

**SENATE***Tuesday, June 08, 1999*

The Senate met at 1.33 p.m.

**PRAYERS**[MR. PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. President:** Hon. Senators, leave of absence has been granted from today's sitting to the following Senators: Sen. Joan Yuille-Williams; Sen. Dr. The Hon. Daphne Phillips, for the period June 5—13, 1999; Sen. Philip Marshall from June 7—11, 1999.

**SENATORS' APPOINTMENT**

**Mr. President:** Hon. Senators, I have received the following correspondence from His Excellency the President of the Republic of Trinidad and Tobago:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,  
S.C., President and Commander-in-Chief of the  
Republic of Trinidad and Tobago.

Arthur N. R. Robinson  
President.

To: MR. KELVIN RAMNATH

WHEREAS Senator Dr. Daphne Phillips is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KELVIN RAMNATH, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Dr. Daphne Phillips.

Given under my Hand and the Seal of the President of the  
Republic of Trinidad and Tobago at the Office of the  
President, St. Ann's, this 7th day of June, 1999."

*Senators' Appointment*  
[MR. PRESIDENT]

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"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,  
S.C., President and Commander-in-Chief of the  
Republic of Trinidad and Tobago.

Arthur N. R. Robinson  
President.

To: MR. KENNETH AYOUNG-CHEE

WHEREAS Senator Philip A. F. Marshall is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, Kenneth Ayong-Chee, to be temporarily a member of the Senate, with effect from 8th June, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Philip A. F. Marshall.

Given under my Hand and the Seal of the President of the  
Republic of Trinidad and Tobago at the Office of the  
President, St. Ann's, this 4th day of June, 1999."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C., S.C.,  
President and Commander-in-Chief of the Republic of  
Trinidad and Tobago.

Arthur N. R. Robinson  
President.

To: MISS CARLENE BELMONTES

WHEREAS Senator Danny Montano is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, CARLENE BELMONTES, to be temporarily a member of the Senate, with immediate effect

and continuing during the absence from Trinidad and Tobago of the said Senator Danny Montano.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 8th day of June, 1999."

#### OATH OF ALLEGIANCE

*The following Senators took and subscribed the Oath of Allegiance as required by law:*

Mr. Kelvin Ramnath, Mr. Kenneth Ayoung-Chee, Miss Carlene Belmontes.

#### ARRANGEMENT OF BUSINESS

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. President, I seek leave of the Senate to deal with "Bills Second Reading" before "Motions".

*Agreed to.*

#### DOMESTIC VIOLENCE BILL

[Third Day]

*Order read for resuming adjourned debate on question [May 11, 1999]:*

That the Bill be now read a second time.

*Question again proposed.*

**Sen. Cynthia Alfred:** Thank you, Mr. President, for this opportunity to talk on this very important Bill, the Domestic Violence Bill.

At the outset, let me state that the actual brutality that is the result of whatever may have caused the violence is not the start of domestic violence. The actual act is the result of weeks, months, perhaps years of problems that have accelerated to the stage where the domestic violence act actually occurs. It is incumbent, therefore, on all concerned, particularly on the part of the Government, whichever government is in power, and generally all the persons in the community, to ensure that the proper preventative services are put in place so that the domestic violence does not occur in the manner and the frequency with which it occurs.

There is a saying that charity begins at home: a child learns from the example set by his parents. In a country, the people take example from the government in power. It means, therefore, that whichever government is in power it must ensure

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that its actions are so structured and so above board, that it only gives out good vibrations to the general population.

What are some of the root causes of domestic violence? There are many: it could be a drunken husband who beats his wife; it could be a drunken wife who beats her children; it could be a wife whose husband is not maintaining the children, who sees it fit to take out her frustration and violence on her children; it could be repressed emotion which explodes in one violent criminal act; it could be envy, jealousy, or chauvinism, usually on the part of the male. Whatever the cause, it is sad and unfortunate, because domestic violence usually results in the breaking up of the family unit and that is what all of us are trying to preserve. There is the question of sexual abuse, especially of children and young persons. We are hearing that sexual abuse is increasing daily, especially sexual abuse of minors.

**1.45 p.m.**

Today I received a report of sexual abuse that was perpetrated yesterday. It was on women who were actually—they do some keep fit exercises—running up the Lady Chancellor Hill. There was this gentleman—gentleman did I say? There was this man whose sole intention it was, apparently, to rape one of these women. Some were jogging in groups of three, six and so forth. This was approximately 6 o'clock in the evening. He was bent on attacking them. Even when they screamed and tried to beat him off he held on to one of them. He said certain things that I cannot repeat here. It was very difficult to get him to let go of the woman. Having been beaten off from that set, he ran and attacked another set. Obviously, this man is mentally disturbed.

Sometimes men use the excuse, when they eventually reach the courts, that they are mentally disturbed or whatever it is. But, this was a man who was determined, at any cost, to attack one or more of these women. That was as recent as yesterday. We are asking ourselves: what is happening to our country? What is causing our people to act in the way they are acting?

Very recently—the whole country would know, the world would know—certain men were hanged for brutal offences that they committed. The intention was, that the hanging would be a deterrent to further would-be attackers. We have yet to wait and see. This situation has gotten out of hand. It is getting out of hand and something has to be done very expeditiously.

This Bill that has been brought before the House is timely. In essence, we agree with the Bill, but there are certain areas with which we have to raise concerns. I would like to start on the Bill at page 4, Part II; Protection Orders. On page 5, clause 4(3) states:

“A child or dependant may apply for a Protection Order through—

- (a) a person with whom the child or dependant normally resides...; or”
- (b) a parent or guardian or a person who is *in loco parentis*...”

taking that to mean somebody who, I believe, feels an obligation to the child.

Mr. President, if *loco parentis* means a neighbour or friend, then we would agree with this. I make the point because sometimes a child is abused by both parents or guardians. If a child could apply for protection only through the person with whom the he resides, or a parent or guardian, then that child may not be able to get the protection he or she needs. Therefore, I would like to think that something would be added here where a neighbour or friend—or it might not be a neighbour or friend, somebody who may not be related to the child, but someone to whom the child could run in case of such an emergency and say: “My parents are abusing me, I want you to do something for me.” It has happened and it continues to happen where parents abuse, sometimes their natural child, but more often than not, a child that is either legally adopted or living with them. I think that should be looked at.

When we look at page 6, clause 6(iv) which deals with the respondent, it states:

“immediately vacate any place or residence for a specified period, whether or not the residence is jointly owned...”

Mr. President, there are two cases that I would like to mention here. It is ironic that, whereas in normal circumstances, it is the wife or the woman who is abused, in these two cases it is the men who have been abused. In one case a mother—who obviously was the perpetrator of the incidents that used to happen—was advised to take her son to the court for domestic violence. There is one thing which I would like to get straight: this Bill is now being discussed, perhaps I could get some clarification on it later on. This woman was advised to take her son to court for domestic violence. He went to court, because it was his mother—he was the innocent victim, everybody knows that—he did not defend himself. Therefore, a mark—for want of a better expression—was put against his name.

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That, Mr. President, I think is terrible. He was ordered to leave the premises in two weeks.

In another case the wife and husband had not been getting along for years. Again, the husband was the victim, so to speak, but this wife who was determined that, according to her own words: “he must go to jail”, went to the police station and reported that he attempted to attack her. As it was, the police knew the man and they said it could not be. Anyway, the matter had to go to court. When the matter went to court this man was told that he had to vacate the premises immediately. He told the court—he did a very good job in defending himself—that he was the victim. He was not the person who had been doing these deeds over the years. But, he was told: according to the law, he must vacate the premises. So he vacated the premises. In vacating the premises he took things that he had put there. That was another cause for concern, because he had to return to court. He was asked whether he was given permission to remove the things from the premises. He said he was the one who put them there. He was turned almost into a vagrant because he had to leave the premises immediately.

Something must be put in place in this legislation for—I would not say the male in particular; persons who are the victims of malice or malicious doings by the other person. If this is not done, it means that innocent persons, especially males in this case, would be put out of their homes. They now have to forage, and in the final analysis, they may be made to pay costs and God knows what else, when they are the victims. It is almost like a case of the woman getting back her own. In this case it is ironic because in these two instances that I have named the men have been innocent.

**1.55 p.m.**

I think in the entire legislation, when I read it through, I did not see any safeguards, Mr. President, for the male. Everything was geared towards the female. It did not spell out the female, but I got the impression that it was the woman who was supposed to benefit. Of course, Mr. President, I have absolutely no objections to the woman being the person because it is the woman who usually would suffer the brunt of violence, whether it is domestic violence or whatever form of violence. At the same time we cannot overlook the fact that men, too, may be victims.

I turn to page 9 of the Bill, clause 8(2). It says:

“An Interim Order may be made by the Court at any time either before or during the hearing of the application whether or not—

- (a) the respondent is present at the proceedings; or
- (b) the respondent has been given notice of the proceedings...”

and so forth. The point I want to make here is that we are in the process, at least this Government and the people, of bringing some sort of normality to a situation that has practically got out of hand and this is the stage where this whole question of a family court comes into focus. [*Desk thumping*] Now, we know that over the years this party, the People's National Movement, has been one of the front-liners in respect of a family court.

This present Government has indicated that it, too, would like to establish a family court, but we are still awaiting the coming into being of this family court. Perhaps if we had the family court established some things that have taken place recently may not have come about. Of course, there will always be violence and so forth, but the family court is the area where matters concerning the family can be resolved expeditiously and, of course, the whole question of support services, about which I want to talk a little.

We are very anxious that there be support services for families. When we talk about support services, Mr. President, we are not talking sort of in the air. We are looking for counselling in a meaningful way. Now this country is a sort of crisis country. When something very bad happens, what happens? Certain things are articulated or advocated but sometimes, at the moment of the crisis, these things are articulated and later on nothing happens.

I am talking here, for instance, about the killings that took place at the Prime Minister's residence after which the Minister of National Security said that counselling would be started for police officers and so on and so forth, but we do not want to wait until something like that happens. Not only do we need counselling for police officers, regiment officers, prison officers, *et cetera*, but we need counselling from the early days. We need counselling for children. We need psychologists for children. We need counselling for the mother and father in the home. We need to involve the national community.

One person said to me that his church had started this process whereby persons from the church volunteered to do counselling. They went to classes and they were undertaking counselling in the church with young people and with husbands and wives who were getting into difficulty. That is the sort of thing we want to see put in place, not just say because there has been a killing then we are going to counsel just the policemen. Everybody needs counselling, Mr. President.

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I want to recount an incident which happened about three years ago when I was in Los Angeles. An actor and his wife had some sort of altercation and he threw her pet cat out the window so she took him to court. After they apraided him and so forth the judge said to him that he had to go for anger counselling. At the time we thought this was funny. Anger counselling, they said but, in fact, Mr. President, the judge was right because the first move was to throw the cat out the window. The second one might have been to throw her out the window and that is how things accelerate.

So, Mr. President, we need support services in the best way possible. Put a proper structure in place. Do not just go airy-fairy and say, “Yes, we are going to start counselling”, but one year passes, six months pass, two years pass and nothing happens. We have to restructure the system in this country, Mr. President, and stop acting as a nation in crisis. It is only when things reach crisis proportions that we go ahead and say, “Do so and so and so”, and yet, sometimes, at the end of it all, nothing really is put in place. So we need those services—support services and counselling services.

I turn to page 13, clause 16, and I need some clarification here. It says:

“Where a Protection Order or Interim Order is made or varied by the Court—”  
in subsection (b) it states:

“the Court shall cause a copy of the Order to be served on—

(i) the respondent;”

which makes sense, but:

“(ii) any other person to whom the Order is to apply whether or not the person is a party to the proceedings;”

I am not sure that I quite understand that, Mr. President:

“...whether or not the person is a party to the proceedings;”

and (iii) says:

“the police officer in charge of the station located nearest to the area where the respondent or applicant resides.”

Why the police officer in charge of the station nearest to where the incident occurred? Why the officer in charge? Why not the policeman who actually carried out the investigation of whatever? So that, Mr. President, I would like some clarification on.



On page 14, clause 18 says:

“A respondent shall not be bound by a Protection Order or Interim Order—

- (a) where he was not present...or
- (b) where the Order has not been served on him personally...”

So I take it to mean then that he does not have to go to court or whatever but there is a contradiction somewhere. I will find it before I finish, Mr. President. However, it seems to me if the respondent shall not be bound by a Protection Order when he was not present at the time or where the Order has not been served on him personally, then what is the point of saying that the respondent must appear in court? Because later on it says that, in fact, the respondent may be served notice through other means such as pushing it through the door or getting somebody else to give the notice or whatever. So I am not too sure that I understand why he should not be bound by these Orders when, in fact, if he does not appear in court or he does not respond to the Order then he is liable to conviction or whatever.

On the same page 14 we go down to Part V, the Enforcement of Orders, clause 20(b)(i). It says on a first conviction that a person who contravenes the provision of the law, *et cetera*, must be fined a sum not exceeding \$9,000.00. That means he can be fined, Mr. President, \$8,999.00 or imprisonment for a period not exceeding three months. It seems to me that with a fine of \$8,000.00-plus and then imprisonment for a period not exceeding three months, there is a disparity there.

We move to page 16. This is where I would like to talk for a while. Clause 23 subclause (i) says:

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

and so forth. In two cases, Mr. President, it says “police officer”. It says somewhere else that the police officer is bound, once he receives a call, to investigate. I am saying here that there should not at any time be any one policeman responding to a call of alleged domestic violence because it says lower down that he can arrest the person and at the same time help the other person.

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This is one man, Mr. President. I would suggest that on any call made with respect to domestic violence at least two officers should respond, one of them being in a senior capacity, the other, of course, may be a constable or some such rank. This is because the policeman also has to be protected. This has happened before. Somebody rings and says, “My husband is abusing me. He has a cutlass and he is going to kill me or he looks as if he is going to kill me” so one police officer goes. What happens, Mr. President? Sometimes he cannot overpower the person so he is in danger of himself being inflicted some wounds. He may even be killed. Then, how can one police officer in the normal course of events arrest and put into handcuffs a man who is so enraged that he will stop at nothing to achieve his end? So to send one policeman is putting him in jeopardy.

Of course, the policeman may also be set up. Somebody may decide—it happens all the time—a family, husband and wife, may pretend to have an altercation because they want to get at that particular policeman. When he comes, the two of them turn and beat him. What recourse does he have, Mr. President? So I believe that this clause 23 must be amended to say “police officers”, one of them being a senior officer.

Then it says the policeman has to render medical assistance where possible. First he arrests the man, which in itself is doubtful, then, secondly, he has to render assistance. Now a policeman is not trained, not in this country anyway, to provide, perhaps, more than basic health services. So what kind of service can he give to that person? Suppose the woman has a gaping wound somewhere? The most he might be able to do is grab a cloth or something and stuff it in the wound.

However, Mr. President, in a case like this, once the police have been summoned, then there should be at least two officers and there should be some medical person, whether it is a paramedic or whatever term we may want to use in this country. So that before the policemen leave, they call, whether it is the fire services—because they are trained to give that sort of assistance—or whether it is the hospital or the ambulance, whatever, but when they move, they move as a body—police to protect, medical person to see about the victim and, of course, policemen; one policeman supported by another or more policemen, to ensure that foul play is not enacted on the police officer himself.

**2.10 p.m.**

I believe we need proper co-ordinated and support services in respect of this whole question of the policeman entering to render assistance at clause 23(1) and (2).

Clause 24(b) states:

“When an Order is enforced and a police officer—

(b) believes on reasonable grounds that a person has committed or is committing a breach of the Order,

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

Mr. President, I take some objection to that. With a warrant, yes; without a warrant it is too much of a risk. Yes, if it is agreed to, it will be made into law, but what I want to suggest is, whatever the system that obtains now for obtaining the warrant, maybe that should be looked at, because somebody said to me that one has to go to a Magistrate to clear up something to get a warrant. That would take time. The person could be killed by the time the warrant is done, but could there not be something put in place where warrants are—as a lay person I am suggesting this—already put in place and then, when the call comes, maybe a senior officer in the division could authorize whichever policeman, sign the warrant and let that officer go with the warrant? I definitely do not like this whole idea, Mr. President, of a police officer entering without a warrant.

The respondent, the person who is committing the crime, may very well refuse to open the door and may ask for the warrant. The police officer might then say that he does not have any and the respondent might tell him that he is supposed to have one. The police officer may then start by saying that “according to the law” and the respondent might say that he does not care about the law; he is supposed to bring him a warrant.

There was a case—it is not pending, but I think the person is committed for execution—where the police were outside and the gentleman had his wife inside, and before they could move, he killed the wife. We have to be sure that whatever we put in place must be airtight and watertight, so that when the crunch comes we are not fishing around or looking around and saying we could not get a warrant and could not enter because there was no warrant. Let us fast forward this whole procedure of obtaining a warrant.

I come to the whole question of the child in this whole scenario—abuse of minors. In my book, as long as they are under 18 years of age they are children, and I know many things have been written about children; *Protecting the Child, Child and Family Law*. This is a document, Mr. President, written by Mrs. Stephanie Daly in 1992, and she sets out here the whole question and concern about the child and family; protection for the child, and we have other instances.

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As far as I am concerned, any adult male or sometimes female, who knowingly abuses a child, should face the full brunt of the law. I do not adhere to this question of 16 and 17 years of age. I think there is something about a child between the ages of 14 and 16. If one is under 18, one is a child, and any person who deliberately forces himself or commits any act of degradation on any person under 18 years, boy or girl, should face the full brunt of the law. This I would support in its entirety.

I come now to Form 7, which is the Domestic Violence Police Report, and it has station, division, reference, and so forth, and when we are about two thirds down, it states "Name of Offender". There is "Relationship to Offender" and "Name of Offender". All the time, we have been using the word "respondent", but all of a sudden this turns into "offender". If we say offender, that is presuming that the person is guilty before being brought before the court properly, so I would suggest that either we use the words "Name of Alleged Offender" or "Name of Respondent". If we are using "respondent" right through, I think we should use it until such time as it is clear that the person is indeed an offender.

Having said those words, I want to end my discourse by citing an article from the *Daily Express* of December 6, 1992. This is written by Robert De Verteuil from Cumana and it is a letter to the editor which says:

"Let women lead us in prayer again.

Let women again as priests serve God as in the very ancient past. Can anyone convincingly state why we discriminate against our mother, the way we have done for over 4,000 years?

The Holy Father made our Lord Jesus to be born of a woman."

And it goes on and talks about women, but it ends by saying:

"In the beginning, women were accepted until such time as the coming of the Indo-European Aryans and Levites, say around 1800—1500 B.C. We, therefore, see the distortions and corruptions of social and religious situations, designed to suit the fancy of groups.

Let our mothers again also tell us about God, the Holy Father."

This is a pretty strong article, Mr. President. Women are special creatures. We were made for a special reason. We were made to be companions to men, not to be chattels to men, to be abused by men. We were made to complement the men, for without the women, the men are practically nowhere, but we need the men as

well. Let it, therefore, be a partnership. It is the women who play the leading role in the home, we have to face that fact—at least in most homes.

The woman is the matriarch, the leader, the one who looks after the children, who wipes their tears when they fall and hurt themselves. [*Desk thumping*] She is the one who comforts her husband when he cannot stand up to the rigours of whatever may befall him. So we need our women and we ask that our men take another look at who they abuse.

Somebody said that when a man abuses his wife, in fact, he is abusing his mother. Let us think of the genesis, how man came about, and let us, therefore—especially the men—let the men think again with respect to the women, and let them treat them in the way that they are supposed to be treated. When someone said, Mr. President, that women are the fairer sex, it was not an expression that was used in a vacuum. We are the softer side of the man and if we are, and indeed we are, then we should be treated accordingly.

I would like to give my support to this Bill but, with certain alterations, certainly in respect of the police without a warrant and other areas that Sen. Mohammed, Sen. Shabazz and I have noted. We want the domestic violence in this country to stop. We want it to first be reduced and then to stop, but as I said, the Government of a country is the leader in the country, and the Government cannot afford to give conflicting and contradictory vibes. The country is looking to someone to set the example and that someone, obviously, has to be the leaders of the country which, in this case, is the present Government.

Let this Government vindicate itself, because this Government came into power saying that it was going to cut out the violence in the country. They did not specify domestic violence, but violence is violence. They have come into power and violence has escalated over the years. Whether the hangings are a deterrent or not, we are yet to see, but let this Government and all the people of this country go even further than that. It is our country and our people who are being abused, murdered and so forth, and we do not want to lose our husbands.

Perhaps, if we think now of putting a proper system in place, the counselling, the support services, to find out the little things that disrupt a family and treat them at that stage, if that is done, then we shall have a much better society in which all of us would want to live out our days in peace, love and harmony. I thank you, Mr. President. [*Desk thumping*]

**Sen. Diana Mahabir-Wyatt:** Mr. President, I really regret that I could not have been here for the start of this debate. The Leader of Government Business had, in fact, undertaken verbally to wait until I got back and I was a little surprised that he did not honour that undertaking, but maybe I should not have been. It was not in writing and I think I benefited from the fact that I was not here, because I have had a chance to go through the *Hansard* in some detail. I have gone through the contributions that have been made by everybody who has preceded me in speaking and I found that they made some extremely good points in intervention, some of which I would attempt to address in the course of this debate. Perhaps I can alleviate some of the fears that some people have in relation to some of the provisions.

**2.25 p.m.**

Mr. President, I would also like to formally and publicly thank Members of the Senate for their expressions of support, and the kind remarks which many of them made in my defence. I was very deeply touched, and I just like to say thank you.

I am not going to get into a long dissertation or polemic about domestic violence. I have done that so often in this honourable Senate, and other places, I think it would be redundant if I just went into the incidences and the causes.

What I would like to talk about, in relation to this Bill before us, are two things. One is the process that brought the Bill here. Since there were a number of people and a number of interventions that asked about it, I would like to comment on that. Then, secondly, I would like to comment on the Bill itself, and the substantive provisions of the Bill.

First of all, the process, as I said, there were a number of interventions and questions asked about how this current Bill came to the Senate, and references were made to the fact that I was part of the process, which in fact, I was. Let me just explain how it came about.

In 1996—I think it was—a number of organizations in this country and individuals who were involved in dealing with domestic violence generally, had made submissions to the Minister of Legal Affairs asking if we could not have some amendments made to the Domestic Violence Act, which we had been working with since 1991. I do not think any Acts are perfect when we put them through Parliament, but with that one we did the best we could under the circumstances, and we found that there were many things in the Act which were not very useful. A couple of them Sen. Nafessa Mohammed made references to.

There was a certain lack of specificity in some of the areas, especially in the definitions.

What we felt we needed—those people who have worked in the field, if I could put it that way—was something which was user-friendly, which people who use the Act—this includes police officers throughout the country, social workers and people who deal generally with victims of abuse—could understand and refer to. Sometimes they are not clear from any practitioners exactly—even the police are not always sure about what they could or could not do. So that was one of the areas in which we needed some changes, also, the coverage in terms of the Act itself.

One of the things that is very important in any kind of social legislation—while I must say, just to start with, that this legislation that we have in front of us today does conform to the United Nations Conventions that deal with the questions of domestic violence and rights of women, which is a very good thing. It is important that we reflect on our own culture, and our own culture is different from the cultures of other countries. This is very important, especially in an Act of this nature, that the needs of our own culture are recognized. For example, you would have noticed, I say this with no sense of irony whatsoever, that in this Act you have to have a domestic relationship with someone before one can be named as a respondent. In this country it is not always the case that violence that has occurred as a result of the breaking off of a relationship, termination of a relationship, or a relationship goes sour, that the parties have cohabited or lived together. It is not necessarily, and not even culturally the case in most instances.

I have, for example, a newspaper clipping here which is taken from May 16, 1997, from the *Express*, the headline was: “Three to one is Murder”, which is somewhat facetious, and disturbingly facetious, where a mother of eight was killed by an ex-lover. She never had a child for this man. She was not living with him, she was living with somebody else at the time and he came by her. Some of you might remember it was a case in Carenage. The ex-lover with whom she had had a relationship came in and stabbed the woman while she was in bed, in front of several of her small children. That, unfortunately, is not atypical of domestic violence situations. You do not necessarily have to live with someone or have a child with someone for them to feel the level of anger and distrust when a relationship breaks up that drives someone to such a drastic act. That was not covered in the old Act, as well, either; so that was one of the other things which needed to be done.

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Now, the Minister of Legal Affairs is a very serious statesperson—I suppose the clerk statement is. She is most unusual in that she actually listens to requests from people in the community. I think, apparently, from what we have seen, she is somebody who actually believes in participatory democracy, because, although she does not actually say so—we have seen with the Copyright Laws and the Intellectual Property Laws that she does believe in consulting and consulting to the point that when she brings something to this House, both the Opposition and the Government supporters give very little opposition to it. In this case she did the same thing, and I thought it was really commendable. That kind of intellectual integrity is something that we see far too rarely, internationally, in public life.

What happened was a committee was set up in 1997, I believe it was the early part of 1997. I have some of the minutes here. It was split up into two committees. There was an NGO Committee and a Legal Committee. In fact, I participated in both. The committees had people on them that included: social workers, people of the calibre of Assistant Commissioner of Police Edward Snaggs, who contributed considerably to the discussions; practitioners of family law, some of whom were very forward thinking and some of whom were very Jurassic in their thinking, as far as I was concerned; people on the various legal aid bodies and people from the Ministry of Social Development, *et cetera*. It was a very comprehensive committee and the meetings went on for almost an entire year, and it was really *hammer and tongs* for those who were curious about it. There were a lot of dissension, battles, and disagreements on forum, although the objectives, of course, were the same. In the end what happened was that a document was drawn up and then there was a series of meetings that went around the whole country. I do not believe anybody else in this Chamber was present at those meetings, maybe Sen. Dr. Mc Kenzie may have attended the one in Tobago, but it was a tremendous experience, a very impressive experience. As I said, it was an extraordinary example of participatory democracy in action, and one which I think should be commended.

In the course of it you could just feel people's respect for this Government grow, because I do not think we ever had an experience outside of the Constitution Commissions, where people who were interested were in every corner of the country consulted about what should go in the legislation, what they want, and what they did not want. It was really a very, very moving experience. Sometimes it was uncomfortable; sometimes acrimonious, but it did cross political, ideological, ethnic, religious, all kinds of lines.



In the end the bill was redrafted. In fact, we had so many different drafts—these I think are all the different drafts that were drawn up by that committee—toing and froing, reports, and whatnot, until finally there was a document which everybody felt they could accept. That document is not the Bill that is before us. The Bill that is before us was drawn up by a very different process and a far more technical process.

The Bill that we have before us today is very different. It is different in its approach and in the way it deals with things. It covers some of the same things, but it is almost impossible to take the two documents like this and say this was this and this was that. So, what I would like to do is to comment on the principles and the concepts involved. In some cases I want to make some comments about the drafting, which I will do as I go along. For example, the drafters of this Bill did not see the need to include in it an “objects clause.” The committee of people in the field felt that this was important, apparently because there are lawyers who are not always entirely sure of the approach.

### **2.35 p.m.**

The committee thought of objects of the Bill, and amongst those was to influence the community’s attitude and support social change so as to reduce the incidents of domestic violence. I do not think anybody could possibly disagree with that; that is what we all want to do. It is just that when you put it in, sometimes it makes it a bit more forceful. The preamble is the preamble, but when you have actually got something like that in the Bill, people in the field felt that this was really important. I intend to move a couple amendments to the Bill, and this is one of them, with which I will deal at the appropriate time, because I think it is important.

In Part II, there is another clause which I would like to draw to the Senate’s attention, and this has to do with the category of persons who apply for a protection order. This is clause 4(2). Now, in the discussions which the practitioners in the field had, we had recommended that that clause include the category of a person who has had a close personal relationship with the respondent. As I mentioned earlier, in reference to this mother who was killed by her ex-lover and we have had a case—which I would rather not start the controversy all over again by referring to—more recently where a murder/suicide happened in relation to a relationship between two people who had not lived together. They had a close personal relationship but they did not cohabit. These kinds of relationships can result in years of stalking and real, genuine misery.

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I even had a case which came in recently—and although I would like to have, and I argued that we should put this into this Bill, I am not sure it is possible, perhaps we need a separate piece of legislation for it—where a woman who did not have a relationship with someone has been harassed and stalked for years by him and his friend because she would not have a relationship with him. These are actual cases that cause actual misery. The stalking, the harassing, can lead to very real physical danger when the stalker or harasser gets under the kind of pressure, drugs or alcohol that tips people over the edge of whatever normal social restraints they have. This is something which, again, I am going to be recommending that we put into the legislation, to reintroduce a clause that a person who has had a close personal relationship with the respondent can be one of the people who reports a case.

I would like to refer to the fears that have been mentioned by a number of people about clause 23 and this has to do with the fears people have about allowing police officers to enter into someone's house without a warrant. Again, today, Sen. Alfred has mentioned that she has these fears, as well as people last week. I think that I can understand people's fears in this direction. There are different kinds of assets that a country has. There is financial capital; there is the physical capital in the form of machinery and equipment; there is infrastructural capital, roads and bridges and all that kind of thing; but there are other things such as social and institutional capital which the real economists are recognizing are absolutely essential to the development of a country and to the quality of life the people in the country lead. I will be talking more about this when I talk on Sen. Dr. St. Cyr's motion.

But, what is meant by social and institutional capital? These involve the level of trust that people in the country have in the institutions the society has, the trust that banks are going to take your money and not close down the next day; we trust that insurance companies are going to be reliable; that there is going to be a minimal amount of corruption in political office holders; that the courts will be objective and that the police will be trustworthy. Where these do not exist, study after study has shown that people in the country resort to rather drastic action which can be financially and economically dangerous in many ways to what happens in a country.

A number of doubts have been expressed here about the inclusion of clause 23 in this piece of legislation. I think that this is because people just do not believe that the police will exercise this right in the way in which it is intended, and that is

to protect, to avoid abuse happening, to protect those who are being victims of abuse. Reasons for these doubts have been expressed. People have said quite frankly why they have these doubts and I understand and sympathize with this, but after all the lurid accounts in the press, and unless one happens to be a member of the flying squad or the various flying squads that go around in residential neighbourhoods where police burst into houses in the middle of the night, ransacking the place, terrorizing children on mistaken identity; it is understandable that people have these doubts and worries.

I think that if we are going to build a country, we have to start somewhere. We have to start trusting somewhere. I think that the Bill tries its best and, by putting in the Domestic Violence Register, is making a very real and genuine attempt to make sure that police would not be able to abuse these powers. The suggestion that a senior officer has to go where there is no one is not always possible. When one has got an 11-year-old girl who is about to be sexually abused by her grandfather, one cannot always take the time to go and get a warrant, or to go back to the station and find a senior police officer who will be able to come and save that child. If we can save one child from sexual abuse or one woman from domestic violence, I think it is worthwhile the efforts we can make to do that.

I believe that the Commissioner of Police is a man to be trusted. I think that we should give him the chance to put in his internal mechanisms to try to see if they work. I have not always agreed with him on a number of domestic violence issues, but he is a very civilized man and in a very civilized way we have agreed to disagree. I am willing to give him a chance to see if he can make this provision work. I am really appealing to other people to give him that chance as well. If I am wrong, believe me, I would be the first one to come and make a fuss and say that I was stupid. It may be too late, but on the other hand, if it saves one child, an 11-year-old-child, from being abused, to me it is worth it.

I do not expect perfection in legislation, people, institutions or systems. I think that all of them are a dynamic process that we have to continually work to improve. It has only been eight years since the Domestic Violence Act went into effect. I think that if we have people who will listen as we did this time, we can keep pushing for amendments if we find that it is not working. In this instance, I am worried, I am not absolutely 100 per cent confident, but I think that in this country we have got to start trusting someone and I would like to give the Commissioner of Police a chance to make this work.

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Do not forget that many of these things are subject as well to judicial review. I think that we are blessed in this country with a judicial system that is trustworthy, although it is sometimes rather bizarre and inconsistent in sentencing when it comes to children, which I have commented on frequently, but I think the system is reasonably impartial and I think we have a Chief Justice whose integrity has never been questioned. I think that we have a system which allows us to speak out—and we have—if we think the system is not working.

I think that we have got to start building up our social and institutional capital. We have got to start trusting and allowing things to work. The provisions in this Bill, while we may have initial worries about them, are provisions that have to be made to work and my balance of judgment in the end is to—believe me, all of us who work in the system will be watching this very carefully—trust that the internal mechanisms in the police and the use of the Domestic Violence Register will, in fact, balance out those dangers that exist.

My one worry with this is that police officers not wanting to go through the bureaucracy of having to enter and report in a Domestic Violence Register will just not take any action at all; that is what my worry is. That, of course, is something which I think can only be taken care of with constant supervision and with training. There again, what I would appeal to the hon. Minister of Finance is that more money be budgeted for training of police, particularly in the areas which deal with domestic violence, during the following year.

I would also wish to, once again, make the appeal to the Judiciary to get expert training. I gather there is some absolutely first class training available from experts in forensics which deal with domestic violence for people within the judicial system themselves, that they understand what constitutes domestic violence, how it operates and, in fact, how to deal with it when it comes up on an official basis.

I have got a few other comments. I have a similar problem to Sen. Alfred in relation to clauses 17 and 18. I think there is some conflict between the two clauses that I have not quite been able to put my finger on how to deal with it. I think that clause 17 by itself is all right; but when we get to clause 18, it sounds almost as though clause 18 is a way for people to get out of getting any kind of protection order: just do not be around and one would not be bound by it; give a false residence; move somewhere else and the protection order does not have to apply. It seems to me, and I am subject to correction, that this cancels out clause 17; but I am hoping that Sen. Daly and some of my more legally minded colleagues will take a look at that.

I realize there are two or three other provisions in this Bill to which there are legal objections and I am not raising them, particularly because not being a legal person myself, I do not think I could argue either for or against them with too much knowledge or conviction, but I think that they include provisions which may possibly conflict with other legal provisions.

**2.50 p.m.**

Mr. President, for example, there was one which had to do with powers that are conferred in the Magistrates' Court, under the Summary Courts Act, not having for example, powers which are included here in clause 6(1)(a)(v)—I cannot comment on that because it is not in my terms of reference, if I could put it that way.

Mr. President, this Bill may not be the document that resulted from a consultative process that I had described earlier. I think that for everyone on the committee, this disappointed them bitterly, but it is a good Bill and I hate to admit it, having been on that committee, but in some ways it is even better than the one we had agreed on and I think that we should give it a chance.

Mr. President, we have to trust the processes that we have set up in the society—if we do not like it, I think we should come back and speak up. When we say that we do not think the system is operating the way it should—when we do speak up, of course, there are times when we get hit with some pretty hard criticisms in return—but that is freedom of speech as well, and the thing is, we do not suddenly disappear and end up in the bottom of a gully, for having done so. You take your licks like an adult and move on.

Mr. President, what we have to do is, if we are going to do anything about domestic violence, we have got to take it within a wider structure than just the law. We cannot depend on the law, as a number of other persons have said, but we have to start somewhere and I think this Bill by itself, is a good Bill, subject to several amendments which I wish to move and I will support it. Mr. President, thank you. [*Desk thumping*]

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. President, may I say that I intervene in this debate on the basis of having regard to what I read of some of the contributions made. There seems to have been the feeling that this Bill came out of the blue and just dropped and came into the Parliament. I think Sen. Nafeesa Mohammed, if I may say so from her contribution, gave that impression, when that is not correct at all.

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Mr. President, as a matter of fact, apart from coming to clarify those matters, I would like to also address some of the criticisms which have been made about the Bill, in order to try to assist hon. Senators to appreciate what this Government has done, in order to try to get the Parliament to effect these measures.

Mr. President, what happened in this matter was that even before 1995—before this administration took office, there were several complaints about the existing Act No. 10 of 1991, and the Law Commission, which is a statutory authority set up to continuously review legislation, started looking at these complaints and measures.

In 1996, there was a draft Bill, but the Government decided that it wanted to have the widest possible consultation in this matter, before the Cabinet decided on its policy in respect of this matter. Based on that a committee was appointed by Cabinet, in order to have consultation in respect of this matter and that is what Sen. Mahabir-Wyatt spoke about. There was this committee and it had the widest possible consultation and the Government is very indebted to that committee and to the members of the public who participated, because it assisted the Government in coming to its conclusion.

When the final draft of the Bill, which resulted from the Committee's work was had, the Cabinet decided that the Legislative Review Committee of the Cabinet should look at the Bill and also what the Law Commission had done and try to see what they could come up with in the best interest of the country.

Mr. President, you had the Chief Parliamentary Counsel Department, the Law Commission and the Legislative Review Committee looking at the draft by the committee and what other legislation in other countries has been able to do. Based on a study over a period of time and several meetings, a Bill was drafted in order to go to Cabinet, and that is the Bill we have here. I want to make it quite clear, many of the matters which were in the committee's draft are in this Bill. There are matters which were not in the committee's draft Bill, for example, the powers of the police to enter without a warrant, and there were other matters which found themselves in this Bill.

Mr. President, just to give an example, what we did was to see how other Commonwealth countries dealt with the question of domestic violence, because no amount of law would prevent domestic violence. What we needed was a legal framework, which would as far as possible, prevent domestic violence, but also that if it was committed, there would be protection to the victims and effective

court orders, and the courts would not be impotent to deal with this situation. That is why we had to look at other countries to see how they have dealt with it.

Mr. President, let us take one example, the question of the police entering into premises without a warrant. If we go just as close as Barbados, in 1992, the Barbados Domestic Violence Act—the Barbados Parliament at that time found it necessary to give to the police the power, and in section 14(1) of the Domestic Violence Act of Barbados, which is known as “The Domestic Violence (Protection Orders) Act, 1992” this is how it reads, so that Members would get an idea as to what sort of work went into this in order to come up with this Bill:

“14. (1) A member of the Police Force may, without warrant enter any premises for the purpose of giving assistance to any one present thereon

- (a) if he has reasonable grounds to suspect that a protection order is being violated; or
- (b) if upon the invitation of a person resident at the premises he has reasonable grounds to suspect that a person therein has suffered, or is in imminent danger of suffering, physical injury at the hands of some other person therein.

(2) A member of the Police Force referred to in subsection (1), may without, warrant, enter premises for the purpose of giving assistance to a person on those premises whom that member has reasonable grounds to suspect is in imminent danger of suffering physical injury or has suffered physical injury at the hands of another person.”

When the Bill reached the Legislative Review Committee—I do not think that the committee which drafted this Bill and which went throughout the country should be blamed in anyway—we called in the Commissioner of Police and the Police Unit responsible for Domestic Violence. We discussed this measure and the police told us that without a measure like this it would be very difficult to deal adequately with domestic violence.

### **3.00 p.m.**

Mr. President, for the enlightenment of the Members who do not know, to get a warrant is not an automatic act. If you have a system whereby you have warrants which you can just sign, then you would have an abuse of warrants because police

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and people can then misuse that. To get a warrant, one has to go to a magistrate or justice of the peace and swear that there are reasonable grounds for going in. That takes time and during that period of time a lot of injury and death can occur.

As a matter of fact, I understand from the people in Barbados that this Bill has worked very well, the powers of the police have been used to protect many people. If that is some comfort to Sen. Mahabir-Wyatt, I would tell her that this is something we have considered very carefully because it is a situation in which you have to balance the rights of the individual to say that a person's house should not be entered without a warrant, but you also have to balance the possible dangers, injury and death which can occur if you do not have such a provision. That is one of the reasons this Bill has to be passed with a specified majority because it is one of those measures in which you could not get an ordinary vote in Parliament to have it through.

**Sen. Prof. Ramchand:** Mr. President, I want the Attorney General to clarify a doubt in my mind. If you are invited by one member of the household and another member refuses you, then you do not need a warrant. What would be the case if neither party invites you?

**Hon. R. L. Maharaj:** That is the second part, where the police has reasonable cause and where he was refused entry.

Mr. President, let me see if I could deal with some of the other matters which have been raised. I want to put on the record that the Legislative Review Committee could not have done its job properly without the input of that committee which went throughout the country to get those comments because those provided valuable assistance for the Legislative Review Committee. As a matter of fact, the Minister of Legal Affairs who was on that committee was also a Member of the Legislative Review Committee when the Bill was being considered and we had representatives from the Ministry of Social Development, the Minister of Social Development, and representatives of the police service going through this Bill clause by clause. I want to give the assurance that all matters were considered.

I also want to deal with some of the matters to give you some indication as to what was the reasoning on some of the matters which were in the committee's draft and were amended. I think some of those matters had been raised this afternoon and even before this afternoon.



Mr. President, under category of persons in clause 4, the existing legislation on domestic violence now affords protection to a wide category of persons who are in family relationships such as a spouse including a *de facto* spouse and a person who shares a child in common, and even a parental relationship.

Clause 4(2) of the Bill seeks to further extend this category to include any other person who is a member of the same household. The committee's draft recommended that the category of persons should include all persons who are in a close, personal relationship. Let me give to the Parliament the factors which the Legislative Review Committee considered and why it came to that conclusion so that you would have the benefit of that.

The Legislative Review Committee recommended that the Bill should extend only to members of the same household for the following reasons: Extending the protection afforded by the legislation to those persons who are in close personal relationships and who are not necessarily within the same household would be too wide a category as it would include casual visiting relationships, dating relationships, gay relationships and even extend to all family relations. It was decided that legislation of this nature should seek to target only that category of persons who are in a stable, family-like or cohabiting relationship and who are emotionally involved, vulnerable, financially dependent and prone to on-going abuse. Other persons can avail themselves of the existing criminal law.

Such a wide category would necessitate the court first having to take account of certain matters to determine whether the relationship would fall within the framework of a close, personal relationship before being able to adjudicate upon an application.

Whilst the Australian countries and in New Zealand they have extended the ambit of their legislation to include close, personal relationships, in jurisdictions like the United Kingdom, Canada, the United States of America and in Barbados, nearer home, and in St. Vincent, the protection has been confined to members of the same household.

Those are the factors and we considered that we would start with that since it is nearer to home and more akin to the British court that we had been following and we would not opt for the Australian and New Zealand approach. I want to give the assurance to Sen. Mahabir-Wyatt that this is a matter in which, initially, I took the position that it should be further extended, but when one looks at it, one sees that the court would also have to determine whether that is a relationship and

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it could prolong the hearing of matters; as to whether in the light of what we were considering, whether the ordinary law does not afford protection to those persons who are not in that close relationship.

Mr. President, with respect to the objects clause in the Bill—I am no expert in this, I am just saying exactly what were the considerations—we have a preamble to give an idea as to what motivated the Parliament to pass it. The preamble to this Bill states:

“**Whereas** incidents of domestic violence continue to occur with alarming frequency and deadly consequences:

And Whereas it has become necessary to reflect the community’s repugnance to domestic violence in whatever form it may take and further influence the community’s attitude and support social change in respect of this social ill:

And Whereas the Government is of the view that one way to achieve these goals is to strengthen legislation to ensure a prompt and equitable legal remedy for victims of domestic violence:”

And it goes on.

In relation to the objects clause, all I can say is that the legislation in Trinidad and Tobago—and I have been given a quotation to read. Just to put it on the record it is *Statute Law volume 19 No. 1* pages 63 and 64 and that is why we left out the objects clause. That is something we could talk more about in the committee stage. I have no problem with that.

Mr. President, clause 6 of the Bill seeks to vest jurisdiction in the Magistrates’ Courts to make an order which would prohibit a person from dealing with property in which the applicant may have had an interest. This seeks to address the situation where the court makes an order allowing a victim to have the use of the matrimonial home, or perhaps a vehicle, and the respondent easily circumvents the court’s order by disposing of such property.

The committee had recommended that this was too wide a provision as it seeks to extend the jurisdiction of the Magistrates’ Court to confer property remedies, a jurisdiction which is over and above that which is now included in the Summary Courts Act. We took the view that we should not go with the committee’s recommendation with the greatest respect, because we felt that if the respondent is to be prevented from circumventing the court’s order by disposing

of property needed by the applicant, and if the legal response to domestic violence is to be effective, then we had to have the power of the court given at that first stage at the Magistrates' Court.

We took the point however, that if you want to limit it to the \$50,000 which was a plausible and a good suggestion we will be prepared to consider that. As in domestic violence cases, the Magistrates' Court already has jurisdiction with respect to property rights under existing legislation, and since the court has the responsibility and that was the first court the person would meet, I think it is very important for the court to be able to have that jurisdiction. That is the reason we did not entertain the committee's recommendation in that respect.

Mr. President, clause 6(1)(b) seeks to give the court a discretion when making a protection order for the benefit of an applicant to extend the order for the benefit of any children or dependants of the same household as it considers necessary.

The committee recommended that this should be deleted, as in such a situation, the court would have no locus and cannot extend an order for the benefit of a person who is not before the court and from which there is no application for relief.

The Legislative Review Committee took the position that this should be retained because such a provision can be considered to be reasonably justifiable in a society where defence could maintain a proper respect for the rights and freedoms of individuals in accordance with clause 13, but the court can then make an order in favour of a dependant based on the fact that such a person may be considered a party to the action because his name appears on the record, or if his name does not appear he may be considered present by representation and enforce obedience to the order.

In domestic violence cases, such jurisdiction is now necessary, and the court, whilst not performing or pursuing its normal powers would be acting in the interest of the security of persons who are vulnerable and not in a position to approach the courts and who are in need of the court's protection being resident in a household in which violence is occurring. That was the rationale which motivated us to go that way.

Mr. President, clause 6(6) would empower the court when making a protection order to direct the police officer in that same order to assist victims in certain circumstances. The committee recommended that this should be deleted, as such a discretion already lies in the Commissioner of Police and the court may not be in a position to enforce such a discretion against a police officer.

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Our committee, which is the Legislative Review Committee, recommended like other jurisdictions, that domestic violence in Trinidad and Tobago must now mandate the response of the police. Separation from an abusive partner increases the risk of violence and mandating victim assistance by the police is now necessary to prevent the escalation of further abuse. The victim's assistance after an order is made is now essential, and the courts and the police are critical in ensuring a co-ordinated and effective response. The state must be proactive and take steps to reduce the overall risk of violence occurring even after an order is made, and the refusal of the police to act upon a direction of the court in these circumstances amounts to contempt of court.

I would give an idea as to why the Bill is different. It is different in outlook, and in philosophy but that does not mean that we did not absorb and take into consideration what the committee drafted.

**3.15 p.m.**

Mr. President, victim compensation. Clause 6(1)(c)(ii) proposes the payment of compensation to victims of abuse for monetary loss incurred as a result of violence perpetrated. This would not include damages for physical injury but would be limited to loss of earnings, medical and accommodation expenses and legal costs.

Here it is that the court would have the power now to provide this kind of compensation. The committee felt that domestic violence legislation should not attempt to deal with issues of compensation as that may be time-consuming and would hamper the court in its efforts to deal with applications expeditiously.

The Legislative Review Committee took the view that this should be retained because the legislation should now address the financial losses suffered by victims and that domestic violence legislation should reinforce the concept of abuser accountability.

Whilst the paramount concern of domestic violence legislation should be protection from violence, new laws should now strengthen the criminal justice response and abuser accountability must be seen as one of the ways of imposing swift, consistent and meaningful sanctions against violent behaviour.

It should be noted that such a provision does not confer any additional jurisdiction on the courts as section 77(3) of the Summary Courts Act already vests power in the Magistrates' Court to order the payment of compensation where an order is made against the defendant.

Mr. President, mandating the response of the police—clause 21. Clause 21 stipulates the duties of police officers in dealing with domestic violence reports and seeks to establish a domestic violence register to facilitate access to information. The committee recommended that this provision should not be contained in this legislation as the area falls under the purview of the Commissioner of Police who may issue internal police orders prescribing duties for police officers.

The Legislation Review Committee agreed with the retention of clause 21 and took into consideration the fact that the police response to domestic violence cases has often been identified as a major obstacle. It was considered necessary that legislation now state clearly the role and function of the police.

Model legislation on domestic violence proposed by the United Nations Commission on Human Rights has recommended the inclusion of this aspect into legislation. A domestic violence register will build information in respect of a respondent and will assist the police and the court in future prosecutions and sentencing. Another provision is the one which deals with the police entering without a warrant.

Mr. President, there are safeguards and I think I would like to support what Sen. Mahabir-Wyatt has said, that if you put a provision whereby there must be a senior officer, or two or three officers, there could be a situation that would be unworkable. I think that we should try to see how this works. If, for some reason, it is not working out well, it may be that the Parliament will have to consider additional and other measures. But without this provision, this law may probably have no teeth. It would be like a toothless bulldog or a dragon without fire.

So that I think that I would like to borrow the words of Sen. Mahabir-Wyatt and I think that if we can get hon. Senators to regard this as something new in Trinidad and Tobago, but it is not new in domestic violence legislation. Our neighbour Caricom country, Barbados, has it. It has worked very well and I think that we should be able to trust our police service. There are safeguards and we will see if it does not work, what we will do.

Another point which has been raised from time to time again has to do with this family court. I think that I should spend some time on this.

Mr. President, at the present time, we have a division of the High Court known as the Family Division. If we take a family court and we just take the judge and put him in a different building with different furniture, it would not make that

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the Family Court. What is needed are different rules for the game. One must remove the adversarial situation with respect to these matters. At the present time, there are draft Family Court Rules which have been prepared by the Rules Committee. Those are matters which are in the process of being sorted out.

The Rules Committee of the Supreme Court prepared rules, because these rules will, in effect, guide what kind of litigation you will have. There are draft rules which have been commented upon but there is the need also for legislation that would, in effect, prevent a husband or a wife from using the fact that lawyers can be used in cases to frustrate rights. What has happened is that in the family law area, there were situations where, with legal proceedings and several lawyers being used, one would recognize that can be problematic at times. There can be the frustration of the situation.

What is happening now, side by side with what is happening with the rules of the court, the Law Commission has been looking at Canada, Australia, New Zealand—all the countries—and coming up with a blend of legislation for Trinidad and Tobago so that the necessary substantive law will be had to work with the rules and the court itself. There is the feeling in Trinidad and Tobago that you want a family court, just take a judge and put him or her in another court. That would not help.

What is needed is that the whole procedure has to change; the whole question of adjudication has to change; because it may be—and I have to be very careful how I am saying this—that a judge deciding a family law matter may not be the only person who should be there to decide that issue, and it may be that that judge will probably need assistance. So that just to have a family court with a judge, it may be, Mr. President, to have a judge in the Family Court must be a judge who is scrutinized well to have an appropriate judge in the Family Court and to have appropriate judicial officers who will deal with these matters.

It is not a simple issue, but I want to give the assurance that when I became Attorney General, I met a bill and if I had brought that bill, I would have been attacked because it was just moving a judge from the Hall of Justice and putting him or her in another building. The last administration drafted that bill and called it a Family Court Bill and it would just mean that, with the same rules and the same procedure. I took the position that that was not good enough, that what we needed was a change of the law; a change of the rules; a change of approach; a change of adjudication.

That is why we do not have a family court yet, but we are committed to it and we are committed to having it implemented as soon as possible. As a matter of fact, the legislation came to the Legislative Review Committee about two weeks ago and it is coming back in about two weeks again.

I hope that I have been able to be of some assistance to hon. Senators. I thought that I should come to try to give this assistance, but what I would like to leave with hon. Senators is that this is probably one of the most important pieces of legislation to deal with domestic violence in Trinidad and Tobago and in the Caribbean. Much time has been spent, not only by the population, by the committee and the lawyers and I think the national community would want legislation like this.

The Government gives its commitment that although it has decided on its policy; it has brought this Bill; it is still open to criticisms on it; it is open to any kind of suggestion; it is open to proposals for amendment and, at the committee stage, we can deal with that, but at the end, this is not a partisan issue; this is an issue which involves all the people of Trinidad and Tobago and we should not make politics with it.

Thank you very much, Mr. President.

**Sen. Dr. Eastlyn Mc Kenzie:** Mr. President, I would like to make a few points in my contribution to this Bill.

I also looked at Act No. 10 of 1991 and I was privileged to read the report of the *ad hoc* committee and I would like to take the opportunity to congratulate all those persons and all those communities that contributed to this document.

When I looked at the recommendations of the *ad hoc* committee and the clauses in the new Bill, I saw that very many of the clauses were incorporated in the Bill. I also looked at the extensive research of Acts of this nature from other countries, both in the Caribbean and beyond, and I looked at the perusal of the very many Acts in law to which the committee resorted to find the points.

So, I am very pleased with what has come out of all this consultation and discussion and the 30-odd meetings that were held by the different committees that decided on this Bill. But there are a few matters that I would like to raise.

Mr. President, I looked at the Bill from the area of prevention, or minimizing the domestic violence incidents we have in the country and it is not something that we could legislate. Therefore, I thought that we must look at the other agencies to

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see what contributions they could make to the society as a whole to help to minimize the incidents of domestic violence.

I looked at education and, at this stage, I want to commend the School of Education at the University of the West Indies for the programme it has in its Bachelor of Education for principals and teachers of primary schools, and the strategies it is bringing into being to help in the primary schools to develop a culture of proper relationships and understanding. I am sure, from my research into what is being done, this will certainly help to minimize the incidents of domestic violence as our children grow into adults.

I also looked at a group of young people—Art in Action—and what they have been doing, going around to communities, schools and Parent/Teachers Associations, actually doing the same type of exercise in bringing to the population an awareness of the problems that could lead to domestic violence. So, I take the opportunity to commend the School of Education of the University of the West Indies and the young people forming the Art in Action group.

Now to the Bill, in particular, Mr. President. I listened to the explanation given by the hon. Attorney General on the question of the Family Court and I understand what he was saying. What I would like to propose is that in the training of our policemen, built into their curriculum, should be these matters relating to domestic violence. Every police officer, every recruit should have a topic on the curriculum dealing with domestic violence. No police officer should say, “I do not know”, “I do not understand”. Because many of them I have spoken to, do not even know their powers, because some of what we have here that we are quarelling about, we have them in the old law, in Act 10 of 1991, and the police officers do not know they have that type of authority. I am saying that included in the curriculum of the Police Training School must be this aspect of it.

### **3.30 p.m.**

Mr. President, the Ministry of Finance must have a specific vote or an allocation to help victims of domestic violence, whether it is in the form of special housing to shift people. I will tell you that from my investigations, sometimes it is better to move the victims out of the house than to move the respondent. We cannot divorce what is happening from the culture of the people.

Take for instance a Tobago man, his ambition is to own a piece of land to build a house and have a family. It is difficult to get a man to accept and appreciate the fact that he has done all this, he does not even know the woman as



yet from Adam when he is building his house; he builds his house and finds a wife and is living there. There is a dispute or disagreement, for some reason he is put out of the house which he has built and provided, and he has to leave and walk away. While I am not saying that he is right to be engaging in any type of advantage taken of anybody in that house, we have to look at how the man feels about being put out of his house that he has built 20 years before he even knew the woman. I am not saying that he is right.

In fact, a man said to me, "Eastlyn, before I know I leave my house, magistrate put me out of my house for three years and tell me I cannot go near my house, even though I did not know the woman from Adam; I would burn it down!" We do not want the man to burn down his house, but we also do not want him to beat up anybody in the house. So before we wait for further violence—because we tend to display an insensitivity to how the man feels—it might be better if the Minister of Finance has a place that we can put the woman or her children to safety and protect everybody. [*Desk thumping*] Mr. President, we cannot divorce our culture, we have to try to change the culture and the behaviour, but this comes over time. While we are doing this, we are also trying our best to preserve life and cut down abuse, to minimize violence. We have to at times be fair. We have to look at this.

Mr. President, you know I am not one who likes to keep back the Senate so very quickly I would like us to look at a new clause in the new Bill. I am comparing the old Bill with this new one. On page 6, the new clause, 6(c)(ii) states that the court can:

"direct that the respondent -

(1) pay compensation for monetary loss incurred..."

I say it is new because now we are saying to the court that it has to determine the compensation and set up a procedure for enforcing the rule. What do you do if the person does not pay? Will the procedure delay the completion of the matter? Because all of this goes right down. You are putting a responsibility on the magistrate that may be borrowing procedures from other areas of law. I do not know, I am a lay person, but this is how I look at it.

I would like some sort of clarification or more information on clause 6(c)(ii), to say how you are going to determine the compensation. What is the procedure for enforcement if the person does not pay? Would it be the same procedure as if you do not pay maintenance for a child? Would the procedure delay the completion of the matter? I do not know, the matter is in limbo, what would

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happen? Is it more responsibility on the magistrate? Will this carry up legal fees? All these things I want the Minister to look at.

I look again, Sir, at paying this money. I have looked at people who have to go to court to collect compensation for maintenance and so forth. It is horrors! I do not understand; you say pay so much per week or per month for the maintenance of a child, and the father of the child pays the money, yet when you go to the court, you cannot get the money, because they put the money in a pool, and I do not know what is done with it. When you go sometimes, although the father has paid, you cannot collect the money because there is no money in the vote. We need to look at this.

Mr. President, I also questioned why we have to mix up domestic violence with maintenance with damages for personal injury. I get a little confused, we have all sorts of things. We have domestic violence under this, but we seem to be going over to other laws, so we are probably going to have it determined in this way but we go to another law for the answer. I do not know whether this is smooth or whatever it is.

I very well like clause 7 and all the matters to be considered when the determination has to be made. What I am hoping is that we would have orders completed in the shortest possible time.

I was very confused with clause 8(1) and (2). I do not know whether the legal minds would clear up my confused mind. What I am reading is that an interim order can be made pending the hearing and determination, before the hearing of the application and during the hearing of the application. I do not know whether the first one, pending the hearing and determination is different from before and during the hearing.

Mr. President, again I have the same problem with undertakings, where the magistrate would have to go out of the scope of this legislation to deal with those matters. I also looked at Part III on page 11, "where an application is made on behalf of a child or dependent" and so forth.

I remember a case we had in Tobago where the neighbours were calling the police or social services to come because there was a parent beating up a four year old child, because the child could not recite the ABC. When the police went to the house she did not bring out the child, but said, "Oh the child okay, no problem," and the police demanded to see the child. When they saw the child then they realized how brutalized, battered and bruised the child was. But this was a

neighbour calling, hearing the screams and listening, because when these parents are beating up the children, they tell them what they are beating them for: "You do not know your ABC!", wallop! and so forth. This is something we have to look at.

Mr. President, on page 15, Part VI, clause 21 states:

"A police officer shall respond to every complaint or report..."

Respond how and how fast? Some of the police respond, "Go back home, I am not dealing with no husband and wife business!" That is responding. We have to be very precise as to what we are saying. They must take some sort of positive action to go and see and do what is necessary.

I think the hon. Attorney General has given an explanation as to the police entering without a warrant. I think I understand and I need not say more.

I love clause 26, "refractory witnesses", those people who like to complain and when they go to the Magistrates' Court they either forget or forgive, and the poor child, whether it is incest or whatever, is in trouble for the rest of his or her life. I am happy to know that the complainant's statement would be taken into account even though they go to court and actually refuse to give any sort of statement.

Mr. President, I went to the courts in Tobago and tried to get some statistics. The number of domestic violence matters filed for 1996 is 141; 1997, 191; 1998, 269. We see a progression, an increase in the number of matters filed. Whereas I understand what the Attorney General is talking about in terms of a family court, there must be some special arrangement. If you have a Magistrates' Court that has to deal with 269 cases of domestic violence in 1998, and we see an increase all the time, we need a special arrangement if we are going to have these matters heard quickly. There must be some sort of consideration to make these matters be heard very quickly, whether it is a family court, a special arrangement or whatever have you, something has to be done to give the impression that we have a serious matter on hand that we need to deal with very quickly, indeed.

Finally, am I right in assuming that the court cannot rule or exclude a respondent if the victim is not living in the same house? I will tell you why I asked. There was this father who was taken to court for beating up one of his little children very badly. I think the child was about 10 years old. The child did not live with the father, but we know that there are several arrangements like that: the child lives with the grandmother and goes over for a weekend, holidays or what have you. The father really brutalized the little child, was taken to court and was

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not given any sentence or charge because his lawyer claimed you cannot rule on this in the domestic violence matter because the child does not live in the household.

**Mr. Maharaj:** Mr. President, if you look at the meaning of respondent it means a person against whom an application for protection order is made. Under clause 6 a protection order may prohibit the respondent and it says what it can do, so there is no condition that the person has to be living in the household.

**Sen. Dr. E. Mc Kenzie:** Thank you, Mr. Attorney General, because further on I saw something about "in the same household", so that was what prompted me to ask the question. I know that this was probably used in the present Act 10 of 1991 and so this is why I was careful to find out whether this would be so in this new Bill. But if you gave the assurance that this would not be, I thank you, because this was a loophole being explored by people who were taken to court.

Thank you.

**Sen. Rev. Daniel Teelucksingh:** Mr. President, I want to make a general comment about my impression of the Bill. I see the Bill as a mopping up instrument, designed to clean up the home after domestic violence may have already left a flood of tears or several blood stained living rooms. I see it merely as a new mop to replace the 1991 Domestic Violence Act whose handle broke some years ago.

**3.45 p.m.**

The 1991 Domestic Violence Bill failed to stem the tide of violence in homes. Possibly, it was not intended to be a deterrent. Maybe it was invented to come to life only after the deed is done and persons have been violated against.

Our new revised Domestic Violence Bill reflects the searching agony of the framers of this piece of legislation to address a more serious, challenging social problem that we have. We have noticed that it merely offers greater protection to those who have been victims—we are looking at victims—of domestic violence. With wider powers to the courts, increased scope for the Protection Order, harsher penalties and more fearsome police powers, I still have my great reservations. Although I am very sympathetic with those who support clause 23 of Part VI. I still have great reservations about the powers of entry and arrest given to the police without warrant. One way or the other, there are so many of us who doubt the ability of the police to handle these new powers that have been given by Part VI of the Bill.

Mr. President, the Preamble to the legislation tells us of the new law as being a legal remedy for victims of domestic violence. I am quoting from it. As a necessary corollary to this Bill, we must return—as somebody said earlier on—to the root causes of domestic violence, or else this Bill will fail as the 1991 Bill failed. This is how I see it. It is wishful thinking, as the Explanatory Note to the Bill suggests. I quote:

“The Bill proposes to create a wider range of speedy and flexible remedies aimed at discouraging the increasing incidents of domestic violence.”

The harsher penalties or prompt police interventions are really not remedies. I question that. My concern and my question is: where is the answer? The answer is not in the 1991 Bill. It has failed. If we are not careful, the 1999 Bill will fail also. We must get to the root causes. Where is the answer? Let us say, as in the Preamble which is so eloquently and boldly brought to our notice—I quote from the Preamble in the Bill:

“incidents of domestic violence continue to occur with alarming frequency and deadly consequences”

This is a summary of what is happening in our society.

Mr. President, this is an inexhaustible study, but, I want to share some concerns with you. First of all, we need as a society—this is how I see it—to repair the damage done in gender relations. The relevant studies that we are doing—everybody is talking about gender studies. When we look at—I am coming back to the great summary of the Bill in the Preamble: “the deadly consequences and the alarming frequency of domestic violence.”

Gender studies are only in its infancy when we consider the degree of backwardness and immaturity in man/woman relationship in Trinidad and Tobago. Something is wrong there. Notwithstanding concerns about the abuse of children, the elderly and so forth, the real problem is that something is wrong in the relationship between man and woman. The loss of respect for womanhood explodes in battering, abuse, rape and murders of women and girls. The venue can be anywhere—the street, the home, the office or even my church.

**Sen. Ramnath:** Do you not have women ministers in your church?

**Sen. Rev. D. Teelucksingh:** It happened in the presence of one in San Fernando.

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Those television pictures of the last weekend—those television pictures of mourners, for example, for the nine executed persons—do you notice this? Weeping faces of mothers, sisters and wives who feel the pain of violence on the rebound. One may ask where are the fathers? This was a most pathetic picture of the last weekend—of women weeping; symbolic of weeping women all across this land. One may ask where are the fathers of these guys? It is a very important question. Where are the fathers of the condemned men? Women have to carry the entire burden of shame, grief and the agony—direct violence and indirect too.

Mr. President, we need to educate our boys. We need to educate our men to respect and appreciate our women and girls. This awareness should rightly begin at the earliest age in the home and the school. Herein lies the factor which I want to add. If we are talking about a legal remedy for domestic violence, I want to add that a most vital factor is the moral remedy. There has to be a moral remedy to curb domestic violence; not a legal. You are quite right, framers of this legislation, there is a legal remedy. I respect that, but it cannot go by itself. The other side to the coin is the moral remedy to domestic violence. The legal remedy, which the Bill provides, must give way to the moral remedy. We must get after that. We must find an answer.

Secondly, we may wish to hide this in the social closet. Go ahead and do it! We may wish to turn a blind eye. We may wish to ask for more evidence. Go ahead and ask for more evidence. We may wish to act as a hypocrite. But, none can deny that, in several instances of domestic violence on record, the waiting demon is fornication, marital or spousal infidelity. This finally shatters many marriages. Many of those relationships—the man/woman relationship of which we are speaking—erode the very foundation of family. We need to look at it. We could hide it; we could deny it, but it is there.

The Bill before us has dared to go where others have hesitated to venture. Though it may be so late, I think clause 7(g) is most welcome and appropriate. Excellent for those who dreamt up this. I think I want to congratulate the Government for allowing this clause to be there. Notwithstanding the Cohabitation Bill recently, and my concern about fidelity in marriage and holding the institution of marriage together, I really want to congratulate the Government for allowing this clause to creep in, even if it is through the back door. I quote:

“The need to preserve and protect the institution of marriage...”

I do not know what you mean by “other relationships.” Somebody has to tell me what is the meaning of “other relationships”. That was my only problem with clause 7. Otherwise it is a wonderful clause. What do you mean? What are you saying? Are you—[*Interruption*] Sure.

**3.55 p.m.**

**Sen. Jagmohan:** Mr. President, I am grateful to the learned Senator for giving way. I had a number of sleepless nights over this clause. I have it highlighted and I have it marked to ask about it. The framers of this Bill were fighting with their consciences, it appears, and apart—[*Interruption*].

**Mr. President:** If you rise on a point of clarification just request the clarification without making a contribution.

**Sen. Jagmohan:** I thank you, Sir. The “other relationships”, Mr. President, needs to be clearly identified in this Senate. I thank you.

**Sen. Rev. D. Teelucksingh:** Thank you very much, Mr. President. I have to compliment the Government and the people who framed this Bill and put it together. I know we could not deal with a Bill like this without talking about home, family and the institution of marriage. We seldom speak of this in dealing with social legislation. This is social legislation. However, out of great desperation, Mr. President, and fear of losing our most cherished institution, the family, this Bill in clause 7 is acknowledging the need to protect, and I am glad it is happening at this level, lest you think about dry, sterile laws, that there has to be the moral element, a moral imperative in the preparation of legislation. I am really happy that this has gotten into the legislation. I hope that we will expand on it, possibly in subsequent legislation.

That man/woman relationship, that covenant, that spousal bond that needs to be preserved, may yet be one of our best answers to domestic violence where the principal actors are husband and wife. Monogamy—we do not use that word at this level, whether in common-law relationships or in traditional marriages—has to be the ideal in this day of moral decay—monogamy. [*Desk thumping*]. We cannot only talk about it from the pulpit. It has to be done in the Parliament and in the square. It has to be done. It has to be the ideal in this age of moral decay when we witness the ravages of sexual permissiveness. We need, Mr. President, a newer morality for the new millennium if we are to survive as a society and as a people.

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Thirdly, in our search for answers to domestic violence, inclusive of the moral formula, we have to discover preventative measures for us who have a tendency to abuse family members and therefore I am convinced that we need to return to religious values. We have sufficient examples right here in our community in Trinidad and Tobago where family life has been strengthened and buttressed with the practice of religion.

There is a saying—you would have heard this, I am sure—the family that prays together stays together. This is good for Islam, it is good for Hinduism, Christianity and all and sundry. The God-fearing family is so often empowered to deal with conflict situations without reliance on violence against one another. There is the arena for domestic violence in the home. A family without God, a family without a prayer life, is a family that will be more exposed to the dangers of the violent one, the evil one who creeps in.

Furthermore, Mr. President, we have religious practice and belief. Such religious practice and belief contribute substantially to the formation of moral criteria and sound moral judgment and this is what we need in this day and age for our people. Religious practice and religious belief generally inoculate family members against a host of social problems including suicide, drug abuse, out-of-wedlock births—a problem for us—crime and divorce. Parents, teachers and all and sundry must teach their young that it is better to find God at home within the family circle rather than wait to find Him in the prison or possibly on the way to the gallows. I wish we would sing those hymns at home. But then, in prison it is too late. [*Desk thumping*].

Mr. President, those are my three points but I would like to also mention two little observations from the Bill. First of all, I really want to compliment the hon. Attorney General for his announcement concerning the establishment of the family court. Yes, I think for a long time now this Government has been promising this. I remember the Minister of Legal Affairs being with us and speaking about the family court and I am really happy that the hon. Attorney General, on behalf of the Government, is not only telling the Senate but announcing to the country and the nation that very soon the family court will be established in Trinidad and Tobago. I compliment you as a Government. If, in any way, the social partners in Trinidad and Tobago can help with the establishment of that, well, yes, we all should join as you should try to seek the assistance of everyone to set up that court.



My last concern has to do with support for Sen. Prof. Kenny's observation on Form 7, which is the police report, in the Second Schedule of the Bill before us. Why is it necessary to identify the ethnic origin of a victim of domestic violence? That is a very important question. If there is a complaint about domestic violence and you must intervene, why is there need to report, after getting the name, location and all the other information, ethnic origin? I find it is ridiculous. I think it might just be dangerous and I want to suggest, I do not know if he suggested this but I would go along with him, that it be deleted. That has to be deleted.

In Trinidad, in the world—look at what is happening in Kosovo. Look at what is happening in so many other parts of the world, in Ireland, in Africa, all over the world. There is too much preoccupation with ethnicity. Something has to be wrong with us. Why is it that this is being reflected here? When we have a festival, any festival at all we have in Trinidad and Tobago, this thing comes in. It is worrisome. It causes cultural polarization, not to talk about political polarization.

We will be having local elections very early—in the next few weeks—and I would advise, for God's sake, the politicians to stay away from this thing about the ethnic divide. Unfortunately, it seems as though it is engrained in our society but it is one of the evils that has been haunting us and riding our backs and here it is in a very simple form. It is a mind-set we have. We must get away from that. Do you not think, Mr. President, that a victim of domestic violence is a Trinidadian? A victim of domestic violence is a Trinidadian and that is enough—*[Interruption]*—or a Tobagonian, certainly. Mr. President, we have been able to find a legal remedy for domestic violence. This might be a good attempt. It cannot stand by itself without the moral remedy. I thank you. *[Desk thumping]*

**Sen. Carlene Belmontes:** *[Desk thumping]*. Thank you, Mr. President. I would like to firstly express my pleasure at being given the opportunity to address this honourable Senate. I have read and reread this Domestic Violence Bill, 1999 and I must say I personally find the Bill very important and timely. My discourse this afternoon would be short and I might not be as fluent or knowledgeable as my other senatorial colleagues but I would like to talk from the viewpoint of a young woman living in Trinidad and Tobago, from my experiences, what I feel and what I believe and what I have learnt from dealing with young people.

I have listened to all the contributions today; I have read the contributions of other hon. Senators and my concerns were basically the same as those expressed before. Most of them have been clarified to some degree in my mind because they

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have been gone through extensively in this Senate, but I would like to look at it from another viewpoint. I would like to look at the effects of domestic violence as they relate to young people and as they stem from, possibly, violence in schools and in society.

At a recent survey done by the family support services in the United States, it was found that 92 per cent of the perpetrators of domestic abuse against women and children come from a background of being violent in schools or from having violent situations in their schools. Just recently we had a spate of violent activities in a number of secondary schools where they reached the point of having to put police officers to try to control some of the children in the schools.

I personally believe, and from talking to young people, that a person who is potentially violent or violent in a school and is expelled from the school for that reason and put out into society, is more likely to be the perpetrator of domestic violence later on in life or when he gets into a domestic situation or has a family of his own. This is because we find that when persons are expelled from the schools, they are sent back home and there is no counselling given to them or nobody looks at them afterwards. Nobody takes them on.

They are basically forgotten by society. They return home and they continue with the spate and the trend of violence. I looked at this situation and asked, what are we doing to help these young people? Expelling them is not enough. Suspending them is not enough. We need to implement measures, I believe, that could assist these young people in getting some sort of remedial help after they have committed the act. [*Desk thumping*]

Again, I say, as a young woman I would like to appeal to the young women and young girls in this society to try to stay away from potentially violent situations and relationships. I will agree with the hon. Attorney General that there is no amount of legislation or laws that can prevent domestic violence, but we have to appeal to young people, especially people we deal with on an everyday basis, about the importance of valuing themselves, valuing others and trying not to get into a situation that could turn violent or one in which they could be abused.

**4.10 p.m.**

In the cases of most young persons with whom I deal, most young women, I find that there is a situation where they are being abused by their boyfriends, the person with whom they are living—because in most instances they are not their husbands. They all give reasons of acceptance. It is because “he fathered my

child”, “he supports me and my child financially”, “I am living in his house”, but they always find a reason to accept why they are being abused and never face the reality that it is wrong; that they should not be abused and should try to get out of the situation. [*Desk thumping*]

I believe that these young people should be set higher morals by the adults in our society, by our leaders, by even the hon. Senators in this Senate, because they need positive role models, people from whom they can get support. I find, too, that society on the whole tends not to give positive support to the victims of the domestic abuse. [*Desk thumping*] We find that a person might know that her neighbour is being abused but she, too, instead of trying to give support to this person and help her to get out of the situation would look at it as “she feels that she is better than me and look at what she is going through” or “she feels that she has everything and she is being abused”, instead of positively supporting this person, giving her constructive advice and telling her how to get out of the situation.

Mr. President, I would like, starting with Members of this Senate and from society, for us to start supporting our victims of domestic violence and not looking at them as just being victims, because they were once persons before they became victims and they can be helped, counselled and guided back to their original path.

I look at an incident which took place recently, Mr. President, where the Miss World 1998 representative, Miss Israel, was raped at the hands of one of her bodyguards while another was outside her door. This matter was covered up by the Miss World Incorporated and I wanted to know for whom was it covered up. What happens to Miss Israel when she gives up her title? Would this happen to Miss World 1999, and would they let this continue to happen? How would this affect this young woman as she finishes her reign? How could she continue her reign with this in her mind and ever in her thoughts that something like this happened to her?

Mr. President, I want us to consider precautionary measures that can be taken in dealing with the problems of domestic violence. As I said before, it is not good enough to offer counselling after it has happened, because by then it is too late. Everybody knows that the victim needs counselling. I grew up with my grandmother who always told me about putting the cart before the horse and closing the barn doors after the horse has bolted. I do not want that to happen in a situation like this where only after it happens do we then give support, offer advice or help a victim of domestic violence.

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I believe that there are methods and plans that could be developed to prevent same. Saying that we have safe homes or institutions for victims of domestic violence to go to after it has happened is not enough. From consultation and experience with these same homes, Families in Action, Marion House, other institutions, one finds that even if a woman goes there after she has been abused, probably by herself or with her children, these homes could only keep them for a certain amount of time. They cannot stay there. These homes depend on Government assistance. Most of them are non-governmental organizations and depend on monetary contributions from the public. So, one finds that one cannot truly expect them to keep 20—25 women and their children for any extensive period of time. These persons have to return to the same situation which they left originally.

The Bill, I believe, has dealt with much of it, especially taking the perpetrator out of the environment, but in some cases where the women or the children leave on their own, what are we doing with them? Where are they to go? Who are they to turn to? [*Desk thumping*] Many young people to whom I have spoken in this country do not know their rights as they pertain to domestic violence; they do not know of support services, or counselling. They do not know where to turn and I believe that much is not done to inform these young people, women and men, of where to go.

I have read the contribution by Sen. Dr. Daphne Phillips and I would like to quote a part of it where she says—

**Mr. President:** Senator, you are not permitted to read from the Senator's contribution unless it is a matter of policy.

**Sen. C. Belmontes:** Thank you, Mr. President. In relating to this Bill, I wanted to get some information on the Domestic Violence Unit because I was aware that it was set up, but I never really heard about anyone using the unit. I got a friend to call the hotline, 800-SAVE, at 10.20 p.m. one night. The phone just rang and rang. We kept calling until finally it was answered and the person answering the phone informed us that the counsellor on duty was dealing with another case, and asked if we could call back.

This is a domestic hotline that is being serviced seven days a week, 24 hours a day, that is supposed to offer help and advice to victims of domestic violence. If this is the case, why do we have a hotline if we have to call back? In the time it takes to call back, the person could have been abused again or probably even

killed. So, we have to look at that and to ensure that the persons answering these phones are competent to carry out the function for which they are there, which is to offer assistance, probably to counsel persons, tell them where to go, what to do, how to seek help, instead of having the person call back, because they are dealing with another matter.

I now look at the abuse of children, especially young boys, in homes and institutions. We might try to turn a blind eye, but there are several cases of domestic violence, of young boys and girls in state institutions in Trinidad and Tobago, that are covered up. Most of the safe houses or institutions that we turn to in a domestic violence situation tell us that they will automatically take the woman and the female children. What happens to a male child over the age of 14 or over the age of 12 whom they are not allowing to stay with the mother? Does that child stay in the house or in the environment where they are being abused? What happens to children in institutions? Do they stay there and are abused continuously until they reach the age of 18 years when they could leave? What are we doing as a society to assist these young persons in institutions?

I now turn to clause 23 of the Bill. Like the other hon. Senators, I too had some concerns when I read this part of the Bill. Clause 23(1) says that a police officer may enter premises that he believes have a potential domestic violence situation and give assistance, that he should respond and give assistance to help prevent the repetition of such an offence. I wondered then, how does a normal, everyday police officer know how to respond to a situation like this without any kind of formal training? [*Desk thumping*] I am not too sure if the people responding are going to be trained, but I am looking at someone calling a police station, getting in touch with a police officer and they respond if they can. How do I know that this person is properly qualified to deal with a domestic violence situation?

Clause 23(1) also states that he should take action as is reasonable to prevent the incident happening again. Mr. President, what might be reasonable for me or for any other Senator, or even yourself, might not be the same that is reasonable for a police officer responding to a situation. [*Desk thumping*] Everybody responds differently. Does responding mean that he goes in and tries to rationalize the situation and speak to both parties? Does it mean responding and if the perpetrator of the act turns violently on the police officer responding that he, in turn, could use excessive force or weapons? What exactly is his level of responding?

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I spoke to some police officers attached to the community policing unit because I wanted to clarify in my own mind if these are the officers who will respond when anybody calls for a domestic violence situation. I was told that in most cases, once they are there they will respond. I asked if they are not there at a police station which I may call—because I believe, I am not too sure, that community policing units are not present at all police stations—what would happen.

I would also like to clarify and be assured that when I do call or anybody else calls for assistance that she would not be given the typical answer of “We will come, but there are no vehicles”. My point is, would there be measures put in place to ensure that there are vehicles and the necessary infrastructure that would allow these police officers to respond promptly and efficiently? *[Desk thumping]*

**4.25 p.m.**

As one Senator mentioned today, we are providing services for the perpetrator. He could be arrested; he could be taken out of the situation; there will be vehicles to carry him away. What about the victim? If the victim is bleeding or wounded, are there proper medical infrastructure in place, like ambulances, that could take this person to get the necessary medical attention he needs, or would you have to find a neighbour with a car, or to look for a taxi to take this person to seek medical attention? Are all these things going to be put in place? Can we be assured that all these things would be present before, if this Bill is passed?

In conclusion, Mr. President, I would like to take this opportunity to commend the Government—*[Interruption]*

**Sen. Shabaaz:** Who would be the Opposition. *[Cross talk]*

**Sen. Mohammed:** And soon to be Opposition. *[Desk thumping]*

**Sen. C. Belmontes:**—on what I think is a long overdue Bill, and what I think is greatly needed at this time in the country, for young people, young women, young men and children. I still believe, and I will always believe, that behind the success of every good man is a good woman, not an abused woman. *[Desk thumping]* So, for all the gentlemen present, if you have to be successful, remember you need a successful woman behind you, not an abused woman. *[Desk thumping]*

We must ensure that all our young women and young girls are successful, and not be abused. I would like to give my personal belief—something I think can assist and be a positive guide to young women in the society, especially those who

are currently being abused or are in violent situations: again, do not look for excuses, face the reality and try to get out of the situation. Society must support these victims. *[Desk thumping]* I believe in this personally. In the words of the immortal song, "I am strong, I am invincible, I am a woman". Thank you very much. *[Desk thumping]*

**Mr. President:** We will suspend for tea at this stage. The sitting is now suspended until 5.00 p.m.

**4.29 p.m.:** *Sitting suspended.*

**5.05 p.m.:** *Sitting resumed.*

**Sen. Kenneth Ayoung-Chee:** Mr. President, I shall be brief, especially after contributions by my colleague here, Sen. Diana Mahabir-Wyatt and the hon. Attorney General.

I just wish to record my support for the Domestic Violence Bill, 1999. I must say, I do not know enough to speak about the root causes, as my esteemed colleagues have done, but I know and am aware of the effects of domestic violence.

In my view, the dominant need at this time is to manage the process as best as we can while the rest of society plays catch up and deal with the measures to cure the root causes identified by them. In essence, time is not on our side to deal with the physical situation involved.

Looking at the provisions of the Bill, it is my view that three clauses would make a positive difference to the present, apparent ineffective situations. Firstly, clause 6(1), which carries the proposed terms of the protection order; clause 8(1), which provides for interim orders; and the much debated clause 23 regarding the empowerment of police officers to enter without a warrant. Although I recognize the latter as being a very effective measure, I still have a lingering concern about it, even after hearing the explanations from the hon. Attorney General with respect to the experience of that measure in Barbados and having heard Sen. Mahabir-Wyatt's position which, in essence, says let us give it a chance to work. Notwithstanding that, I am confident that all these three measures will make a positive difference to the present situation.

With respect to clause 23, it may enhance that provision and deal with our fears if it were possible to institutionalize or find some way to monitor the activities of the police constable who is the lowest in rank and who may be such a

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person entering without a warrant, that in those circumstances he would first refer to his superior as he now does, but there ought to be some monitoring of it, and whether that monitoring could be covered in the clause which makes it mandatory for the officer to report immediately thereafter what he has done. So if there is some monitoring process, at least we would have the comfort and assurance that the officer who has gone in without a warrant would have had some prior consultation or authority from, at least, somebody who is superior to him whether he be corporal, sergeant, inspector or what have you. So that is something to think about if an amendment is to be made to that particular clause.

I just want to support my colleague's call for the removal of information regarding ethnic origin required on Form 7. If I may just relate a personal story. When I was in Guyana in 1969 I went to register the birth of my child. Although I am unable to reveal here whether it is from—according to clause 7—something born out of the institution of marriage or some other relationship. *[Laughter]* I am not in a position to divulge that, even with parliamentary privilege. And to my horror, on the birth certificate—there is the usual column under the British system for whether one is a legitimate or illegitimate child—and there is another column for race. The guy said to me, “What race do you want me to put down?” So I recited the first part of “Chinee, Chinee never die” and he got the message, and he wrote down “Chinee” and I said, “No, it is Chinese”. So he had to do over a new birth certificate for me. So that is my story. *[Laughter]* So this reminds me of 30 years ago in Guyana. I hope we are not going backwards.

With those few comments, Mr. President, I wish to reiterate my support for the Bill and I thank you.

**Sen. Agnes Williams:** Mr. President, thanks for this golden opportunity to make a brief contribution in support of the Domestic Violence Bill. Before I go any further, I must say that I feel proud of my new senatorial colleague across the floor, Sen. Carlene Belmontes, on her maiden contribution. *[Desk thumping]* I must congratulate her on a well executed contribution this afternoon. I encourage her to continue and I am only sorry she is not on this side with us today. So, congratulations and continue fighting the cause for young women and let the young women know they must set high moral standards for themselves. *[Desk thumping]*

Mr. President, I must say that I am a strong proponent of social legislation. Today I feel proud to be part of this Government that has not only promised—they said that a promise is a comfort for a fool—but I want to declare to the nation



today that the promise made by my Government earlier on to help the dispossessed and the less advantaged and to really help our society by enacting social legislation is another step in that direction. It may not be all that everybody wants at the same time, but I must say it is a right step in the right direction. I feel proud to be part of this organization here that supports amendments to the Domestic Violence Act because we know that over the years domestic violence was the best, well-kept secret in families for aeons. At one time we felt it was confined only to the lower class, but as I grew older I realized that it cuts across all lines, all races, all people regardless of their level of education; even one's financial situation does not make one any less an abuser or a victim.

I want to express today that the Tobago House of Assembly is in full solidarity with this piece of legislation.

**Sen. Daly:** That is a change. *[Laughter]*

**Sen. A. Williams:** Mr. President, that is a change. At our Division of Health and Social Services in the House of Assembly, our secretary there is also a strong proponent of fighting against domestic violence. Last year we had plans to really help the women in our society since women were the ones against whom these acts of violence were done, and most of all, to empower women in our society to be able to stand firm.

Before I go any further. First of all, domestic violence is an abuse. What is abuse? Abuse is an abnormal use of a principle, a thing or a person. So, when we allow domestic violence to be perpetrated, it is an abuse of the normal use of people, whether man, woman or child. For too long we have swept it under the carpet pretending it does not exist, we smile, wear dark glasses, put on more make up and suffer in silence. But today I must declare that I am not one who would ever suffer in silence. I think from the time I was born I never liked the idea of anyone abusing anyone. I dare anybody to try to abuse me. *[Desk thumping]*

Mr. President, this Bill seeks to provide harsher penalties and to give greater efforts for us to improve our ability to stop, prosecute and bring the full force of the law to bear on domestic violence. I want to quote from the *CAFRA/UNIFEM Bulletin*, dated October 1998, Number 4.

“The *Beijing Declaration and Platform for Action*, adopted unanimously by the 189 participating countries at the end of the conference, defines strategic objectives and spells out actions to be taken over the next five years by Governments, the international community, NGOs and the private sector.”

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That was done in September 1995. It further states here that:

“Studies of domestic violence in the British Virgin Islands (BVI) and Trinidad and Tobago suggest that violence against women continues unabated and that state responses are inadequate to provide for women's needs and protect them from gender-based violence.”

The conference dealt with violence to women, but it went further:

“It recommended more effective programmes to educate women about their rights and available social services; more comprehensive reporting of domestic violence to include health services; improved state responses to women's needs; and the training of community groups to mediate instances of family violence in the community.”

On that note, in Tobago the Division of Social Services and Health has embarked on a programme with the churches and NGOs to show the Government that once they have passed legislation we will do the other part, because we need both legislation and social reform to grapple with this serious problem in our society.

Some folks think it is only West Indians who have problems with domestic violence, but I know that internationally it is a real terrible problem. Men and women of all races, and from societies all over the world have been victims of this crime.

**Hon. Senator:** Men?

**Sen. A. Williams:** I know why I said so. Because believe it or not, there are men who are so abused that I do not know why they do not come out and form a men's group against violence. *[Laughter]*

We are educating men, women and children to talk out against domestic violence; establish links with the churches and the NGOs. So that we have had training programmes with the churches where they are teaching and counselling people, training counsellors to be able to help people when in abusive situations, to lift their self-esteem and to come out of it. Our aim also is for inner healing for the abusers.

Many of my colleagues have mentioned that there are many causes for domestic violence. Some of the causes or origins of abuse that I have been taught in my training for counselling are anger; moods; false evidence appearing real;

selfishness; low self-esteem; inferiority complex; addiction; roots of bitterness; abuse itself; and there is one more, spiritual, demonic activity.

**5.20 p.m.**

Mr. President, as a minister of the gospel, I have had to deal with persons whom I know have been in abusive situations and one has to be there to counsel them. You must have the heart of a parent or sister to counsel them because sometimes one sees the deep hurt from which they come.

I am involved with an NGO in Tobago called “WAAVE”, that is, Women Against Abuse and Violent Encounters. It is a small NGO of grassroots women who are struggling to keep an organization together to empower women and children especially to fight against abuse, to rise up from abusive situations, to lift their self-esteem and to become independent economically so that they can stand on their own. I agree that the administration alone cannot do it and we need all the other bodies and NGOs.

TOWERS in Tobago is another organization which is a halfway house that helps people, but, as Sen. Belmontes said, these persons are kept for a short time and in the end what do you do with them? So I am glad for the recommendation that there should be funds established for halfway houses to help people.

Mr. President, without being longwinded and going much further, I had a chance to peruse Act No. 10, and the report that was done and I am pleased that many of the recommendations in that report have been incorporated in this new Bill. I know that everything cannot be done in one year or one day, but step by step, we are going to express our solidarity and fight against this cancer of domestic violence and abuse in our society. When we do that we are going to fight on the legislative, spiritual, moral and economic area.

Mr. President, with all respect to our male counterparts, many times in these situations the women and the children suffer financially. When there is a separation, divorce or an abusive situation, if the woman is not employed it is difficult for her to support her children and then sometimes, she can sink to other levels of low self-esteem.

I am confident that this Bill seeks to provide financial help because in the olden days financial abuse was not considered as domestic abuse. In the new definition of Domestic Violence—Thank God for this—I am so pleased to see that:

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

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I am glad that provision has been made in the law for interim financial assistance for the women and these children of any spouse, because there may be a husband whom a wife has agreed to support, and he was the house husband—there are many quiet house husbands in our country and they do their work willingly and support their career-oriented wives. They also raise their children who are well adjusted. There are few men around like that, and I am glad that these people can be protected from financial abuse by the temporary order that can be given so they can get maintenance money until the matter is settled.

Mr. President, I think our legal draftsmen, ministers and government are doing a very good job in bringing this piece of legislation today. I am heartened by the support of all Senators, even if they recommend amendments, but generally, I must say that our heart is in the right place and we do support an eradication of domestic violence and abuse in this country.

Over the past three days—last Friday, Saturday and Monday—our country has sent a signal internationally that we mean business and similarly so today we are sending a signal that we are really interested in the social fibre of our society. We are prepared to bring legislation and other things to bear, to stamp out domestic violence and abuse in Trinidad and Tobago, the Caribbean and in the whole world.

Mr. President, I give my wholehearted support to this Bill. [*Desk thumping*]

**Sen. Prof. Kenneth Ramchand:** Mr. President, I am happy to take part in this debate and I want to say right off that I support the Domestic Violence Bill, 1999. It is a measure that should make the country proud.

Initially, I want to talk about this Bill in the larger context of violence in our society as a whole. Every day in the media it is made clear to us that violence is increasing in all areas of our lives: in the schools, on the streets, in the workplace, inside of public transport, and on the roads.

Mr. President, people who are committing domestic violence are not the only violent people. There is a lot of other violence besides domestic violence. Domestic violence is not the only form of violence—I will not go into this other point but even “violence” is not the only form of violence.

There are subtle forms of violence and when you practise some of them you should feel ashamed. Your wife does not tell you, “I wish you would lash me instead of that”. But if I am annoyed about something I do not talk for days. I feel that is violence.

**Hon. Senators:** Yes. [*Desk thumping*]

**Sen. Prof. K. Ramchand:** But nobody will go and lock you up for doing that. Mr. President, the question of violence is a very complicated matter and all of us have to search our consciences about the different levels of violence that we practise and the areas in which we practise it.

Although we are discussing domestic violence, there is a larger context and it relates to certain things that are happening to the people in our society. What are we becoming? What are the kinds of things that are changing our consciousness? What are the things that are warping our sensibility? Are we believers in anything? I think that the violence that is erupting in our society is only a symptom of a very fundamental crisis. I do not have the answer as to what is the cause of this crisis, and sometimes I feel if I try to talk about the cause, I may just be bringing up other symptoms.

For instance, Mr. President, I know that this is not a society where anybody listens to anyone. This is not a society where there is any respect for persons. It is not a society for the sufferings of human life. What is the cause of it? I do not know, but I know these things are wrong. More and more I get a very depressing feeling that this is a society which—I would not use Sen. Teelucksingh's words or his ideology, but we are on a common track—is not only lacking in belief but also lacking in belief in the possibility of belief. Nobody thinks that there is anything you can believe in. Nobody thinks there is anybody you can believe in, and when a society gets to that point, then the expressions of the frustration, emptiness, and the expression of the decadence would be varied, but pervasive violence is one of them.

**5.30 p.m.**

A few months ago, I used to like to use a little swear word, and I felt that the context in which I used it people would understand that I was not being violent, but now, Mr. President, I am sure Sen. Dr. St. Cyr and Sen. Rev. Teelucksingh would be glad to hear that I am not using swear words again. [*Laughter*] If I use those swear words, I would find that I am associating myself with the empty violence in language. [*Interruption*] Well, I am sorry to embarrass Sen. Daly. [*Laughter*] I just feel as the character says in the Lovelace short story "The world has to check up on itself." We have to check up on ourselves. So I welcome this small step, the Domestic Violence Bill, as just that. A small step in the larger process of checking up on ourselves.

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The Bill speaks about legal remedies and I support Sen. Rev. Teelucksingh in his feeling that legal remedies are not the only remedies. I do not understand him to be saying that you should not pursue legal remedies, but if you pursue legal remedies, you must also have a programme to deal with fundamental causes and Sen. Rev. Teelucksingh says we need a moral solution. Maybe I am saying the same thing, but I say we need an educational solution. We need education for older people in notions of parenting, childcare, and in notions of family life. We need education of our young children in the schools in notions about all of that, and in notions of what is male, what is female, respect for gender, respect for ethnicity, respect for age and so forth.

Mr. President, this is a very touchy subject for me. We need textbooks which would incorporate many of the values, attitudes and cultural perspectives that we want to see formative and pervasive and integral in our society. I have had the experience of abuse and disrespect recently. Thirty-five years of educational experience behind me, and I put certain recommendations to some people and they listen to me and they tell me, "They don't feel so." If a doctor goes to them and says: "You are very sick, you need an operation." They would never say, "I don't feel so." If a lawyer goes to them and says, "to win that case you have to do so and so", they would not say, "I don't feel so; I ain't think so; that isn't my opinion." But you come to them, Mr. President, as an educator, or as somebody working in the arts and humanities and everybody is an expert in the art and humanities, and nobody has respect for expertise in the arts and humanities. They abuse you and they disrespect you, and they tell you, "I don't think so; I don't feel so. What I feel is the right thing." That is abuse, Mr. President, but excuse me, I have been drifting in a direction I wanted to drift.

Mr. President, there is another context in which this issue has to be taken, and it is the context that Sen. Rev. Teelucksingh and all other speakers have implied or spoken about directly, and that is, gender relations and the rights of women.

Mr. President, I came across a very surprising statistic: Only 28 per cent of the violence against women is domestic violence. So women are not only the victims of domestic violence, 72 per cent of the violence against women is other kinds of violence, and when you look at crimes of violence, women are the victims 90 per cent of the time in all kinds of violence. There has to be something, or somebody who is weaker than you, or prettier than you; maybe, people just feel that they can beat up on those who are weaker than them, and they feel they have to beat up on those who are prettier than them. I do not know.

Violence against women is not just domestic violence, it has to do with male attitudes to the female. It has to do with our sense of who or what a woman is, or who or what a woman does and so forth. I think that is why it is a mistake to try to rake together all instances of violence against women under the label of domestic violence. Domestic violence cannot contain all the violence that is perpetrated against women. So I think our educational policy should include education as a very dominant plank—gender education, education about the relationship between men and women, about the history of women in our society, the kinds of achievements they have had, and men too, and of course, we need education about ethnicity and religion. All these things would teach us what is lacking in our society—respect. Respect for the person, respect for the person’s beliefs, respect for his religion and so forth.

Mr. President, having been abused as an educator and literary man, I am going to indulge myself for a moment in looking at one of our early writers dealing with this question of violence against women. It is domestic violence, but as we follow the scene, we are going to understand that at base, it is an attitude to gender and gender roles. The writer is the older Naipaul, a gentlemen called Seepersad Naipaul who in 1943 wrote a book called *The Adventures of Gurudeva* and other Indian tales.

Incidentally, the house that Seepersad Naipaul bought for his family and which is immortalized in the novel, *A House for Mr. Biswas* and which this Government in an aberrant fit of cultural responsibility purchased, now lies vacant, possibly vandalized. A group of people who pushed the Government to buy this house and who have assembled architects, builders, interior decorators, financiers and artists to form a committee called, The Friends of Mr. Biswas—who had offered to develop this house under the aegis of the Government with the Government having the power of veto, and who have offered to match whatever funds the Government contributes to the running of the house—has been requesting the Government to give them the go ahead for the last two and a half years and nothing has been done.

Mr. President, let us turn to Seepersad Naipaul. The episode in his book is called “The Beating of Ratni”. She is a child bride and has survived five years of marriage. She gets touched up every week, but she has not really got a good beating. It is in the fifth year that she achieves the distinction of becoming a woman through a good licking. Seepersad Naipaul is very ironic and he really is

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appalled by the situation he is trying to describe. I am reading from *The Adventures of Gurudeva* by Seepersad Naipaul which was first published in 1943.

“It was in the fifth year of her marriage, when she was nearly seventeen, that Ratni got her worst mauling. That day Gurudeva was really angry. Ratni was in the kitchen, preparing the midday food, when he came rushing in.

‘Ei!’ he called. ‘What about me food?’ He jammed his hands against his waist, pressed his teeth on his lower lip and waited ominously for answer.

Ratni grew pale. She sensed trouble. She had not yet finished cooking the midday food.

‘Come on, I waitin’!’ thundered Gurudeva.

Long spoon in hand, Ratni turned from the pot and faced him, trembling in every limb. She said:

‘I—I was washing clothes today. There was plenty to wash. I will give you food jus’ now ...Two minute ... The *bharth* finish, the *dahl* finish too; the *bhaji* cookin’.’

‘*Bhaji!* What *bhaji?*’ roared Gurudeva.

‘Pumpkin vine wid sal’fish.’

‘Pumpkin vine! Who tell you to cook pumpkin vine?’

‘But you always eat it. I thought...’

‘Back answer, eh!’ spluttered Gurudeva. ‘I will show you.’”

A normal conversation, and according to the husband, she ‘back answering’.

“And he pounced upon her, even as he had pounced upon the puppy, and bundled her out into the yard. Artfully he entwined her long hair around his fists and dragged her in a circle over the rough ground as though she were a sack of potatoes. And when she neither wailed nor wept, he disengaged his hands from her hair and cuffed her and kicked her fanatically. His large, taut neck grew tauter, and his dark face darker. He foamed at the mouth. He was terrifying...

‘You wouldn’t cry, eh? You playing you could take blows...Well, take blows ...’ And he chucked her off and undid his harness-leather belt and flogged her and flogged her with it till the belt became too short for further



use, and she, instead of howling with mortal pain, suddenly laughed out long and loudly, like a creature gone stark mad; and in that hard, mad gladness she shouted out, 'Beat me today, kill me and bury me!'

Then he was suddenly alarmed at her frenzy, and not letting her know he was alarmed, he left her."

Mr. President, I do not know if you would call the kind of violence we see there domestic violence. It comes out of a sense that a woman is my property, a woman is a nobody, a woman has to wash my clothes, a woman has to cook my food. She has to do these things on time, she cannot protest, and if I beat her she must cry, and if she does not cry, I will beat her again too. What Seepersad Naipaul is creating here is really the basest bottom line of gender dominance and he drives home the point when the woman's two sisters-in-law, Mira and Dhira, the two sisters of Gurudeva, pick up their sister-in-law and tend to her. This is how Seepersad Naipaul continues.

"And a poignant sorrow assailed Mira and Dhira as they ministered unto the hapless Ratni, and they wept till the tears flooded their eyes...and they quickly brushed them away so as to see where and how to apply the healing paste.

And thus they felt because they knew that such was their lot as well, and they wondered in a vague, resigned sort of way why the Deity had allowed them to be born at all. For they had ever heard it taught by their fathers, by the elders of the village, as well as by the pundits who often read the *Ramayana* on evenings, that the husband was to the wife God, lord and master—all in one—and that a woman's highest virtue lay in her absolute submission to her husband's will—be that will of whatever complexion.

'But you see,' Dhira told Mira in Hindi, 'it is all a very one-sided operation. They want us all to be like Sita—that is, to try as far as possible to be like her; but on the other hand, they are far from being like Rama, the incarnation of the great God Vishnu himself.. They do not even try. It is not fair. But wipe your tears, little sister. It is our karma.'"

#### **5.45 p.m.**

These women understand that the book that says, "You must submit to your husband", also says to the husband, "You must submit to your wife", but these fellows are interpreting the good book only to suit themselves.

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One of the myths that men tend to perpetrate is that women like licks.  
[*Laughter*]

**Sen. Tota-Maharaj:** That is true.

**Sen. Prof. K. Ramchand:** I do not know. Every Friday, as a kind of penance for all men, I used to watch Xena because I like to see the man getting licks, getting punishment, but I was not getting licks. It was just plastic. It may have been penance for the world of men—I am taking the burden of men—that every Friday as a ritual, I watch Xena beat a man into the ground; some real good blows, too.

In a document from the Commission on Domestic Violence, there are a number of myths and facts about domestic violence that are listed and there are two or three in relation to women that I would like to read.

“Myth: Victims of domestic violence...”

**Mr. President:** Senator, identify the document, please.

**Sen. Prof. K. Ramchand:** It is a document taken off the internet from the Commission on Domestic Violence in the United States. It is called “Myths and Facts About Domestic Violence”.

“Myth: Victims of domestic violence like to be beaten.

Fact: Victims of domestic violence have historically been characterized as masochistic women who enjoy being beaten. Evidence does not support this anachronistic psychological theory. Rather, victims of domestic violence desperately want the abuse to end, and they engage in various survival strategies, including calling the police or seeking help from family members, to protect themselves and their children.”

The article cites a book.

“(Dutton, *The Dynamics of Domestic Violence*, 1994) Silence may also be a survival strategy in some cases. Moreover, enduring a beating to keep the batterer from attacking the children may be a coping strategy used by a victim, but does not mean that the victim enjoys it.

Myth: Victims of domestic violence have psychological disorders.

Fact: This characterization of battered women as mentally ill stems from the assumption that victims of domestic violence must be sick or they would not

'take' the abuse. More recent theories demonstrate that battered women resist abuse in a variety of ways. In addition, most victims of domestic violence are not mentally ill although individuals with mental disabilities are certainly not immune from being abused by their spouses or intimate partners. Some victims of domestic violence suffer psychological effects, such as post-traumatic stress disorder or depression, as a result of being abused."

Two more myths, Mr. President.

"Myth: Low self-esteem causes victims to get involved in abusive relationships."

Research shows that this is not true, that these abusive relationships may cause low self-esteem. I continue:

"Myth: Victims of domestic violence never leave their abusers, or if they do, they just get involved in other abusive relationships.

Fact: Most victims of domestic violence leave their abusers, often several times. It may take a number of attempts to permanently separate because abusers use violence, financial control, or threats about the children, to compel victims to return. Additionally, a lack of support from friends, family members, or professionals, such as court personnel, law enforcement officers, counselors, or clergy members, may cause victims to return. Since the risk of further violence often increases after victims separate from their abusers, it can be even harder for victims to leave if they cannot obtain effective legal relief."

These are just a few of the myths on this subject. They help to point to the usefulness of the piece of legislation before us.

I want now to look at certain items in the Bill. Before I do so, let me say that I support Sen. Dr. Mc Kenzie's call for education of the police in domestic violence matters; I support my own call for the education of school children and parents. On the internet, I picked up also a very interesting document called "Teaching Domestic Violence Law" which urges that all law students should be taught to conduct safety planning with victims of domestic violence; all law students should be taught to screen for domestic violence and they list a number of domestic violence textbooks and referred to a number of courses in law schools where intending attorneys take courses in domestic violence—how to recognize it; how to manage it and how to deal with it in the courts. I commend this document to the

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appropriate Minister and I will pass it on to Sen. Mahabir-Wyatt afterwards and she would know to whom it should be given.

On the Bill itself, I have one or two small points. The first has to do with page 8 of the final Bill, Part I, clause 3, the definitions. I want to go to the definition called “emotional or psychological abuse”. I am wondering if it would be possible in offering this definition to include some of the following. I would like to see the use of the telephone listed here. I would like to see threats or extended conversations to relatives or children as part of “emotional or psychological abuse”, and I would like to see the words “harassment” and “stalking” somehow worked into the legislation and into the definition of “emotional or psychological abuse”.

Mr. President, the protection orders are really very important and we should do all we can to tighten up the definition of terms relating to the application, or the list of the kind of people who may apply for protection orders, or the implementation of protection orders. Every bit will help. I want to read, again, from the same source as before, the Commission on Domestic Violence. Here are one or two of the things it says about protection orders.

This is a piece of research intended to show up facts. It is not a piece of research supporting a thesis, so sometimes the evidence points one way and it points to another, but the overwhelming burden of the evidence is that protection orders are very helpful.

“35% of women with temporary protection orders did not return for a protection order because respondent stopped battering her.”

That is a real vote of confidence in the protection order.

There is some interesting information about respondents which I think the police need to know, or remember.

“although the majority of batterers do not have criminal records, the majority of batterers brought to court by their victims for a protection order had criminal records.

protection order defendants who had prior criminal histories were more likely to violate the order than those who did not.

in one study, nearly half of the victims who obtained a protection order were re-abused within two years.”

Those are some of the findings from research on protection orders in the United States and, although the evidence sometimes suggests that they might be useless—one or two bits of the evidence suggest that they do not work—I think the weight of all the evidence tends in the direction of supporting the view that they are effective in curbing battering.

Now, the last time a Domestic Violence Bill was debated in this Senate, I got a headline I was not very happy about and I suppose I am going to get it again. I want to turn to Part II, clause 4(2), an application for a protection order. Who may make an application for a protection order?

I think people who have left their husbands should, even though they are not living with their husbands anymore, be included among those who can apply for a protection order. The statistics tell us:

“When a woman leaves her batterer, her risk of serious violence or death increases dramatically.

separated/divorced women are 14 times more likely than married women to report having been a victim of violence by their spouse or ex-spouse.”

I am not sure that the Bill, as it stands, permits separated or divorced people to make an application for a protection order, but these figures certainly suggest that they should have that right.

“women separated from their husbands were 3 times more likely to be victimized by spouses than divorced women...”

So the women who have just left and said, “I am living on my own”, seem to be prime targets of domestic violence and, therefore, they are persons who require to be protected by the protection order.

### **6.00 p.m.**

Mr. President, 65 per cent of intimate homicide victims were physically separated from the perpetrator prior to their death, and we heard of one instance of this earlier in the Senate today. It seems that it is safer to stay with the man than to separate from him.

On the question of dating—again I feel that somehow or the other this has to be brought in:

"violence against women occurs in 20 % of dating couples.

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an average of 28 % of high school and college students experience dating violence at some point.

26 % of pregnant teens reported being physically abused by their boyfriends. About half of them said the battering began or intensified after he learned of her pregnancy.

victims of dating violence report the abuse takes many forms: insults, humiliation, monitoring the victim's movements, isolation of the victim from family and friends, suicide threats, threats to harm family or property, and physical or sexual abuse.

Twenty five to 33 % of the adolescent abusers reported that they were quite happy to do it because:

"...their violence served to 'intimidate', 'frighten,' or 'force the other person to give me something.'"

So the incidents of what is called dating violence in the United States or violence between males or females who do not live together, seem to me to be high enough to warrant victims of dating violence being included in those who may apply for a protection order.

Now we come to the bit that gave me the headline "Ramchand defends homos". Mr. President, the figures for same-sex battering are quite shocking.

"The prevalence of domestic violence among Gay and Lesbian couples is approximately 25—33%.

battering among Lesbians crosses age, race, class, lifestyle and socio-economic lines."

In the United States, each year,

"between 50,000 and 100,000 Lesbian women and as many as 500,000 Gay men are battered.

seven states define domestic violence in a way that excludes same-sex victims;

by 1994, there were over 1,500 shelters and safe houses for battered women, and many of these shelters routinely deny their services to victims of same-sex battering."

I do not think that if our legislation protects victims of same-sex battering that we are necessarily sending a signal that we approve or encourage lesbianism or any kind of homosexual activity. We are dealing with human beings who exist in forms of relationship that are akin to domestic relationships, and they suffer violence in those relationships just as people in other kinds of domestic relationships. Why should the law and welfare services deny them? I wish to repeat: the Government of Trinidad and Tobago would not be announcing to the world that we are encouraging gay and lesbian relationships. We are not offending the church when we say that gays and lesbians are human beings and they suffer too. I cannot understand why our legislation remains silent on this issue.

I would suggest that if the Government does not wish to bite the bullet directly, it could easily accept Sen. Mahabir-Wyatt's amendment to include "close, personal relationship with respondent". I think that is the phrase she used. That phrase might allow all relationships to be included. [*Interruption*]

**Sen. Ramnath:** Rev. Teelucksingh, what do you have to say about that?

**Mr. President:** Senator, let us have some order please.

**Sen. Prof. K. Ramchand:** Mr. President, I move on. Clause 6(b) states:

"A Protection Order may -

direct that the Order be applied for the benefit of a child or dependent of the applicant or respondent;"

I support that very strongly, but I fear that the way it is put is too vague. I will like to see that matter fleshed out, about what you can do for the children. To just say that it may be applied would perhaps leave it too vague and not offer proper guidance to our legislators as to the kinds of decisions they can make about children who are in the middle of a domestic violence situation. I would talk to people who know about these things and see if we can come up with some suggestions about how to flesh out clause 6(b).

Mr. President, concerning firearms, clause 6(c)(v) states that the Order may direct that the respondent should:

"relinquish to the police any firearm licence, firearm or other weapon..."

The problem I have with this clause is that some of it seems to be discretionary. I am not sure that anything there is compulsory, but I would think that the stipulation about weapons should be a discretionary matter. Any respondent in a

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protection order should be required to surrender his weapon. It should not be a prerogative of the court whether in this case Dr. So and So should give up his pistol, whereas Baboolal had to give up his cutlass, it should be for everybody. As soon as you are a respondent in relation to a domestic matter you should be made to surrender your weapon. I suggest that clause 6(c)(v) should be rephrased to make it clear that it is automatic, once there is a protection order against you, you have to surrender to the police your "firearm licence, firearm or any other weapon" which you may have in your possession or control, and which may or may not have been used. Unfortunately, you cannot collect all the cutlasses.

In clause 6(c)(viii) there is an implication that when somebody threatens domestic violence or is guilty of domestic violence, we know what is the cause of it. But I think that this kind of violence does not really come from causes that counselling would necessarily cure.

One of the myths about domestic violence is that people who do it are doing it because of alcohol or drug abuse. Alcohol or substance abuse does not cause the perpetrators of domestic violence to abuse their partners. So if the therapy or counselling for which they are being sent is for drug abuse, you may be curing them of drinking too much rum, but you are not stopping them from perpetrating domestic violence. Substance abuse may increase the frequency or severity, but it does not cause it because substance abuse does not cause domestic violence.

The other myth that encourages some authorities to call for counselling is the myth that perpetrators of domestic violence abuse their partners or spouses because they are under a lot of stress or are unemployed. Stress or unemployment does not cause people to abuse their partners.

"Since domestic violence cuts across socioeconomic lines, domestic abuse cannot be attributed to unemployment or poverty."

It may increase it but does not cause it. [*Interruption*]

**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. D. Mahabir-Wyatt*]

*Question put and agreed to.*

**Sen. Prof. K. Ramchand:** Thank you, Mr. President, and all Senators. I will not be more than two or three minutes.



I am just suggesting that clause 6(c)(viii) needs to be looked at carefully, and that before we decide that a perpetrator of domestic violence should be sent for counselling, we should take a real professional opinion as to whether the counselling is going to deal with the domestic violence. We may say that we are sending him for counselling for drug abuse, and not for domestic abuse, because that counselling would not stop the domestic abuse.

Mr. President, I am very glad for clause 26 which deals with refractory witnesses. I think it is too often the case that the victims of domestic violence are either intimidated or driven by love—what they think of as love—to retract, to refuse to testify or to back down. It is a very good point in this piece of legislation that once the victim makes the report and gives a statement it can be admitted as evidence in the case.

Finally, I have to end on a note that many other Senators have uttered warnings about. I am really torn about the case where a policeman comes to a house and does not have a warrant and is refused admission. I am worried that he would not be able to come to a house to save a child or a woman's life. I would say that in an ideal world I would welcome the second part of clause 23 which allows a policeman to enter a house without a warrant, even though he is denied permission, [*Interruption*]*—and break down the door. I am very worried about that. My spirit is in favour of it, but my sense is that this would be open to various kinds of abuses and that the good it would do would be outweighed by the harm it might do. It makes me lean the other way and say I am not really in favour of it. I feel if a husband and a wife or if all the people in the house say you cannot come in here, I really feel you have no right to break down the door.*

**6.15 p.m.**

If one party says: “Come in”, then you could come in. It is like a foreign invasion. For example, at the time of revolution a government signals to the United States of America: “Come and save us from the forces of justice”, and the United States wants to save Mr. Trump’s investments so they fly in and rescue the Trinidad and Tobago Government from the radical forces. But, they have been invited by the Government of the country, and that is that, I am afraid.

If domestic violence is taking place in a home and one of the occupants of the home sends out a message saying: “Please come in and save me.” That is fine. If neither party sends a message and when you come both parties say: “Stay out”, I just feel you cannot break down their door.

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Although I would not oppose the Bill, if it went forward with this requirement as it stands—it allows a police to break down the door regardless of the fact that both parties say: “Do not come”. Although I would not oppose the Bill because I disagree with that, I really would like to express, very strongly, my misgivings about it. I thank you. [*Desk thumping*]

**Sen. Nathaniel Moore:** Thank you, Mr. President, for affording me the opportunity to participate in this discussion for a while. I recognize that my time would be very brief, so I will try to be as brief as possible. In any sense I do not need to be very long, because many of the points which I have actually jotted down, have already been commented on.

The Government must be commended for bringing this Bill to the attention of the Senate at this time, for action—make it into an Act—for curbing domestic violence. I think this Bill is a response to a problem which does exist in our nation. We know most people would admit that the incidence of domestic violence is multiplying with time. It is multiplying both in the sense of quantity and enormity. It is possible that the idea of believing that there is an increase in the number of cases of domestic violence may be because more people report it.

Very often something keeps happening all the time and people do not say much about it, especially when there are laws to address the situation. As people get to know more about these laws—maybe because of the experience of others—they come forward. A legal person advised me that one of the reasons for the increase is that more and more people are finding out that they could get redress from the courts in these matters, and so they come forward therefore, appears as though there is a greater incidence of the act.

Domestic violence, I am sure, from what you have seen, started in a simple way. Perhaps in an abusive relationship or maybe just a little slapping. Of course, in time it intensifies to the point of the loss of life—that is taking life. Because there has been so much loss of lives through domestic violence over the last few months, it has become a serious matter. People think it is serious enough to be dealt with expeditiously. Not going into details, I would want to consider serious forms of domestic violence as: rape and incest. I consider these to be very grave forms of domestic violence. I am one who believes that incest and rape are as grievous as murder and deserve, as serious a redress, if you like, or punishment as murder.

I try to image myself being a victim of rape and wonder how I would live with myself and what I would do. I also wonder how I could face the people and even the perpetrator. I am also thinking about my children. If anyone of them should be a victim of rape, how would I take the situation? In any sense, if pregnancy results from a rape, I know there is the option to abort the foetus—by law I remember very well, I stand to be corrected. How would this “go down” with serious, decent citizens in the community?

I would like to briefly state a few factors which lead to domestic violence. I think, basically, it is the lack of correct information or guidance. This in turn comes from certain ills that we see daily in our society. I have listed only four of them. I must admit that previous speakers have been thinking in some similar way as I was.

The first is imperfect parenting. We see this all the time, people who are not well developed children are becoming parents. They need care and yet they become parents. They cannot care for children, therefore this is one of the very first steps in creating a problem of violence in society. Imperfect parenting—very young parents, unmarried parents. I make no apology for that, I know people are thinking that is an old time idea to say that one ought to marry before trying to raise a family. I think even commonsense will tell you that in our society, with its basic cultural values, that is the better option.

People must plan to be parents and plan to raise a family. I always say if one can plan to build a house or plan their business—if one wants a successful business—it is far more important to plan for a family. If not, then you are going for disaster. And so, imperfect parenting would involve various factors. Sometimes I find certain parents—particularly the mothers—suffer in silence when they are being abused. Children on seeing this may think this is something which is normal: daddy would have to slap up mammy or mammy would have to drop an iron on him, or something of the sort. The children may try it out also, because they have an idea of what they could do to retaliate or defend themselves when the time comes.

The second point I have is: wrong examples or poor exemplars. We need good examples. As a teacher I always taught that we teach better by example rather than by precept. I never like to see teachers sending children to buy cigarettes or things like that. I never like to hear teachers shout at students and abuse them in certain ways. I thought it was the best thing for any teacher to teach by example. It is the same in the home with the parents and the community. If there are proper

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exemplars—children like to copy their heroes—they like to copy people whom they can look up to for proper standards. When we have poor examples in the society we lend and start to lay the foundation for domestic violence.

Infidelity is the third point which I want to bring. Sen. Rev. Teelucksingh touched on this point before. Hypocrisy is another word with a difference in our family life.

**6.25 p.m.**

We want, as grown-ups, to do all the bad things we can, sometimes thinking that it is not serious, and the children grow up and they must do the right thing. I have taught people in school who had been very naughty while at school. Their children have come back to me at school and to see the serious interest that these parents take in their children, I said, “Look how time really could heal situations”. The point is that sometimes the weakness in this child might come from the example of the parents and quite unwittingly the children learn these ways from adults. Even other adults are encouraged to do wrong because people whom they respect do wrong also and they find themselves feeling good to be in bad company.

We have people trying to form a family where they would have a family home and also have outside relationships with other people. Sometimes you figure you are doing it secretly—when I say “you”, remember it is the impersonal “you”—and the children may not know or others may not know, but people will know. Again, parents misbehave at home thinking that little children do not understand what is going on, they do not learn.

I often have to tell people that little babies learn a lot only that they cannot vocalize it. They are seeing with their eyes what is going on, the act is registered and they are learning like any big person, only that they cannot express what they see. And so even children learn to be unfaithful from adults. [*Interruption*]

It seems to me that our time is going and I do not want to use up much more of your time this evening. I ask, Mr. President if he will permit me to continue at the next sitting so I could finish my contribution.

**ADJOURNMENT**

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. President, before moving to adjourn the sitting, may I inform senatorial colleagues that we are going to continue this debate next Tuesday and once we are able to

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complete this debate we are going to proceed with debate on a bill to amend the Mental Health Act; remember that debate that we had started. Having completed that we are going to proceed with plea discussion and plea agreement, which is Bill No. 2 on the Order Paper of today's date.

*Motion made*, and question proposed, That the Senate do now adjourn to Tuesday, June 15, 1999 at 10.30 a.m. [*Hon. W. Mark*]

**Mr. President:** Hon. Senators, before putting the question I will mention that Sen. Moore will be permitted to continue his contribution at a subsequent sitting of the Senate.

I also want to take the opportunity to compliment Sen. Belmontes on her maiden contribution. [*Desk thumping*]

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 6.30 p.m.*