

SENATE*Tuesday, June 15, 1999*

The Senate met at 12.43 p.m.

PRAYERS[MR. VICE-PRESIDENT *in the Chair*]**APOLOGY FOR UNAVOIDABLE LATE START**

Mr. Vice-President: Hon. Senators, before we start, let me first apologize for my inability to convene the Senate this morning. I just want to let you know that it was wholly unavoidable and I hope we can make up some of the time this afternoon.

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, with the absence from the country of President Arthur N.R Robinson, President of the Senate, Sen. The Hon. Ganace Ramdial acts in that capacity and I have been advised that His Excellency the President has appointed Sen. Kelvin Ramnath, a temporary senator with effect from June 15, 1999 and continuing during the absence from the Senate of Sen. The Hon. Ganace Ramdial, President of the Senate. I have also granted leave of absence from today's sitting to Sen. Danny Montano.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have in my hand the instrument from the office of the President of the Republic of Trinidad and Tobago which reads as follows:

"TO: MR. KELVIN RAMNATH

WHEREAS the President of the Senate has temporarily vacated his Office of Senator to act as President of the Republic of Trinidad and Tobago:

AND WHEREAS the Vice-President of the Senate is acting President of the Senate:

NOW, THEREFORE, I, GANACE RAMDIAL Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KELVIN RAMNATH, to be temporarily a member of the Senate, with immediate effect and continuing during the period that Senator Ganace Ramdial has temporarily vacated his Office as Senator.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of June, 1999."

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OATH OF ALLEGIANCE

Sen. Kelvin Ramnath took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Blind Welfare Association for the year ended December 31, 1985. [*The Minister of Finance (Sen. The Hon. Brian Kuei Tung)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Blind Welfare Association for the year ended December 31, 1986. [*Hon. B. Kuei Tung*]
3. First Report of the Auditor General of the Republic of Trinidad and Tobago on the non-receipt of financial statements of the Board of Industrial Training of Trinidad and Tobago for the years ended December 31, 1995, 1996, 1997 and 1998. [*Hon. B. Kuei Tung*]
4. First Report of the Auditor General of the Republic of Trinidad and Tobago on the non-receipt of Financial Statements of the Sport and Culture Fund for the years ended December 31, 1995, 1996, 1997 and 1998. [*Hon. B. Kuei Tung*]

12.50 p.m.

HORTICULTURAL SOCIETY (INC'N.) BILL

Select Committee Report

Presentation

The Parliamentary Secretary in the Ministry of Housing & Settlements (Sen. Carol Cuffy Dowlat): Mr. Vice-President, I have the honour to present the report of the Special Select Committee appointed to consider and report on a Bill to provide for the incorporation of the Horticultural Society of Trinidad and Tobago and for matters incidental thereto.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, it is not Private Members' Day, however, I seek leave to deal with Motion No. 3 under "Private Business" on the Supplemental Order Paper and "Bills Second Reading" before Motion under "Government Business."

Agreed to.

HORTICULTURAL SOCIETY (INC'N.) BILL**Select Committee Report
Adoption**

The Parliamentary Secretary in the Ministry of Housing & Settlements (Sen. Carol Cuffy Dowlat): Mr. Vice President, I beg to move the following Motion standing in my name:

Be it resolved that the Senate adopt the Report of the Special Select Committee appointed to consider and report on a Private Bill for the incorporation of the Horticultural Society of Trinidad and Tobago and for matters incidental thereto.

Mr. Vice-President, at a sitting of the Senate held on Tuesday, January 26, 1999, Sen. Prof. John Spence presented a petition on behalf of the Horticultural Society of Trinidad and Tobago of Lady Chancellor Road, St. Clair, Port of Spain, herein referred to as the promoters, seeking leave of the Senate to proceed with the introduction of a Private Bill for the incorporation of the organization.

Leave was granted and the promoters lodged with the Clerk of the Senate the undermentioned documents within the three months stipulated period, thereby satisfying the requirements of Standing Order 76(5)(a), (b) and (c) of the Senate.

- (i) two copies of their Bill;
- (ii) certificate No. A—038683 dated December 9, 1998 from the Comptroller of Accounts certifying that the sum of \$1,000.00 to cover the printing and miscellaneous charges, had been paid to the Comptroller of Accounts; and
- (iii) a bond duly executed and signed by Richard A.I. Brathwaite, President, and Myrle M. Romain, Secretary, obliging them to pay on demand to the Clerk any excess of the deposited sum.

Notices were published in the *Trinidad and Tobago Gazette* and the *Trinidad Guardian* newspaper on February 25, and March 04 and 11, 1999 informing the public of the intended introduction of a Private Bill for the incorporation of the Horticultural Society of Trinidad and Tobago. No objections to the Bill were received.

As a consequence, a Bill entitled the Horticultural Society of Trinidad and Tobago (Inc'n.) Bill, 1999 was introduced and read a first time in the Senate on Tuesday, March 23, 1999.

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At a sitting of the Senate held on Tuesday, April 6, 1999, the Bill referred to was read a second time and in accordance with the provisions of Standing Order 76(8) of the Senate, the hon. Ganace Ramdial, President, appointed a Special Select Committee comprising the following Senators:

Mrs. Carol Cuffy Dowlat	-	Chairman
Mr. Andrew Gabriel	-	Member
Mr. Muhummad Shabazz	-	Member
Rev. Daniel Teelucksingh	-	Member

The terms of reference of the Special Select Committee were to consider and report on a Bill to provide for the incorporation of the Horticultural Society of Trinidad and Tobago and for matters incidental thereto. Mr. Neil Jaggassar, Parliamentary Clerk II, served as Secretary to the committee.

The committee held one meeting on Tuesday, June 8, 1999 and at that meeting, oral evidence was taken from the following persons representing the promoters:

Dr. Richard A.I. Brathwaite	-	President
Ms. Myrle M. Romain	-	Secretary
Ms. Shirley Mc Alpin	-	Past President
Mr. Egbert Awai	-	Member of Management-Committee

During its deliberations, apart from taking oral evidence from the promoters, the committee examined the following documents submitted by them:

- (a) The revised rules of the Horticultural Society of Trinidad and Tobago;
- (b) Audited financial statements for the years 1994, 1995, 1996, 1997 and 1998;
- (c) Register of membership; and
- (d) Minutes of the Management Committee for the period August, 1998 to January, 1999.

The committee made a careful examination of the clauses and preamble of the Bill and having regard to all the evidence, the committee is satisfied that the facts and allegations presented in the Bill are true and correct.

The committee wishes to report that it has completed its deliberations and has found sufficient proof in support of the incorporation of this organization by Act of Parliament. The committee therefore recommends that this Bill be accepted by the Senate, subject to the amendments listed in the appendix.

- Clause 3.
- A. In line 2 of subclause (b), delete the word “organization” and substitute the word “organizations”.
 - B. In line 2 of subclause (e), delete the word “objects” and substitute the word “objectives”.

Mr. Vice-President, this is the extent of the proposed amendments to this Bill. I beg to move.

Seconded by Sen. Rev. Daniel Teelucksingh.

Question proposed.

Question put and agreed to.

Report adopted.

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

Bill accordingly read the third time and passed.

DOMESTIC VIOLENCE BILL

[Fourth Day]

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

That the Bill be now read a second time.

Question again proposed.

Sen. Nathaniel Moore: Mr. Vice-President, I thank you for the opportunity to continue where I left off the last day when we were speaking on this important topic of domestic violence.

In breaking the trend, I would like to mention a case of violence and I do not know if you would term it domestic violence. I think it is to some extent, but I am referring to some ideas conveyed in the *Newsday* of Friday, June 11, 1999, an editorial statement headlined “Hochoy's fantasy”. Why it is important, is that it has done great violence, not only to Mr. Hochoy Charles, but Tobago in general

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and there is one particular paragraph which is a stinging statement that I want to mention and I read with your permission, Sir:

“If what they say is true, Hochoy has stepped from the comic stage into the role of a serious pretender by replacing the portraits of President Arthur N. R. Robinson and Prime Minister Panday with photographs of himself in many public offices. That gesture must be significant, sending a subtle message to Tobagonians and revealing what office the Chief Secretary may eventually have in mind for himself.”

This is just one paragraph in about 10, of material of the same type and I am saying this was drawn to my attention on Friday and I—

Sen. Mohammed: Mr. Vice-President, I think this is irrelevant to the Senator’s contribution to this debate on Domestic Violence.

Mr. Vice-President: I would allow the Senator to continue a while longer. I trust he would make the connection very shortly.

Sen. N. Moore: Thank you, Mr. Vice-President. What I said before is that we in Tobago consider as a part of the country, the affairs dealing with Tobago as a domestic matter and that is why I brought it under domestic violence. *[Laughter]* Mr. President, I thought this was really violent. I would be very brief.

What I am saying about this whole story which people may want to read, is that this particular paragraph is quite untrue and this is why I said a great deal of violence was done to the Chief Secretary.

When I received the report I quickly ran into as many offices as I could in the region of Scarborough and I spoke with the people. Yesterday, I made several telephone calls to the schools and other places and there was no indication of pictures of the President taken down. No violence to the President, or the Prime Minister. I think it was a minus on the part of the newspaper to print such an untruth.

Mr. Vice-President: Having had the benefit of Sen. Moore’s sayings, I think that the relevance to the Bill before us is highly questionable, therefore, I would invite you to focus your attention on domestic violence as it relates to the Bill.

Sen. N. Moore: Mr. Vice-President, I accept your ruling. The main points from last Tuesday on the Domestic Violence Bill, if you would permit me to recap briefly before I take the trend.

1.05 p.m.

What I was saying mainly, after commending the Government for bringing this Bill, was that we consider rape and incest as very, very grave forms of violence, in my view, as grave as murder, and so deserving as serious a punishment as murder.

I chose to summarize under four main headings some of the causes of domestic violence and some of the ills which lead up to domestic violence. I spoke about imperfect or poor parenting. I said too many people embark upon parenthood too early and without adequate preparation. Many young children who are just biologically prepared have gone into parenthood without serious thought and serious planning and, as such, could not carry out proper training of children to give them the guidance they need to live a full and useful life, and such people are very vulnerable to the influences in the society which might lead to domestic violence.

The other point was poor or wrong examples and I emphasized the power of example as a method of training; that parents and teachers train their children best by example. I do not think we can contradict this main statement.

In the third point which I dealt with, of infidelity, the idea of example with this point of infidelity, tied very closely to each other in that some of the adults in the society are unfaithful to their vows. We live here in a very religious society in which people have a firm background in their religious teachings and this has coloured our way of living, and although people might find excuses which I should mention a little later in some of the religious teachings, yet we find that too many people do not follow the teachings they are given and they stray, much to the hurt of the community. So, when adults who are married break their vows and have extramarital relationships, they are sending a wrong signal and, this too, is directly sometimes, the cause of violence.

I remember reading statements like, "If I cannot get you, nobody else will get you", and so it is the cutlass, or the gun, or a dose of lethal poison, or something of the sort. So, unfaithfulness to the marriage vows is one of the big problems that lead indirectly and directly to domestic violence.

The fourth point I mention is that of religious fanaticism. I hope that people with very tender minds and with a soft spot for their religious backgrounds and so forth would pardon me for being very frank about this. Because, although religious training has helped to guide and nurture us and to instill in us good

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moral values, yet sometimes people misinterpret their biblical and other sacred injunctions and so make some claims which could cause problems eventually.

For example, a friend of mine always was insisting to his wife that he was the boss at home. He would often quote the *Bible*, because the *Bible* said that the man is the head of the woman, and perhaps people do not think about the other part of it, “as Christ is the head of the Church”. As far as we know, Christ did not violate the church as such; he was trying to nurture it and build it up. Men, very often, would take that example that they would be the head in this particular way.

We often think that being the head is in a case as we are here today. As we say, we are all Senators in this Chamber, but one Senator is leading and directing the discussions to see that we have things go in an orderly fashion. So, the head of the home can consider that his role is something of the sort and not really a big stick to put over everybody’s head, or a yoke on everybody’s neck to guide them where he wants and feel happy that this is the way that headship operates.

I was reading another bit of scripture where it said—and it is not the *Bible* this time—that the man is a little above the woman. I am paraphrasing it, but that is the essence of it, that the man is a little above the woman. The point is that we see from scriptures, I might say, that man considers that he was made by God to be above woman and, so, some men take this idea that it is their position to be the head and they would lead in certain ways.

Now, in this age when women are finding their footing in what we call equality and they are advocating to a great extent, this actual movement will confront men who look at this biblical foundation as a threat. It could develop friction in the home where the women are claiming equality and the men are claiming superiority.

As I said before, and I do not think I need to belabour the point, although this has caused some problem, it need not, because we have learnt in all society that there must be somebody who leads out and he is not necessarily the boss. In fact, I think the chairman of any meeting is less the boss than anybody sitting there because, very often, he cannot even vote and the members of the committee can vote with the chairman conducting matters.

So that I think it is mere religious fanaticism for men to claim that God made them superior to women and, therefore, they must lord it over women in a way to be violent to women and violent to the family. So, going in the right path beyond the boundaries of the path could cause as many problems, or almost as many problems, as going on the wrong path.

We have these four areas which I mention again: imperfect or poor parenting, poor or wrong example, infidelity and religious fanaticism, as some of the problems we face in society which could lead up to domestic violence. The very opposite of these are desirable traits which people could follow.

Now, as we look to the Bill, the Bill does not propose to solve the problems and to erase domestic violence in the society. If I read to you excerpts from the Explanatory Note, it says:

- “- providing harsher penalties; and
- giving the police greater powers...”

Lower down it says to bring our law in step with the “international standards”, and lower down I read:

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

I think the point was made here by the Attorney General and others that the Bill was not intended to erase domestic violence as such, but it was one of those efforts which will be put into society to help stem the tide of domestic violence with a view to reversing it in the future. Like anything else, the law which points out wrong is there to assist other agencies in the society, and that is why other speakers before me might have mentioned the role of the churches, the schools on education, community groups, some youth groups included and, above all, the family.

We find the increase in domestic violence is moving along with the decrease in effectiveness of the family, that is to say, the weaker the family becomes, the more problems we face with domestic violence. Therefore it is a case for strengthening the family, for educating the family and for directing the family, so that the early years of children within a family would be in the direction of love, harmony, co-operation, and all the better traits which will move the members of the family to a higher level of social existence. Anything which threatens the family, would threaten the nation and open the floodgates to crime and violence.

It is a call for the renewal of family values. I think we were reminded here that the family which prays together, stays together; and I have learnt also from my personal experience that the family which plays together, stays together. The point is, there must be this closeness in the family where people learn to interact with one another in the family in a way that would be beneficial to all.

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The modern trend in which parents are leaving their children, going to work early; perhaps leaving children to fend for themselves to go to school and when they come back home tired, too burdened to see after the children and perhaps leave them at the mercy of the television to be kept at home or to be kept quiet, is not a good practice and is not doing well for the family and for the well-being of the family.

So, it is a call for all these groups I mentioned in the society to put their heads together. We know that the various ministries which have influence in these groups in these areas are doing their best because, as far as I know, I do not know anything that happened in the past, at government level, that this Government is not doing to enhance family life, to enhance the harmony in the society and to fight against crime.

I often wonder why some people very often want to blame the Government saying that crime is increasing since this Government took office. I can tell you that it was the same with the last government, the government before it and the government previous to that. It is what we know as some of the signs of the last times, when people are actually going to get more and more violent because men are getting more and more permissive, and government will have to fight against this trend to see how it can stall the ill effects and promote greater growth of the society.

Mr. Vice-President, I am happy to have had the opportunity to make a brief input to this discussion and I hope that the contribution has served to help in what the Bill is also serving to assist in, and that is to reduce and, eventually, to eliminate domestic violence in our society so that we come nearer and nearer to the society we are dreaming up, in which we would like to live and bring up our children for the future well-being of our nation.

Thank you, Mr. Vice-President.

1.20 p.m.

Sen. Andrew Gabriel: Thank you, Mr. Vice-President. It is indeed quite a privilege to be given the opportunity to participate in the debate on the Domestic Violence Bill, 1999; a Bill which deals with some very serious issues. In view of how much has been said by the speakers before me, my comments would be quite brief.

Firstly, as someone who has far less experience of the subject of domestic violence than say Sen. Mahabir-Wyatt, but who is not completely ignorant on the

subject, and like the rest of the people in this country, I am frequently appalled by the atrocities sometimes committed in the homes of this country, I find this Bill—as far as the drafting and layout—to be very easy to understand and very user-friendly. I could see this Bill being a tool to the police officers and victims of domestic violence, in their understanding of what the processes are.

Secondly, I would just like to read from the Explanatory Note as to the Bill's intent. The Explanatory Note states:

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

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

Mr. Vice-President, I see the Bill laying out, in law, what it is intended to do. But being a layman on the subject, one could see the human effect that this Bill could have on the victim's life in the immediate short term and medium term, once a victim seeks protection under this Bill.

Mr. Vice-President, some of the real effects I see this Bill having are: providing immediate physical protection, where and when necessary, to a victim of domestic violence—protection by the people best qualified to give it: the police force of Trinidad and Tobago, as we see in clause 23.

I also see this Bill providing a measure of physical, emotional and financial protection. One can see the range of broad powers given to the court under the protection order which is in clause 6. Some of the orders that the court could make in favour of a victim are:

- “(ii) pay compensation for monetary loss incurred by an applicant as a direct result of conduct that amounted to domestic violence;
- (iii) pay interim monetary relief to the applicant for the benefit of the applicant and any child, where there is no existing order relating to maintenance...”

The court could also order that mortgage payments continue to be made on the property and so forth. The range and power of the court is quite broad.

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Perhaps most importantly, one of the best real effects that this Bill could have, however rarely it may occur, is that it could or may improve the relationship of the parties concerned through the court-appointed counselling—which I am sure, in a large number of the cases, it will be the first time where counselling is given. Mr. Vice-President, one could say that this Bill may even protect marriages and families in the odd instance.

Mr. Vice-President, I would like to focus on clause 23 for a moment. Throughout the debate, I have heard concerns expressed by speakers on the other side of the Senate as to the powers of entry and arrest given to the police officers by this Bill. I think the concerns fall into two categories. The categories are: what could be abuses by the police force as it relates to clause 23; and poor judgment exercised by the police as it relates to clause 23. These concerns expressed caused me to have some questions of my own. The question, principally, was whether our concerns, as a legislature, were great enough to stop us from passing unto our police force or the Commissioner of Police, this type of responsibility—a responsibility that the police officers obviously need for the specific purpose of saving life, limb and injuries to victims of domestic violence. If they stopped us from doing this, I would consider that a tragedy of the highest order. Here, I am thinking principally about the victims.

Mr. Vice-President, I would like to state quite categorically that I trust the Commissioner of Police and the police force and I am comfortable with the Police Commissioner's direct involvement in this Bill with regard to his keeping a register as was mentioned in the Bill, and the immediate reports that the officers would have to file directly with him if they exercised the power of entry and arrest without a warrant. Principally, most of the concerns could be allayed once training of the police officers is put in place. I think most of those concerns could be dealt with.

Before I close I would like to urge all Members to consider two questions, firstly, does this Bill leave victims of domestic violence in a better position than where they are now? I think the answer to that is an unreserved, yes. I think our job as lawmakers is to improve the lot and improve the quality of life of our fellow citizens. I think this particular Bill makes our job very easy.

Secondly, are the concerns over clause 23 greater than the possibilities that this Bill holds for even the saving of a single life of a mother; the saving of a single life of a child; or the sanctuary or temporary sanctuary a protection order could give a victim of domestic violence?

Mr. Vice-President, certainly in my consideration I do not think the concerns are greater than the possibilities that this Bill holds. As in all decisions, we have concerns about risks, and concerns about correct evaluations and so forth. I think in this instance we must look at the possibilities and rewards that could accrue to the people caught in this violent cycle of abuse.

I would like to urge all Senators to let us try to keep our eyes on what the possibilities and what the rewards could be once this Bill is put in place. Thank you very much, Mr. Vice-President.

1.30 p.m.

Sen. Mahadeo Jagmohan: Thank you very much, Mr. Vice-President, for the opportunity to participate in the Bill before the Senate. Just before I proceed to make a few points, Sir, with your kind permission and the indulgence of the Senate I want to observe the structure of this Parliament. Government Senators, among them Ministers and Members of the Cabinet and parliamentary secretaries, members of the Opposition party or the government-in-waiting, and Independent Senators, we all have broad guidelines along which to make our contributions.

Two Independent Senators made very valuable contributions recently. I refer to Sen. Diana Mahabir-Wyatt and Sen. Rev. Daniel Teelucksingh. They spoke their minds as Independents. They expressed their views. If they cannot do that then they are not worthy as Independent Senators. They expressed their views very eloquently, much to the appreciation of independent thinkers in Trinidad and Tobago and they were taken to task. Our good friend, the Minister opposite, Minister of National Security, chided them and called upon them to apologize or withdraw or whatever, and I—[*Interruption*]

Mr. Vice-President: I would prefer if relevance and the general adjudication of the processes in Parliament be left to the Chair. Therefore, I would invite you to address the issues that the Bill deals with and leave the comments on how Parliament is organized and allowed to proceed to the Chair.

Sen. M. Jagmohan: Mr. Vice-President, I have absolutely no difficulty in obeying your direction, but the point I was merely making, Sir, is that Independent Senators are in order to speak their minds.

Mr. Vice-President, the Bill before us is an important one and whichever government brought this Bill would have been within their right. I wish to state that, to our minds, the most important clause or aspect of this Bill is the section

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that advocates the right of the police to enter premises where they are satisfied or suspicious, perhaps, that a violent kind of abuse is taking place or is likely to take place and a life could be lost or there could be damage done to human beings and so forth. I would address that in a different way as we go along.

However, on the first page of the Preamble, about the third paragraph down it says:

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

This really sounds good. I appreciate reading this, but as we go along we will see that there would be some difficulty. You see, Mr. Vice-President, in my humble view domestic violence is encouraged or is escalating in this country because of a very serious gender imbalance which is being taken advantage of by the male members of society to a great extent—not totally but to a great extent.

What do I mean by this? The imbalance is the ratio of men to women. There are many more women in the society than there are men and a number of men take advantage of that. How do they do this? It is not difficult for them to abuse and kick out a cohabitant, a mistress, a common-law wife or a wife and procure or seek or get another one because of the number of women in the society. This does not sound good, I am conscious of that, but the point has to be made and put on record so that the whole of Trinidad and Tobago will understand how some people think.

Then there is another aspect of it. Trinidad and Tobago is a small place where everybody knows everyone else and, as a result of that, people have grown so accustomed with one another that perhaps they lose interest in one another. For example, if a young man marries the girl next door, great chances exist that that marriage will have turbulence. What kind of turbulence? The smallest amount of argument, discussion or debate, the female partner will quickly walk over to the parents' home to get advice or report the incident and friction starts.

I need your kind permission, Sir, to quote from a book before me. It is entitled *The Light of Truth*. This translation was done by Dr. Chiranjiva Bharadwaja from Sanskrit to English and I am reading from page 83 a small amount, Sir:

“It is a fact that ‘we do not love or value a thing, that we are familiar with, so much as one that is hidden from our view.’ For instance, if a person has heard a great deal about the sweetness of sugar, but never tasted it, his mind is

taken up with the desire of tasting it. Or when we hear a person, who is not known to us, highly extolled for his excellent qualities, it makes us very eager to make his acquaintance. For the same reason, a man should marry a girl, who comes from a distant place or country and is not a near relative either on his mother's or father's side.

The advantages and disadvantages of distant and near marriages respectively are:

(1). Any two persons who have, in their childhood, lived near each other, played and quarrelled together, loved one another, noticed each others faults, imperfections, ebullitions of temper and misbehaviours, and perhaps sometimes, even each other undressed, if married to each other, can never love each other to the extent desired.”

This could be questioned but this is a Hindu view, Sir, and I merely thought I should share it with the Senate this afternoon. These were put together by some of the greatest minds who lived hundreds of years ago. I merely wish to state, Sir, that this could be one of the reasons for the escalating extent of domestic violence in our society; we know the person very well and we know how to capitalize on the weakness of the lady and, in some cases, the gentleman as well, and we proceed to take advantage of this.

Sir, I made the point, perhaps I can strengthen it. Many people in this country do their family planning excellently and we respect that and we will continue to respect that. However, it turns out that so many families have perhaps only boys or only girls in the family and so many families may have one boy and six girls or *vice versa* as the case might be, and this is a problem. There is a very strong view that this could be balanced. What I mean by that, Sir, is that perhaps, if certain steps are taken, families can have equal numbers of boys and girls.

I seek your kind permission, Sir, to quote from another text. The text is a Hindu book, *The Sanskar Vidhi* or *The Procedure of Sacraments* written by Swami Dayanand Saraswati. He was the guru of Mahatma Ghandi. There is a whole chapter on family planning but it is so graphic that I do not wish to get into the whole of it but I wish, Sir, with your permission, to quote a small paragraph.

“Those who desire male child should know that the sixth, eighth, tenth, twelfth, fourteenth and sixteenth nights are appropriately good for impregnation and those who desire female child should realize this fact that these four nights, the fifth, seventh, ninth and fifteenth are well conducive to

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their desired aim. Therefore, the husband and wife desirous of male child ought to materialise the function of impregnation in odd nights.”

The prelude to these facts refers to after the menstrual cycle is complete, this advice is now given by the great sages and rishis of ancient India. [*Interruption*] Common courtesy demands, Sir, when one speaks another listens and when another speaks the other listens. But I thought I would put that view in the record, Sir, and these can be developed, entire chapters can be presented and discussions could take place. However, as I said, the earlier pages are very graphic so I prefer to leave them out. I do not want to burden this Parliament with that kind of expression. They are all excellent instructions on family planning.

I wish to go a little further. I made the point, and I am repeating myself, that the Trinidad and Tobago society is very small where everybody knows everybody and gender imbalance is one of the reasons we have so much domestic violence. This, again, is subject to debate. It is a controversial question but I am extremely sympathetic to those who fall victim to domestic violence of one kind or another. According to the Bill before us, if this Bill is implemented and one life is saved, we would have achieved a great deal.

The question of entry without a warrant, *carte blanche* permission or authority to do so, is something of concern to us because we all know domestic violence manifests itself at the slightest irritation. That is, if the gentleman enters the house and the meals are not ready, he will break up the place. He could kick up the lady in the house. It is very sad to say this but it happens every day and we know about this. If the head of the home, as our good friend alluded to, comes home and finds the moveable objects are not in their regular places, household articles are in the wrong place, that is—I am not talking about the infidelity that others spoke about and other kinds of dishonesty, I am talking about the slightest thing that irritates people.

1.45 p.m.

Very importantly, certain people should be in this Parliament while the debate is taking place. The good Minister presented the Bill, but if not the Attorney General, at least the Minister of Legal Affairs should be here, but I did not see the gracious Minister present. I do not know what is happening. It is a very good thing that the Minister of National Security who supervises the police in policy matters is present.

Mr. Vice-President, if this Bill becomes law today, if it is passed here and within two weeks or whatever period it is assented to and its implementation begins, the police will run all over the place and enter without warrants. What are we going to do? There are not enough safe houses in Trinidad and Tobago. When they go and arrest the gentleman and retrieve the lady and the children, or retrieve the children alone or, in rare cases, retrieve the poor gentleman who is beaten up, kicked around and abused, where will they place all of them?

We are arguing that the state should organize these safe houses on the same basis that the Ministry of Local Government is organized or the Ministry of Works and Transport is organized or the Ministry of Education is organized; regional offices or county offices. For example, the Ministry of Education has its district offices to carry out its business; the Ministry of Works and Transport has its district offices in every nook and cranny of Trinidad and Tobago. We could talk about Mayo, Bonasse Village, anywhere in Lengua or behind Moruga, and they have offices to do their business.

The Ministry of Local Government has its headquarters in all parts of every county run by the regional corporation, but how many safe houses are there when we wish to take a very strong decision now to give the police permission to do certain things? I am arguing, Mr. Vice-President, that this Bill before us might have been good if there were a number of safe houses or strong houses to secure, protect and shelter victims of domestic violence. In the absence of that, this is mass confusion in the country.

Very often we see certain things happen that we all know about and I wish to talk about some of them. Sometime in 1996, the Attorney General promised a family court in Trinidad and Tobago. He said that it would be in a short space of time and he repeated this in Parliament and elsewhere. We have seen no signs, and a number of families have had these disputes. Perhaps if the family court was around we would have done much better, but it is not here.

Mr. Vice-President, why must domestic violence take place? All the churches are doing a fantastic job in Trinidad and Tobago in counselling couples before they get married, and even the Government has some counsellors to counsel people who have their difficulties. We know for sure that the department that is annexed to work with the court, the probation officers do a great deal of counselling, but it is still happening. As I said before, the batterers of spouses get away very easily because the victim of the batterer could hardly turn to any place because where they receive shelter and their children are fed and protected is

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provided by the spouse. This difficulty is something we must think about. It is a very serious matter, and again, I compliment everybody who worked in this regard.

When we think about the batterers and see their background, they are not brought up with any moral or spiritual standards where values are taught. Thousands are growing up without God and religion and no appreciation for the laws of the land in Trinidad and Tobago. People are only operating on instincts.

Sometimes protection orders are made by the court and men still talk about killing. This very Tuesday afternoon, a gentleman who works in a certain regional corporation flouted an order by the court that he should not enter the home or interfere with his wife, yet when he became intoxicated, he went there and broke up everything. He has 25 years' service in a regional corporation and a minimum of \$40,000 or \$50,000 terminal benefits along with some other benefits, but when one goes to jail, one is regarded as having abandoned one's job, therefore, he will get no benefits and the children in that relationship will suffer. So, we do have difficulties.

Most of the batterers, if and when they are interviewed or spoken to, we find out that some of the actions were done while they were intoxicated, and some of the intoxicants they took were offered at parties and well-organized functions by the state and other agencies, and when they went home, the devil started to operate. When the Government of the day brought a Bill not long ago to allow alcohol to be sold on Sundays and public holidays in certain places, we went to town on it, but the Government has the majority and it is in charge. It passed the law. Is it not ironical that a Bill like this should come when we know the genesis of domestic violence?

I cannot say how some people think, but then we have the social aspects of it. There are some—I am calling them gentlemen for this purpose—who look to either take for a spouse or cohabitant very young ladies. The female sex matures much faster than the male sex, and if a girl is either abducted or encouraged to go with a gentleman, after four or five years she is likely to walk out on him because of many reasons, and that gentleman would think that he may never find such a beautiful young lady again in his life and he is out to kill. What are we to do about that?

If the Bill, as it is in its present state, could bring about relief to everybody, it is okay with some of us. So many men habitually beat their wives, and if the

wives only talk about leaving, it is more licks and they promise to kill. The police do a reasonably good job. When they go to some of those homes to counsel and warn the gentlemen not to beat, the gentlemen say that everything will be all right from today; "I will be a good boy", and the police leave there with the promise that the man will not do some of the violent things he is accustomed doing to his lovely wife and innocent children. The policemen hardly reach the vehicle in which they came and the husband would start the verbal abuse, and when the policemen are away, physical abuse takes place.

What am I saying? I am saying that if the safe houses are there to accommodate some of these people—because some people have averaged that about 100 serious domestic violence cases take place weekly in Trinidad and Tobago. The Minister will surely give us some statistics in her reply, the Trinidad and Tobago society takes too much for granted. I will explain this.

A certain family in South Trinidad, a young husband and wife with children of a very tender age had their difficulties. The lady walked out of the house, went abroad and returned after a few months to the marital home. Mr. Vice-President, when she returned they started living together but they filed for divorce. They continued living in the same house, and no matter what they did, they could not separate. Each one told the other that everything would be all right, nothing would go wrong. The morning of the case, the gentleman killed the wife and himself in that home. They filed for divorce but were still living in the same house.

There was another case, this one is also in South Trinidad, where a man was heard and seen sharpening a cutlass. Everybody here might not know about the procedure of sharpening a cutlass, but he was sharpening the "gilpin" with a Nicholson file all night, and they were also to go to court. He was against his neighbour or the neighbour was against him and nobody in the neighbourhood took a clue from that. The next morning, by 8.30 a.m. he used the same "gilpin" and cut the woman's neck completely off of her body. It was reported in the newspaper. These are the sorts of things which are happening.

The society is not caring and not supporting, and I am aware that the distinguished Sen. Rev. Teelucksingh made a very passionate plea for respect for the institution of marriage. We were hoping that many people would take a clue, listen to what was being said and act accordingly.

2.00 p.m.

There was also a recent case. I do not wish to create any laughter here, I am serious; although laughter is good for the physical body and the soul as well. There was this couple. The woman was so much bigger than the guy; she was tall and big and the guy was short. This guy would get abused pretty often in their house. The noises that would come from the house made the neighbours believe, well it was the man who was abusing the woman. It is only when the police intervened and did an investigation then the truth came out; but that is a clear case.

I have been advised and, somebody here must tell me whether my advice is good or correct. We have two attorneys present in the Parliament Chamber as parliamentarians, but my advisors tell me that when some of those cases go to the court, the magistrate does not take evidence, but he sends the persons to the probation officer to investigate cases and a number of people believe this practice circumvents the legal process. If this is so, I believe this practice should be stopped. I am sure the Minister will have advice on whether that is so or not.

They take hearsay evidence which the probation officers will bring and, with no legal standing whatever, no one gave evidence on oath in court. When the magistrate is reading such a report—he is a human being, he will surely, in more cases than he could think about, or in the majority of cases—he will be prejudiced and a prejudiced judge would have difficulty in ruling. So we are saying that is an area to be looked after as well.

Also, in those cases, the battered persons, and sometimes the batterers themselves, procure the services of legal counsel and legal counsel want an opportunity to examine either complainant, battered person or witnesses and they are denied this because the process was not gone through. The probation officers do the investigations and the magistrate reads long reports, sometimes the reports are frustrating to read. My view is that perhaps, the magistrates could request the services of probation officers to pursue the course of reconciliation, if that at all is possible, advisable and would be acceptable.

There was this classic case. There was an employer with his business place in a country district where he had a number of reliable workers and his business was doing well, his workers were loyal. But as has happened in so many instances, the owner of the business got married to one of his employees, and that employee was junior to other senior supervisors. Although she was married to the boss, in the world of work, on the premises, the senior supervisors were in charge. That lady

who bore two children for her husband, worked there and she was abused quite often. Her husband turned a blind eye because the senior supervisor was his friend and one he depended on for his business to prosper. There are situations like that. Somebody, somewhere, somehow should get into things like that and see what could be done. Something has to be done in such cases.

Mr. Vice-President, what I am trying not to do here is repeat what other learned Senators said. With respect to the Bill, I alluded to it, I wish to state, the Minister in her presentation said, this is to give the police additional or more power in order to do their work properly to either avoid, reduce or eliminate domestic violence—I do not think she said eliminate. What I believe is, this is attempting to retool the police, give them additional power and that would be one of the tools by which they can work.

You see people can set up people, the police can be called and say somebody is murdering somebody or is abusing or beating somebody or whatever they are doing and, perhaps, that would not be the truth. The police could break and enter the house and so forth. Sometimes, the police could be lured into entering a house where there is no domestic violence whatsoever. Perhaps the children in a home could be taking part in a school show or concert, and they could be rehearsing their parts and whoever hears them from outside could think it is domestic violence. So you see, we have got to be extremely careful.

Now, if the police is to be trained specially for that, it is a laudable thing to deal with domestic violence, but not only the police should be trained. So many other people should be trained.

On the first page of the Bill, Mr. Vice-President, so many of the others have spoken on it. Under Part I, clause 2 states:

“The Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.”

Later on it states what kind of voting is necessary to pass this Bill. With all that was said in the Bill, the real explanation is still absent as to why we want to retool or empower the police. In my book, the Trinidad and Tobago police is always doing an excellent job and who finds any problem with that let them solve their own problem.

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On page 3, clause 3(f) states, and I will just read this for clarity:

“member of the household” means a person who habitually resides in the same dwelling house as the applicant or the respondent and is related to the applicant or respondent by blood, marriage or adoption;”

I understand marriage or adoption, but how is blood to be determined, Sir? There is no explanation in the Bill. I have some difficulty with that. Somebody has to explain, perhaps the Minister will have legal advice or other learned Senators who would be speaking later on might assist me or the Senate.

But, there is one school of thought in another religious book. Blood relationship goes up to the—I do not know if I could use that word here—sixth pedigree of relationship between the human beings. Outside of the sixth pedigree, it is not a blood relationship anymore. As a matter of fact, in the Hindu system marriage should not take place within the sixth pedigree, but should take place only outside of the sixth pedigree. Here it simply says, blood relationships. I am curious to know what the law makers have in mind or how the Bill will finally be settled.

There were some expressions on the other page which are questionable, but I am leaving that out, Sir.

On page 5, clause 4(4) says:

“A police officer, probation officer or approved social worker may apply for a Protection Order on behalf of—”

What rank of police officer is being referred to? A social worker in what range of the public service? Something should be said about this.

Clause 4(5) states:

“For the purposes of this Act ‘an approved social worker’ is a person experienced or qualified in social welfare being a public officer and approved by the Minister in writing.”

We could have helped out Trinidad and Tobago if we had included retired public officers with the competence to assist in this regard. There are a number of public officers, probation officers or people who worked in the probation department, justices of the peace or assistant justices of the peace, from the court and other places, attorneys who work in different sections of the Government, the entire legal framework who are retired, cannot be on the Government payroll except by

contract or on a month to month basis who are available and would like to help the state and the citizens and nothing is being considered for them. So my plea is that we include other competent persons like retired public officers.

Mr. Vice-President, on page 8 of the Bill, clause 6(4)(d) alludes to:

“reasonable legal costs, including the cost of an application pursuant to this Act.”

Gleaning this from a layman's point of view—I am not a layman in everything, but in law I am a layman—what is a reasonable cost? Who decides what is a reasonable legal cost? There are some aspects of the public service where cost is a major issue right now, all over the place, and people are asking questions. So this should be simplified or an explanation given and documented.

I always have to make reference to the contribution of Sen. Rev. Teelucksingh, who made a stirring plea for the institution of marriage, that the sanctity of marriage be respected and observed, so there will be no such thing as infidelity, as referred to by my friend from Tobago. I do not know why he chose that.

2.15 p.m.

Mr. Vice-President, there is a particular clause which needs review on page 10, that is clause 9. I am merely requesting a review of this clause perhaps, in the committee stage.

On page 11, Part III, clause 10(3) reads as follows:

“Proceedings in respect of an application for a Protection Order shall be held *in camera* unless the Court directs otherwise.”

If the court has the jurisdiction to rule otherwise, then I am reasonably satisfied that a number of cases that would be better heard *in camera* should be heard in public. Instead of saying, as the court may direct otherwise, the public hearing should only be in special circumstances in my view.

Clause 12(3):

“Where an application is filed in respect of a child or dependent, a copy of the application,...”

No time is specified and we are suggesting that a time should be specified.

On page 12 clause 13 reads:

“Where notice of the proceedings has been served on the respondent in accordance with section 12 and the respondent fails to appear in person at the time fixed for the hearing the Court may-”

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and it proceeds to say a few things.

“(b) where the Court is satisfied, having regard to the materials before it, that it is appropriate to do so, adjourn the matter and issue a warrant for the respondent to be apprehended and brought before the Court.”

In order to save the court’s time, I was wondering if issuing a medical certificate will satisfy the judge or the magistrate that there is good reason for the person to be absent. Perhaps we can go with it.

Mr. Vice-President: Hon. Senator, the speaking time of the Hon. Senator has expired.

Motion made and question proposed, That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. N. Mohammed*]

Question put and agreed to.

Sen. M. Jagmohan: Mr. Vice-President, I thank you and I am grateful to the hon. Senators for their support.

On page 13 clause 17(c) and (d) read:

“(c) service by advertisement in two daily newspapers which service is deemed to have been effected at midnight on the date of the later advertisement, the cost to be borne by the applicant; or

(d) such other manner as the Court may direct.”

This cost should be borne by the court because the court would be instituting the proceedings.

On page 15 clause 20(1)(ii) says:

“on a second conviction to a fine not exceeding fifteen thousand dollars or imprisonment for a period not exceeding twenty-four months or both;”

This is very harsh. Even if people might be abusers, it is too harsh and it should be either one, the fine or the jail.

Under Part VI, Police Powers of Entry and Arrest clause 21(1) states:

“A police officer shall respond to every complaint..”

I am requesting and pleading with the Minister to put between the words, “shall respond” an amendment consisting of the word, “promptly”. It should read: “A police officer shall promptly respond...” The police officer could respond one week after, or there may be no vehicle and only one officer on sentry duty and there is where the trouble will come.

Under clause 21(3)(b) it says:

“the relationship and sex of the parties;”

I have strong objection to the word, “sex”, being used there. It should be “the relationship and gender of the parties”. Mr. Vice-President, I strongly recommend.

I am concerned and time is of the essence. Again, the learned Sen. Rev. Teelucksingh alluded to families that pray together stay together, and the learned Senator from Tobago, Sen. Nathaniel Moore, alluded to families that play together stay together. We will adopt them, but I want to add that eating together is an act of refinement and I am urging that families eat meals together as much as possible. It might not be possible to be together for each meal but as many meals as possible. Now we have the advice pray, play and eat together which might develop the ideal family. Maybe we are in agreement. Are we not? I am sure we are.

Sen. Mohammed: Families for local government.

Sen. M. Jagmohan: Mr. Vice-President, I wish to state that the intent of the Bill is good. We are happy that the Bill has such good intent, but we are unhappy about the manner in which the Bill advocates entry by a police officer without a warrant. There must be some machinery to implement this without the difficulties that are likely to ensue if the police has that across the board authority so to do. Mr. Vice-President, thank you very much.

Sen. Dr. Eric St. Cyr: Mr. Vice-President, my comments on the Domestic Violence Bill will be relatively brief. The debate is well advanced and there have been very many well-informed contributions. It is, broadly, a major improvement on Act No. 10 of 1991 and I think that the abhorrence that we all hold for domestic violence should cause all of us to lend our support to this Bill.

I know that minor amendments here and there would improve it even further, but by and large, it is a measure that everyone would wish to support.

Mr. Vice-President, I want to join the debate at the point where many of us have some concerns expressed—if I may put it this way—from both sides. On the side opposite, raising the issues to say that they can be overcome, and on this side raising the issues, I believe in many cases, to say that one has some difficulty with those particular matters.

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I am referring in particular to Part VI of the Bill, and most specifically to clause 23, and in particular, to that provision which allows the police to enter into the home without a warrant. The old Act did permit the arrest of persons without a warrant, but I believe the extension in this Bill is to permit the police to enter homes without a warrant. I want to spend some time on this matter.

I think the hon. Attorney General in his contribution, suggested that without that measure, this Bill would not be effective. In fact, I think the phrase “a toothless bulldog” was used. In other words, this really is the core of the debate before us.

The critical issue here is really that we have all to declare our hands on that issue when voting time comes, because the Bill requires a two-thirds majority because sections 4 and 5 of the Constitution are to be over-ridden. So really, that is the issue before us which we have to bring our minds to. I am saying “minds”, because our hearts are all in support. We want to use our heads to see whether we could come up with the wise and correct position.

I believe that this society does not know the tremendous significance of the Bill of Rights in the Constitution, and what I see in the proposal to permit entry into homes without a warrant, is the undermining of one of the fundamental provisions guaranteed in the privacy of the home. I know that we could set about making provisions and even enshrining, even putting in clause 23(3) where we are told that it is only for this reason that you might go in; which suggests that somewhere in our minds there is the fear that it could be violated. In other words, the Bill itself concedes the possibility that we could be treading on dangerous ground.

A Bill of Rights in a Constitution did not get there lightly. We could trace the history of Western society which boasts more liberties than most other societies to at least the last 700 years. The autocratic King John in England was forced in 1215 to sign the *Magna Carta*; and a Bill of Rights in the British parliamentary system was only finally enshrined in 1688 after one king, Charles I, had his head cut off, and two kings subsequently had to face the fight of the population against the misuse of state power and guaranteeing of individual rights.

Across the Atlantic in the United States of America, after the war of independence and establishment of the Federal Republic of the United States of America, most of the states would not accede to the first federal constitution

because in the back of their minds they feared that the abuse of state power by the colonial government could easily pass over to the republican government. And so in 1791, James Madison drafted the first 10 amendments to the American Constitution, those 10 constituting the Bill of Rights in the United States of America's Constitution.

Mr. Vice-President, I am saying all this to let us know that if we have liberties in the society for which we appeared not to have paid the price, whether in blood or otherwise, I think we should guard them carefully and not easily relinquish them. Since Independence we have seen in the country—and I want it to be very clear that I am not speaking of any particular government—a tendency to not give the seriousness as we ought to these fundamental rights which have been entrenched.

The first major attack on them came in 1972 in the form of the draft Public Order Bill and while that was fought off, though subsequently in amendments to the Summary Offences Act we got some of those measures creeping in and only in this Parliament we strengthened some of those provisions which essentially took away some of the rights to freedom of assembly from the general citizenry.

The issue of the misuse of police power has been with us over the years. I can think of a certain well-documented event going by the name of “Bloody Tuesday” [*Laughter*] Mr. Vice-President, this is a serious matter and I really want to put this in context so that when we cast our votes, we would be doing it on the basis of a well-informed background and good, sound, judgment.

I believe that in its exuberance to be an effective and efficient government, for which the present Government must be congratulated, we have seen in the past few years an increasing tendency to put measures in place which would strengthen the hand of Government in order to make it more effective. However, many of these measures seem to be at variance with those fundamentally entrenched rights. I know my listeners, particularly on the other side, would want some examples and I would gladly oblige.

I referred earlier to the amendment to the Summary Offences Act in which the penalty for assembling without permission, having to be sought is now 48 hours in advance, has been increased from three months imprisonment to two years. Clearly, this is a great disincentive to the expression of dissent. I could take a second one; the Green Paper on the media. I think that indicates that there is some thinking, suggestive, that the freedom of the press should somehow be constrained;

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but freedom of the press is enshrined in section 4 of our Constitution. A third measure is clause 7 of the draft Equal Opportunities Bill which would seem in some way to encroach on the freedom of religious practice; that too, is enshrined in section 4 of our Constitution.

We have before us a draft Constitution (Amdt.) Bill which some feared might reduce the independence of the Judiciary, and that too, is a measure to be seriously considered and, if I may say so, with respect, just to make this general point. Some weeks ago we had the experience of a Member of the Executive taking objection to the point where a letter was written challenging what was said in debate here, where freedom of speech is guaranteed under section 55 of the Constitution, asking that persons justify what they had said. I think that was very serious, because in my view, I have the right as a Member of the Legislature to question Members of the Executive but I do not think that as Members of the Executive, the Executive has any such reciprocal right. So in my view, a fundamental principle of Western parliamentary democracy was being breached there because the basis of responsible Government is that the Executive is responsible to the Legislature, not the other way around.

I do not wish to make any comment other than to say that the debate where those remarks were made had not been concluded, and properly the matter should have been taken up in the continuation of that debate; but we probably have not seen the end of that. I am simply making the point that one of the basic tenets of a free, open, democratic society would seem to have been misinterpreted.

Let me say, Sir, just in case I come over as saying that these violations to these fundamentals are all taking place in this present Government only, in the previous government, a very fundamental principle was violated where it would seem that the head of the Executive in challenging the standing of a certain officer almost presumed that the Executive was in charge of the Legislature, whereas the Legislature is a free, self-regulating, autonomous arm of Government. So I am saying that we want, as a society, to make sure that there is a clear understanding of these fundamental principles on which our democracy rests and lives within the parameters. It is in this context we are witnessing in this draft Domestic Violence Bill the first evidence of allowing the police the right to violate the privacy of homes.

2.40 p.m.

When I take all these together, I would say that just as I would not think it possible to support any measure which diminishes the freedom and independence

of the press—and let it be clear about that: I will not support any measure that violates the independence and freedom of the press—just so, Sir, I do not think that what I have heard up to now convinces me that I can allow the police to enter the home without a warrant.

I am putting it this way because when we come to the division, unless something happens between now and then, I want it to be known that I will have to vote against this measure for just that reason, not my heart—my heart supports the Bill—but my head tells me that there is danger because what I see here is perhaps the thin edge of the wedge driving the society away from its moorings of democratic freedoms into the direction of a police state years ahead.

Let me continue, Sir, to link this point with my second point. You see, the hon. Attorney General—and today taking up the same point our dear friend, Sen. Andrew Gabriel, on the other side, argued that this measure is necessary—I would ask: Is it sufficient? In other words, if we were to do this, would it really address the problem? Do I have to locate a policeman within hearing shot of the hundred or 200 homes where domestic violence is about to be committed? Is there a special time of day when these things are done? Or, would I need someone within hearing shot 24 hours a day?

In other words, I am being asked to pay a very heavy price in giving up a fundamental right that the society now has and I am asking in exchange: Does this address the problem at hand? In other words, is this measure both necessary and sufficient to address the problem at hand? I think not.

Because, you see, Sir, my second comment on the Bill, as I have suggested elsewhere before, is that the Bill is flawed in that it addresses the symptoms, not the causes, of a more fundamental social malaise. The malaise to which I refer is the breakdown of relationships within the society, the most fundamental of which is the relationship between male and female. Unless we have whole, well-rounded, balanced individual males and females, we will not get smoothly functioning families, and if we do not have smoothly functioning families, we will not have the ordered relationships which is what constitutes a society.

Mr. Vice-President, a few weeks ago, it could have been six or eight weeks ago, it was reported in the press a statement which I thought very insightful in its sociological content. The statement, attributed to a very distinguished sociologist—I would not say whether present here or not—is reported to have said

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that the fundamental cause of domestic violence is that men want to control the sexuality of women. As I said that was a really powerful statement, tremendously insightful, because I believe that at bottom, this is the major issue. I asked myself, "Well, why should men control the sexuality of women when these men cannot even control their own sexuality?" Yes, let us men control our own sexuality first and we will find perhaps there is no need to have to control the sexuality of our partners, because all of us would be so well-behaved that there would be no problem, as Sen. Nathaniel Moore has argued implicitly in his contribution.

But there is a wider question which is: Should sexuality be controlled socially? In other words, not men controlling the sexuality of women, nor women the sexuality of men. But, should there be parameters and controls to this very powerful drive with which we are all endowed, the drive toward sexual gratification? Let us not fool ourselves; these are in-built powerful drives.

Sen. Prof. Julian Kenny referred to the issue of violence and let me say here, my understanding of violence goes this way. My most fundamental instinct is the instinct to self-preservation, to preserve my life. I believe that is what the drive to violence has been given to me for, to protect my life. Now, if I were to use it to violate somebody else's life, then I have misused it. In other words, there are these drives given by our creator for a purpose which we misuse.

The drive to own property is another drive that we all have, but if I misuse that, I become greedy and I go depriving other people of property, I violate their rights.

Let us take another instinct, the instinct to take food in. That is necessary to preserve life and rebuild tissues, *et cetera*, but if I violate that and become a glutton, then it would show in my health and in various other ways.

Similarly, there is this powerful instinct, the sex drive that is for procreation. Yes. But that, too, must not be misused and our understanding of how this could only work, because I am not sure whether the empirical basis of Sen. Jagmohan's earlier statement that there are many more women in the society than men is accurate. When you look at the ratio of male to female births, female births very slightly exceed that of male, very slightly, and so, I am always amused by the concept of the promiscuity of the male, but the well-behaved female. I say, "How is this possible?" and I say that this must be a way that we males boost our egos, that we have several partners, and that all of them are reserved only for us. Impossible!

Let me get back. I am arguing here that the Bill is flawed in that it addresses the symptoms, not the fundamental causes, so while this Bill will give a measure of relief—and we must know that if we go in that direction this is as much as we can get out of it—we are not addressing the root cause.

I want to put this in context. Let us start in the post-war period, probably 30 or 40 years ago, with the improvement in the technology of birth control, because that is what has given well-earned liberty to our womenfolk—our mothers, our spouses, our sisters and our daughters. I think I went a bit away from my head there to the heart, so let me get back to the head.

Prior to this technology, the technology of birth control, the life of a woman was a drudgery, very second class—yes. And so we must say that this is good, what has happened—yes. But, it does not violate the fundamental principle that the male and the female still have to relate on this basis and I think sufficient of us before have spoken that the intention is one man with one woman in a covenant relationship called marriage and outside of that, there is chaos. It is not one man with several women; it is not one man with another man either; it is not one woman with another woman; it is one man, one woman in covenant relationship and if we wanted to be technical and specific, it is a blood covenant relationship that we are talking about, one which is spiritual because the blood is spiritual. But we would not go in that direction, would we, Sen. Moore? No, we would not. Within that relationship, there has to be spousal fidelity and it is only from that basis, that society is able to prosper.

Within the family, there is also responsibility for the regulation of the sexual behaviour of the offspring. This must apply as much to our sons as to our daughters, so that the principle that the father gives the daughter in marriage must remain. I am not here saying that the man is head, or that the man is boss. I am talking in the context of a socially regulated code of behaviour on sexual matters.

So that incest is a no-no; rape is a no-no. But I say that I would not myself, even though I know it is abhorrent, be inclined to treat rape and incest in the same way as I would be inclined to treat murder. You see, except we get these fundamental parameters in the family correct, the society will be chaotic.

2.55 p.m.

Our sons will not be fathered because there is no father in the home. Our daughters will not be given in marriage, because there is no one to give them, they will simply go and give themselves at age 13 or whatever. The offspring that

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come will come to children, and nobody would be able to care for them. I almost said what will happen is that the scourge of AIDS will have free reign to decimate our populations.

Mr. Vice-President, I believe as a very short-term measure, this Bill in general, could have some positive impact. But it is clear from my understanding that the impact will be minimal. It is certainly not a solution to the fundamental problem. If we were wise at building a nation, we have been told—if I may refer to the advice of a very distinguished member of this society—that we do not build a nation by carrying placards. Today, I would say: we do not build a nation by not having families in their proper structure and by not having whole individuals. We should be urged to get down to some fundamentals.

I must declare here my bias of having been a teacher all my life. I believe only the most fundamental and enlightened revolution in our educational system would, as a long-term measure, seek to address these problems. We may not start to see great results before 20 years or more, because we will have to start from the bottom and build it up. I am talking here of education in its widest sense. I dare say that education has become very narrow.

One of my favourite quotations is the definition of education given by the author of the book: *Dictionary of the English Language*: a man called Noah Webster writing in 1828. He tells us:

“Education constitutes all that series of instruction and discipline intended to enlighten the understanding, correct the temper...”

(so we are talking about violence).

“...form the manners and habits of youth...”

(so we are talking moral values here). Only then does he mention:

“...and fit them for usefulness in their future stations.”

I think most modern concepts of education are what the economist would call an input into the productive process. So one shows the skills for producing goods and making money and so forth. Education properly conceived is to fit a person for life: spiritually, morally, socially and technically to enable that person to function. I believe we should start to lift our sights off the immediate to focus our attention on the long-term and, as those responsible for setting the course of policy in this nation, to, not give the impression that there will be a quick fix by short-term measures, but that we should set about setting policies. Sen. Prof. Spence, I was

almost tempted to say one of the hopes that we should not give is that we could get rich quickly by winning it off the Lotto or whatever.

Mr. Vice-President, I thank you for this opportunity to contribute. My first point is: we are being asked to abdicate a fundamental right. Looking into the future, I find myself unable to support a measure that would allow the privacy of the home to be violated. It would seem to me to be the thin edge of the wedge. It is almost like throwing the baby out with the bath water. My second point is: the Bill is flawed in that it addresses the symptoms and does not get to the causes. My third point is: a fundamental overhaul of our concepts of total education is where we really need to be putting our sights. I thank you.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I rise in support of the Domestic Violence Bill, 1999 and to indicate from the very outset, as outlined in the Explanatory Note of this Bill: among some of its objects, the Bill will offer the victims of domestic violence greater protection. I do not think anyone in this honourable Senate would be against providing protection to victims of domestic violence; whether they be—as Senators Mc Kenzie and Alfred argued so strenuously at the last sitting, that males seem to be coming under attack as well. This Bill is to deal with both victims whether they are male or female.

Obviously, basing our experience on the 1991 platform when we had the Domestic Violence Bill—this Bill is attempting to enlarge the scope and ambit of the Protection Order; as is outlined in the Bill:

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

Of course, the issue that is of concern to some of our Independent colleagues and the Opposition Bench is the powers being given to the police to intervene in domestic violence matters. As Sen. Dr. St. Cyr said: “it is an invasion of the privacy of the citizenry” and therefore he sees that as the thin edge of the wedge towards what he has described as a police state.

Mr. Vice-President, as the hon. Attorney General pointed out, when he was here last Tuesday: this very clause that we are seeking to incorporate in this Bill—based on the experience we have had in this country—is already enshrined in the

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Barbados legislation on domestic violence. The police in Barbados has the authority—if someone is being murdered, if a victim is being criminally abused and assaulted and the person is crying out for help—rather than having to get a warrant, to exercise a judgment and go into that premises or residence and seek to provide some kind of safety or security for that particular individual. I have not seen Barbados being described as a police state and I do not think anybody here could say that Barbados is moving towards a police state. That is part of the legislation in Barbados.

Mr. Vice-President, this legislation has come after a lot of consultation with citizens in this country and it is not something that the Government is seeking to impose.

3.05 p.m.

I take strong objection to some of the allusions and allegations that were made earlier by Sen. Dr. St. Cyr in terms of how he was trying to locate this particular measure. I am in this Government not to move towards a police state. None of us here on the Front Bench or the Back Bench of this Government and, I dare say, the Cabinet of this country and the hon. Prime Minister has an intention or a commitment or some kind of agenda to transform Trinidad and Tobago into a police state. That is not our intention. That is not our objective. We want to build a total quality nation in Trinidad and Tobago. That is what we are about. [*Desk thumping*]

Therefore, when we hear statements to the effect that this Government is attacking democratic freedoms—and, of course, Sen. Dr. St. Cyr made reference to the recent amendment to the Summary Offences Act. Mr. Vice-President, as a Government in power we have a duty and a responsibility to protect the state. If, for instance, the Government is of the opinion that there are threats to this state, then it has a duty to take action and if the action that is being taken is seen as an attempt to undermine this democracy, I think that is a misinterpretation of the reality.

I also believe, Mr. Vice-President, that there is a Green Paper out for public comment. It has not come before this Parliament. All over the world the press is under attack, not only in Trinidad and Tobago. Just in yesterday's newspaper I understand the Archbishop of Trinidad and Tobago protested over a particular cartoon which depicted the church in a negative way. He went in to deliver a letter directly to the editors asking them to desist from doing that in the future or

persuade them—everyone is in some confrontation, not necessarily to undermine the press, but we want fairness and balance in whatever is done.

I do not see that to mean that this Government is seeking to attack the press. If a Green Paper is put out, which is a Green Paper for public comment and it contains provisions that are offensive, let us debate those provisions, but to use that provision or that particular Green Paper to attack and to allege that the Government is seeking to undermine the freedom of the press—freedom without responsibility leads to chaos. We all know this. So it is not a question of the Government of Trinidad and Tobago having a deliberate agenda where we set out to attack, to subvert and to undermine. None of us in this Government is about undemocratic behaviour. Therefore, anticipating these things, I think, was very unfortunate in terms of these conclusions that were drawn here.

There is a Bill before Parliament as you know, Sir, called the Equal Opportunities Bill. It is going to be the subject of debates and discussions. It contains a provision which the Senator said undermines or attacks or threatens religious freedom. When that Bill comes we will debate it. In England it is a criminal offence to seek to incite racialism or racist behaviour. So this is not anything new but if that is causing some concerns, we will debate it. This is what democracy is about. Democracy is about us sitting together and debating and dialoguing and so forth, Mr. Vice-President, and coming to some sensible and sensitive conclusion because we want to build our country, we want to build our society and we want to deepen the democratic process in Trinidad and Tobago.

None of us wants to live in a dictatorship. In fact, at one time we thought we were getting there under previous regimes, but the fact of the matter is that we are living in a period where the whole concept of governance is being touted. People are talking about transparency. The talk is about participation, openness, integrity and transparency. These are matters, values and principles that are being espoused under the new concept of governance. So if, for instance, we have a Constitution (Amdt.) Bill which is yet to be debated here, and the world is talking about accountability and we say we need greater accountability from institutions that are financed by taxpayers in this country, that is seen as an attack against freedom and independence? Mr. Vice-President, I guess when the debate begins in earnest here we will have more to say on this.

I really feel it is a bit disconcerting, to say the least, when we sit here and hear these attacks coming. Some are anticipated because there is not, in fact, any law here in respect of what has been said except one that I know of, the amendment to

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the Summary Offences Bill—all are anticipated. One is a Green Paper, the others are in Parliament being—well debate has started on one and concluded and two others we are supposed to start some debate on very shortly. You know, sometimes I wonder if freedom is only assigned to one section of the Parliament. I want to find out from Sen. Dr. Eric St. Cyr if a member of the Executive does not have the right to seek clarification on an issue.

The impression I got from Sen. Dr. Eric St. Cyr is that any member of the Legislature can say whatever he or she will, whenever, and nobody could query, nobody could question. I want to know if members of the Executive do not have rights too under the Constitution and if, therefore, one wants to seek clarification as a member of the Executive, are you saying that clarification should not be entertained?

I agree that when we are talking about development and meaningful development, Mr. Vice-President, family life is very important. I agree with what Sen. Dr. St. Cyr is saying. If we have strong families we have strong villages. If we have strong villages we have strong communities. If we have strong communities we have strong nations and strong societies. I have no problem with that concept. We are seeking to build family, we are seeking to lay foundations to at least enhance family life in Trinidad and Tobago.

Here it is we have people, particularly women from the lower income brackets or sections of our community, as well as people from other levels, who are victims of violence, psychological abuse and emotional assaults. The Government has a duty and a responsibility to provide some protection to these victims. This is what this Bill is about. This Bill is seeking to protect. Now we have to balance, as the Attorney General said, the whole question of—okay, there is a section of the community which is exposed to violence and there is the larger community. How do we balance the rights of that section against the rights of the larger community? Do we allow our women to continue to be murdered?

You would know, Mr. Vice-President, that before we came into power in 1995 about the kinds of crimes that we had. Most of them were drug-related. There were crimes such as kidnapping and gangs wiping out gangs. Later on a new dimension took place when we cleaned up that particular aspect of the criminal activity in our country and we went into the phase called “crimes of passion”. Many women and men, when they cannot settle their differences, they shoot it out. They use all kinds of weaponry to harm each other.

Many of the murders which have taken place in Trinidad and Tobago over the last three years, if we look at them carefully, were domestic. Many crimes of passion were taking place in the country. We are looking at how to address this issue. How many more lives must be lost through that kind of activity? The Government is coming here to provide some kind of protection, seeking in law—I agree that law cannot be a solution to every problem, but we have a duty, Mr. Vice-President, and a responsibility, to at least assist the victims.

If women are crying out for assistance and protection based on all the consultations that took place and which led to this piece of legislation, the state and the Government have a duty to intervene on their side and to offer them some kind of security in this society. If the Parliament wishes to vote against the Bill, well, vote against the Bill, but we have a duty to bring this Bill to offer protection to women in this nation to try to prevent them from being murdered. If a woman is crying out for help and the police is in the area the police must be able to go into that home and offer some protection to that woman who is being assaulted by some animal called a man—[*Interruption*]

Sen. Ramnath: Or *vice versa*.

Sen. The Hon. W. Mark: —or *vice versa*. I ask, Mr. Vice-President, do we not have a duty as a Government to bring legislation to protect the innocent, to protect those people who are victims of violence and abuse and psychological terror? Yes, we have a responsibility and we have brought legislation here and the women of this country know that this Government has brought legislation to protect them and to advance their interests. That is what we have done.

3.20 p.m.

Mr. Vice-President, I have some difficulty understanding that this is the thin edge of the wedge. A Bill to provide protection to women in this country is the thin edge of the wedge towards a police dictatorship? A police state? I thought that Sen. Dr. Eric St. Cyr would have left it for me when I was in my glorious days and people might have dismissed me and said that it was rhetorical. [*Interruption by Sen. Spence*]

That is no problem! What I am saying is that we are in Government and we have a responsibility—Sen. Prof. Spence, if there is anything that we are doing here that is inconsistent with the rights of this nation and the freedom of our nation, we are prepared to listen and make changes. I think that this is the most democratic Government we have had for years in this country. [*Desk thumping*] We have made amendments to legislation.

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I sat on that side for almost five years and, Mr. Vice-President, you would recall the amount of amendments to legislation we put forward when the PNM was in Government here. They never accepted a single amendment! We have entertained, we have accepted major changes coming from the Opposition Bench and the Independent Bench, because we want to build a participatory democracy in Trinidad and Tobago. [*Desk thumping*] We want people's involvement. We want people's participation. That is what we want, and if we are doing wrong, we are not gods. We are frail. We can make errors and mistakes, and we welcome the wisdom of our elders and the Opposition and the Independents, but I think that to go to the extent of saying that what we are trying to do is create a police state, is an extreme position.

I am saying that, for instance, this Government—the Senators here and the House of Representatives members of the UNC in the Parliament and the Cabinet of Trinidad and Tobago—is not about developing, creating, producing or formulating any kind of arrangement to bring about a dictatorship of, for instance, the police over the people.

Sen. Prof. Spence: Mr. Vice-President, I really feel that the hon. Minister is misrepresenting what Sen. Dr. St. Cyr said. At no stage did he suggest that this Government is trying to create a police state. He tried to make a point, which I think is extremely important, that as a society we may take certain measures which at the time may seem to be innocuous with which it may have a cumulative effect; and he deliberately said in the future. Unless the present Government intends to stay here for the next 100 years, I think there is no need for him to assume that Sen. Dr. St. Cyr was attacking this Government.

Sen. The Hon. W. Mark: Mr. Vice-President, I want to advise Sen. Prof. Spence that we intend to be here for a very long time, and this is why I was making reference, because I believe that he was thinking about the future and I was just making reference. I am not attacking anybody personally here. I am dealing with principles, Sen. Prof. Spence. If I am misrepresenting, then okay.

Mr. Vice-President, as I said, this particular Bill is very important, very crucial, in terms of protecting the rights of victims of violence in our country, and I think it is a Bill that, as I said, as we get into committee stage and debate in a deeper way, we will be able to, at least, appreciate a little more and try to understand a little more, try to see what we can do, knocking our heads together, to make this Bill into the perfect Bill.

We want this Bill to work in the interest of the nation. We want this Bill to be passed so that we take into account, for instance, the rights not only of the victims, but the rights of the society as a whole. As a Government, as I said, Mr. Vice-President, we listen and we are prepared to make changes, but what we have to recognize at the same time, based on our experience, is that it is leading us in the direction that is being proposed in the legislation. It did not just come overnight or accidentally. Since 1991 in Barbados—we are now in 1999—the legislation contained the very provision that we are now seeking to enshrine in 1999.

When we debated that Bill in 1991, not under the PNM—it was the NAR—they did not contemplate the need for giving police at that time the power to go inside the house. At this time, based on experience again, people are clamouring for it, based on the consultation that I understand took place. I was not part of those consultations but I understand that they produced these kinds of feedback from the women who were part of these exercises.

Mr. Vice-President, I thought I should make a limited intervention because having regard to some of the points that were made, I felt it was necessary to intervene and I sought to clear the air on some of these points. I am not part of any dictatorship. I have no intention of being part of a dictatorship and this Government is not about a dictatorship. I just wanted to make that very clear.

At this point in time, I would like in closing to seek leave of this honourable Senate to have this particular debate deferred. There have been some proposals put forward by some of the Senators and we need to look at those proposals before we proceed. We are, therefore, asking the honourable Senate to defer this particular debate on the Domestic Violence Bill and we will continue next Tuesday. We will now allow the Senate to proceed with Bill No. 2 on the Order Paper standing in the name of the Minister of Health which is the Mental Health (Amdt.) Bill.

Thank you very much.

Question put and agreed to.

Bill deferred.

MENTAL HEALTH (AMDT.) BILL

[SECOND DAY]

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

That the Bill be now read a second time.

Question again proposed.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Vice-President, when the debate on this Bill was adjourned a few weeks ago I was responding to some of the issues which were raised and I promised to look at two specific matters with a view to proposing some amendments to the Bill. The first issue dealt with the definition of “next of kin”, and in the list of amendments that has been circulated, and which I would move at the committee stage, “next of kin” is defined, and further down, “spouse” and “child” are also defined.

The second issue I promised to look at with a view to making an amendment was the issue of accountability. One would recall that the Bill itself says that in the appointment of the committee, when an individual applies to the committee, a statement by the applicant giving a detailed description of the patient's property and the value thereof has to be submitted. We are now adding, Mr. Vice-President, that periodic statements of the status of the patient's estate must also be submitted. That is, of course, in addition to a medical certificate stating the mental condition of the person himself.

There are two or three other amendments which are consequential upon these and I promised the Members Opposite that I would look at these two issues. Mr. Vice-President, with those few words, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: We have before us the Bill with nine clauses and there are circulated amendments. I trust everyone has them in their possession.

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

Clause 3.

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

Dr. Rafeeq: Mr. Chairman, I propose the following amendment to clause 3.

"Delete this clause and insert the following clause:—

'Section 2
amended

3. Section 2 of the Act is amended—

- (a) by inserting after the definition of the words 'mental subnormality' the following definition:

'next of kin' means in the order of priority, a—

- (a) spouse;
- (b) child;
- (c) parent;
- (d) grand-parent; or
- (e) brother or sister

- (b) in the definition of the word 'patient' by deleting all the words after the word 'subnormal'; and

- (c) by deleting subsection (2) and substituting the following—

'(2) For the purposes of this Act—

(a) 'spouse' includes a cohabitant as defined in the Cohabital Relationships Act; Act No. 10 of 1998

(b) 'child' includes a step child, adopted child and in relation to the parties in a cohabital relationship as defined by the Cohabital Relationships Act, a child of either party or both parties; and

(3) The psychiatric Hospital Director, every duly authorised medical officer and every mental health officer shall be *ex officio* a Justice of the Peace in and for the whole of Trinidad and shall take the oath as such Justice."

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4.

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

Dr. Rafeeq: Mr. Chairman, I propose the following amendment to clause 4:

"4(a) proposed section 36(1)	Insert after the words 'subject to this Part,' the words 'and subject to section 44',
4(b) proposed subsection (4)	Delete the words 'subsections (1) and (3)' and substitute the words 'subsection (1) or (3)'"

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6.

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

Dr. Rafeeq: Mr. Chairman, I propose the following amendment to clause 6:

"Proposed section 37A(1)	Delete the proposed section 37A(1) and substitute the following:
'Statements and Medical Certificate To be produced	37A(1) Notwithstanding the certificate produced under section 37 (1)(A), the High Court may require the person appointed as the committee of the patient's property to file—

- (a) periodic statements of the status of the patient's estate; and
- (b) periodic medical certificates issued by the relevant persons referred to in section 37(1)(a), stating the mental condition of the patient and if necessary the probable duration of the disorder."

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Dr. Rafeeq: Mr. Chairman, I propose the following amendment to clause 73:

"Delete the word '32' and substitute the word '37'"

Clause 7, as amended, ordered to stand part of the Bill.

Clauses 8 and 9 ordered to stand part of the Bill.

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

Senate resumed.

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

3.35 p.m.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, before moving to have the sitting adjourned to next Tuesday, I would like to indicate to the hon. Senators that we are going to conclude debate on the Domestic Violence Bill next Tuesday and following that we are going on to the Criminal Procedure (Plea Discussion and Plea Agreement) Bill. So those are the two Bills we are going to deal with; one to be concluded and then to commence the other.

Mr. Vice-President, I beg to move that this honourable Senate do now adjourn to Tuesday, June 22, 1999 at 1.30 p.m.

Mr. Vice-President: Before putting the question on the adjournment, I want to put before Senators a Motion which has been filed on the adjournment of the Senate by Sen. Prof. Julian Kenny. I ask him to deal with it at this point.

Chacachacare Island

Sen. Prof. Julian Kenny: Mr. Vice-President, the matter which I am raising on the Motion on the Adjournment of the Senate relates to the island of Chacachacare and the announced intention of the Government to seek investment for a casino resort.

First of all, I must declare a slight interest in that I belong to a group of persons which has been developing plans for the Chaguaramas Development Authority, particularly the proposed Chaguaramas National Park. Although I am not intimately involved with it, I am aware of everything which has gone on and, therefore, just advising of my interest.

The essence of governance of any country strikes me as involving comparatively few factors. One of them is an evolving body of law which will meet the needs of the society. A second factor is a knowledge of these laws by the governing administration. A third is the consistent implementation of these laws by the competent authorities and, the fourth is an appreciation or knowledge of these laws by the citizenry of the country. These factors generally favour orderly development of the society.

I must note, with interest, the recent statements about the criminal justice system and the need to implement the laws of the country. I think that one must commend the Government for its steadfast efforts regarding the system. One of the things is, as a citizen of the country one may not agree with the law, and there are means of changing the law and, regardless of recent events, and however unpleasant they may have been for some citizens, either living or dead, we must compliment the Government for steadfast implementation of the law.

The matter I raise, however, comes under another part of our law, our legal system. This is the law which regulates the rational development, the orderly development of the country. The particular law is the Town and Country Planning Act, Chap. 35:01. One part of this law makes it quite clear that there has to be development plans. One cannot have willy-nilly, *vaille que vaille* physical development. We need these laws, we need this particular law because in the absence of proper planning and developmental control, one creates serious problems. Many of them we see today, unplanned development all over the

country. We also see the need for regularization of squatters, routinely, because of unplanned development.

Mr. Vice-President, Part II of the Town and Country Planning Act deals with developmental plans and we need not go into all the details of them, but section 5 of the Act makes it mandatory of the Minister to submit to Parliament a development plan for the country. This is something required of the Minister responsible for planning and it is Parliament which ultimately approves or disapproves of the plan.

Section 6 also makes provision for periodic review of these development plans. This is where my concern lies because I am not certain as to whether the Government is fully aware of a physical development plan. Although this plan which I have before me is the *National Physical Development Plan, Vols. I and II—Strategies and Proposals*, which were first made public in the late 1970s, it took several years before these plans came to Parliament. I actually happened to go to the public hearings. Mr. Russell Martineau was the commissioner who heard the evidence of various people. Sen. Prof. Spence was also one of the people who made presentations.

Now, these plans went to Parliament and they were gazetted by Legal Notice No. 122 of August 15, 1984. These plans became the mandatory plans for the physical development. This was passed by both Houses of Parliament and, I dare say, that many members of the Government were, in fact—as I checked today—present at the debate when the then Minister of Finance and Planning—Minister Jacelon—was delivering these things as required by law. I think Sen. Ramnath was there. Certainly the Prime Minister was there; Mr. Humphrey, the Minister of Housing and Settlements was there; the Minister of Planning and Development, Mr. Sudama was there. So the plans were approved by Parliament, I did not see any major dissent in the long debate. This thing was passed in the House of Representatives on July 6, 1984 and passed in the Senate on May 29, 1984.

Anyway, here we have what I take to be, in my innocence, a conflict. I hope Sen. Daly does not take me to task for thinking I can speak about the law. But the Town and Country Planning Act requires a plan, and here is a plan approved by Parliament. Here we have the plan, and Chacachacare Island is specified in the plan for the year 2000 as a conservation area to be maintained under natural cover. Now, if this is part of the Town and Country Planning Act, I take it that this plan is part of the law.

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Herein lies my problem, because Chacachacare Island is the last of what we call a tropical dry forest or xerophytic forest. It is the last example of it. It is the only one in Trinidad. I am not making an issue of gambling, I am talking in terms of physical development. Here we are, talking in terms of a resort of any kind, whether it is a gambling resort or a holiday resort. We are talking about taking an island which the plan says has to be kept in conservation under natural cover, it is a conservation area, and we are saying to the world, "Come on investors, let us have a big resort".

Now, I have no problem with the Government, or any government, wishing to change the plan. But the point is that the proper way of doing it is for the planning people—whether it is the Interim Planning Commission, the Ministry of Housing and Settlements or the Minister of the Environment—to bring a modified plan back to Parliament for approval, otherwise we make a mockery of what Parliament is supposed to do.

Mr. Vice-President, this is not the only concern of our law. We have signed a United Nations Convention on the Conservation of Biological Diversity. We, in fact, are spending United Nations Development Programme's (UNDP) money to develop a strategy for conservation of biological diversity. We have signed this with 130 other countries. In the Convention on Biological Diversity the general measures for conservation and sustainable use are: develop national strategies, plans or programmes for conservation and sustainable use. We have heard in Sen. Dr. St. Cyr's Motion that the Government's philosophy for economic development is sustainable development.

So, Mr. Vice-President, I raise this matter because I think it is a matter of considerable concern. The problem that I have with it, in summary—and it is just a personal view—is that any departure from this plan for the conservation of the island of Chacachacare prior to the approval of Parliament suggests to me, it is not possibly a breach of the law, but it is certainly a breach of the spirit of planning law.

3.50 p.m.

In my view, it is inconsistent with sound parliamentary legislative practice and rational developmental control. It does bother me also that we are clearly deciding in advance, before Parliament actually hears this matter. We have decided to renege an obligation under an international treaty. Mr. Vice-President, thank you.
[Desk thumping]

The Parliamentary Secretary in the Ministry of Housing and Settlements (Sen. Carol Cuffy Dowlat): Mr. Vice-President, I must first thank Sen. Prof. Julian Kenny for raising this matter and bringing it before this honourable House. I want to preface what I am about to say by first reading the Motion on the Adjournment of the Senate into the record and it says: the recent pronouncement by the Honourable Prime Minister of Government's intention to invite proposals for international investment in the casino resort at the Island of Chacachacare, appears to be in direct conflict with the requirements of Part II of the Town and Country Planning Act, Chapter 35:01 relating to Development Plans.

Mr. Vice-President, I have not seen, read or heard of any announced intention by the Government of Trinidad and Tobago to develop any resort. I have looked and read the reported speeches of the Hon. Prime Minister and what I have seen is that, if I may read from—*[Interruption]* it is good to listen and learn—*Express Newspaper* dated May 27, 1999 at page 4, a report by Mr. Curtis Rampersad Business Desk:

“Plans for Trump casino in Chacachacare”

He begins by saying in his own words:

“Government is moving to close a deal...”

and whatever. He then quotes the Prime Minister by saying:

“Panday described Chacachacare, formerly the site of a leper colony, as ‘an enormous resource’ with ‘tourist-oriented’ development potential.”

Again, on page 4 of the *Express Newspaper* dated Monday, June 14, 1999, we have seen a report:

“PM: Big \$\$ in niche tourism by Vidhisha Mannah”

It goes on to describe what the Prime Minister calls “niche tourism” and it says, Mr. Panday described “niche tourism” and he quotes:

“... ‘the high end and the rich end of tourism’.”

He explains this by saying:

“As you know, there are about 120 foreign companies operating here of which some 60 of them are from the US. Now these corporations have their headquarters in Chicago and New York, places that get very, very cold in the winter and those directors arrange to have the meeting of their board of directors in Trinidad where it is nice, warm and sunny,’ said Panday.”

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He claimed that when the directors come to Trinidad they also bring their wives and children and these men pay tremendous amounts of money to stay at hotels and play golf and so on.

‘That is what I mean by the high end of tourism.’ said Panday.”

Mr. Vice-President, this Government is committed to following and upholding the law of the land and this is quite evident. This Government is also committed to the orderly development of the country and would not want to encourage what has been done previously—*vaille que vaille* development. [*Desk thumping*]

This Government is fully aware of the physical development plan. We in this House and in this Government have been in the forefront of the orderly development of Trinidad and Tobago and we have demonstrated this by bringing before this House, legislation dealing with town and country planning. We are committed to sustainable development in the context of the development of Trinidad and Tobago. [*Desk thumping*]

Mr. Vice-President, assuming, but not even admitting for one second the summary as stated by Mr. Curtis Rampersad in the *Express Newspaper* dated May 27, 1999:

“Panday lauded the Chacachacare location for a resort and casino, explaining that while occasional objections could be raised about casino operations on the main land, it would be less conspicuous offshore.”

Assuming but not admitting this is a true summary of what was said by the Prime Minister, I want to say, this is not in conflict with any law of the land.

Mr. Vice-President, Part II of the Act—[*Interruption*] listen learn and one will be sensible—relates to development planning. It deals with the issue in three main sections 5, 6 and 7.

Section 5 concerns the preparation of development plans and the elaboration of this section. The Act states that the Minister shall prepare a development plan for the whole of Trinidad and Tobago. The section sets out *inter alia*:

- (i) how the plan shall be prepared after the conduct of a survey for the entire country;
- (ii) the time-frame within which the plan shall be prepared;
- (iii) the contents of the plan in general;

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- (iv) particular elements that the plan must address;
- (v) the need for designating areas for compulsory acquisition and comprehensive development;
- (vi) the circumstances surrounding which land may be designated for compulsory acquisition and comprehensive development;
- (vii) the time-frame parameters for designation of land for compulsory acquisition and comprehensive development;

and finally—not *vialle que vialle*

- (viii) clause 5 makes provision for the preparation of plans relating to any part of Trinidad and Tobago at any time before a development plan with respect to the whole of Trinidad and Tobago has been submitted, indicating that the same procedure that relates to the preparation of a plan for the whole of Trinidad and Tobago must be applied to the preparation of plans for a part of the national territory.

Mr. Vice-President, a Chaguaramas Development Plan prepared by the Town and Country Planning Division was approved by Parliament. In an attempt to update this plan, a draft Chaguaramas Development Plan, prepared by the division in November, 1988, was the subject of intensive national consultation, spearheaded by the National Planning Commission under the then Prime Minister. This draft plan was not taken through all the stages for approval by Parliament.

In 1999, a Chaguaramas Local Area Conceptual Plan is now being prepared. This plan has not yet been subject to parliamentary approval process. This deals with section 5 of the Town and Country Planning Act.

Section 6 of the said Act makes provision for amendment of a development plan, stating that it must be done at least once in every five years—the PNM will tell you they do not understand anything about the law.

Section 8 sets out the procedure to be employed in the approval of development plans.

Mr. Vice-President, there is no proposal before the Town and Country Planning Division for resort development at Chacachacare and if such a proposal comes, it would have to be addressed under Part III of the Town and Country Planning Act, “Control of Development of Land”. [*Desk thumping*]

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Part III concerns the requirement that planning permission be sought and obtained from the Minister responsible for town and country planning before development is carried out on the land.

“Development” means *inter alia*:

“the carrying out of building, engineering, mining or other operations in, on, over or under any land, the making of any material change in the use of any buildings or other land, or the subdivision of any land.”

Mr. Vice-President, consequently, any proposal to develop a resort, casino or otherwise is an activity included in the meaning of development which concerns the provisions of Part III of the Act and not Part II

Mr. Vice-President, again, I would like to emphasize that there is no application for development before the Town and Country Planning Division for casino, hotel, recreational park or otherwise. However, if such a proposal is made it would be considered within the context of Government’s policy and the legislation that is relevant and applicable.

Mr. Vice-President, in the Town and County Planning Act as of today, the long title of the Town and Country Planning Act is described as:

“An Act to make provision for the orderly and progressive development of land in both urban and rural areas and to preserve and improve the amenities thereof; for the grant of permission to develop land and for other powers of control over the use of land; to confer additional powers in respect of the acquisition and development of land for planning; and for purposes connected with the matters aforesaid.”

4.00 p.m

Mr. Vice-President, did the hon. Prime Minister make any pronouncement that is inconsistent with, or contrary to making provision for the orderly and progressive development of land in an area? Did he say anything that is inconsistent with it, or contrary to preservation and improvement of the amenities of Chacachacare Island? Did he say anything that is inconsistent with sustainable development of the development of Trinidad and Tobago? I think not, Mr. Vice-President.

Mr. Vice-President, it is interesting to note that there is no requirement in Part III of the Town and Country Planning Act as it exists today, that in making a decision to grant planning permission for the development of land that one must

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have regard to a development plan. It is, however, reasonable to expect that in order to secure consistency, continuity and orderly progressive development of land as this Government has demonstrated, that one would have regard to a development plan. [*Desk thumping*]

Mr. Vice-President, in the statutory plan, Chacachacare Island is allocated for resort residential development. In the draft amendment to that plan prepared by the Town and Country Division in 1988, the developable portions of the island are identified and the zones for development potential have been identified as follows, and this is in 1998:

- Zone 3: Restricted development potential
(Sanders/Coco Bay areas)
Low intensity recreation and built development
- Zone 4: Critical conservation value
 - Forest and nature reserve
 - Trails and camping with selective placement.

Mr. Vice-President, in the Chaguaramas Development Conceptual Plan of 1999, developable areas for resort development have also been identified. Having outlined the law as it stands today, and again emphasizing that there are no proposals before the Town and Country Planning Division at this point in time for any development of Chacachacare, I thank Sen. Prof. Kenny—although I know his Motion which is obviously well-intentioned, is a bit premature at this point in time.

Thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.04 p.m.