

Leave of Absence

Tuesday, March 05, 1991

SENATE

Tuesday, March 05, 1991

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Amrika Tiwary for the period March 3 to 24, 1991; and to Sen. Robert Amar for the period March 5 to 10, 1991. They are both out of the country.

I have also granted leave of absence to Sen. Kelvin Khan from today's sitting due to illness.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have been advised that his Excellency the President has appointed Mr. Clarence Warner a Senator to fill the vacancy resulting from the resignation of former Sen. Horace Wilson. The appointment will take effect from March 4, 1991.

I have also been advised that his Excellency has appointed Mr. Guy Hannays to be a temporary Senator during the absence of Sen. Amrika Tiwary with effect from March 4, 1991.

I have also been advised that his Excellency the President has appointed Mr. Wilton Fitzroy Paul to be a temporary Senator with effect from March 5, 1991 during the illness of Sen. Kelvin Khan.

OATH OF ALLEGIANCE

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

Clarence Emmanuel Warner, Guy Hannays and Wilton Fitzroy Paul.

ORAL ANSWERS TO QUESTIONS

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

Foreign Consultancy Firms

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

Penal Reform

11. Could the Minister of Justice and National Security outline what specific plans are being formulated to institute appropriate reform of the existing penal system in light of the frequency and regularity with which many habitual offenders appear before the law courts of the land?

Caroni Lands

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

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

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

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

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

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

Caroni Racing Complex

The following questions stood on the Order Paper in the name of Sen. Robert Amar:

19. Will the Minister of Industry, Enterprise and Tourism advise this House on the date for the commencement of construction of the Caroni Racing Complex?

Unemployment Insurance Scheme

20. Will the Minister of Labour, Employment and Manpower Resources provide this House with a progress report on the study relating to the introduction of Unemployment Insurance and indicate the target date which the Government has set for the introduction of an Unemployment Insurance Scheme?

Economic Performance

21. Will the Minister of Finance advise this House on the performance of the economy of Trinidad and Tobago during the first month of the fiscal year, 1991, and indicate whether the principal assumptions made in the 1991 Budget, including in particular the price of oil, are proving to be valid?

Sen. Alloy Lequay: Mr. President, the Minister of Justice and National Security is requesting a postponement for two sittings of the Senate and I seek the kind approval of the Senate and Sen. Mark for that extension.

While I am on my feet, on the last occasion when I asked for a postponement of the questions to the Minister of Planning and Mobilization, the intention was for a postponement of two sittings. Apparently when I say two weeks, it does not mean two sittings, so in future I will say two sittings. So, I also ask that questions Nos. 12, 13 and 14 be postponed for one further sitting with the kind permission of Sen. Khan.

The Minister of Labour, Employment and Manpower Resources had asked for questions that were previously on the Order paper to be postponed and at the next sitting he will answer question No. 20 in addition to those which have been postponed, with the kind agreement of the Senator and the Senate.

With respect to question No. 19, the Minister of Industry, Enterprise and Tourism respectfully ask that the question be postponed for one week but I note the absence of Sen. Amar, so I assume that there is no problem with that one.

Questions, by leave, deferred.

1.40 p.m.

Nurses

15. **Sen. Wade Mark** asked the Minister of Health:
- (a) Could the Minister of Health state the complement of Nurses currently working in the health services and what does the establishment require to maintain an efficient and effective health service?
 - (b) Could the Minister of Health indicate how many nurses have left the health services during the period 1987—1990?

- (c) Could the Minister of Health outline what measures are being taken by the Government to retain and attract trained nurses to the health services in Trinidad and Tobago?

Sen. Mark: I would imagine there is a trend. I would imagine that the Leader of the Government would again get up with a plea for a postponement because, I am not seeing the Minister of Health here. I do not know if someone is substituting for him but certainly if the answer is available I would appreciate it, but as I said, there seems to be a trend developing in terms of postponement. I will have more to say on that next week.

Sen. Atwell: Let me assure Sen. Mark that no trend is in fact emerging but because of the ubiquity of the Ministers things happen. For example, Minister Wilson is leaving for Europe today.

Now the Minister of Health has given me a written reply to the question which I can read for Sen. Mark if he wishes. If, however, he does not so wish, I can have, if he agrees, the Minister of Health himself read it. So, I do not know what his preference will be but I have the written answer here.

Mr. President: But you will be in no position to answer supplementary questions. You would be in a better position when the substantive Minister is present. It is up to you.

Sen. Mark: I think for informational purposes if the Minister has the answer to the question I would allow him to read it, but it is unfortunate that the Minister of Health himself is not here.

The Minister of Energy (Sen. The Hon. Herbert Atwell): Mr. President, the number of trained nurses at present employed in the health services is 1,855 comprised as follows:

Nurses	No.
Nursing Administrators	8
Nurses (Institutions)	1,562
Community Nurses	181
Midwives	104

This represents approximately 57 per cent of the establishment of 3,277 nurses.

Of the 1,596 posts of Nursing Assistant, 1,409 are filled.

The Government is constantly aiming at the highest level of service but it is not always possible in the prevailing circumstances. The existing nursing establishment, provided that all posts are filled, is however adequate for maintaining a reasonably, efficient and effective nursing service at the present time. Based on the full establishment of the Government health services the nurse/population ratio in Trinidad and Tobago is one to 397 as compared with Jamaica's one to 1,000. The present shortage has reduced that ratio to one to 700 in Trinidad and Tobago while the Jamaican ratio has been reduced to one to 1,958.

During the period 1983—1990, a total of 624 retired, and 640 resigned as follows:

Year	Retired (incl. on grounds of marriage and death)	Resigned	Total
1983	31	29	60
1984	27	19	46
1985	21	27	48
1986	25	14	39
1987	14	61	75
1988	123	146	269
1989	200	320	520
1990	183	24	207
	————— 624 =====	————— 640 =====	————— 1264 =====

All nurses, especially those who resisted the financial inducements of the metropolitan countries, should be complimented for the high standard of service and dedication during the last 10 years despite the circumstances which existed.

The measures taken by the Ministry to retain and attract nursing personnel were as follows:

Remuneration and conditions of service: The Chief Personnel Officer was requested to consider the question of remuneration and other conditions of service and on the basis of proposals submitted by the Ministry, negotiations were initiated

with the Public Services Association under the chairmanship of the Chief Personnel Officer. Out of these negotiations an interim agreement was reached for improved salaries and allowances, including allowances for post basic qualifications. Revised salaries were introduced with effect from July 1, 1990. The interim agreement in respect of other allowances was ratified by Cabinet on January 10, 1991.

Negotiations with the Public Services Association are continuing on certain other allowances and the establishment of a Nursing Pool.

Working Environment and Equipment: In July 1990, Cabinet allocated \$30 million for the upgrading of physical facilities and provision of equipment and assigned the implementation of this project to a Health Services Implementation Task Force established specifically for this purpose within the Eric Williams Medical Sciences Complex Authority. Already several projects indentified by the institutions have been completed and work is continuing.

Drug Supplies: The drug supply has improved considerably and at the present time there is no shortage of vital and essential drugs and supplies. Stocks at the Central Drug Supply at Chaguaramas are valued at approximately \$30 million and maintained at a three-month level of coverage.

Training: The Ministry of Health's training programme for Nurses was suspended after the last intake of students in 1986. Training of that batch of students continued until graduation in 1989. In the meantime, in pursuance of the decision to transfer to NIHERST, responsibility for training in all technical and para-professional disciplines, the Ministry of Health and NIHERST took steps to establish an appropriate Nurses Training Programme based on modern concepts.

As an impending shortage of nurses became evident, preparation of this programme was expedited as a result of which 252 students commenced training in March and October, 1990 at 3 Nursing Schools under the aegis of NIHERST as follows:

Nursing School	March	October
Port of Spain	60	53
San Fernando	60	52
St. Ann's Hospital	—	27
	<hr/>	<hr/>
	120	132
	<hr/>	<hr/>

Graduates from these programmes will be available for appointment in 1993.

In addition, arrangements are being made for the training of a total of 220 nursing assistants in two-year training programmes to be conducted by the Ministry of Health commencing in 1991. The revised curriculum which will be introduced, will equip nursing assistants with the necessary skills to perform some of the duties now restricted to the qualified registered nurses and so relieve the nurses to concentrate on the more critical professional areas of nursing care.

The Government and the Ministry of Health is continuing to make every effort to retain and attract quality nursing personnel to the health service in Trinidad and Tobago.

I hope that having given that comprehensive answer the need for any supplemental question does not arise.

Sen. Mark: Mr. President, having regard to the fact that the Minister who read the statement is not in charge of the health portfolio I would not really exert too much unnecessary pressure at this time on him, only to ask him to kindly make a copy of the statement available.

Sen. Atwell: Mr. President, I would indeed accede to that request and thank him for his courtesy.

BUSINESS OF THE SENATE

Mr. President: Hon. Senators just to clarify what seems to be some sort of misunderstanding on the terminology used by Members, particularly on the Government side. What we have always understood in Parliament, in both Houses throughout the years, is that when a Minister asks to defer questions for one week it means that they will be put on the Order Paper for the following week, seven days from now. Senate meets every Tuesday. A question is down on this Tuesday and the Minister asks to postpone it for one week. It will be put on the Order Paper next week Tuesday. If he asks for a postponement of two weeks, they will miss next week Tuesday and put it down for the Tuesday after. Now, I think we should stick to that so the Ministers will know whether it is one week, two weeks or three weeks. There is a danger in asking about sittings because if you ask for one sitting or even two sittings today, and at the end of the day the debate turns out so interesting that the Senate adjourns to tomorrow and when tomorrow comes it adjourns until Monday, when you in turn want two weeks you will find it down on the Order Paper next week Tuesday in that two sittings have elapsed. So

please stick to periods of one week, two weeks or three weeks and let us avoid the use of the term sitting because you never know when the timetable could be changed and the Senate agrees to do something we have to accept it.

SESSIONAL SELECT COMMITTEES

Public Accounts (Enterprises) Committee

Sen. Alloy Lequay: Mr. President, I beg to move that this Senate appoint Senators S. Baksh and W. Mark to serve on the Public Accounts (Enterprises) Committee in place of Messrs. K. Valley and R. Montano who are no longer Senators.

Question put and agreed to.

Public Accounts Committee

Sen. Alloy Lequay: Mr. President, the second resolution is that this Senate appoint Dr. P. Persad and Sen. C. Warner to serve on the Public Accounts Committee in place of Dr. K. Rowley and Mr. H. Wilson who are no longer Senators.

Seconded by Sen. W. Mark.

Question put and agreed to.

BUSINESS OF THE SENATE

Mr. President: Hon. Senators, just before we resume the debate, could you turn to page seven of the Order Paper, the final item under Bills Second Reading. We can deal with the private bill that is down for today and get rid of it.

SANATAN VIDWAD VIDYALAYA (INC'N) BILL

Question put and agreed to,

That a bill to provide for the incorporation of a body known as the Sanatan Vidwad Vidyalyaya be now read a second time.

Bill accordingly read a second time.

Bill referred to a select committee of the Senate appointed by the President as follows:

Sen. L. Bradshaw, (Chairman); Dr. M. Sampath; Fr. Winston Joseph; and Sen. R. Amar.

DOMESTIC VIOLENCE BILL

[SIXTH DAY]

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

That the bill be now read a second time.

Question again proposed.

Sen. Motilal Moonan: Mr. President, Members of this distinguished House, members of the press, private Senators, Independent Senators, this afternoon I have decided to say a few words on this most important bill.

Mr. President: Before you proceed, did I understand you to address the press?

Sen. Moonan: I congratulate them for being here.

Mr. President: When we are here, you just address the Chair and the Senators.

Sen. Moonan: Okay. Thank you very much. I apologize for that. Sometimes you think you are doing the right thing but you are doing the wrong thing. I am very sorry. The reason I most probably said that is that I wanted the press to report accurately.

Sen. Alexander: I am not aware that there is a type of Senator called a private Senator.

Mr. President: He apologized.

Sen. Alexander: I did not hear that.

Sen. Moonan: The reason I am saying a few words, you see, I do not know the laws and how the law would be enacted, and so on, in Parliament, but I am going to let the country know some of the things that affect both men and women if this bill is passed. I am going to support the bill. We are going to support the bill, but we must also show the dangers of the bill where it would affect, most probably, generations unborn in the twenty-first century if this bill is passed as it is.

You see, Sir, the word "violent" as we know it has a wide scope. It goes out of the perimeter of domestic violence. First we have to teach the nation non-violence. So that domestic violence will be unnatural. We would have no domestic violence, if we do understand the word "violence" itself.

So you see, Mr. President, I wanted to draw this illustration because the Hindu community has been preaching this for the last 5,000 years. The late Mahatma Gandhi preached non-violence overall. So as I said before, Mr. President, I would like the opportunity to go maybe out of the perimeter of non-violence to come back to domestic violence. So if I do go outside, I do not want these learned Members of Parliament to say that I am being irrelevant.

You see, Sir, sometimes as some of the lawyers say, you have to stray from the point to bring forward the point, and you know we have very learned lawyers on both sides, and the Independent Benches.

I want to point out that the Hindu religion teaches family life, and has been doing so for over 5,000 years or so. So therefore in a Hindu family the wife obeys her husband, as you know. It is taught to be that way. I do not know what happens in Trinidad nowadays, with the younger ones, but that is one of the philosophies we are taught. I hope that the entire nation understands that domestic violence or otherwise should not be committed.

What happens these days, Sir, you might find that they have domestic problems because of the economic situation of the country. As they say, "No money, no love", and so on. But the point is, we are talking about violence, domestic violence of both men and women. You know, Sir, that men also get battered by women sometimes, and women get battered. We never ask the question why that is done. We have to investigate that carefully at all times to find the reason behind it. If we do find the reason, we will find that the number of wife beaters and the number of wife-beating men will drop by maybe 60 per cent. You cannot eliminate it 100 per cent, Mr. President, because we have laws in the country which cannot even stop murders, rape, and reckless driving. These things happen. The laws are there. The same thing will happen with this law that we are going to enact now.

To enforce the law as one of the Senators said, we do not have the money, and so on. Therefore, if we do not have the money, we must not put all these laws into the books that we cannot enforce properly. The women would like this law, and I do support them. Again, I do support the bill. I repeat that I support the bill at all times, especially when it concerns ladies. I love to support any bill that concerns ladies, for their own safety, Mr. President.

You see, Mr. President, I would like to draw to the attention of the Minister one of the weaknesses of the bill. Part I, clause 3 clearly states:

"de facto spouse' in relation to a person, means a person of the opposite sex to the first mentioned person who is living with the first mentioned person as the person's husband or wife, although not legally married to the first mentioned person;"

Mr. President, my interpretation of this clause is that it equates a so-called "deputy" with a wife. I want to repeat that: It equates a so-called "deputy" with a wife. A deputy may be essential, according to the calypsonian, but the Government seems to be formalizing the role of a "deputy". So I ask the question: When does a deputy have equal rights to a wife? The clause clearly states the "de facto spouse" is a person, husband or wife, although not legally married to the person.

What I am trying to find out from the Minister is whether a "deputy" has equal rights in this bill. As I said before, I am not a legal minded person, so the legal persons on either side might be able to advise accordingly.

Mr. President, I draw attention to a serious matter. For example, I know it happened and it is happening presently. As I was told, we have to be careful how we are presenting ourselves in this Parliament. Otherwise, I might be brought to the Privileges Committee. I know of a case, Sir, where a wife and a husband are married, and the husband has a "deputy" living in another house on his property. Now, he is paying all the bills and everything, but she was previously married and has two children. When he is out, she encourages somebody else to be there, maybe for tea or sympathy, I do not know. But the position is, Mr. President, this guy comes home and he sees that and he is a human being and he gets annoyed. He slaps her. When he does that, she runs to the policeman. And it so happens that the man there is the sergeant over the police. That is her "deputy". So when he gets there, they arrest him.

I would like to know from the Minister, Mr. President, how we would handle matters like those, or what is the law to protect the gentleman if that happens to him. As we say, this is the Caribbean and we live a Caribbean life. What I am saying is that we have to protect either side. This law must be so enforced at all times that each and everyone should be protected equally. And the same thing might happen with the gentleman and the wife.

2.05 p.m.

Mr. President, there may be overall violence, which leads to domestic and mental violence. For example, as you know, some years ago certain Ministers were

in the hospital, and not too long ago the same thing happened. People get violent because of the requirement of certain things. The same thing happens at home and the gentleman is charged and sent to prison.

It also happens in this way: A person might have six children and he wants to get away from the responsibility of looking after them because he is not employed, so he goes home with this in mind and he purposely slaps the wife twice and she runs to the police. Then he is debarred from going home. And this is what he wanted. So the six children now suffer. This bill has all these loopholes which were there before. This is what I am concerned about. With brilliant brains on both sides of the House we have to try to get some medium to prevent these things from happening. I do not know the answer. The hon. Minister has brought the bill here and I hope that he and the people who sat on the committees have found all the answers so that everybody will be protected.

Mental violence is a very serious thing. When this happens, you cannot eat, sleep, work or do anything. It is worse than physical violence. When some of these men go home with this mental strain anything is possible. The law is there to prevent domestic violence. I agree with that. But having a law and we cannot enforce it properly because we do not have properly trained people—you have to send people on scholarships to be trained in certain aspects, like teachers—and we just take a magistrate, a lawyer or somebody and put that person in there, what would happen? We would have one more law on the statute books, which cannot be utilized to the benefit of man or woman. The women would be happy that we passed the bill in both Houses of Parliament, but then it is not enacted as law, as you know what happens in this country. A number of bills are passed in Parliament but they are not enacted into laws. I am of the opinion that the same thing would happen with this bill. It would be placed on the statute books, sent to Cabinet and they would put it in a cabinet and leave it there. We do not want that to happen. I think that if we pass this bill today we should make sure that it is enacted within a month, and not put in a cabinet, and mislead the nation that we have a new law. I would not like to see that happen.

There is a lot of unemployment in this country. According to my calculation, there are over 150,000 persons who are unemployed. They might get a one-day job here and a two-days job there, but that cannot even pay the electricity bill. So that fellow is frustrated. He is already hurt. He is already suffering from mental strain. When he goes home there is no food on the table and two of his children are crying and his wife may ask, "What did you bring?" This could lead to domestic

violence. Afterwards she gets annoyed and on the spur of the moment she runs to the police station and the poor fellow is then debarred from going into his own home where he has his loving children for whom he has been sacrificing to put bread on the table. This bill gives all these authorities, and I think the Minister is well aware of that.

Mr. President, I would call these crimes "white collar crimes". The lawyer would like this bill to be passed quickly because everybody has to run to the lawyer and he gets employment. The unemployed has to pay the employed. Most of the lawyers are my friends, and I will tell you this: "Lawyers never lose a case."

Dr. Hosein: Mr. President, I want to thank the hon. Senator for giving way. I think that the Senator has not read the bill carefully. In fact, the very point that he is making, the opposite would be true. One will now be able to seek protection without necessarily having to go to lawyers under the provision of this bill. I thought that it was necessary to correct that at this stage because the Senator was incorrect on this point.

Sen. Moonan: Mr. President, I have heard the Minister clearly. It is nice to say so when you are presenting the bill, but enforcing the law after the bill is passed, you would find that the Minister cannot do that. It is just like running the hospital. We have all kinds of laws and we cannot run it properly. Presenting a bill is very nice, but it is enforcing the law and making it workable so that everybody would benefit. You see, we come to Parliament and pass bills and then we can go home and sleep comfortably because we are partially or wholly employed.

I have already said that I support the bill. I am showing the danger part of it. You would see these realities in life appearing here and there and the Minister would say that is normal. I agree with that. This is a serious bill. A law does not prevent a murder from being committed. I am not saying that we should not have a law on the statute books for committing murder but we should also have the necessary machinery put in place to carry out this order. This is what I am telling the Minister. As soon as this bill is enacted into law, he must have the ability and finance to ensure that we have trained people—I do not know if he has made any effort to put trained people in place—in every district; not in Port of Spain, San Fernando, Tunapuna or Point Fortin courts. There must be offices—just as there are health centres—so that a magistrate could go there to deal with these crimes. If this is not done, how would a poor fellow come to Port of Spain when he does not have money to buy a bread? These points were raised before by other Members of

Parliament. We can have good people from the church or Members of Parliament going to those districts to deal with these cases, otherwise we would have a big book with maybe 10,000 cases and they would take 10 years to be heard, like what happens in the most learned section of the courts.

I only hope that this bill does not mislead those persons who suffer through domestic violence. My dear friend, and learned Independent Senator has already mentioned many times that the Opposition Senators are no good. Before we entered Parliament it was said and I want to make sure that this bill that we are debating here could be enacted into law. A law is not a law until it is enforced. I am asking the Minister in charge to use his good offices to find money to enforce this law otherwise it is no sense making any law.

Sometimes they say that you have to beat a point because you want it to be understandable. We do not want it in the most beautiful language—even when we have to interpret the Constitution you have to go to court and so on. Where would poor people get money to do this? We want it to be clearly written and the infrastructure must be in every district. If somebody in Tabaquite beats his wife and he has to go to court in Port of Spain to deal with that, how is this going to be possible? I am of the opinion that we have to do something about this. I do not know the answers. The Committee is the one who has all the answers and I hope that they can enforce the law. If not, I do not know what to say.

2.15 p.m.

I am saying that if violence is committed, we must put in the statute books that the matter must be dealt with and concluded within a month, so that the man could go back to his house or children or *vice versa*, but not to remain for six years and then sometimes they cannot even find the papers, the paper is lost, somebody stole the paper or something like that and the Minister is the person responsible to ensure that they have the finances. He does not want to say that he has already passed the law, but the Minister of Finance, Mr. Selby Wilson, has to find the money to enact that. We want them to get away from these excuses. We want them to be practical and factual at all times. We cannot live by promises, we have to live by having the dollars. I know the economic situation in the country is bad, but we must try to enforce these laws and train people to deal with them.

As you know, Mr. President, in this country we have different religious groupings, different types of people and a different way of life. We also have one law for everybody. In other words, I am trying to say there should be one wife to

one man in this country, therefore, he would be able to look after his children. My understanding of the law is that the deputy—and I repeat the word deputy has equal rights as the wife. I do not know if I misunderstand, maybe some of the learned lawyers might interpret that for me more satisfactorily, but this is my understanding as a layman and it makes me very concerned. It has been said, and I re-emphasize, that we must have these small courts. It was said that we have special courts, but you cannot have a court in a special district when you cannot even get parking in Port of Spain. They have to have these small courts in every area. You might find that I am repeating myself on that point, but I am of the opinion that it is a very serious matter. It is no joking matter. As a Senator, I think this bill is one of the most serious bills to come here and I think that we have to look at it very seriously.

You have to watch the pros and cons of the bill otherwise, we would get into trouble. The legal man would see it the legal way, the doctor would see it in the medical way and the laymen would see it in his way. We have to put things together, come to a common concensus and then design this bill to suit everybody. Everybody has a view. The doctor said that five ladies were beaten, some of them were young and he knew them from birth and so on. No one has said that men are beaten but men do not run quickly because men have to take the blows and stay quietly. He is ashamed. I know many men who have wives who are four times stronger so if they only push them like that, you know what happens, the fellow falls dead. I am saying that we have to be careful. These laws are to protect both men and women. I have been hearing, all the time, about women beaters and so on, I have not seen one single reason brought into this distinguished Parliament stating what was the reason for the beating.

I know they will say that it was left up to the court, this is the place that passes the law, so we must know what the law is. It is no sense we pass something for the people to administer and we do not know what we are passing. We have to find out every detail at all times. Fortunately we have some very learned, aged and experienced lawyers here, they have been in the field for a long time, and they should be able to find these things. Again you would ask: Why am I supporting the bill? I think it is a good bill and if it is properly administered, everybody would benefit.

Although some parts of the laws are already on the statute books of Trinidad and Tobago, and are being duplicated, but I believe in duplication in business. If the king is dead, long live the king. You must have another man standing by. If you

have one law to look after the constitutional aspects, overall, I think it is a good thing. Mr. President, we must make sure to administer this law properly and I appeal to the Minister again that he must ensure—he must be wise in his responsibility or when he gets into trouble he would be removed from that portfolio by the Prime Minister who will bring a new man there. We cannot allow these things to happen because this is what happens. So the entire public is being fooled because when he gets into trouble, they remove him from there and put him somewhere else, then he will say, I am no longer there. The law must be passed in such a way that at all times, regardless—as I said the king is dead another king carry on in a continuous basis. It must be done properly. The other fellow would say, "You know I have to go back to find out. I do not know. I am only acting for this period of time. I do not know the answer to the question that is being asked." It is a similar thing I am trying to prevent.

Mr. President, before we pass this law 100 per cent, I am suggesting—though I said I support this bill—that we should have a referendum. I think we should have a special referendum for children from the ages of 14 upwards to find out if this bill will work in the twenty-first century. It takes three-fifths majority to pass this bill, maybe the next Parliament or two might not have a three-fifths majority, so you might have problems after it is placed into the books. Before this becomes law we have to have a good referendum because children at 14 years are much more intelligent than maybe some people at 40. I am appealing to the gentlemen on the Government side, Independent Senators—I do not want to make that mistake, these little minor things of forgetting to dot the the “i”. They know it is an “i” but people would bring it up and use it as a big issue. I want this to be noted.

Mr. President, as you are aware, we are here, not only to criticize, but we are here as Members of Parliament. Wherever it is necessary we criticize; wherever it is necessary we support; wherever it is necessary we have to give alternatives to the present law or put something forward. We are all learners in certain aspects. Everybody does not know everything. It appears sometimes that certain Members think they know everything. Unfortunately, I cannot say that about myself because, I do not know everything. I know very little but I love to pass the little knowledge I have, so that unborn children when they grow up and read this, will say, "Motilal Moonan assisted, supported or detested certain parts of the bill and this is where we want the bill. I want it to be written in history that I have also contributed, in my own way, to this bill which is a very important bill."

Members of this Parliament are very brilliant people, that is why we represent the entire nation of 1.2 million people—a small amount. It may be 36 Members, so therefore if they put their livelihood, their lives and their future in our hands, we in this Parliament must ensure at all times that what we are passing is not for our own selfish promotion or otherwise, but for the benefit of the nation on the whole. This bill will protect men, women and children if it is properly administered. *Interruption]* My friend has corrected me. He says there are 31 Members in the Senate. I do make mistakes, as I said, now and again. I do not know all these statistics that is why I do not deal with statistics, because what is right on Monday can be wrong on Tuesday. I always leave it open for correction.

2.25 p.m.

Again, I am appealing to everybody in this Parliament and to the nation to ensure that when this bill is passed, we will be able to walk proudly in the streets of Trinidad and Tobago and say that we in this Parliament have passed a very good bill which protects man, woman and child. Thank you very much.

Sen. Allan Alexander: Sen. Moonan has said most of what I intended to say but nevertheless, I will make a small contribution on this bill.

The bill seeks to provide protection for persons in certain family relationships who are victims of violence meted out by a member of the immediate family. It intends to institute a novel remedy in the nature of an injunction by which a spouse or other member of the family may be restrained, for a period, from doing or attempting to do violence to other members of the family. As well, it proposes, for these purposes, to include within the family, common-law heterosexual relationships which are existing and those which have already come to an end.

The fact that the bill is limited to heterosexual relationships is not a criticism which I am making of it. In this way, the bill adds to the present procedure available under the Matrimonial Proceedings and Property Act, under which married persons can obtain injunctive relief and it also affords unmarried persons a procedure alternative to that under the common-law by which injunctions can be obtained in an action for assault and battery. The alternative procedure sought to be instituted will theoretically provide a simpler, speedier and more affordable and accessible mechanism to victims of domestic violence than the procedures at present available.

It is to be noted that though the bill creates an offence to be called a domestic violence offence, the only offence properly so-called which this bill seeks to create, is by clause 40, for breach of a protection order. In reality, therefore, the criminal law is hardly advanced. I beg to disagree with Sen. Tiwary—I am sorry that she is not here—but I do not perceive from the provisions of this bill that its intention is to punish offenders for domestic violence, because one of the aims of the bill is the need to preserve existing spousal and parental relationships both *de jure* and *de facto*. In the circumstances, the intention of the bill cannot, with any justification, be criticized. Indeed, one should welcome the introduction of legislation of this sort which seeks to excise from the society anti-social behaviour, especially where such behaviour is detrimental to the economic and cultural well-being of the nation.

Violence in the family does not only adversely affect the self-esteem, the psyche and the economic potential of the victims. It is well known that the battered victims themselves, in reaction to the violence meted out to them, wreak violence on their progeny. There is also a tendency for violence in the family to radiate into the wider community. Terrified children who witness battles between their parents tend to come to accept that violence is somehow an appropriate way of dealing with problems and frustrations.

The bill therefore, in my view, seeks to deal with a serious problem. In consequence, the provisions of the bill must be carefully looked at to see whether its intended results will materialize, and this even more so as some of the constitutional guarantees, some of the fundamental rights and freedoms enshrined in the Constitution will be infringed. We must not lightly infringe those constitutional provisions unless we are reasonably sure that what the bill seeks to remedy will be achieved.

The Minister, in his contribution, did not inform this House of the administrative measures, if any, which will be taken for the efficient administration of this bill if it comes into law. We know by the definition of “court” in clause 2 that the proposed proceedings are to be taken before a magistrate. But will the proceedings under this bill be distributed among the magistrates who are at present administering the Summary Courts Act, the Matrimonial Law and Proceedings Act, the Family Act? Is that the intention Mr. President? Because I am reliably informed that in Port of Spain the magistrate who is looking at and dealing with proceedings under the Family, Law, (Guardianship of Minors, Domicile and Maintenance) Act, cannot handle the matters which come to that court.

Applications for declarations of paternity, applications for maintenance and custody take a very long time for their determination. So if the intention is that this court or the magistrate in the districts with larger concentrations of population, is to deal with this bill; although a cheaper method of redress is provided; although there will be greater access to the procedures although the procedure will be simplified, the administration of the act will not be speedy. If there is procedure which demands a speedy determination, it is the protection orders which this bill is seeking to create.

2.35 p.m.

If you are not going to have speedy determination of these applications, I think we better forget it. If we do not have money to employ more magistrates and more magisterial staff, this bill will be merely decorative, because while the victims are waiting for the hearing and determination of the application, greater violence, rather than less, will be the result. So it is very important that the administrative measures which will be taken in support of this bill be, as we lawyers say, of the essence.

It appears from the provisions of this bill that an application for a protection order may be made even though the respondent to that application is not charged criminally with one of the offences within the meaning of the term prescribed offence, under clause 2 of the bill. In other words, it may be alleged that a person has committed one of these prescribed offences, but no information is laid criminally against that person, but an application can be made for a protection order in respect of the alleged conduct. The problem which I have here is whether such an application is to be made before the magistrate who ordinarily would have had jurisdiction over the criminal offence if the respondent had been charged with it. Mr. President, the bill does not specify, like, for example, the Summary Offences Act, that the magistrate's jurisdiction is over offences committed within the particular magisterial district. Nor does it make any provision as is made under the Family Act, that the application must be brought in the court of the district in which the applicant or respondent or child resides. Inferentially, therefore, an application for a protection order may be brought in any magisterial district without regard to the place where the offence is alleged to have been committed, or the residence of the applicant or the respondent. This gives rise to a potentially oppressive situation.

Dr. Hosein: I would like to ask the hon. Senator for some clarification on this point. He would have been served notice of amendments and in clause 8 there is a proposed amendment, which I shall move at the committee stage. Could you take a look at that and see whether you would agree with that?

Sen. Alexander: I take your word for it. If that has been taken care of, well then, what I suggested would have been a potentially oppressive situation—I have just been shown the provision.

This however, does not deal with what appears to me to be the possibility that a person charged with a criminal offence, a prescribed offence, and the respondent to an application is also for a protection order, that both these proceedings will be before the same magistrate. Now if that is the intention and these applications for protection orders are put before magistrates who are exercising criminal jurisdiction, delay there will be even greater than if the proceedings are before the magistrate who usually handles matrimonial matters.

2.45 p.m.

It seems to me that a closer look should be taken at the provisions of the bill and a clear distinction ought to be made between the procedure to be adopted where the offender is charged with a prescribed offence, and the procedure to be adopted when he is not so charged. That will avoid a certain perception of injustice which may arise, if in a situation such as that you have these two proceedings running in tandem, because it is not inconceivable that one magistrate is trying the criminal offence and another magistrate is dealing with the application for the protection order. The protection order is granted because of the lighter burden of proof in respect of that. By the time the criminal charge is determined, the criminal charge is dismissed, but the protection order is still in force, and that, in my respectful view, will give a perception of injustice.

So, my suggestion is that where a person is charged with a prescribed offence, protection for the victim—pending the determination of the criminal offence—should be dealt with on the application for bail. Upon the application for bail, the offender can be restricted in such a way that he will be prevented or discouraged from perpetrating any further offence and that will be pending the determination. Upon the determination of the criminal offence, if he is sentenced into custody for a period shorter than the 12 months for which a protection order may run, the magistrate—of his own motion—could issue an interim protection order to take

effect on his release from prison, would leave it to the victim to apply for a permanent protection order.

If the criminal offence is dismissed, depending upon the circumstances of the dismissal, the magistrate, again of his own motion, can either issue an interim order or he could leave it to the victim to make her own application. This to my mind, if that is done, as where the offender is charged with a criminal offence and the protection order dealt with in the criminal proceedings, multiplicity of proceedings will be minimized. For example, if there is a protection order and the criminal charge is dismissed, in circumstances in which there should have been no protection order at all, then the respondent against whom that order is made will not need to have that order revoked or varied. So that in my respectful view, will be circumvented. Then of course there is the situation where there is no criminal charge.

The application then, will be essentially in the nature of a matrimonial matter. It is in that regard, that the other aim of the bill, to preserve the existing spousal and parental relationship, assumes great importance. Because it appears to me that one of the main reasons a criminal charge will not or could not be brought against the offender is because the victim, though a competent but not compellable witness, is not willing or is loath to give evidence in a criminal matter. That may be because of fear of the victim's economic position, her need for the economic support of the brutalizer or it may be because of the victim's desire to preserve the marriage.

In that scenario, the jurisdiction of the court—and I submit that there should be a special court—I submit that the Minister of Finance should take a good look at the Exchequer, scrounge around and see what moneys he can get to that court established, because what little we might scrounge now to save the youth, down the road, we may not be able to generate any sort of fund to curb the violence that may be the endemic in the society. So it is better for us to get what little we have now and set up the necessary infrastructure, both in an endeavour to minimize domestic violence and to seek to preserve spousal and parental relationships.

2 55 p.m.

In that regard, I have certain suggestions to make. One, that the court should sit *in camera* because some parties want to maintain the marital relationship, some victims of violence want to maintain the relationship but they do not want to be beaten. At the same time they do not want to go in open court for the "marish and the parish" to hear that their wives or their husbands are beating them as the case

may be. If you have the hearing *in camera* then the men will come out and make their complaints because nobody will know that they are subject to petticoat government as it is referred to. So I suggest strongly, that where there are these applications, where no criminal charge is brought, the hearing of those applications should be *in camera*.

My second suggestion is that within this jurisdiction the provisions must be such that, the respondent will not feel that whatever order is issued against him is of a punitive nature, that he or she is being punished, because once that enters into the mind, the beginnings of the irretrievable breakup of the marriage arises. I suggest that in those circumstances the respondent should be given an opportunity to give an undertaking that he will refrain from committing any acts of domestic violence, the breach of which undertaking will render the respondent liable to the same penalty as that for breach of a protection order which is issued by the magistrate.

In other words, the magistrate hearing the evidence is empowered to make an order, and can say, "you cannot go to the the victim's residence for six or 12 months" as the case may be. Or in other circumstances, "you may not interfere with them, you may not try to contact them," send messages to them as the case may be, depending on the circumstances. The respondent should be given an opportunity to make the order against himself: "I undertake not to hit the victim again, not to harass the victim, not to do so and so", well knowing that if he does that which he undertakes not to do, he could be penalized for it. In other words, if he himself gives the undertaking, it is my view that there is a movement away from the domestic violence, at the same time as there is a movement towards reconciliation. Of course if he does not wish to give the undertaking then the magistrate can make the order. In either circumstance whether there is an undertaking or whether there is an order, some sort of counselling services should be provided during the period. If you want to preserve the marriage and you have this order for 12 months, that the person against whom the order is made, the respondent, must not get in touch, must not go to the residence of that person and must not see the other person; how will any reconciliation come about? There must be something, some activity, some third person some adviser to counsel for reconciliation to come about and for the doing away, the getting rid of domestic violence.

So mainly those are the two areas which I wish to address, insofar as the tenor of the whole bill is concerned: a separation of proceedings where there is a criminal charge, from proceedings where there is no criminal charge. Where there

is no criminal charge the chances of preserving the relationship are stronger and special measures should be instituted in respect of those.

There are one or two other matters with which I am concerned besides this broad sweep which I sought to take. One of them is clause 25 of the bill which provides that:

Where a police officer believes on reasonable grounds that:

- (a) a person has committed or is committing a domestic violence offence within the meaning of this Act; or
- (b) a person has committed or is committing an offence under section 18 of this Act, he shall make an arrest without a warrant.

That is mandatory. Now I understand the reason for this because policemen say that they are not interfering with husband and wife business. So this bill is seeking to compel him to arrest an offender. If he does not arrest the offender then what is the sanction? You see, legislation can do so much and no more. If you want to make it a criminal offence for a police officer to refuse to arrest an offender, then make it a criminal offence; but do not make it mandatory without any sanctions, because it is meaningless. I looked at this and I said that while police officers under the general law have power to arrest for any of the offences which come under “prescribed offences”, the fact that they do not arrest now, would not cause them to make an arrest by making it mandatory. So I think that should be looked at as well.

3.05 p.m.

As well, in the definition of “prescribed offence”, referring specifically to subparagraph (e), which makes certain offences under the Children Act prescribed offences, that is domestic violence offences—the sections there are 3, 4, 6, 7 and 8. Mr. President, I would like to know why section 5 of the Children Act was omitted. I am dealing with clause 3, the interpretation clause, where it states.

“‘prescribed offences’ means:

- (e) an offence under sections 3, 4, 6, 7 and 8...”

Section 5 is omitted, but this was an offence against children since 1925. Section 5 (1) reads as follows:

“If any person causes or procures any child or young person, or having the custody, charge, or care of a child or young person, allows that child or young person, to be in any street, premises, or place for the purpose of begging or

receiving arms or of including the giving of arms, whether or not there is any pretence of singing, playing...is liable, on summary conviction..."

Mr. president, there is no greater violence that you can do to a young child than to induce that child to be on the street begging. It is a short route from inducing a young person to beg to prostitution. You would be amazed if you were to be on some legitimate business in the vicinity of some recreation clubs and bars to see the young children, particularly young girls, begging in the night. When you ask, "What are you doing here? You should be home doing your lessons. Do you not have a mother?" "Yes." "What are you doing here?" "Because I know gentlemen come around." That is what is happening, Mr. President.

Well, a parent who is doing that is committing the grossest of violence towards that young child, and I see no reason for excluding it from a prescribed offence.

Mr. President: I know you have every intention to be brief, but I am afraid your time has expired.

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

Question put and agreed to.

Sen. Alexander: Mr. President, I am also concerned with the question of *de facto* spouse. When does a person become a *de facto* spouse? Is it because that person is living as husband or wife with another person, although unmarried? As soon as you move your "grip" in? As soon as you move in? Or after some period of time has expired? If it is as soon as you move in, well, you would not only want one special court. You will have *de facto* spouses by the dozen moving in and moving out. Because once you are a *de facto* spouse, you remain a *de facto* spouse afterwards. You are a *de facto* spouse, because you are a former *de facto* spouse.

Dr. Deosaran: Mr. President, I just want to implore the Senator to clarify something which has cropped up on this same point several times during the debate. Now, I myself have raised that point, and in my research before my presentation, I understand that there are some differences on the conditions and the criteria between a High Court injunction and the provision in this bill, with respect to the definition of a spouse, and especially with respect to the removal of such a spouse from his or her premises.

I want to implore my distinguished colleague to throw some light on any possible differences.

Sen. Alexander: You see, there are all sorts of problems that arise with *de facto* spouse, and the question of acquiring and interest, either equitable or legal, in property. It is a very difficult exercise.

It seems to me in a bill of this sort, that violence against *ex-de facto* spouses should be treated as a criminal matter, because the family relationship for all purposes has expired. Of course, one has to consider children of that relationship when it existed. but insofar as the spouses are concerned, it seems to me that the better position would be to leave that in the criminal field. There should also be some period of permanent residence for a *de facto* spouse to qualify. I think it is only fair and reasonable.

I do not know. How many spouses can one person have for the purposes of this bill? You see, Mr. "A" can have his matrimonial home down south. He goes there for weekends. But when he is working in Port of Spain, he has a *de facto* spouse. He is residing with both. I know it is a difficult question. It is a question nevertheless which I have to ask. You see, one has to be very careful.

Sen. Bahadoorsingh: Mr. President, would my good friend who has been so kind to give way like to proffer some suggestions as to what sort of time, from the mind of an experienced legal person, he would suggest that would be applicable for the *de facto* relationship?

Sen. Horne: Mr. President, I also want to get something clarified. I know of someone who is married, and within one year—in this country—he had five children: one with his married wife and four others, all of them born in the same year, five children.

Sen. Alexander: Mr. President, you see the problems which arise. Sen. Bahadoorsingh asked about my experience. I do not know who told him I have experience in these matters. I think one has to look at the property situation, the removal of the owner of premises from his premises when the *de facto* spouse cannot, by any stretch of the imagination, have acquired any sort of equity in the premises. Perhaps that is one way to look at it.

Perhaps another way to look at it is the question of whether that relationship, short as it might have been, has produced any children. That is another. I do not know, but it is just the problems which I am seeing which I thought I should raise.

Dr. Hosein: For the assistance of the hon. Senator, in terms of notice of amendments, he would have noticed that there is to be an amendment to the definition of *de facto* spouse which adds the words, “or if not living with that person is a parent but not a grandparent of a child of that person.”

Sen. Alexander: We will deal with it. Mr. President, we have to be realistic. We have to know the people with whom we are dealing. It is my view that once an order is made prohibiting a respondent from going on his premises, there will be no “bread” for the wife and children and, therefore, she will have to resort to the provisions of the Children Act. Why cannot all these matters be dealt with at the same time when an order is made?

This is one of the reasons I have brought forward the question of the undertaking. Because if the respondent gives an undertaking not to brutalize so that he would remain in the home, the likelihood is that he will support the home. But if he is not prepared to give any undertaking, it means that he is at war and, therefore, all the orders which could be made against him for maintenance, and so on, in my respectful view, should be made. So you minimize the hardship on this battered spouse having to go from court to court to keep body and soul together.

3.20 p.m.

In this regard, Mr. President, why is it that up to now the Attachment of Earnings Act has not been proclaimed? Is there an administrative difficulty? What is the problem? These fellows do not pay, you know. They go to the magistrate’s court with their towels and toothbrushes and they go and spend 14 days, and they come back. We know that to be the case and, therefore, the Attachment of Earnings Act was to meet that situation. It is more than a year now that this Act has not been proclaimed. Is it a money problem again?

Mr. President, these are some of the matters which I thought that I should bring to the attention of this Senate, and I wish to thank you very much.

Sen. Dr. Krishna Bahadoorsingh: Mr. President, I must admit that although I rise in support of this bill before us, and although one is reasonably certain that by the time it is passed it would be in a modified form that would be suitable to everyone here, given the suggestions which I know are forthcoming from many Senators here, especially the two eminent lawyers on my left, my interest in the bill all along was somewhat limited, hence the reason I did not attempt to attract your eyes on an earlier date as I very often tend to do when I am motivated and

Domestic Violence Bill
[SEN. BAHADOORSINGH]

Tuesday, March 05, 1991

prepared to make a contribution on any particular bill that is brought before us. I will be quite brief.

If Sen. Alexander mentioned that Sen. Moonan had mentioned, in his contribution, many of the points that Sen. Alexander wanted to make, I would say that given what Sen. Moonan, and much of what Sen. Alexander mentioned today, purely by coincidence, are some of the very things that I had planned to say this afternoon.

We have had a tremendous number of contributions on this very important piece of legislation. Let me digress for one moment to indicate why my interest was somewhat limited. I should like to emphasize that it was not because I feel that this piece of legislation is not important. I feel that it is very important to the needs of our society. But the reason my interest was not stirred up at an earlier stage is that I feel we are dealing with a tremendous social problem in our country in much the same way as we would take an aspirin for a headache; or perhaps in much the same way as we may go to a medical doctor to have surgery for a particular illness because we had been doing something wrong over a period of time.

The bill, in my humble view, is as if we are going to continue to do things wrong in the society because it is not designed to really cure the ills in the society. It is not concerned, as the lawyers may say, with the gravamen of the problem, the real, essential, important social factors in our society; cultural, social and so on. This is not the purpose of the bill. The bill really represents either aspirin or surgery. You have a society with many ills, and these ills are continuing. People are disadvantaged, women and men are beaten, children are abused, and in order to attempt to dissuade them you present a bill which I understand contains the inputs of one or more parties all the way from Australia. I am not saying that in a derogatory sense in any way but merely as an illustration. I feel certain that the input has been first class.

The bill does not really relate, and I know it cannot relate, to the fundamental problems which cause its own creation, namely the fundamental ills in our society. So hence the reason that I was unmotivated. It was not because I did not see the need for a bill of this kind in Trinidad and Tobago but I did not feel it was going to have the desired effect, and certainly it was not going to attempt to cure the ills in the country.

3.30 p.m.

Mr. President, we have heard, at least, about 15 or 20 speakers in three full sessions here. Some of the speakers, in my opinion, have been quite idealistic, some have been very, very practical. We have heard from both male and female Senators and Senators from different professions including medical doctors, lawyers, union members, computer experts, businessmen and, social scientists. I think we are going to hear from agriculture just now. All of this is well and good, but I am saying this merely to indicate, perhaps to make an excuse as to why my presentation would be quite brief. We have heard so many views that I think we have covered most of the items from a social and other criteria that would relate to this bill.

However, Mr. President, I would like to allude, perhaps, to two or three points which would represent deficiencies in our society which the bill really cannot take care of. I would like to mention these points for the Minister to remember that they may need serious attention.

The first point is the effect of alcohol and alcoholism in the society as it relates to domestic violence. One cannot legislate against alcoholism, the abuse of alcohol. I am of the opinion that even in very, very strict religious societies, in particular Islamic societies—I hope to say nothing to offend Sen. Khan, if I am wrong perhaps he would correct me—where alcohol is banned, you still have alcoholics. So that you have societies that are fundamentalist in their religious approach still being unable to prevent alcoholism or the abuse of alcohol.

One of the reasons I brought this up is that I do not feel that the state should pay Senators here, over a period of time, to spend time to make worthy contributions and then those contributions are all forgotten. I am raising this point about alcohol and the effects it may have on domestic violence to a large extent because a former Senator, Dr. Beaubrun, between 1976 and 1981—I sat very close to him—made this one of his pet subjects in a very, very serious way. He spoke about alcohol and alcoholism. As you know Dr. Beaubrun is a very distinguished psychiatrist, not only at Trinidad and Tobago or the Caribbean level, but at a world level. At one time he was the head of the main psychiatric association in the world. That is when, also coincidentally, he was a Senator. Dr. Beaubrun spoke continuously, over a five-year period, about the effects of alcohol in the society. I am not going to attempt to repeat what he mentioned during that time, because I am unable to do so and I am not even prepared to do so.

We know that this problem of alcohol permeates the entire society, regardless of any sociological barrier of race, religion, creed, sex or any other democratic characteristic which you can bring to bear. Alcohol permeates all these. It has no barriers. I am merely mentioning this in a generalized way so that if the Minister could spend some time and address his mind to this serious problem in our society, perhaps the adjudicators, judges and the magistrates who may have to pass judgment on people in accordance with this bill, may have a little less work to do. Mr. President, it is purely in that context that I am mentioning the relevance of alcoholism and domestic violence.

I think we all know in our society that many people get drunk. They take their pay cheques and go to the rum shops and spend most of the money on alcohol. They bring whatever pittance they may have to their homes, they do not have enough money for their families and when the wives or the children approach the breadwinner for their reasonable and just means, domestic violence may ensue.

Mr. President, the next point I want to raise is one that I have not heard anyone allude to in a fundamental sense. Before I mention this very, very touchy and tricky point, I want to give a little preamble. It was about a year ago—Sen. Weekes may remember—that I made a jocular comment about the Red House, not liking the colour red and relating the colour red to a certain ideology to which I could not subscribe. The *Express* reporter who reported me in that newspaper was sitting here and she reported me correctly in the context also in which the comment was made. Mr. President, for one little jocular comment I never knew that anyone could have had so much publicity. Because of that, there were articles in various newspapers in Trinidad and Tobago for months later on—editorials. Historians were writing about the Senator talking nonsense about changing the colour of the Red House, except the responsible reporter from the *Express* who reported correctly in a jocular manner in which I made the comment, and in the proper context.

Unfortunately, I cannot say the same for the *Guardian*. But it was not coincidental that the various people who wrote about me in the *Guardian* were not present here that day. As we say in Trinidad and Tobago they took a lag against me over a long period of time, which was very, very embarrassing. So much so that when I was leaving my home today, my wife asked me, "Do you really want to wear that tie?." She did not ask me whether Sen. Weekes would be present but I said, "Look, maybe time has elapsed and people would have forgotten about that incident, not knowing that I was going to bring it up again.

Sen. Weekes: Thank you for giving way. I wonder whether the good Senator would inform this House, when he spoke about not liking the colour red and the Red House being named as such, if he had a vision that same months thereafter, red blood would have been flowing in the Red House?

3.40 p.m.

Dr. Bahadoorsingh: Mr. President, the only time I think I am capable of having a vision is if I were to put my head together with Sen. Weekes' and think about the same subject. Then I think if we put our minds together, I may have a vision. But on that particular occasion, I must tell him that I did not really have a vision but my thoughts still remain unchanged.

The reason I am speaking about this old topic—and I must say that given what I saw on the front page of the *Guardian* yesterday, I would like my dear colleague and friend, Sen. Mansoor, to take particular note of the nature of reporting about me in that particular daily newspaper since. As you know, he is controlling things there now. At least he has a voice.

The reason I am talking about this is that when I begin to discuss the second point that I want to address this afternoon, which has not really been mentioned in a fundamental sense—and I am addressing you, Mr. President and no one else—I do not wish to be misreported. I cannot help it if I am misreported but I do not wish to be misreported. The point I want to bring up here, as I spoke about the relevance of alcohol and alcoholism to domestic violence, is that I want us to address our minds here to the relevance of calypso and our music in Trinidad and Tobago as they relate to domestic violence and sexual abuse.

Let me say at the outset because I know how sensitive this subject could be, that I am not against calypsoes in any way. I am a citizen of Trinidad and Tobago; I was born and bred here and I love calypso music. In a moderate way I have participated in certain carnival activities. I have never paraded on the streets because I was not brought up so to do. I do not deny anybody the right so to do. At one time I used to go to many calypso tents. I have not done so recently because my interest is not that deep, but like anyone else in the country, I do hear calypsoes on the radio and at functions and so on. But Mr. President, as a private citizen, with a little social science training, I must tell you that on many occasions I have been downright appalled with the suggestibility of so many of our calypsoes. Sometimes, they are not even subliminal as they may have been in times of yore. Perhaps now it is no longer even suggestibility, but on so many

occasions calypsoes have been downright crude, raw; verses to promote eroticism and unusual acts which will not be conducive to proper family life; that would have a deleterious effect on our society. This is the aspect of calypso to which I am referring.

Sen. Mark alluded to a popular calypso of some time ago and he used the expression in the calypso "Cuff Dem Down". Am I right about that? I believe that had something to do with when the man cuffs the woman down, something to do with love and so forth, may ensue. My good friend, Sen. Alexander, used an expression in his speech a few minutes ago "that violence is endemic in our society". An attitude of that kind, as far as I am concerned, is a barbarous attitude and the violence we are referring to, is a barbarous act. This is what we are faced with in this bill. It is hoped that when the bill becomes law it will deal with what I regard as barbarism. How can a bill like this take care of segments of our society that may not have been adequately evolved in many respects? So you see what I am trying to indicate to you as my perspective of the problem.

On the question of calypso, again, so many of our calypsoes deal with women in the most degrading form. They deal with women in a scenario of prostitution so much of the time. What I find hard to accept is that some of these calypsoes have become classics in our country. Something that is a classic is something that endures over a period of time, that is self-perpetuating and self-sustaining. Take "Jean and Dinah", for example. When you analyze the story—now all of us I am sure, I do not know about the pundit, but most of us here I may say, would have at one time participated in a dance, or what have you, relating to "Jean and Dinah". But I am sure that everyone here may have participated in some way for enjoyment with respect to "Rum and Coca Cola". That is a classic with a big long lawsuit attached to it. You could write a history book about "Rum and Coca Cola." But what does it deal with? It deals with prostitution and that has become a classic in our country over 50 years ago.

It is not only the calypsoes and the clever phrases or words through which they will be conveyed, but what concerns me also is the musical instrument or the instrument through music that makes the calypso. I am firmly of the view that our music in this country is perhaps some of the most catching music in the world. It is an eclectic sort of music. It has a lot to do with our African traditions, Latin American geography, a little bit of East Indian thrown into it, a little bit of Europe thrown into it. It is superb. We have tremendous music. My only chagrin is that we have not capitalized on it for foreign exchange to better the lot of our poor society

so that we may not have the need for this bill. What we are in fact doing, is allowing the calypso, with the tremendous music that accompanies it, to degrade our society.

3.50 p.m.

Mr. President, you would, of course, appreciate why I have been so careful before I began to speak about this subject, which I am sure, is dear to all of us here. It is so very sensitive. You would appreciate why I made all the reservations beforehand, because I do not wish to be misquoted. I do not wish to read in any newspaper, whether it is a weekly or a daily, that Dr. Bahadoorsingh is against calypsoes, or any nonsense of that kind. I should really hope on this occasion, if I am quoted at all, that it would be an accurate quotation.

My feeling is that the calypso and the accompanying music are actually giving our major religions tremendous competition. Because in all of our religions—and so far as I am concerned, they are basically and fundamentally the same—we are taught certain things. We are taught how to act, how to think in a civilized manner for the perpetuation of our society, for the enjoyment of our family, but one of the basis of all of our religions, is for the perpetuation and the safety of our family. We must remember—and I am sure the religious people here today will concur with me—that any religion which we refer to, the woman is more or less deified. Is there any contention about this? The woman is deified.

As a good Hindu going to St. Mary's College—I think we both went there—we were taught a lot about the Virgin Mary and when I came home I realized that the Virgin Mary was hardly any different, or no different from what I was taught in my home about Lakshmi or many other Dieties in my religion and other religions. So the woman is deified. Is the woman deified in our society, especially in the calypso culture?

When Sen. Mark reminded us that in one calypso they said "to cuff them down", and in our best calypso classics, they are all prostitutes, or sexually abused, it is that aspect of our society, that ill in our society, that I wish the Minister and his Government would address their minds to, to see whether it is possible to get the major calypsonianians together—you may not be able to legislate against what they say because the art form has evolved in a particular way—and try to persuade them, perhaps, gradually at least, to make their compositions in a particular manner, which would redound to the benefit of our society. It is only from that point of view I thought I would mention this.

Maybe the University of the West Indies may take it upon itself, via one of the many institutes dealing with social science research, to do a study to see whether what I am saying is actually correct. What I am saying, is not on the basis of any empirical data which I have either seen or gathered myself. It is on the basis of certain impressions which I have created purely on my own over a period of time, analyzing the topic I am speaking about with a somewhat trained social scientific mind over a long period of time.

Perhaps, what may have motivated me to speak on this very, very sensitive topic, could have been my good friend, Sen. Horne. She did not tell me that I should speak on it, but naturally, Sen. Horne is on my right and we have conversations, and I have the highest admiration for her. The only unfortunate thing in our society is that it is not producing more people like Sen. Horne. The calibre of people we are producing now, by and large, do not in any way resemble the character of Sen. Horne. She was looking at a particular weekly—to be more specific it was the *Bomb*—from the library here and she showed me some photographs in the *Bomb* of our jubilant nationals having fun on the stage on carnival Monday and Tuesday. Mr. President, I must tell you that I was appalled to know that any newspaper in this country could carry such photographs. I think that Sen. Sampath mentioned the *Kama Sutra*, that those photographs will make the *Kama Sutra* suitable for Sunday school. Because they depicted sexual acts which any normal, rational mind may not have even dreamt about. This is a part of our carnival culture.

You see when we speak about Singapore and we get a little envious perhaps of the achievements of a little island like that, which is either a little smaller or a little larger than Tobago with two and a half to three million people, we do not really understand how Singapore got there. When the Prime Minister of Singapore referred to Caribbean people and cast them aside as having a "carnival mentality", if that same Prime Minister were to see the pictures which I saw via Sen. Horne, I think you would regard his statement about a "carnival mentality" as being very kind.

I merely brought this up because I do not think anybody else either saw it fit or thought it necessary to address this particular point. There is a correlation in my view between so many of our calypsoes transmitted by some of the best music in the world—which they keep ringing in our ears—as an ill in our society to domestic violence in one way or another. If we want to go to the source of the

problem that may make a bill like this, perhaps not necessary in the future, I think this is one of the areas which we have to look at.

I am not going to say very much about the effect of economic development on domestic violence. I think many Senators alluded to this. Sen. Moonan mentioned about stress and economic deprivation, so it is not necessary for me to say very much about that.

4.00 p.m.

Mr. President, one of the things I was going to also mention is a point which Sen. Alexander spent some time on, so I do not think I would say too much about it, but only mention it for emphasis, if anything else. Sen. Alexander mentioned the concept of special courts to deal with these family issues. As a non-legal person, I am of the view that unless you have special courts to deal with these family issues, that this bill is not going to go very far. We do not have to discuss too much about our court procedures and the fact that we are still in the eighteenth century or maybe the seventeenth century in Trinidad and Tobago, in so many respects concerning our courts, the number of cases we have and how long it takes and the like.

Unless you have a special court, as Sen. Alexander said, for the sessions preferable to be held *in camera*, so that people who may be normally embarrassed or afraid of the formalized relationships and procedures of a court, who may not wish to go through those procedures, may find it more conducive to come to a court. And as a matter of fact, I wish, if the word "court" would not even be used; if a pseudonym could be used, but not call it a court. The entity, and I am conceptualizing, ought to have a social work/social welfare counselling orientation. Sen. Alexander also used that word "counselling."

In other words, you have to have a body or an entity that would encourage people or not discourage people with a family problem to come in there and leave as better citizens, hopefully, after having some of these problems resolved. So I must agree and reiterate what Sen. Alexander mentioned, emphasizing also, the counselling nature or orientation.

Purely by coincidence, I too, was concerned about clause 25 on page 19 when I read the bill, where it states: "Where a police officer believes on reasonable grounds that (if so and so happens), he shall make an arrest without a warrant." This is my concern, perhaps the lawyers can answer it afterwards. If an arrest is

made without a warrant on reasonable grounds, by a police officer—you may have police officers who may not be very senior, who may be acting on the basis of his knowledge which may not be impeccable; he may not have the proper advice and he may commit an error. But so far as he is concerned, he is acting on information which he believes to be on reasonable grounds and makes an arrest without a warrant and the grounds turned out not to be reasonable, after investigation or after it is brought to a court, the fact remains that he had already made the arrest and there are particular effects of that arrest that he had made. I think this may have certain constitutional implications. Perhaps this is one of the reasons we need a three-fifths majority here. This concerns me, and I am happy that Sen. Alexander who is an eminent counsel also brought this up. I hope there could be an explanation from the Minister at the relevant time.

I think the Government would do the society a great deal of good if it were to spend some more time and perhaps some more money and attention to the functioning of various voluntary organizations in the country. Trinidad and Tobago is filled with voluntary organizations of one kind or another. I do not need to go into all of them. I am sure many of us here belong to many of them. The ladies who spoke here alluded to the voluntary organizations to which they belong and I would like the Minister to give serious consideration to encouraging his Government, as a matter of policy, to encourage the voluntary organizations in the work that they are doing, especially as the work may relate to domestic violence. In my opinion, any voluntary organization, would be able to do the work at least as good, if not better than any government organization. But what I can guarantee you is that voluntary organizations can get the work done less expensively with the output of less money.

In concluding, Mr. President, I began by saying that this bill, which I did not plan to speak on and I promised to be very brief and I will stick to my promise—the reason I was not motivated as I mentioned is that I saw very limited success with respect to changing certain fundamental things in our society. I still remain with that view even though I concur that the bill is necessary, but I would like researchers in social science at the university to challenge me on this and address their minds in a year or two or three, after this bill comes into effect in its modified form, and to let us know in some document, some time in the future, the effect of this bill on domestic violence in Trinidad and Tobago. Thank you.

Sen. Prof. John Spence: Mr. President, it is not my intention to debate on the bill; I would just like to make two points. One, I am prompted to make in light of what

Sen. Bahadoorsingh has said and that is, that I think if one is going to study causes of violence in the society, one should not neglect to study the television. In my opinion that is probably a much more important factor than possibly the calypso maybe, as he is suggesting. Certainly everybody from a very early age is looking at the television for long hours each day—certainly in the case of children. There is no doubt that most of the lessons that we learn from the television involves solving problems by violence and certainly this lesson must sink in after a period of time. Certainly that needs to be addressed, perhaps even more urgently than the calypso.

The other point I would like to make is to congratulate Sen. Alexander on his presentation. He certainly was able, to me, to clarify the bill and its intent and I would urge, plead, with the Government side that the bill now go to a select committee. I do not honestly see how this afternoon we can do justice to this bill and I seriously question the Government's intent to have good legislation if it is the intention to try and get this through this afternoon. I do not understand how anyone can listen to what Sen. Alexander has said and not realize that we now need careful consideration of the bill to address all of the issues that he has raised. If we do not do this, I think we are doing the bill, the public, and the intentions of the bill, a great disservice. So I would urge, plead and do everything in my power to persuade the Government to allow this bill to be properly addressed.

4.10 p.m.

Now when we changed the rules with respect to the select committees it is my understanding that certain important legislation would not be treated in the routine way of going immediately into committee. I certainly believe that if we are serious about our business we must treat certain bills in a way that does justice and allows us in the end, to cover all the problems that clearly can arise from the bill.

I do not see how we can possibly make all the amendments that need to be made, this afternoon, if we treat Sen. Alexander's contribution seriously. In my opinion Sen Alexander's contribution certainly needs to be taken account of.

Thank you, Mr. President.

Sen. Dr. Prakash Persad: Mr. President, first, let me congratulate the Minister for bringing forward a bill for which there is an obvious need.

As a matter of introduction, it seems that the pattern has developed this afternoon that every speaker seemed to have spoken, what the other speaker intended to speak about and this certainly is my case. I had intended for a short

while to talk about the moral implications of this bill. It would seem that Sen. Bahadoorsingh pre-empted me, though I must admit that he did a good job.

Nevertheless, I would speak on morality from a slightly different aspect. Now here we have a piece of legislation and whilst I agree that we have to separate the legal aspects of the bill, or the law itself from its implementation and the auxiliary services that go with it, one nevertheless needs to consider these other matters.

Now specifically, I wanted to talk briefly on the *de facto* spouse and clear up some misconceptions. It would seem to me that all the discussions that took place here on *de facto* spouse meant it to be a “deputy”. It was pointed out to me this afternoon, by the Leader of the Opposition, the hon. Basdeo Panday, that many laws that we use here today, and as we expect, are based on the Anglo-Saxon system of laws. I am not saying that we import our laws wholesale from England, but in some instances we do. The law to some extent is based on an Anglo-Saxon sort of approach which has its roots to some extent in Christianity. So whilst it would seem that a *de facto* spouse means a “deputy” or a “deputy” second removed or third removed or whatever, there are genuine *de facto* spouses.

Prior to the Hindu Marriage Act and I presume prior to the Muslim Marriage Act also, people who got married “illegally” as far as they were concerned, they were legally married. In the eyes of the law of Trinidad and Tobago they had not done so legally. So people who got married prior to this Act were not considered to be legally married. Quite frankly, until my parents took the appropriate action, their wedding was not considered legal. We do have cases of genuine *de facto* spouses.

On that same point, and to pursue it a bit more, as they seek to introduce the law more and more into the sanctity of marriage and the privacy of the home, as we have introduced this sort of dreaded third apex of the triangle, I wonder if they are fully aware of the consequences. I appreciate the problem that the Minister is facing: that all battered people are facing, men, women and children included. The fact is that when we intrude in this way, are we fully cognizant of the outcome?

Before we had the law as we know it—and maybe I should restrict myself from the point of view of Hinduism, in that, in Hinduism we have a marriage and one need not have it, sort of, sanctified by man. It was sanctified by God. A marriage took place not only between two people, but actually two families, two villages. It was done in front of many witnesses and the parties involved were expected to uphold the obligation to all these parties. In other words, it was out of peer

pressure for the parties to conform to the norm, that is, treat your wife with equal dignity as your wife treats you. No violence.

I am not blaming Anglo-Saxon systems or western systems. I am merely pursuing this line of thought in that now we are saying that marriage must be sanctified, must be made legal. In other words, the law holds the parties responsible for the marriage. We go one step further in terms of common-law marriage, and we are saying, “look, even if you do not have a legal document and you do not have the sanctity of religion, nevertheless, we recognize the sanctity of human love one to the other promises”. It seems to me that a pattern is emerging that individuals are asking that they be held responsible to less and less parties.

Now what I am asking—and I know there is no easy answer and maybe the Minister and society at large should consider it. As we move away from this sort of morality, based on religion, based on peer pressure, are we creating a monster that no matter how much we seek to legislate we would not solve the problems? I understand the need to legislate. I am not saying we should not, but in the final analysis, what is legislation? Legislation is regulatory mechanisms. You have a system, if I can use an engineering term, and you are putting the control system to control the behaviour of people. That is what you are trying to do. The thing is if one does not understand the possible outcome, then you will be creating an even bigger problem. In other words, if you do not define the problem properly, as I have mentioned before, then the solution would not be for the problem that exists. This is something that we need to look at. Whilst I support the intent of this bill—and I certainly cannot reject that; it would go against all civilized behaviour.

I think that it is time legislators give serious thought and consideration to morality because, as I pointed out earlier in this same Chamber, laws are tangible ways to guide human behaviour, but if we go on this way are we going to have laws for every single aspect of human behaviour? It would not work. It is something that we need to look at carefully.

By way of explanation, to those who are here and specifically for Sen. Sampath and others, the *Kama Sutra*, contrary to popular belief, is not pornographic material, but as the name suggests, *kama* means material pleasure and *sutra* means rules. For the edification of the Senator and others, the *Kama Sutra* is a manual on married life not a manual on sex. It is a manual on married life which also includes sex. I thought I would clear that point.

Sen. Sampath: Lest this honourable House gets the wrong impression about what I said about the *Kama Sutra*, let me make it quite clear to the hon. Sen. that I have read the *Kama Sutra* through and through and I agree with him entirely.

At no time in my presentation did I ever hint that it was only about sex. I wish to say that, so that the hon. Senator would not get the wrong impression. May I ask the hon. Senator whether he, in fact, has a copy and if not, I shall lend him mine.

Dr. Persad: If I imputed improper motives to the Senator I do apologize sincerely. For his knowledge, I do have a copy of it. I thank you nevertheless.

4.20 p.m.

Mr. President, another point that I would like to raise, and this point was initially introduced by Sen. Diana Mahabir-Wyatt is, what does it cost society in terms of time lost, in terms of development costs, and in other terms, when we do not treat or reduce the incidence of domestic violence? Whilst my erstwhile colleague, Sen. Baksh, was indicating to this honourable Chamber that there was need to set up systems, counselling systems, halfway houses and other mechanisms to help to alleviate this problem, my good friend, Sen. Furness-Smith, in his usual snippets to us was asking what is the cost. What is it going to cost the country? But I ask the good Senator, has he himself done an analysis to determine which cost is greater? I think he did not, but nevertheless, it seems to be his characteristic nature to take snippets at us.

On that point, Mr. President, it seems strange that during a debate on domestic violence an Independent Senator would question the sanity of the Opposition. In the irony of all ironies, if I may say so, would you believe that a Government Senator said he was mad? So there we have a Senator saying that the sanity of the Opposition is in question, and a Government Senator saying the very same thing about him. How ironic!

What I would like to ask the Minister in his reply is, do we really have data on the frequency of domestic violence occurrences and the severity of it? I do not mean to sound hard-hearted and callous, but it is a point that was raised by Sen. Deosaran, on whether or not we ought to look at it on a scale, the severity of domestic violence occurrences.

The reason I ask this and I do hop the Minister, if the bill is passed or when it is passed, takes some appropriate measures in that it would make the bill more

precise in its approach and in its use and effectiveness. If we have this data on the frequency and types of occurrences, we can judge better what it is costing the country, and thereby provide a better case for soliciting funds for setting up the sort of halfway houses and counselling systems that we need to assist victims of domestic violence. Also, if we can provide some data on whether domestic violence is a function—is it proportional to loss of income? Is it proportional to the size of unemployment, the size of the population's unemployed?

Sen. Una Charles mentioned that it is at a peak presently. I do not know whether this Government caused it to be at a peak. I am not saying that as such. But she mentioned that, and I would like to mention to Sen. Una Charles that we on this side do not believe in knocking sense in people's head with axes. I mean, I must admit that she presents a formidable figure with an axe, but we on this side do not condone that sort of violence.

Sen. U. Charles: Would you please pronounce my name as Sen. Una Charles.

Sen. Persad: Thank you Sen. Una Charles.

Mr. President, also what this sort of data would do, as I was mentioning, is help to present a better case for getting funds to help victims of domestic violence.

In an answer to Sen. Louise Horne's query about the women at UWI, and myself being at UWI, I thought I would point out to her that women are making inroads at the university. In the traditionally male dominated faculty of engineering, I would point out to the dear Senator that there are two young women who are lecturers at that faculty. There is a young woman in the faculty of chemical engineering, there are two young women in the faculty of civil engineering, and in the department of mechanical engineering, there is a young woman. May I point out with pride that I belong to the department of mechanical engineering, and it was the first department in engineering to hire a woman lecturer.

Now, Mr. President, the constitutional aspects of this bill were dealt with in depth by Sen. Deosaran, and I have no wish to do so. However, I have some specific aspects of the bill that I would like to look at and clear up. I hope the Minister would probably take it into account in his reply. Clause 3 under the definition of "conduct of such an offensive or harassing nature", it states:

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

Certainly this does not warrant action being taken against that person, unless it can be clearly demonstrated that the person has some sort of hostile intent. I think maybe that clause ought to be re-worded or certain additions made to it.

Similarly paragraph (e) states:

“the watching or besetting of the house or other place where a person resides, works, carries on business or happens to be;”

I think that unless you can prove that there is some intent for grievous bodily harm, that should be clarified or removed.

The reason I ask that paragraph (e) be removed is that in clause (4) (c) that for this sort of behaviour, “conduct of such an offensive or harassing nature”, a protection order can be made. I would think that it might be unfortunate that a poor love-sick fellow, as another Senator pointed out, who wants to see his wife despite the fact that in a moment of anger he may have hit her, would have a protection order made against him. I think probably that ought to be looked at again.

Mr. President, with respect to “*de facto* spouse”, I have no problems with the definition in the sense that I cannot argue with it. Violence is something that I morally do not agree with. I understand the necessity for making provisions for *de facto* spouses because such situations exist. However, I understand that the law that gives rights to common-law wives has never been proclaimed. I understand it is not. Maybe the Minister could clarify that.

Mr. President, I also agree with other Senators that a “former *de facto* spouse” is a rather nebulous creature and that some further clarifications be made on that or that it be removed.

Under clause 5 (1) (e) I would think that to “prohibit the respondent from contacting a prescribed person” serves no good and should be removed.

Mr. President, under clause 7 (b) (iv) where it says:

“an experienced or qualified person in social welfare approved by the Minister in writing;”

I would think that this should be defined more clearly and should include people such as teachers, medical workers, probation officers. Bearing in mind the cultural diversity of this country, I also think that maybe pundits, imams or clergy, should be included. I would think that in many cases these people do have

an effect in counselling and bringing together families. If we are serious about keeping the family together, I think that these people ought to be included in the bill.

Mr. President: The sitting will be suspended for approximately half an hour. We will resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. Dr. Prakash Persad: Mr. President, I would think that some modification or specification as to the police officer should be made in clause 20; where it says that:

"Where a police officer decides to refuse to admit to bail..."

I think maybe it should define whether it is sergeant or a rank above or whether it is the person in charge of the station. I think some modification should be made there.

Also in Part IV of the bill under "Miscellaneous", clause 23, I would like to see that it is modified a bit. It states:

"Where a police officer has been invited onto premises by a person apparently resident in the premises for the purpose of giving assistance to a person who has suffered...a domestic violence...."

The clause should be modified to include:

"and where the police has reasonable grounds to believe such, then he should enter".

I think some modification should be made there.

In conclusion, these are some of the points which I thought would be useful to make and some action taken on them; firstly, that there is a general consensus, it seems, that people believe that the police powers in this bill seem to be too wide and some consideration should be given to that aspect. Also it might be worthwhile to consider that while there has been considerable concern as to the behaviour of some policemen—I would not say all—that maybe it is about time the Government as a whole, not necessarily this particular Minister, look at the internal investigation bureau; a unit, something that polices the police. In the face

of numerous complaints about the behaviour of the police, I propose that something like this be done. It might be a useful thing.

Also, I suggest that if the application for a protective order is made by a non-spouse, provision should be made to remove the child from the environment in order to spare the child the trauma of domestic separation in addition to domestic violence. There also seems to be no provision for penalizing people for false declaration under this bill and I think that some provision for that ought to be there.

While Sen. Alexander mentioned about having the proceedings *in camera*, what I thought is that instead of this maybe it should be a closed court. Whether it means the same or not, I think a closed court would be a useful suggestion.

Mr. President, I also suggest that all fines accruing from domestic violence, some portion, if not all, should go towards a specific fund for providing half-way houses for the victims of domestic violence and that the Government should look at the legislation regarding doctors who treat patients whom they suspect to be victims of domestic violence. Maybe that can be firmed up a bit more. Right now I understand that doctors are required to report to the police if they treat gunshot wounds. I think that some provision, or if need be, legislation ought to be passed that if doctors have reasonable suspicion to believe that his or her patient has been a victim of domestic violence, such cases should be reported. I think that this would aid in helping to curb this disease.

In the final analysis, we may pass how many pieces of legislation we want, if the society as a whole does not get together and use all its resources to remove this most terrible disease from our society, it will not be done. Therefore, I hope that the Minister would give some favourable consideration to some of these suggestions. Thank you.

The Minister of Social Development and Family Services (Dr. the Hon. Emanuel Hosein) Mr. President, the debate over the past few weeks on the Domestic Violence Bill has been rather extensive. I heard the conditions of 15 Senators—that was prior to the last three, so I am adding on that basis and I take it that it is about 18. This indicates to me and to the country, the seriousness with which this honourable House has viewed this particular piece of legislation. I want to say, at the outset, on my own behalf, that I am extremely grateful to all hon. Senators for their contributions and their expressions of support.

I do not think any hon. Member has failed to say that he or she intends to support this piece of legislation. But a number of concerns have been raised and by and large, these concerns fall into a number of broad categories which I will attempt to deal with in that way, as opposed to attempting to deal with 18 contributions, which I think my time would not permit. So hon. Senators will forgive me if I tend to deal with issues raised as opposed to responding to individual Members. By and large, most hon. Members have made their contribution under a few broad headings; and I will attempt, as I say, at a later stage, to deal with all of these.

I want at this stage, before I begin to respond to specifics, to say a few things and that is, that we must all appreciate what we are embarking on today. I want, in making the remarks I am about to make, to refer specifically to the contributions of Sen. Wade Mark and, to a lesser extent, Senators Moonan and Bahadoorsingh, because they all referred to a number of issues which relate to the factors that have degraded women historically. Whether it is the economic exploitation of women, the fact that they are discriminated against, are abused, humiliated in songs, whether they are oppressed for all sorts of cultural, social and other reasons—I deliberately excluded religious because I think all of us here who belong to different religions will hasten to correct me and say, "No religion sets out to oppress anyone." There have been many cultural factors and unless women are afforded their full dignity in this and all societies, then we will have certain societal problems. What we are attempting to do today is to slam the door shut very firmly on one source of that degradation; that is violence within the home.

The sanction on calypsonians must be societal. Maybe we do have to say to our calypsonians, "Do not degrade women in your songs. That reduces the status and the standing of women in the society." We have to say to employers and others whether that be the Government or otherwise, "Do not underpay women. Do not exploit them on the job"; and we can go into all the different factors.

The point I want to make at this stage is that the status of women in the society needs to be corrected. It is going to be a long process because the problem has been a historic one. Its history goes into the millennium of the past and it will be a long time before this society and many others can say—and I had to make the remark recently that women are the only majority that are treated like a minority. If you look at the sheer numbers, you will see that in most societies in the world women make up 51 per cent or slightly more, of the total population. It is never 50 per cent or less, it is more often 51 per cent or more.

We need to correct that, otherwise all the things mentioned here this afternoon and in the past, will not be corrected, either now or in the long term. But today, we are not attempting to deal with all of these problems because the point has been made that the bill does not do certain things. We agree on that. What it is attempting to do—which is the heart of the matter—is to slam the door very firmly on one form of degradation and that is physical abuse. I am talking about women here at this stage although it has been rightfully pointed out that the bill attempts to afford protection to a whole range and host of persons within the domestic situation. I mention women because so much has been made of their status and what is afforded them in this bill. But there are many others who are disadvantaged within the domestic situation; young children, disabled persons, sometimes elderly parents and others, and the bill seeks to protect them all.

The other point I want to mention at this stage is a point that has emerged in what I think is a slightly unfortunate way, that is the issue of the “deputy”. Why really are we talking about the “deputy”? Because the minute you talk about a “deputy”, you define a woman purely in terms of a relationship to a man. Why are we doing that? Is this not a citizen of Trinidad and Tobago who is subject to violence and who requires protection? Is that not what we are seeking to do? Why are we bringing into our thought processes on that matter the question of whether she is a “deputy” or whether she is the third or the fourth or fifth “deputy” twice removed? Is that really relevant at all? Or are we saying this is a citizen of Trinidad and Tobago; this person has found himself or herself subject to abuse of the kinds listed: throttling, attempted murder, rape, all sorts of serious offences—very, very serious offences. We want a law to protect them.

This is not someone who is throttled in a dark alley by someone who wants to rob them. We are talking about somebody who is trying to throttle, murder, harass and abuse them because you have a domestic relationship with the perpetrator of these acts. Because of that, do we think less of that situation than if that person was attacked in a dark alley and those acts perpetrated on them? I think not.

I must confess that we are all susceptible to that kind of thinking. I saw in the newspapers today a news report that revealed to me that even I have my flaws in this. I saw that one of the forwards for the English football team was stabbed. I do not know if anyone saw that. I had visions of the poor fellow being attacked. Then later on it said he was stabbed during the course of a domestic dispute. I instinctively gave a sigh of relief and said "Well, the fellow was not attacked in the

street; it must have been just some tiff." Then I realized that even I am susceptible to that kind of thinking.

Does it make a difference that maybe he had an argument with some woman or his wife or whoever it was and that is why he was stabbed? The point is that someone was stabbed. That is a serious matter and if we are to protect people against that kind of thing, it is serious business. When those acts take place within the domestic situation, are we to treat it any less? Are we now to begin to view the perpetrator in this instance as, "Oh poor fella, he is the head of a household."?

I want to address at this stage, some of the examples of what I would say are trivialities that take place within the home and I am extremely grateful to Sen. Tiwary for having explained this point. We are not talking about a tiff between husband and wife. We are talking about serious offences and I think that point was made. I do not think Sen. Furness-Smith was here when Sen. Tiwary made her contribution.

Sen. Furness-Smith: I was not here at the time because I was abroad, but I did read it in the newspaper. She was totally misleading the Senate, in my view, what I read of it, in the same way, with due respect, the Minister is now.

I think it is very important that we get down to this. We all agree with what he is talking about; heavy violence, but the bill is not about just heavy violence, it is about, in 4(c). It has a whole lot of other things which may or may not be heavy violence. That is what we are on. That is a domestic situation and the hon. Minister, not we, introduced the expression "*de facto* spouse". We did not introduce it. You can call it "deputy", whatever you like, but it is in his *bill* "*de facto* spouse" and "former *de facto* spouse". That is what we want to address.

Dr. Hosein: Now may be a good opportunity to deal with that point. I do not know if I will necessarily convince Sen. Furness-Smith to take a different view or perspective on the issue. I think Sen. Tiwary quoted some examples where what is referred to as offensive and harassing conduct has merely been the prelude to serious offences including murder. She quoted one piece of statistic that is very, very important and that is—and I saw recently on CNN incidentally, that the same is very true in the United States as well—that 40 per cent of the murderers on death row were convicted for killing their wives, girlfriends or someone in the domestic situation.

That again brings me to the point raised by Sen. Persad and others, about someone following and looking at you. I am reminded of something I again saw on CNN this morning with the correspondents who were captured by the Iraqis. The fellow was saying that his greatest terror was not the beatings he got, but the threats, the psychological pressure. I do not know if anyone heard that this morning. He said that when you are beaten—and he was beaten apparently—the pain would pass but the psychological terror was far worse.

There are many persons who have other persons who set out to harass them and one has to appreciate the terror that is involved. Because that harassment is not only as frightening as if an actual incident were to take place that involved violent contact, but it is quite often perpetrated by someone whom the victim has other reasons to fear. Though in practice the only harassment is following you around and doing all of these things, that person is seriously terrified and is entitled to protection from such behaviour.

The real issue is, on that score, do we include that kind of behavior in this bill? Again, I am, in this case, grateful to Sen. Alexander who summarized the provisions of this bill far more succinctly than I myself could have and I thank him for sparing me what would have been 20 minutes of my own contribution when in five minutes he really summed it up very, very beautifully and I commend that part of his contribution to the entire House. A protection order is what we are introducing that is really new, and what is involved in these clauses are those things which entitle a victim to seek a protection order.

5.20 p.m.

Therefore, the question that we must ask ourselves is: Is offensive and harrassing behaviour of such a nature that we ought to include it as an item on which someone may seek a protection order? Because a protection order really is a serious thing. That brings me to the last point which I want to comment on at this stage, and that is the fact that a protection order does abrogate certain fundamental constitutional rights. That is clear. It has been made clear from the beginning. It requires a constitutional motion if we are to accept that.

Many react instinctively on that score, to say, the minute we "interfere" with any such rights, let us think very carefully. I want to say that I endorse that entirely.

What therefore we have to agree on, not only as Members of this Senate but really as a society out there, is: Have we really had enough of a situation where, as a society, we take the view that what happens inside the home is man and woman business, although what we are talking about in this instance is serious violent crimes and abuse, including offences of a harassing nature? Are we, as a society, prepared to say, let us put an end to that? I think that the time has come for us so to do.

As much as we would want to put an end to economic exploitation of women and every other form of degradation of women, every form of discrimination against women or any other sector of the society, including the disabled and the elderly, today we have an opportunity to shut the door—and shut it very firmly—by telling perpetrators of such serious actions that they are going to suffer serious consequences. If we view the problem as serious, if we feel that we must shut the door totally, let us recognize that we must take serious measures.

I commend this view to hon. Senators because it will settle the issue of all the many little items in the bill where many Senators have expressed some reservations. Are we prepared to take certain strong measures? Or are we going to—and I use the term loosely—“back-back” on some of these?

One of them is a matter raised by Sen. Alexander which is not to go all the way of a protection order but rather have a lesser creature of a promise with a bond, so to speak, and the price you pay is albeit the same as the price you would pay if you violate the protection order, but permit the respondent an opportunity to give an undertaking. My response to that would be—and I hope Sen. Alexander would accept the point although I think there may be room for compromise on the matter if he feels strongly about it—what difference would it make, if the sanction is the same? While it may avoid the absolute legal constitutional situation where, once you give a protection order you have definitely taken away the fellow's rights, you do not allow the magistrate to go that far but merely have an undertaking. But when “push comes to shove”, the consequence and the price to be paid for violating it is the same, anyway.

Let us make the point to someone who, after all, has either perpetrated or is threatening to perpetrate, a serious crime on someone else; let us tell him that certain orders of serious import are enforced against him and he will have a price to pay if he violates it. I commend that view to Sen. Alexander at this stage in the hope that at the committee stage he will respond appropriately.

Sen. Alexander: One brought that suggestion, to take the other aspect, the declared aspect, the declared aim of the Bill, in trying to save the marriage. The order from the magistrate would be perceived to be punitive, but the undertaking is not so.

Dr. Hosein: Punitive, yes, insofar as an order will be in force. This is just the point I am making. You want to send a message not only to the individual but to the society, that the days of doing certain things are over. It is either we agree that we are going to take a strong stand on that or we do not.

The point was made that this bill is educative to the entire society. It is sending a clear message that there will be a price to pay. If you kill someone, you will be locked up, charged, tried and then even hanged. You are telling persons who perpetrate these crimes that we are bringing this to a stop.

Sen. Furness-Smith: Mr. President, could I ask the hon. Minister: Is he proceeding on the basis that every single application must be correct? I am speaking particularly of applications made on the strength of clause 4(c), the alleged harrassment. Is the Minister completely convinced that every single person who comes to court under that section is bound to be correct?

Dr. Hosein: I want to address this point about false allegations a little later on.

I just want to respond to the point that Sen. Alexander made with regard to the magistrate giving an order that the applicant or the respondent, or even both, seek appropriate professional counselling. I think that is a point that is well taken and I am sure we can seek to draft an appropriate amendment that encompasses it. A number of hon. Senators raised that point and it is one that we, on this side, agree with.

The point about false allegations—not being a lawyer, I take it for granted that there is no law in this country under which someone has not come and made a false allegation. I think there are other remedies under the law against persons who make false and frivolous allegations. You see persons being charged for public mischief. No one can guarantee that a woman—presumably a mischievous, revengeful one, for that matter—may not go in front of a magistrate and say that someone has done so and so. But there are procedures in the bill. If the respondent is not present or cannot come before the magistrate to have his say, there is a time limit of 14 days on any order that may be granted, and it will automatically lapse then.

5.30 p.m.

Mr. President, I think both Senators Furness-Smith and Alexander know, even better than I, how such questions of false and malicious allegations are dealt with, both criminally and in civil matters. The real question is, do we fail to give the magistrate the power to make such orders, merely because there is a possibility, always standing possibility, under any matter, criminal or otherwise, of false allegations? I would not want to accept that point. I take the point that they may be false allegations and that the domestic situation may give rise, even more than others, of people wanting to be malicious. I accept that point, but I am not convinced that it should lead us to want to diminish, in any way, the powers we put in the hands of a magistrate as we are attempting to do, and which indeed, is the core of this bill.

The other major point I want to deal with at this stage is one that was made, just about by everyone, and that is the question of administrative arrangements; questions of cost, *etc.* I am grateful to Sen. Alexander for pointing out, in very few words, that the procedures in this bill will be far less costly. I hope Sen. Horne will accept that especially the Government side is supported by no less a person than Sen. Alexander in this. Lawyers, fees, time, costs, everything, will be considerably less. In fact, one could even foresee a situation where there is virtually no cost involved for someone who has been a victim.

With regard to the support services and administrative arrangements, in other words, the domestic situation is such that there is a need for counselling and institutions, whether governmental or non-governmental. There is a need for trained persons in many categories: medical, social, psychology, counselling. Mention had been made of the role of religious persons in this regard, and what have you. The question is: What exactly has the Government done, or ought to do in terms of providing these kinds of support services? There is also mention of the setting up of a family court or, as Sen. Alexander said, a court where these matters can be channelled. I took it for granted that he was referring to a family court.

Mr. President, in 1987 soon after the Government came into office, it appointed a committee on Child Abuse and Integrated Delivery of Family Services. That committee has reported and a number of recommendations are now in the process of being implemented. One of them was, indeed, to set up a National Family Services and I have the honour to be the Minister responsible for that division. A director of the division was appointed in 1990 and the division has

Domestic Violence Bill
[HON. E. HOSEIN]

Tuesday, March 05, 1991

now begun the process of establishing its structure and recruiting staff. In this regard, Parliament this year, during the course of the budget, allocated \$1 million above the normal allocation for purposes of staffing that division. So Government is putting its money where its mouth is on the question of the family services division. The division has initiated action towards compilation and codification of all laws relating to children and the family.

Specifically in relation to the question of a family court, two attorneys have been employed with the assistance of UNICEF, in this instance, to look at the law with regard to the establishment of a family court. A draft report is due to be submitted in six months and Government will immediately address these recommendations in its usual way. The Law Commission and the Chief Parliamentary Counsel, one or the other, may be involved in drafting that Bill, after of course, seeking public support. I am pleased to know at this stage that certainly such a decision will have the support of hon. Members. I have not heard anyone say anything else except that we should do so and, of course, by coming to Parliament where, in the light of what was said today, I am sure we will get support, at least in this House. I am reminded that the establishment of some of these laws and a family court will, indeed, be living up to our obligations under the United Nations convention on the rights of the child for the decade of the 1990's.

Some of the services to be provided under this National Family Services Division include, of course, counselling and so much has been made of that question. For the information of hon. Members, 20 family case workers will be employed in 1991, largely out of that \$1 million to which I referred, and as a major part of the job they will be assigned to do some counselling. I believe it was Sen. Baksh who referred to the point that a proper structure is necessary for family services. I want to let her know that view is very much a view of the Government, and to express my appreciation to her for having recognized this point, first of all—I think she was the one who made that point very strongly—and to say that this is well recognized and that organization will be put in place, and the money is there. In addition, there is reason to believe that the people are out there. We know, for all sorts of reasons, that there are trained persons, many of them having returned from abroad, who are seeking jobs in that field.

In addition, Government, a few years ago, with the university, established at St. Augustine, a course in social work. Government will give 12 scholarships every year in this field. This has been done two years ago. The first class is already in and there has just been a second intake. Of a class of 25, 12 are on

Government scholarships. Prior to that, Trinidadians would have had to go to Mona, Jamaica, and that has its limits.

Mr. President, what is in place now in this regard, the National Family Services Co-ordinating Council which—and I think it is important to know—comprises persons of the public and private sectors, from voluntary organizations. They are strategically positioned to co-ordinate and harmonize on the national front, the special work that is necessary to, not only examine these issues from a philosophical point of view, but indeed, to go out there and have the work done. Many of these organizations in their programmes, support victims of abuse and violence and seek to sensitize and educate citizens, especially women and children, in terms of their self-worth and self-respect. There are already in place a number of county teams in Trinidad and Tobago. Again composition is important because some reference was made to the role of a number of categories of persons, mainly the police, health personnel and probation officers. These teams comprise members of the following Government agencies:

- (i) probation,
- (ii) social welfare,
- (iii) community development,
- (iv) community mental health,
- (v) medical social works department,
- (vi) school guidance,
- (vii) district health; and
- (viii) officers in the Ministry of Youth Affairs.

The National Family Services Division is now approaching Cabinet for support staff, as I mentioned before, and there is money in the estimates for that. In the provision of counselling, the medical social workers have worked quite closely with shelters for battered women because the question was asked: To what extent does Government contribute to the services provided by non-governmental organizations? I want to make this point very, very strongly, the medical social workers and social workers within the Government Service have worked, for example, with the shelters for battered women. The Halfway House in Gasparillo being one of these specifically that I can mention.

The intention of the division is to continue to work closely with all institutions which provide shelter and other support services for women and victims of abuse. Someone was seeking information on whether the Government had a policy of supporting non-governmental organizations. I can say, very quickly, yes, that is the Government's policy, and Government recognizes and has recognized, in so many words, in the *Medium Term Macro Planning Framework*, that the dollars spent via non-governmental organizations go further and are sometimes spent far more effectively than when it is spent through the agency of a Government department; that is well recognized. That is the Government's policy, and Government has supported non-governmental organizations, the list is to the extent of hundreds. I want hon. Members to know that. Many non-governmental organizations provide the kind of services we are talking about here and there are even new ones coming on stream; the Sai Krishna Children's Home, for example, which provides services to children; Disabled Peoples International that supply support services to disabled persons are some that have been recently added to that list. The subventions in 1991, to many of these organizations that in particular provide services to children have been increased. I do not have all the figures in front of me but I can refer hon. Members to the budget documents where they may see some of these listed.

5.40 p.m.

The point about providing some of these institutions as well—I want to inform this honourable House that the Government, as part of its expenditure for 1991 will also establish a number of probation hostels. Because when you have instances of domestic violence and there is a need to remove children from these situations, there is a need to establish probation hostels and over \$1 million has been provided for the establishment of a number of probation hostels throughout Trinidad. Senators from Tobago will be pleased to know that Tobago has been included as well. So that Government is doing its part on the administrative side—and I am addressing this to Sen. Moonan and one or two others who said that the Exchequer must contribute his share of the funds into such services—and we are putting our money as well to provide the support services, in terms of staff, in terms of organizations, in terms of support to non-governmental organizations and to probation hostels and to other institutions that provide services to battered women, children *etc.*

The Government at this stage of its legislative programme is focusing very much on social legislation. There was some talk about Government's motives in the matter and I am not talking about the remarks made by Sen. Spence about

Government's motives in this matter, except to say that anyone who can look back on Government's legislative programme from the time it came into office, will see that Government recognized that its primary, social responsibility to the people of Trinidad and Tobago was to save the economy of this country because we were heading for a social and economic disaster. It addressed those matters both in terms of its legislative programme and its policies. We can say thank God that our economy has bottomed-out and things are looking positive. I would not go into all the talk about the turnaround, but that was our primary social responsibility. Now we are beginning to address what we would call the social programmes/social legislation and this is one of them. I take this opportunity merely to mention in passing, that a number of Bills would be coming to this House and the other House very shortly in terms of protection for children and others. We have now begun to tackle seriously the social side of our legislative programme.

On the question of police powers. Some heavy weather has been made about the question of exactly what would be the role of the police. It has been said by Sen. Mahabir and one or two others that the police in domestic matters have adopted, not only here in Trinidad and Tobago but in most parts of the world, a bit of a hands-off attitude. There has been talk about the police going in and dragging off the head of a household. I do not want to repeat the points already made by Sen. Tiwary in response to that view, but I want to respond specifically to the point made by Sen. Alexander "that the police shall arrest." I do not think I need to remind Sen. Alexander that the Police Service Act, Chap. 15:01, section 35 referring to "General duties of police officers" says:

"All police officers shall—

- (b) apprehend and bring before Justices persons found committing any offence rendering them liable to arrest without warrant..."

Section 36 says what these powers to arrest without a warrant are. All the offences being referred to in this Act and in that Section refer to acts such as offences where the police can arrest without a warrant. The word "shall"—

Sen. Alexander: Why is it repeated?

Dr. Hosein: I think that is the point. The point is we really have it in there for emphasis. We want to make a point to the police officers; we want to remind them. I have my own doubts—I am not afraid to say, as to whether there was a need to repeat what is a standard provision in the law, but I think and I fall back on the

Domestic Violence Bill
[HON. E. HOSEIN]

Tuesday, March 05, 1991

point already made in this bill, it is to educate them as well. We want to send a message, not only to the society at large, but to our police officers that they shall do certain things in these circumstances.

The point has been made by so many here and we hope by including this provision which is not new—this is the point I want to make to Sen. Alexander that it is not new—and the word "shall" is there in the powers of the police. So it is there for emphasis and to make that point specifically, because there is special need to address the policemen and their attitudes in this matter. We hope that by this Act we can achieve this.

Sen. Furness-Smith: If the hon. Minister wants to make that point and he knows and we all know, that the old law from which he is reading is totally disregarded by the police every day of the week, would he entertain an amendment to this clause to make clear the point he is making, notwithstanding that the police fail to make an arrest without a warrant, 90 per cent of the time? In this case they will nevertheless obey the law so we would have a law and perhaps we should get into the habit of doing that.

Then as a final clause it should say:

"This law is intended to be a law, is intended to be obeyed."

Dr. Hosein: I do not know, but I am attempted to suspect that the hon. Senator is being a little facetious. I think we all concede that the nature of domestic matters are such that the police, separate and apart from dealing with other criminal matters, have shied away. Whether the specific inclusions here would achieve what we hope they would achieve remains to be seen.

The point I want to make is that, and I took him to mean, that he would have proposed an amendment to change "shall" to "may". [*Interruption*] I was quoting from Chap.15:01 "the police officer shall." The point about the word "shall", I would not support Sen. Alexander on that point. However, if the point is that the existing law is already there and it is very clear, why repeat it here? My response to that is, we repeat it here in the hope that when we begin the process of educating the police officers, the society at large and our magistrates—a lot has been said about the police officers, magistrates, even victims and others out there about the provisions of this Act—we want to have an Act which when we go to all these people, everything that is relevant is contained within the Act and we do not have

to say: "Well, you know the police can in fact do that." It would be all there in one document.

Sen. Mark: Thank you Dr. Hosein. In addition to what you have said, when I was making my presentation, I was seeking to get some clarification in terms of sanction. If the police in this instance fails to arrest the person in question, which would be the aggressor, what would be the sanctions and what is the penalty? I think Sen. Alexander raised that point. I would like to get some clarification on that.

Sen. Horne: I just want to make a point. The police have certain experiences. So often, women have gone to the police station, reported very briefly and in a straightforward manner that they have been abused or whatever and that there is domestic violence in the home. They have been subjected to that. The police take up the case and when it is called, the woman is not there, she has gone back to the house and she has made up. The police have therefore wasted their time and they look stupid. So it is not the police just not wanting to make arrests, they have certain experiences.

5.50 p.m.

Dr. Hosein: Let me take the point raised by Sen. Horne first. Yes, that is true and maybe that is why the police are shy in these matters. I do not think there is anything which we can do in this House, which will necessarily change that situation. What we can do, is say to the police that they have an obligation to go in there and take certain action, rather than let past experience make them not deal with the situation which is in front of their eyes now, where someone is being the victim of serious crimes. We want to tell them; "Yes, you shall go in there and take the action which you are entitled to take under the law".

I want to address a point made by Sen. Alexander, about whether we are overburdening the magistracy with one more thing which they now have to deal with. I do not think that we must stop making laws because those who must administer them, will have additional burden. I do not think we can necessarily take that view. I am not accusing the Member of saying that, I am making the point. The point is, however, that when we do all those things which are necessary to elevate the status of women, maybe we will have less of other things that are also a burden on magistrates. Maybe we will have less murder cases to try; maybe we will have less grievous bodily harm to try. So it is like doctors who talk about preventative measures. Because it has been rightfully identified that this bill

provides a tool, that it is a preventative measure and I am grateful to Sen. Sampath for that point. It takes in front. If you prevent the negative effects of diabetes, you do not have to cut off so many legs and then provide artificial limbs and have people spend months in hospital and what have you. I know that Sen. Sampath would be the one, of course, to have made that point and I am grateful to him.

Hon. Senator: He speaks like a professor of socio-legal jurisprudence.

Dr. Hosein: And other things.

The point is, therefore, that what we are providing today, is a tool which is a preventative measure. I suggest to Sen. Alexander that what may appear to be a burden today, when this Act plays out itself in the society, we may well see—hopefully, because we will have to watch it and see how it works—that it will lead to positive results on that very score, on the burden in front of magistrates today.

Sen. Alexander: My point about the magistrate's court, is that this legislation needs speed and if you do not have the magistrates in place, it would be ineffective. That is the point which I am making.

Dr. Hosein: I had started making the point about the need—already mentioned by hon. Members—to alert magistrates to how they must respond to persons who come before them seeking the protection order. I hope Sen. Alexander will agree with me, as he may know the magistrates better than I do. I am told that the Ministry, I should inform the House—is putting in place the process whereby magistrates, working through the appropriate channels, of course: the Chief Justice; the Chief Magistrate and what have you, to educate—if that is the right word—sensitize, alert magistrates to the provisions of the Act and discuss with them how these situations must be dealt with by them, to ensure the very speed to which Sen. Alexander has referred. Yes, there is an obvious requirement for speed. The bill is of little value unless it is there and I hope that he will agree with me that we can get our magistrates to respond appropriately.

The point which he made about *in camera*, is one which I will confess to him that I attempted to anticipate him. I must apologize. I had anticipated that there may have been some objection to a proposal which we intended to make from this side to, in fact, have it *in camera*. My understanding is however, that when the Sexual Offences Bill came to this House some years ago, the *in camera* provision, except in the instances of offences against children, was opposed. I was not sure that proposal will find favour with hon. Members. I am therefore, deeply grateful

to Sen. Alexander for having made that suggestion and I assure him that it is one which we will accept at the committee stage. *[Interruption]*

We are talking about the procedure in the magistrate's court. My own problem—and it is a practical one—is how happy the magistrates will be to have to clear the court every time somebody comes there. It may be a little inconvenient, but I believe those are the kinds of things which one can resolve by discussing with the magistrates and by the kind of sensitization process.

Another point which I want to raise is one of principle. Sen. Furness-Smith has served notice of a number of amendments, most of which will have the effect of limiting the categories of persons who will be entitled to seek protection orders. It runs through as a theme, through many of his proposed amendments. I remind Sen. Furness-Smith and indeed, all hon. Members, that we have a particular kind of society. We have a situation in which many, many persons in need of protection do not have the kind of legalistic—I may be using the wrong phrases here, to satisfy the lawyers, but I hope he will appreciate what I am trying to say—the established connections; because we have a marriage certificate; because someone is your legal child in the way we talk about that; because there are so many instances of *de facto* spouses who now have children and those children, quite often, are staying with a grandmother and the father goes to the grandmother's house and does all sorts of things. Grandma has no status in law at the moment, to seek a protection order for a child who is in her care. The father comes and does all sorts of things—I need not go into what those things are—and there is a need to recognize, not only that this is a problem, but the extent of the problem.

Sen. Furness-Smith: I do not think any of my amendments would attack that situation. On the contrary, I think you will find that they improve that situation, because as far as children go, I am entirely in favour of all these provisions.

Dr. Hosein: Now that I am assured by Sen. Furness-Smith that that is, in fact, his view, I think at the committee stage we will be able to sort out exactly what will be the effect of the amendments as he has proposed them. I am pleased to know that that is his view, because we must recognize that what pertains in the majority of developed societies in terms of these relationships, is not what is the reality in Trinidad and Tobago, and indeed most West Indian societies. I believe at this stage, I have covered most of the points of principle.

6.00 p.m.

The last point about the burden on the magistrates: I do not wish to pretend to be able to talk about all the difficulties faced by magistrates. Many of them are administrative and have to do with the physical circumstances within which they work. I believe that the Mechanical Recording (Amdt.) Bill will apply to them and make their job easier.

The Government is proceeding with plans to repair magistrate's courts. I believe the hon. Attorney General has in this House as well as in the other place, spoken about some of the things that are being done within the justice system to improve conditions for our magistrates. The procedures to be followed which are proposed in this bill and as mentioned in some of the amendments, which I will move at the committee stage, have specifically been drafted that way, to ensure as much as it is possible, that the burden on the magistrates will be the least and that the administrative difficulties and the cost will be minimal.

Sen. Horne: The seven-day period, that is not realistic. It takes sometimes three months to get this warrant going if you are getting help from the law. The word is "expeditiously" that you want this thing done and I am not seeing it at all in spite of all that you are saying.

Dr. Hosein: I am informed that the procedures for serving of documents in criminal matters are well prescribed. The way it is written here, it allows—the term that has been used, is "self-remedy"—one to make arrangements to serve papers oneself. That too, is included here and maybe those who practise in the courts will appreciate the point I am making here, that the process of serving, as would be required in this bill, would allow the speedier serving of documents, than in criminal matters where it has been traditionally lengthy, and permits for self-remedy so that one could make arrangements to have these things done oneself.

In addition, the question of jurisdiction of magistrates, I had cause to point out to Sen. Alexander, that I will be moving an amendment which I hope takes care of the point he was making about clarifying this situation about jurisdiction. Specifically, clause 8 will be amended to say:

"Except as otherwise provided by this Act the Summary Courts Act applies *mutatis mutandis* in respect of proceedings on an application."

I know he is very much aware of the procedure under the Summary Courts Act. That does mean that one will have to seek an order in the jurisdiction in which the

respondent resides. The consequences of not doing it that way, the problems of doing the reverse, I am sure he would appreciate. We have chosen to go this way as being the easiest in the end. Yes, there are problems but if we were to do otherwise you would get another set of problems, one of which will be the question of speed and some degree of potential confusion.

We have taken this approach to the matter and we hope that all hon. Members will agree, not that there are not difficulties attached to taking this line, but that it is the best way to proceed under the circumstances to achieve the overall objectives of the bill. I hope that what I have said has relieved the minds of most, if not all, hon. Senators.

Sen. Spence: I just want to take us back to the point that Sen. Alexander made which I thought was a rather subtle one and to draw attention to the second paragraph in which he says:

"The object of the bill is to strike a right balance between the need to preserve an existing marital or other spousal or parental relationship on the one hand and the need to protect these persons from exposure to violence on the other."

I think Sen. Alexander's suggestion that in effect the party involved could give an assurance or put himself on a bond if he likes was one that would move us in the direction of trying to preserve the marriage.

You notice, this is something the hon. Minister seems to reject. It was not quite clear to me why this suggestion was rejected because, in fact, the punishment is the same. So there is a message of punishment. It seems to me a rather subtle way of, if you like, helping the guilty party to save face. It may just be that but this is more likely to heal the relationship.

Dr. Hosein: Yes, we have agreed to accept the suggestion that the magistrate should have powers to direct one or both parties to go for counselling. Whether we would achieve the objective of preserving the relationship or doing as much as we can to maintain it, will be achieved by the concept of what I referred to as a lesser creature, in effect a bond of sorts, as opposed to the issuance of an order. I do not think that is what is going to achieve that. I would sooner accept the point that instructing or issuing an order that they seek counselling would achieve that better.

I think the need to make the point that there are consequences, while accepting what would provide for the counselling and the preserving of the relationship, is about the best balance we can achieve under the circumstances.

Sen. Alexander: I would think the undertaking is as good as the order. It is only that the order would appear to be punitive while the undertaking is not. That is the difference.

Dr. Hosein: I think we can contemplate this matter a little further. I am not at this stage necessarily convinced but I think we can look at that and I want at this stage, to let hon. Senators know, that the Leader of Government Business will be adjourning when I conclude my contribution so that we would have some time, before we come to committee stage to look at the drafting of some of these amendments that we have accepted in principle.

I do not know if my time is up, and I do not want to take too much longer except to end in the way I began, that today we are beginning a process by saying we should elevate the status of women and the disadvantaged in our society. That is what it is really all about and we are on a specific measure of slamming the door shut on the use of violence against 51 per cent of our citizens and others. Women make up 51 per cent—the disabled, the children, it goes into nearly 70 per cent. We must make a strong statement.

Sen. Horne: The bill deals specifically with the protection on business that the cause of this protection business. It does not deal with that at all. That is for another court. The fact that she got bruised and bounced—not this bill, she must go to the High Court.

Dr. Hosein: As I said earlier, this bill does not seek to do everything. Sen. Alexander, I believe, was the one who went further and suggested that the magistrate, on the same occasion, should deal with maintenance orders and he asked what has happened to the Attachment of Earnings Bill. Why has it not been proclaimed? I am informed, I do not know all the details. I am sorry to say that there have been administrative difficulties that are being pointed out by the magistrates themselves, but they are being addressed. But that Act, itself, is one of the building blocks because it prevents the inferior economic position of women within the domestic situation.

6.10 p.m.

So the point I am making is that what is before us has a limited intention, yes. I agree it does not attempt to deal with all the causes. But while we could discuss all the causes the bill before us cannot deal with all the causes. But we have to put together a whole gamut of measures, this being one. So I repeat the point: We are setting off on a journey to achieve certain things within our society. There is more to come. I wish to assure this honourable House of that.

I want at this stage in closing specifically to seek the support of all hon. Senators—I know I have it—on the intention of the bill. I hope that at the committee stage we will be able to sort out any further points of principle or specifics in the drafting that we may have. I commend the bill to all hon. Senators and I move that the bill be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

BUSINESS OF THE SENATE

Sen. Alloy Lequay: Mr. President, with your kind permission, let me just indicate the procedure we intend to adopt for the remaining stages of the bill. Notwithstanding the passionate plea by Sen. Spence for a select committee, at the tea break behind the President's Chair, there was some sort of consensus taken, and what we will attempt to do is to collate all the amendments which have been circulated and recirculate them as one document to Members, so that they will have a global picture of the amendments before them for the next sitting. We should then have an orderly passage through the committee stage.

Let me further state, Mr. President, for the information of hon.e Senators and so that they will prepare themselves, that the Finance (Variation of Appropriation) Bill which must be passed before the end of April as is usual, is likely to come before us later this month. As is customary, it is a money bill which does not give us more than the five-day period. In fact, it is one of those bills which very often we try to take through all its stages at the same sitting. So I am merely giving advance notice on that particular bill.

With those remarks, Mr. President, I beg to move that the House do now adjourn to Tuesday, March 12, 1991 at 1.30 p.m.

Mr. President: Before putting the question, I just want Senators to know that I allowed Sen. Hosein his 15 minutes extension. I think I had that discretion as President, anticipating the support. That would have been finished at 6.10 p.m. If he was going beyond that, I would have had to get the support of the Senate to suspend the Standing Order dealing with that time. But seeing that most of the last 7 minutes was taken up in almost committee stage fashion, I think that everybody agreed that he did not exceed his time.

I hope there will be a meeting of the legal minds before next week so that the committee stage will not be unnecessarily prolonged.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.15 p.m.