, so there is no escaping; and secondly, in terms of the categories of anaemia, I think that, for instance, the report referred to the possibility of a lot of hookworm infection in those particular areas like county St. Patrick, Victoria, and Caroni. So these are some of the elements. You can get a copy of the report. You are thiefing my time all the time.

Dr. Sampath: Mr. President, so that the children were all born and nourished by their mothers during the aegis of the last regime.

Sen. Mark: You are seeking to escape responsibility but you are going shortly. Sen. Sampath, through you, Mr. President, you are to be placed shortly before the bar of the public. You can then plead guilty or innocent.

Mr. President, 56 per cent of pregnant mothers and 20.7 per cent of adult non-pregnant females were also anaemic. This report represented the first nutrition survey of a primary school age-group in Trinidad and Tobago ever conducted. So if you have to take any kudos, you will have to say, "well look, the NAR Government conducted this thing for the first time. That is all. But you are guilty of the crimes that I have mentioned. Mr. President, the report recommended the establishment—

Sen. Furness-Smith: On this subject, is the hon. Member aware that Minister Pantin, when he was Minister of Education, told this House—I do not think the hon. Member was present then—that there were 75,000 children suffering from malnutrition, and he said that in the context of re-introducing the school-feeding programme.

Sen. Mark: Well they are still suffering. There is no fundamental change. They are still suffering. In fact, in 1989 this report is showing that you had a lot of anaemic and people suffering from malnutrition, particularly in different counties of the country. So while for instance, the school nutrition programme probably would have helped in some way—and I want to comment on that as I proceed—it did not really address in a very comprehensive way, the problems faced by children of our nation. But I will respond to you as I proceed, Sen. Furness-Smith.

Mr. President, one of the points I wish to make as I proceed is, most third world countries of which Trinidad and Tobago is part, experienced a very deep crisis in the 1980s. We are all familiar with that crisis. ECLA has described the last 10 years for the region, Latin America and the Caribbean, as a lost decade, because we have receded; we have retrogressed, instead of advanced. There has been a collapse in every conceivable indicator of social progress in most of these developing countries and, particularly, Latin America and the Caribbean, not to mention Africa. So the point about it Mr. President, you have to establish priorities and this is what this regime has failed to do.

Now, there is a report entitled, "Adjustment with a Human Face". This Government does not know about this. They probably read it, but their policies have not demonstrated that there is any adjustment taking place with a human face here. The point I wish to make here is that 10 countries were surveyed by UNICEF because they too experienced a serious economic downturn in their economies. Brazil, Chile, Botswana, Ghana, Peru, the Philippines, South Korea, Sri Lanka, Zimbabwe, and Jamaica. This report showed that in spite of the grave economic

and social crises that these countries were going through, they were able to put emphasis on the people's welfare and, particularly, the children's welfare. The point I am making, Mr. President, is that there is evidence to show that if you organize your limited resources properly, you can give priority to children's needs.

Mr. President, what I would like to say here, is that this report that I have mentioned here, the previous one, *Nutritional Status of Primary School Students*, shows that there is a grave nutritional crisis existing among our primary school population and the crisis seems to be more tragic in the rural areas of our community. We are talking about child care here, and we cannot escape our responsibility as a nation, to deal with the needs of those children from a nutritional point of view.

Mr. President, in Trinidad and Tobago there is no regular country-wide nutritional survey of children between the age range of one to four years of age. The last one was conducted under the old regime in 1976. How are we monitoring our children when we have no systems established? At that time in 1976, the results revealed that on the basis of weight-for-age, 49.3 per cent of the children were undernourished in 1976, whilst on the basis of weight-for-height, 34.5 per cent were undernourished; 48.1 per cent of children 48 to 59 months of age—

Sen. Rampersad: On a point of order, Mr. President. I have listened to the hon. Senator for the last 15 or 20 minutes and he is on a point of malnutrition and that type of thing, and I would like to introduce clause 35(1), of the Standing Orders which says that he is irrelevant to the bill being discussed.

Mr. President: At the early stages I had a little problem, but I thought you got on course, notwithstanding attempts to take you in another realm altogether. You may continue. As a matter of fact, I think it is a good time for us to interrupt the proceedings. The sitting is suspended for half an hour. We will resume at 5.00 p.m.

4.21 p.m.: *Sitting suspended.*

5.00 p m.: *Sitting resumed.*

Sen. Mark: Mr. President, as I was saying before the tea-break, what this report shows is that there is a grave nutritional crisis existing among our primary school population. The crisis, Mr. President, seems to be more tragic in the rural areas of our community as identified: St. Patrick, Caroni, Victoria.

Mr. President, I also indicated that there were no regular country-wide nutritional surveys of our children being conducted in Trinidad and Tobago, and the last one that was conducted was in 1976. At that time, the results revealed that on the basis of weight for age, 49.3 per cent of our children were undernourished; whilst on the basis of weight for height, 34.5 per cent were undernourished; and 41.1 per cent of our children between 48 and 59 months were also undernourished.

For the information of Sen. Dr. Sampath, through you, the survey, to be more precise, was conducted during the months of September, October and November, 1989—a three-month period. It was conducted by the staff of the Nutrition and Metabolism Division of the Ministry of Health.

Mr. President, the tragedy of the adjustment process reveals itself in the poor nutritional levels of our children. Poverty and hunger have now begun to stalk the land and haunt our children, particularly those in the rural communities of our country. This is why the School Feeding Programme should not be merely directed at primary schools, but it should also be directed at all schools in Trinidad and Tobago, and school feeding should not be something that is confined when the children are at school. Children should be given meals—of course, you have to deal with it on Saturdays and Sundays; you have to deal with it also during the vacation period.

The point I am making, and I am going to advance the point before I conclude, Mr. President, is that we require what is called a national nutrition surveillance system in the country. This is what we require here, because of the thousands of children who are able to utilize the School Feeding Programme, many of their parents have been retrenched under the old and under the new regimes. It is a good thing to make sure that you give them something to eat during the period that they are in school, but when they go on leave, Mr. President, like the vacation period in August, do you know what these children are experiencing, in real terms? The ECHO programme is really a drop in the ocean. Let us face the reality, it is a pittance.

What I am saying, Mr. President, is that we need to give this issue of school feeding much more depth and width. Now, as I said, Mr. President, the School Feeding Programme ought to be an ongoing exercise. Of course, the Government is going to claim it has no financial capacity and financial muscle to deal with that situation, but we are talking about the children of our nation, and they are the

future. Therefore, you have to pay particular attention to their health, and to their welfare. This is why I make this particular proposal, and I suggest to the hon. Minister of Social Security, that he must examine the possibility of establishing what is called a national nutrition surveillance system so that system could report on the nutritional status of our children, particularly those between the age of nought and four years of age. It is necessary for us to deal with it. But you see the Government's perspective has never been social; it has always been fiscal; balancing the books, dealing with the numbers game.

It is the World Bank, and the IMF technocrats, based on policy, who have advised this Government to develop basically what I would want to describe as a social conscience. This Government is only concerned about balancing the budget, balancing the books; it does not care how many people starve, how many people die, how many vagrants are created in this country.

The point that I am making is that there is a unit that has been established in the Ministry of Planning and Mobilization called the Social Sector Unit. That unit, Mr. President, was established at the behest of the World Bank—not the Government of Trinidad and Tobago. The World Bank instructed the Government of this country to establish that unit to monitor a number of activities in the country.

What I am saying, Mr. President, is that we do not have to get people from outside to advise us on how to deal with our country. Everything that we have to do in this country, we have to produce a white paper as to how to pay public servants; we have to bring people from abroad to draw up a white paper for the people of Trinidad and Tobago. They never told us, for instance, how much it costs taxpayers. But everything is some outsider. So are we stupid? Are we dumb?

Mr. President, child-care entails the provision of adequate transportation for our children, particularly our daughters. As a result of the transportation crisis, young girls going to school, children, under the age of 18, they have to virtually sleep with taxi drivers, in order to get to school. So serious is the crisis of transportation in this country.

Hon. Senator: That is unfair.

Sen. Mark: That is not unfair, that is a fact. Maybe you are not around. I am telling you what is happening.

Mr. President, the Government of this country has all but closed down the PTSC. The question about transportation—I am trying to put it in a context—I am not saying transportation airy-fairy. I am saying that the Government has all but closed down the PTSC. How does the absence of adequate transport impact on the social behaviour of the nation's children? PTSC is being run-down. The provision of passes is being eliminated, both for the senior citizens of our country, as well as school children who traditionally used to enjoy bus passes.

Mr. President, the bus fleet was almost 400 and over. Right now, there must be less than 120 buses on the road. What has happened, is that this Government has cut off bus service on a number of important routes in this country where the nearest school is miles and miles away from children's homes, and those are the children who have to be on the road and flagging down private cars or hired cars. There is where, for instance, our daughters' dignity is being compromised. There is a context in which I am raising this. I am not saying that young girls deliberately go to bed with the drivers; I am talking about a situation created by the absence of proper transport to take our children to school. That exists, Mr. President.

Let us not mention the question of books. We are talking about child care, welfare; we are talking about psychological, intellectual, social needs of the children of this nation. A book for a first-form child, in some instances, costs parents who are not working in this country, who have not been working for years, $100, and then VAT is added on that. Many books in Trinidad and Tobago, are very expensive and cost-prohibitive, as well.

Mr. President, the point I am making is that the care order that is being proposed in the bill is designed to deal with ill-treated children, among others. The goodly Minister has not indicated to this House, this Parliament, this Senate, as yet, where the staff is going to come from to deal with those children who are now going to have access to more freedom; those who are subject to violence and abuse. Where is the staff going to come from? What institutional mechanisms have been established to ensure that when those children exercise their rights, they would be put in institutions of care? Are we going to put them in safety houses and places like the St. Michael's and St. Dominic's Homes? Is this where we are going to put them? This is the problem, Mr. President. There are good intentions, great intentions, but no resources.

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. Dr. P. Persad]*

Question put and agreed to.

Sen. Mark: Mr. President, what I am saying is that whatever staff may exist at this time, do not function in a sufficiently responsive manner. As well as they do not function in a sufficiently comprehensive and integrated manner. There is a total absence of adequate infrastructural facilities to deal with this particular situation that we are seeking to address here today. If we are serious about taking care of our children, we have to establish the mechanisms and the institutions. Are we going to build more half-way houses? Are we going to establish more appropriate sensitive institutions to house the neglected? The Minister must say so when he is winding up. He must indicate to this country what he is going to do, because we are interested in the piece of legislation, the amendment, because it is our children and we want to ensure that care is taken of those children. We do not want you to take them out from wherever they are, and lodge them in the hospital on a sick bed. We do not want you to do that. That is what takes place in many instances; neglected children are being placed in hospitals. We cannot do those things. So we have to be serious about the institutions that we are going to establish to house these children.

Mr. President, the truth is that there is an absence of any real and genuine development thrust in the country. The pittance being handed out to the people cannot, in any way, put them on their feet. There is a complete lack of an integrated social service delivery system in the country. I know that the hon. Minister is trying, but he, too, is a virtual prisoner, like so many of his colleagues, strapped for funds; priorities are wrong and they cannot speak out. If you speak out, they say you are psychologically crazy. So they are trapped; they cannot talk. So the problem we have here is that the Minister has good intentions; he has honourable intentions, I would say. I know that the Minister is committed to an integrated social service delivery system in the country, but as I said, he has been captured.

You see, Mr. President, needs are not assessed by areas. There is an absence of an adequate information system on the demands of any particular area. As such, everything is done on the basis of "vaps", or on a virtual *ad hoc* basis. I do not think, for instance, the Minister was aware before I spoke about this report that there were so many people in various rural areas of our community suffering from malnutrition and anaemia.

Dr. Hosein: I just want to assure the hon. Senator that when I respond he will find out exactly what I am aware of, including other things in that report.

Sen. Hosein: I hope he is quite certain about the contents thereof. He will get some "licks" therein.

Sen. Mark: Mr. President, the economic crisis in our country has been aggravated by the misguided and anti-people's policies of the present Government, spurred on by their external masters, the IMF, the World Bank and the latest cross that we have on our shoulders to bear, the IADB. They have created the crisis in our country. I am saying it is not only the NAR Government, Mr. President; I am saying that both the PNM and NAR Governments combined, have created disaster in this country. We have thousands of street children roaming aimlessly, some of them obviously escaping violence in the country.

Dr. Bahadoorsingh: Could I ask a question without distracting from the thoughts of the Senator? Is the Senator aware that the Soviet Union eagerly awaits membership in the IMF at this stage?

Sen. Mark: Well, I do not understand the relevance of that. I am not living in the Soviet Union. *[Interruption]* I am very much aware that the Soviet Union is seeking membership status in the International Monetary Fund.

Sen. Hosein: Mr. President, may I enquire of my good friend whether he is aware of the fact that the United States of America, and its capital market, are some of the principal financers of the World Bank, the IMF, and the IADB?

Sen. Mark: Mr. President, I have to respond to my colleague after the sitting.

Now, Mr. President, the point I am making about street children is that some are distressed about their lives and circumstances, whilst others have sought to escape from oppression and abuse. Because we know the kind of abuse that takes place in the home at times, and some children seek an escape route. So we have street children being created as a result of the economic crisis in Trinidad and Tobago, brought on by the misguided and ill-founded policies of this Government. On the other hand, you have the children arising out of this current crisis, seeking some freedom and independence.

We understand—and I have asked the Minister—the Government has ratified the Convention on the Rights of the Child. I think he said that in his statement. We were asking the hon. Minister, in his winding-up address, to indicate to this House—

Dr. Hosein: I am sorry, I can send a written copy of my contribution to the Senator who clearly was not listening. At no time did I make any reference to ratifying any convention in my contribution.

Sen. Mark: Mr. President, it is necessary for the Government to move from being a mere signatory—if it has done that—to become active and to actively translate the various provisions in the convention to ensure that our children enjoy the many fundamental human rights and freedoms as outlined in the Rights of the Child Convention.

Mr. President, we must stop paying mere lip-service to the plight of our children. The rights of children could never be fully translated into reality unless and until the Government tackles, successfully, the basic socio-economic problems of unemployment and under-employment, which when combined, totals over 200,000 in this country; able men and women who are parents of many deprived children and who are struggling for their dignity, humanity, and rights, and who continue to demand the right of first call to our natural resources in both good and bad times. I believe that the issues of unemployment, and under-employment, are contributing enormously to the kind of neglect that we are experiencing today in the home. Many parents cannot afford to send their children to school; cannot afford to give them adequate food, clothing and shelter because they are not working. I think the Government has a responsibility to deal with that question. In fact, the latest statistics show that unemployment is rising in Trinidad and Tobago. The first quarter is 20.5 per cent, which, if you round it off, is 21 per cent, which is close to 100,000 people in this country. That is from the CSO report, the same report that you all quoted from the last time.

So, Mr. President, in closing, I would like to say that we, on this side, have no objection to the measure proposed, but we see it as another *ad hoc* approach on the part of the Government to deal with a very serious situation, which requires a very comprehensive and integrated approach, and which calls for the recognition of social policy as a major foundation block of any real economic programme or policy. But, Mr. President, I guess the Government has run out of time. The men and women who currently occupy the major seats of Government have now become tired and fatigued; you can see it. They have become bankrupt and bereft of all new ideas and, certainly, it would now be left up to a new administration to deal with, and to put into effect, numerous innovative and creative ideas that would address the problems of our children.

I hope when the Minister winds up, he would be able to deal with the issues that I have raised. Therefore, as I said, we would support the measure as advanced. But I know that the Minister is conscious of the fact that he is batting on a very sticky wicket, and he knows for a fact that whilst his intentions might be good, the fact remains that we lack the infrastructural facilities and institutions to ensure that this particular measure that we are all going to support, works.

So, Mr. President, thank you very much for your attention.

Sen. Allan Alexander: Mr. President, first of all, I want to say that the intention of this bill is praiseworthy, and it should be given as much support as possible. However, where there appears that the intention of the bill may be frustrated by reason of matters within the bill and other circumstances, I think it is necessary, and my duty, to point this out to the House.

Now, the crux of the provision, as I see it, is in clause 5 of the bill, which makes provision for a court to make certain orders in respect of a child or young person who has suffered, is suffering, or likely to suffer harm which is defined in proposed subsection (6) of clause 5.

In that proposed subsection, Mr. President, "harm" is defined as including, "neglect; ill-treatment; abandonment; impairment of physical or mental health or development; physical, sexual, or mental abuse; and a prescribed offence as defined in section 3 of the Domestic Violence Act, 1991."

If one looks at the parent Act—that is the Children Act—one will find that in section 3, all these defined indicia of harm are comprehended in section 3 of the Act, and are criminal offences. What is omitted from the parent Act is the power of a court to make the orders specified in clause 5. In proposed subsection (7) of clause 5, provision is being sought to be made to allow proceedings for an order under proposed section 12A to be brought by complaint on oath before a magistrate, to be made by an experienced or qualified public officer in the social welfare field approved by the Minister in writing, or by any person who in the opinion of the Magistrate is acting in the interests of a child or young person.

So, Mr. President, if this bill becomes law, the actual situation will be, may be, or can be, a duplication of proceedings in respect of the same act. In other words, a person may be charged criminally under section 3 and proceedings may be brought under subsection (7) of clause 5 of the bill in respect of the same activity.

Now, Mr. President, I have a serious problem with any such possibility, and this is primarily because of the state of the lists both in the Magistrate's Court and in the High Court. But insofar as this bill is concerned, it is the Magistrate's Court with which we are concerned. It is no secret, Mr. President, time and time again, it is said in this House and elsewhere, that the magistrates are over-burdened. So that if it becomes necessary or essential to place more burden on the magistrates, then one should look for a situation where the extra burden is least.

5.30 p.m.

It seems to me, Mr. President, that a good opportunity is being afforded us in the consideration of this bill. My view is that the present legislation could be amended so as to give the courts which have jurisdiction over the criminal offences under section 3, power to make the orders in those proceedings which are provided for under clause 5 of the bill. In other words, a magistrate or the High Court which is considering a charge of wilful assault, ill-treatment and so forth, of a child, should, in those proceedings, be given power to make the order at section 12A (1) (a), (b) and (2). I do not think that there should be any difficulty with that.

However, provision is also made in the bill for the orders specifically provided therein, to be made in a case where there is a likelihood that harm may be suffered by a child or young person. It seems to me that clause 5 amending section 12(A)(7), which enables proceedings to be brought for the order, should confine itself to those circumstances where there is reasonable cause to believe that the child or young person may suffer harm. That is not provided for in the parent Act and in my view, it cannot be provided for under sections 3 and 12 of the Act, because that is a situation where no harm has been, or is being, caused to the child or young person, but there is reasonable cause to believe that harm will be caused. It is sort of, what lawyers will call a *quit timet* situation; it is a sort of injunctive relief to prevent a certain act. I think that the power to bring new proceedings should be confined to the situation where there is a likelihood that harm could be caused.

Mr. President, as I said, all the matters set out in clause 5, section 12A(6), are comprehended within section 3 of the Act, so I do not understand the need for the obvious duplication. If a crime has been committed, then a care order could be made by the magistrate or the judge who has jurisdiction over the matter, and an amendment to section 3 to give the court that power will be sufficient.

There is just one other matter which needs to be considered under this clause, in that, under clause 5 section 12A(6) (b) it is stated:

> "(b) 'young person' means a person who is fourteen years of age or upwards and under the age of eighteen years."

That definition is not the definition of young person under the parent Act. Under the parent Act, a:

> "'young person' means a person who is fourteen years of age or upwards and under the age of sixteen years."

So that it is not an offence against a person who is between 16 and 18 years, under the parent Act; but the intention, under this bill, is to make harm done to such a person amenable to one of the orders. I think that could easily be done under my suggestion in respect of clause 5, section 12A(7), that is, the young person between the ages of 16 and 18. If it is not the intention to make ill-treatment of such a person a criminal offence, then an order will be sufficient under proceedings under subsection (7).

Mr. President, there are certain aspects of the intended legislation which are bothering me somewhat. If one looks at section 12(2) of the original Act, one will see that provision is specifically made whereby a parent or legal guardian could be deprived of the right to the custody of a child or young person, and those circumstances are circumstances where the parent is guilty of the offence. A reading of clause 5 makes no such provision, and here I want to agree with Sen. Baksh, that the legal right of the parent ought only to be taken away in extreme circumstances and, as such, a provision such as that in section 12(2) of the original Act, should be made insofar as these care orders are concerned. The provisions in the bill are such that the magistrate can commit the child or young person to the care of a relative of the child or young person, or other fit person named by the court without any fault of the parents.

It is true that the hon. Minister, in his presentation, stated that lawyers know what constitutes the welfare of a child and within the ambit of that learning, the wishes of the parents are to be taken into consideration.

5.40 p.m.

What we are dealing with here is a statute and where the parent Act—which will eventually include the bill, if it is passed—makes specific provision for the

circumstances whereby the custody of a child can be taken away from the parent or legal guardian, in the case of a criminal offence. It seems to me, that if such a provision is omitted in respect of the care order, pure and simple, those common-law principles to which the hon. Minister referred will be inapplicable, because specific provisions are made in the Act in respect of a legal guardian or a child. Omitting such provision insofar as the care order is concerned, in my view, will be a dangerous omission.

Another matter which is causing me concern is the absence of any procedural provision in respect of proceedings which are to be instituted before the magistrate, by this experienced or qualified person. Let us take the scenario of a child who lives with a relative, who is not a parent and that child is abused by that relative. Will the proceedings be properly instituted without notification to the parent and without the parent having some say in the commitment of that child to some place of safety? It seems to me, it will be exceedingly wrong if that were the intention. I do believe that the Minister ought to look into that matter insofar as the procedural provisions are concerned.

The Minister will no doubt recall that in the debate and our consideration of the Domestic Violence Bill, these procedural matters were raised and the Minister eventually agreed to amendments to take that into consideration. I do hope that he would do so in this case.

In the definition of the word “harm”, “neglect” is included. In section 3(1) of the Act, perhaps, I should read it because it is an important section in the consideration of this bill: It reads:

> "If any person over the age of sixteen years, who has the custody, charge, or care of any child or young person, wilfully assaults, ill-treats, neglects...
>
> and for the purposes of this section, a parent or other person legally liable to maintain a child or young person shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, he fails to provide adequate food, clothing, medical aid, or lodging for the child or young person."

It is to be observed that there is a statutory definition for neglect insofar as that section is concerned.

Now section 12A, in clause 5 of the bill, includes neglect, but that definition will not be applicable because it says "for the purposes of this section", that is

section 3, there is a definition of neglect. So, it will follow that where “neglect” appears otherwise in the legislation, it will not have that meaning. So, what is the meaning of “neglect”, in clause 5, subsection (6) of section 12A? It is to be observed that the “neglect” which is made a criminal offence in section 3 is “wilful neglect”. In the bill “neglect” is not wilful neglect.

It appears to me, as the bill stands, that if a parent or other person who has the custody of a child and is not able to provide that child with adequate food, clothing, medical care or lodging, and that non-provision is not wilful, that will entitle the magistrate to take that child or young person out of the care of the parent, who, according to the definition may have neglected that child. I think there again, the Minister should take note.

We do not live in a society where there is full employment where all parents are in a position to provide adequate food and clothing for all their children. When legislation like this is being considered, care should be taken to regard these circumstances. I would have thought that even for the care order there should be a wilfulness on the part of the custodian of the child for that care order to be made.

5.50 p.m.

There are one or two other matters, which are purely drafting matters, and there may be good reason for them. For example, in clause 5, section 12A:

> "In any proceedings before the High Court or a Magistrate's Court, whether sitting as Juvenile Court or not..."

Is all that necessary? Section 78 of the Interpretation Act says "Court”, means a court of competent jurisdiction. It seems to me that it would be sufficient to say "in proceedings before any court". It could be High Court, Magistrate's Court, Juvenile Court, Matrimonial Court.

In respect of clause 4, section 11(b), I do not understand where "or is likely to be" is to be inserted in section 11 of the Act. It seems to me that it will only make sense if "is likely to be" is inserted after the last "has been". "...has been or there is reason to believe has been or is likely to be committed..."; at the end of that.

I want to say as well that I agree with the proposed amendment of Sen. Furness-Smith in respect of clause 7, that "accordingly" really does not make sense in the proposed amendment. If this is passed as it is, it would mean that once any body corporate, authority, agency or society is established, then it will be

accordingly recognized by the Minister. I think the Minister should specifically recognize the organisation and that the recognition should be recognition which the whole world would know because it will be very necessary for the the society to be able to identify these fit persons where the children of the nation will be placed by these Orders.

Mr. President, I think those are the matters which I wish to raise and I do hope that the Minister will give them some consideration.

Sen. Fr. Winston Joseph: Mr. President, I thought that this debate would have prolonged itself to next week where I could be armed with the facts and statistics with respect to this bill, but seeing that I am called, I can share some thoughts. Is the debate to be continued next week?

Sen. Alloy Lequay: Yes. We are always happy to accommodate Senators on the Opposition benches, particularly the Independent Senators. We have had two requests for being able to speak next week and we are happy to accommodate that.

I therefore beg to move that the House do now adjourn to Tuesday, September 17, 1991 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.56 p.m.