

*Leave of Absence**Tuesday, June 22, 1999***SENATE***Tuesday, June 22, 1999*

The Senate met at 1.32 p.m.

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

**Mr. President:** Hon. Senators, leave of absence has been granted to the following: Sen. Jagmohan from today's sitting; Sen. Philip Marshall for the period 21—23 June, and Sen. Finbar Gangar from June 22—27, 1999.

**SENATORS' APPOINTMENT**

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson  
President.

TO: MR. KENNETH AYOUNG-CHEE

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

NOW, THEREFORE, I ARTHUR N.R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KENNETH AYOUNG-CHEE, to be temporarily a member of the Senate, with effect from 22nd June, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Philip A. F. Marshall.

Given under my Hand and the Seal of the President  
of the Republic of Trinidad and Tobago at the  
Office of the President, St. Ann's, this 21st day  
of June, 1999.”

*Senators' Appointment*  
[MR. PRESIDENT]

*Tuesday, June 22, 1999*

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

\s\ Arthur N. R. Robinson  
President.

TO: MR. KELVIN RAMNATH

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

NOW, THEREFORE, I ARTHUR N.R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KELVIN RAMNATH, to be temporarily a member of the Senate, with effect from 22nd June, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Finbar Gangar.

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 21st day of June, 1999.”

#### OATH OF ALLEGIANCE

*Senators Kenneth Ayoung-Chee and Kelvin Ramnath took and subscribed the Oath of Allegiance as required by law.*

#### PAPER LAID

Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Trinidad and Tobago Unit Trust Corporation for the year ended December 31, 1998. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]

#### ARRANGEMENT OF BUSINESS

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. President, today is Private Members' Day, however, I seek leave of the Senate to deal with “Bills Second Reading” under “Government Business”, instead of “Private Business”.

*Agreed to.*

**DOMESTIC VIOLENCE BILL**

[FIFTH 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. Danny Montano:** Mr. President, before I begin my contribution, I would just like to say a few words on a personal note, to thank, from the bottom of my heart, the hundreds of persons who came to the funeral of my son and who telephoned me to express their sincere warmth and sympathy. I received calls from all over the world and I would like to express my heartfelt thanks to everyone.

In particular, I would like to thank my parliamentary colleagues of the People's National Movement who either phoned or came to see me, or attended the funeral and all extended their deepest sympathies to me and my family.

I would also like to express my deepest regards and thanks to the Independent Senators who came to the funeral and who called me and, particularly, to Sen. Mahabir-Wyatt who was not here at the time but who wrote a very gentle and warm note to both my parents and to me.

I would also like to thank the members of staff of the Red House who wrote to me personally. I would like to thank, also, the members of the Port of Spain City Council who wrote to me. I would like to thank the Mayor of Port of Spain, Mr. John Rahael, for his very kind note, and also the Mayor of San Fernando, Mr. Gerard Ferreira, for his very kind card.

I would also like to thank you, Sir, for your very kind words in this Senate and for your very kind and gracious card which I still have with me. It has touched me very deeply.

I would like to thank also Justice Anthony Lucky, whom I do not know very well, but who sought to take the time, on behalf of himself and his family, to write to me.

I would also like to thank, particularly, Dr. Reeza Mohammed, a member of the Government, who made every effort to telephone me at my office and later he contacted me at my home. He was very kind and considerate on the telephone. I would also like to thank Sen. Joseph Theodore who sent me a most kind and

*Domestic Violence Bill*  
[SEN. MONTANO]

*Tuesday, June 22, 1999*

considerate note. It was very welcome. We are often adversaries but, obviously, he is a gentleman and I respect that.

I would particularly, Sir, like to thank, from the bottom of my heart, one of the earliest calls that I got, perhaps one of the most touching calls because of its immediacy, warmth and generosity. That, Sir, was from Sen. Brian Kuei Tung. He was extremely gracious, kind and gentle in a way that was surprising, heartwarming and encouraging. I would like to thank him personally for his very kind sentiments, through you. Our children used to play together and, obviously, he has not forgotten that we were friends in a former life.

I would also like to thank Mr. Patrick Manning, who, perhaps, was really the first to phone me and, obviously, the tragedy had struck him and his family also. His family and ours have been friends for a long time. He telephoned me, came to visit me at my home and he also attended the funeral and I would like to say special thanks to him.

I would also like to thank Sen. John who attended the funeral. It was very gracious and generous of him.

I would especially like this honourable Senate to know that I received a most gracious and warm letter from the President of the Republic whom I know very little, but he took the time from his duties to respond to a junior officer of the Senate and I am deeply grateful and extremely touched by the generosity and consideration of his letter. He is obviously a very noble statesman and I admire him with respect to that, and I would like to share that with this honourable Senate.

**1.45 p.m.**

Mr. Vice-President, I thank you for allowing me to express those sentiments. I would like to move on, if I can, to the business at hand, the Domestic Violence Bill. I have not been here to take part in the substance of the debate, but I am aware of what are the substantive issues. *[Interruption]* Clause 23 is the divisive clause in this Bill, and it is the one area that seems to be causing the most difficulty.

The issue, as we see it, Sir, on this side of the Bench, is very simple: our job is not merely to oppose and criticize. Our job, as the Opposition Senators in this Senate, is to make what one would hope is good law, better law. In this particular instance, I think that everyone in this Chamber can acknowledge that the

substance and intention behind this proposed piece of legislation is good law. It may not be perfect, but it is an attempt to improve on the existing legislation. It is not as if we are without a domestic violence law, we do have one, and it does work. The Government is making an effort to improve on the substance of the law.

The question is, whether or not this paragraph in clause 23 is necessary and appropriate under the circumstances. It amounts to an infringement of our constitutional freedoms and does, in fact, amount to a slight shaving of the freedoms that we as citizens enjoy in this country. The question that has to be asked is whether this measure is in the greater good of the country as a whole. We have to look at it from a number of perspectives. The first angle I would draw Senators' attention to is not just the measure by itself, but the proponents of the measure as to whether or not, in truth, the measure can be trusted implicitly.

What we have seen over the past three and a half years is a situation where, in many instances, there has been a gradual, but determined, erosion of constitutional freedoms in the country. We have received and heard all kinds of statements being made on the part of the Government that tend to threaten our constitutional freedoms. Therefore, this provision is being looked at in that light. It is not being looked at in isolation of what the Government has said and done in the past, it has to be linked to what the Government has been doing. There is, therefore, tremendous suspicion about what is behind this particular clause.

One of the questions that one could ask is very simple: how great is the evil here when balanced against the need for the protection of persons who are the subject of domestic violence? How great is this evil? Mr. President, it depends. In the hands of an unscrupulous officer or Government it can be very evil. In the hands of a generous officer and a gentle and kind Government, it may not be any particular threat. So the question is: what do we do? Do we set a law on the record that can, in fact, empower unscrupulous persons to abuse their authority? That is the danger. It is not so much we on this side are standing and saying, "Absolutely not!" It must be said that we consider this measure inappropriate because we know that there are persons out there who would not do as we would have them. That is the problem. This provision, quite clearly, can be the subject of serious abuse, and that is the problem, it is a question of the abuse.

Senators must recognize that in the common law there are the principles of hot pursuit as well as probable cause, so that in the ordinary course of events, if there is a crisis and there is somebody screaming his or her head off inside a house,

*Domestic Violence Bill*  
[SEN. MONTANO]

*Tuesday, June 22, 1999*

yelling, "Murder!" and so forth, it is quite likely that a police officer, in fact, has the common law right to enter the property, anyway. There are certain other bits and pieces of legislation that might give them that right in any event. So the question is: do we need to do this? What clause 23(2) says is, "Where a police officer has been refused entry and has reasonable cause", not "probable cause" any longer, but "reasonable cause". The question is: what is reasonable cause?

On this side we do not want to be obstructionists. We do not want to say no to a piece of legislation that is inherently good, but we feel there is a defect within this provision. We do not want to be in that situation, and we do not feel that the Government should be in a situation where it is potentially creating a very unhappy situation for the events that are subject to abuse. We do not think it wants to be in that situation at all. Therefore, what I would like for Senators to consider is if they are not willing to have a complete removal of the clause, then, at least, put in a check and balance on it. It could be done in, at least, any number of ways.

One of the ways might be to suggest that only a police officer of a certain rank would have the authority. One would think that a constable might be on the scene and in the heat of the moment might go marching in to break down somebody's door, just someone having fun with his daughter. I play with my daughter, I tickle her and she laughs and screams, and certainly it is not child abuse, there is nothing of the kind taking place. It would be ridiculous if a constable comes running into the house. So perhaps if there were a few moments where the constable cools off and he tries to get hold of a senior officer who might, in fact, in the presence of the owner or occupant of the home, present a greater authority than, in fact, he not being in the heat of the moment might exercise better judgment in the exercise of this law. Perhaps we could consider something like that. We could also consider setting a penalty on the police officer involved for frivolous or vexatious situations, when really and truly he had no reasonable cause.

Mr. President, the question is again, how great is the evil? Is this clause desirable? If it is perhaps desirable, can we not put a check and balance on this, so that it is not subject to the abuses that we know take place in the society? We know that these things happen, and that there are abuses. With the greatest respect to the Minister of National Security, there are policemen who are going to act hastily, rashly and inappropriately, that is human nature. It is not a criticism of the police service, it is just human nature. But at the same time, we have got to protect our freedoms, and there must be a check and balance on everything. The Attorney General has said on many occasions that freedoms are not absolute, we understand

that. So the freedom to enter a person's house must not be an absolute freedom either, we have to put a check and balance on it. We have the time still to do that.

Mr. President, in closing, I would just say that there may be others who have phoned, sent cards and so forth, and I may have left out their names. I apologize for that, but I cannot remember everybody, because there were so many. I tried to make a short list and hope that I have included everyone. I apologize if I have omitted anybody. I hope that anyone I have not mentioned does not feel slighted.

In so closing, I would ask Senators to consider seriously a second look and a check and balance of clause 23. Thank you.

**Sen. Prof. John Spence:** Mr. President, I shall not be very long. I think that like both other speakers, I welcome anything that will lean towards a reduction of domestic violence. Clearly this is an evil that, by all means, we must remove from our society. Certainly there are all indications that it is more prevalent than it used to be in the past.

I think also that in addition to this legislation we have to seriously start thinking about the efforts we should make as a society to reduce this problem. I will just give an example of a development that I think is going counter to the reduction of domestic violence. Like my colleague, Sen. Dr. St. Cyr, my only reservation is with clause 23(1) and (2), because like him, I feel that we should be very careful in putting on our statute books, legislation that in any way might be open to abuse and which, as he has stated, in the long run might be leading us in a direction we might not want to go.

I recognize the difficulty of having to deal with a situation, one of emergency, in which someone, a child or a spouse, is under immediate danger. I recognize that perhaps the common law provisions may not satisfy in all such situations, therefore, perhaps we need to have something in this particular Bill which would deal with such a problem. But I think, at the same time, that we ought to consider carefully safeguards with which we might circumvent that provision, in order to guard against any possible abuse and to deter, in advance, any possible abuse. In that regard, I suggest that if we are going forward with this particular provision that we consider two possibilities: one is, ensuring that any report that is written gets to agencies other than the police service.

It makes me very unhappy to have to say this, but I am not confident that fellow officers would be active in finding at fault an officer in the same service. A recent example which, perhaps, the hon. Minister of National Security might

*Domestic Violence Bill*  
[SEN. PROF. SPENCE]

*Tuesday, June 22, 1999*

explain to us, has been the report that a photographer in San Fernando received a blow while in police custody which resulted in a fracture of his skull.

**2.00 p.m.**

A few days after, the Commissioner of Police—referring to this incident and indicating how erroneous the reporting was—said that three photographers had pleaded guilty. This was reported on the television; in fact he was shown saying it on the television. Immediately after that, the news commentator remarked that there was in fact only one photographer and not three. Whether the one photographer pleaded guilty or not, I do not know. There are two issues here. One is: if the Commissioner of Police got it right, why has there not been any further statement from the authorities? Certainly, I am left with the impression that the Commissioner of Police got it wrong—there was one photographer and not three. Either something is wrong with the reporting system, or he erred in transmitting the report—this was the Commissioner of Police. There has been nothing further said. What am I, as a member of the public to conclude? If the report is incorrect and the Commissioner is correct, then surely we should be given some further statement on that score, because the news commentator immediately said that this was not so.

Further than that, was the Commissioner of Police trying to suggest that because the photographer pleaded guilty, it is correct to crack his skull? Again, that is the impression I am left with. It may not be so. Perhaps the Commissioner does not think that it is justified to fracture a skull if one pleads guilty. Again nothing has been said, so the public—myself as a member of the public—is left with this large question mark.

Immediately after that I am asked to adjudicate in a Bill which says that if the police officer has to exercise action under clause 23(1) he should report to the Commissioner of Police. You see my difficulty Mr. President? I want to suggest that any such report should be lodged not only with the Commissioner of Police but also with the Director Public Prosecutions and the Head of the Family Services Division of whatever relevant ministry that service is in. One would have persons who deal with matters of that sort look at it, in addition to an impartial entity such as the Director of Public Prosecutions. I think that is essential if we are to have confidence in the way the system would work.

Secondly, I would like to refer to the point made by Sen. Montano with respect to possible penalties if the system is abused. I have a draft here which is



not my own. I think it is an admirable one. Sen. Dr. St. Cyr, with your permission, I would like to adopt it. This deals with penalties for abuse of this particular provision. It deals with two provisions.

“Where a complaint is filed against a police officer by a person resident in premises whereby the police officer is accused of unlawfully exercising a power of entry under subsection (1) and/or (2), the Commissioner of Police shall have such a complaint investigated and reported upon in writing by a senior police officer within 48 hours of the complaint having been registered.”

The next clause is:

“If the entry is proven to be unwarranted, the police officer shall be subject to immediate disciplinary action including dismissal from the Police Service by the Police Services Commission.”

Mr. President, I believe if we had such provisions in the legislation, it would deter abuse of the system but allow legitimate and provable action which is intended for the good of individuals: that is, to save from harm, children or spouses. I would certainly urge that those two aspects of modifying this clause be adopted: one, to ensure that the reporting goes—in addition to the Commissioner of Police—to impartial adjudication, and secondly, if it should be determined that there should be an investigation, and it be determined that the powers were abused, then there should be severe penalties. I would certainly, at the appropriate time, move those amendments.

Mr. President, I really think we ought to have a serious look at actions that we may be taking which, in the future, would have the effect of increasing domestic violence. I do not think there is any doubt that alcohol abuse is one of the areas that leads to domestic violence. One can hear stories, repeatedly, of spouses who, under the influence of alcohol, have abused their spouses or their children. There is no doubt on that score.

There is another area of activity that we are promoting in this country—apparently officially—which I believe could have exactly the same effect; that is gambling. In the United States of America the government is so concerned with the development of gambling that a commission has been sitting. The report, I think, goes to Congress this week with respect to the problem of increasing gambling in the United States of America. Instead of anticipating the problems and looking at the countries that have had the problem and dealing with it; we are going headlong into the area of increasing gambling, including casino gambling.

*Domestic Violence Bill*  
[SEN. PROF. SPENCE]

*Tuesday, June 22, 1999*

I would like to read some extracts from this document, which is an extract from a computer web page of the *Christian Science Monitor*, dated Monday, June 07, 1999. It is referring to this report that is going to Congress this week. It is interesting that in the United States of America there are only three states: Utah, Tennessee and Hawaii, where they do not have legalized gambling. In Trinidad and Tobago, one of the reasons for promoting casino gambling is tourism and yet Hawaii must be one of the most successful tourist destinations in the world.

**Sen. Mahabir-Wyatt:** So is Utah.

**Sen. Prof. J. Spence:** So is Utah, Sen. Mahabir-Wyatt tells me. Yet, these states do not have gambling. But in the other states the problem is increasing. I would just like to read from this document, Sir.

“After two years of investigation and field hearings, a national commission next week will present to Congress and the president recommendations designed to slow the growth in gambling while mitigating its harmful impact on society and politics. Among other things, the panel will urge a moratorium on new casinos and lotteries, an increase in the minimum betting age to 21, more resources to address gambling addiction, a ban on collegiate sports betting, and stricter limits on the political influence of gambling interests.”

One wonders whether we do not have some political influence here from gambling interests.

“Along with the growth in legal gambling, the number of people at risk of problem gambling has risen to about 15 million...”

In the United States of America, this commission is suggesting that 15 million people have a problem with gambling, that is, they are addicted to gambling. They go on to discuss the problem for the homes and the families of addicted gamblers, and the reaction they have to their spouses and their children because of their addictions—similar to addictions to alcohol. This commission report states that the number of gamblers anonymous has increased in the United States substantially over the last few years.

Mr. President, I really think it is ironic that at the same time we are coming here to this honourable Senate to try to legislate about domestic violence, we are promoting in the country areas of activity that undoubtedly in other countries have been shown to lead to more domestic violence.

**2.10 p.m.**

And on what grounds? That it will provide jobs. Indeed, this Commission Report looks at the whole aspect of the economics of gambling and concludes that the costs of looking after the addicts and their families may be more than the revenue that is derived from the gambling. So you can look at the immediate jobs created and the immediate taxes that go to the Government but then you do not assess the adverse effects and the economic consequences of those, and we should look at the whole issue if we are going in that direction.

Now I think recently that the Prime Minister said that people who oppose casino gambling are hypocrites—so I saw on the television—because there are some private gambling clubs. Well, why are we not exercising the law to deal with these private clubs? Here is an advertisement for a private gambling club in Grand Bazaar. Nothing here in this ad suggests it is a private club. The ad says “Come and walk in”. However, if gambling is only allowed in private clubs, do the police ever go to these clubs and say, “Are you a member?” “How long have you been a member?” “Mr. Club Owner, will you please provide me with your membership lists?” “What are your rules and regulations?”

Do we look at these clubs at all? I have never seen anything reported to that effect and they advertise freely in the press. So, clearly, we are turning a blind eye and yet we say that we must enforce the law. Sure we must hang nine people because we are going to enforce the law. Enforce the law to do with gambling in private clubs in the same way that the law with respect to capital punishment is enforced, ensure one cannot walk off the streets into a club and engage in casino gambling. So, Mr. President, I really think that we ought to have a serious look at our society and decide whether we are against violence not just in certain aspects of our society but throughout.

Certainly I agree with the Prime Minister when it comes to the television because, to me, it is horrific the number of films and programmes and so forth in which it is violence, violence, violence, violence continuously. So he will have my vote if he is going to do something to control television violence because that must be certainly an influence. It must be an influence. How can you, children especially but adults as well, see day after day after day after day that the solution to every problem is to shoot or kill or use a knife or whatever. That is all that is shown on the television with very few other programmes.

If one has cable television one has to look at the stations that show old movies. It was not so 40 years ago. If one looked at the two channels that showed

*Domestic Violence Bill*  
[SEN. PROF. SPENCE]

*Tuesday, June 22, 1999*

old movies, 40 years ago they were not violent, and even when there was some violence, somebody was shot, it was not a gory violence with blood spouting out whenever the bullet entered the body. One saw that the man dropped and died. It was not so graphic.

In conclusion, Mr. President, I would like to make these two points to summarize what I am trying to say. I think it is important that we address domestic violence in all aspects. Clearly we must have legislation because that is an immediate issue with which we would have to deal and we must deal with that. We cannot allow it to continue to escalate. We must be careful and frame the legislation in such a way that we do not open up other avenues for adverse effects which may be, if not as great, certainly substantial. So we must frame our legislation in such a way that we build safeguards into it.

My second point is we must ensure that we do not promote any activities in our society that are likely to encourage or in any way promote or lead to, if not by intent, by accident, by whatever means, further violence and especially further domestic violence. Thank you, Mr. President.

**The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore):** I should like to take a few minutes to look at Act No. 10 of 1991 and the current Bill, “an Act to Provide Greater Protection for Victims of Domestic Violence” and I should like to deal a bit with the progress the police have made over the last three years as far as training and preparation to deal with matters of community and domestic violence. Act No. 10 of 1991 allows at section 22:

“Where a police officer believes on reasonable grounds that a person has committed or is committing an offence under section 18 of this Act, he shall make an arrest without a warrant.”

This Act dealt primarily, Mr. President, with the matter of being granted a protection order and the searches, the arrests, the granting of warrants were all predicated on a protection order having been issued. According to this section a person will be committing an offence under section 18.

Section 18 states:

“Where—

- (a) a protection order or an interim protection order is made and—
  - (i) the respondent was present at the time the protection order or interim protection order was made; or

- (ii) where the respondent was not present at the time the protection order or interim protection order was made but the order has been served personally on the respondent; and
- (b) the respondent contravenes the order in any respect, the respondent is guilty of an offence...”

What this led to, Mr. President, was the granting of certain instructions to the police service by the Commissioner of Police which had the effect of dealing with reports made to police stations where protection orders were in effect or where a protection order was requested.

I should like to read from a document issued by the Commissioner of Police known as *Guidelines for Police Officers*. This is an internal police document and these guidelines are:

“(a) Report of threats:-”

Upon receipt of report of a threat, serious or otherwise, the police must:

- “— record the report in the station diary;
- warn the person against whom the complaint is made;
- record in the station diary, the action taken with respect to the informant/complainant;

(b) Report of Violence:-”

Upon receipt of a report of an incident of domestic violence, the police must:

- “— record the report in the station diary;
- dispatch the complainant to seek medical attention: if the complainant is female, she must be accompanied by a female police officer;
- accompany a female complainant to a safe house if necessary;
- conduct further investigations on receipt of the medical report and take appropriate action;
- advise the complainant of the procedure to obtain a protection order.”

This restricted the action that could be taken by the police when matters of domestic violence were reported and the feeling of the public—well which the

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

public has up to today—is that the police do nothing about reports of domestic violence but say to the complainant how to go about obtaining a protection order. This was the case a few years ago, Mr. President.

It also goes on to say:

“— refer reports to the Community Police Section of the Trinidad and Tobago Police Service to monitor the progress of the victim;”

What this new Bill seeks to do, Mr. President, is take the response by the police beyond a protection order being in effect allowing the police to take action according to section 23(2) where the officer:

“...has reasonable cause to believe that a person is engaging in or threatening to engage in conduct which amounts to domestic violence and failure to act immediately may result in physical injury or death,...”

One of the comments made, Mr. President, for instance, by Sen. Alfred, was that steps should be taken to have a warrant issued more quickly. Now, the time it takes to get a warrant is determined by when the event occurs and how available the magistrate or justice of the peace may be to the police when a warrant is being sought. Let us assume that an incident occurs after work or maybe on a weekend. The police officer has to contact the magistrate or justice of the peace and fill out a form known as an Information Form which he will take to the magistrate.

What is also of concern is the district in which the offence is being committed or alleged to be committed to make sure that this magistrate or JP is the one who is so assigned. Having reached the home of the magistrate, the magistrate, of course, can question the officer to find out what—I beg your pardon. First of all, when the form is filled out it has to be signed by a senior officer in the station or the officer in charge of the charge room, and then the warrant is sought.

Sometimes the police actually fill out the warrant to save the magistrate or the JP having to do that, and once the magistrate or the JP has the stamp, the warrant is then stamped and issued. Now the problem with this, Mr. President, is that even if this takes five minutes, five minutes may be too long and the matter of importance in this particular Bill is giving the police the opportunity to respond to an event that is occurring while they are present.

I would like to touch a bit on the matter of the training or the suitability of the police. The major concern does not seem to be that the police respond but, as Sen. Montano pointed out, he did mention the matter of checks and balances and perhaps safeguards to make sure that in responding they have the authority or that

they do not act hastily. This is a matter that I am sure will be taken up by the Minister when she is winding up or perhaps at the committee stage, but I wish to acknowledge that while the general impression of the police, which seems to have been there for some time, is that there are bad eggs in the basket and there are those who could take advantage of a situation such as this, I would like to deal briefly with what has been going on over the years to train the police adequately to deal with matters like this and to give us the confidence that they are in a position to assess and properly react to a situation.

I have a booklet here, Mr. President, labelled the *Community Policing Plan 1996 to 1999* and it was prepared and signed by commissioner Noor K. Mohammed on September 24, 1996. It was around this time that the present community policing section was launched. The community policing section is not one section. The community policing section really refers to the administrative section that is located at the police administrative building. The purpose of community policing is that each district will be served by members of the community police and, with your permission, Mr. President, I would like to read extracts from this booklet which is, in fact, a booklet that is in use by the police service.

This is on the selection of suitable persons for key positions. It says:

“So, in order for the Community Policing initiative to be successful, the right people must be selected, that is, the best available persons with the ability to successfully perform the job from the pool of qualified candidates must be found without unfairly discriminating against anyone.

A series of steps would be used:

- (1) SUBMISSION OF APPLICATION: Persons desirous of working at the Community Policing Section will apply directly to the Commissioner of Police...”

Now I would like to mention, Mr. President, that in initiating the community policing, the first group of police were volunteers and other than being volunteers the police service ensured that they had certain basic qualifications which will fit them to make this transition, which we hope the entire police service will make, to one of community policing. It goes on:

- “(3) SCREENING: The Community Policing Staffing Committee will set up a screening mechanism to separate those who are qualified from those who are not. Applicants will therefore have to undergo a psychological test and have a reference check made on them.”

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

**2.25 p.m.**

“Applicants will therefore have to undergo a psychological test and have a reference check made on them.”

With respect to the matter of experience:

“An applicant's experience would be considered especially those with the ability to perform social work, public relations work, networking, management or any other skill or experience that can be effectively utilised.”

Having selected the community police, Mr. President, a certain amount of training has been going on, and I will later on indicate what training is taking place now.

“Training will both be long-term and short-term. Short-term training will include though areas that need urgent and immediate response. Community policing, domestic violence, police community relations, communication skills, decision making and creative problem-solving, counselling, mediation and conflict resolution, sociology, social psychology, community network.”

What this is doing, Mr. President, is improving the quality of policemen in the service. What started last year, as well, is that the issue of community policing has been introduced at recruit level. So, while the selective policemen are undergoing training in community policing which covers areas of domestic violence and knowing how to respond, the trainees at the barracks are also introduced. So we are having it done from both ends, and the idea is, as I will point out later on, that the training will be spread to all police stations in Trinidad and Tobago.

I have another document here, Mr. President. It is called *The Police Service and The Domestic Violence Bill*. It was prepared by the Acting Senior Superintendent of Community Policing, Senior Superintendent Winston Cooper, and I will just read extracts from this, because this, in fact, is the document that is in use now to guide the police in dealing with matters of domestic violence.

I should mention that the Cabinet-appointed committee which went into a study of domestic violence and made recommendations had on it three police officers: Deputy Commissioner of Police, Mr. Everaldo Snaggs, Superintendent Kathleen Weekes and Police Sergeant Lynn Roy. These officers were fortunate to be part of the team that did a study on the domestic violence situation and reported. Coming out of that, drafts of a Bill were prepared to bring to this



Parliament and the participation of these officers was from the very outset until the near completion of the Bill being brought here.

I should like to read an extract from page 2 of this document:

“The role of the police service as an intervention agency in the fight against domestic violence in all its aspects was considered at length and as a consequence saw the police service making a dramatic change of its inveterate policy in handling such matters.”

The point, Mr. President, is that the police were not simply sitting there waiting for a Bill to then determine how they would respond or how they would go about implementing the measures contained in the Bill. The Police Service, from the very beginning, had the foresight to recognize that change was imminent and necessary, and they started as far back as 1996 to cause this change in attitudes as far as the police were concerned.

It continues:

“They were now expected to investigate all such reports and institute the appropriate action in the matter in the same manner as if they were investigating a crime. Such action had to be taken as police felt it was a waste of time...”

This is prior.

“...to become involved in husband and wife business,”

This is the way the public feels and the police themselves had become somewhat frustrated.

I should like to read on:

“...since in most cases the wives told the magistrates they did not want to give evidence against their husbands. The cases were then dismissed and police officers felt rather frustrated after they had done so much work to bring the complaint before the court.”

We know why this happens. It is a matter of the relationship and how people think and wanting to keep the family together. It is not that the wife wants to see her husband go to jail. The police have come to terms with this, and rather than stepping back and saying it is not their business, they are becoming involved because it is very much their business, certainly, as the first people who will be

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

called and the first people who are likely to be on the scene when a domestic violence situation is occurring.

Mr. President, I would like to continue. I am still on page 2:

“As domestic violence matters became more prominent, police officers were mandated to take positive and deliberate action where offences were discerned. They were instructed to either remove the victim from the home, arrest the assailant, provide counseling where necessary or even refer the spouse or both, to other supporting agencies for further professional help.”

Again, this is all part of the training the police have been receiving. They do not purport to be the sole agency that can deal with domestic violence. As a matter of fact, I think they are getting somewhat concerned that maybe too much is expected of them. There are other agencies which I shall mention in a while that support the efforts of the police, and the police are required to refer and make contact with counsellors—the professionally trained ones who can, perhaps, defuse a situation and maybe prevent further violence or injury.

The paper goes on, Mr. President:

“This change in policy had immediate consequences for the personnel who were charged with the responsibility to administer and respond to incidents of domestic violence.”

This is what is going on now.

“They had to be trained to meet the inherent challenges. Training therefore became crucial for the membership, especially training in the unique dynamics of domestic violence and the appropriate manner in which police officers should respond.”

I should like to repeat that:

“and the appropriate manner in which police officers should respond.”

I admit that all the police officers have not reached this level. The community policing is not a separate entity that is apart from the police service, but they constitute the group that was first trained and that group is getting larger. I will go on in a while to show what efforts are being made by the existing group of community police to pass on the word and sensitize other police in the station to the needs of the public and the manner of their reaction.

It continues:

“Training programmes in domestic violence consist of lectures and workshops designed to assist the participants in understanding the dynamics of domestic violence and the necessity to treat such matters with despatch. It begins with improving the manner in which police dispatchers receive calls and reports of domestic violence from the victim since this is often the victims' first contact with the Police.”

Mr. President, right now there are police community groups in all police districts throughout Trinidad and Tobago.

The course, for instance, includes the following topics

- “(1) Receiving and responding to reports.
- (2) The processing of reports.
- (3) Diagnosing a dangerous perpetrator.
- (4) The need to assess the environment and immobilize spouses if necessary.
- (5) Procedural steps to follow in dealing with such reports for example:—
  - (a) Note legal consequences
  - (b) Note physical abuse (Injuries)
  - (c) Note psychological abuse (fear, trauma)
- (6) The law on Domestic Violence (highlighting Police Powers)”

This is most important. It has been suggested that in many cases the police do not even know the law that they are supposed to be enforcing. This is being addressed. We have to make sure that they understand the law, the limitations and what can be classified as likely abuse of this law.

They also have to do:

- “(7) Interviewing, counseling and other intervention strategies.
- (8) Establish the need for support e.g. (M.A.V.A.W.).
- (9) Methods of investigation of incidents of domestic violence.”

There is a section that deals with networking which has to do with the other agencies, where the experts reside, with which the police right now are in contact. Mr. President, I quote:

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

“The importance of Networking cannot be underscored as these external agencies possess tremendous resources which are brought to bear on the multiplicity of situations involved in the social debacle that is encountered.

These resources assist in providing a wide range of social services which otherwise would have been unavailable to the Police Service and the community at large. Thus, their ready accessibility leads to quicker treatment for and ultimately, speedier rehabilitation of victims.”

The reason I am taking time to read this, Mr. President is because this is where the police service is now, and they are committed to be of service to the community and to be able to make a positive contribution towards the reduction of domestic violence.

The matter of half-way houses came up last week, and another area of critical importance in the sphere of networking lies in the provision of places of safety and foster care homes. The police right now are working on providing a half-way house in the northwest area of Diego Martin, but then again, that is only a fairly ‘amateurish’ thing, because they need a place where a victim can be taken almost immediately, to get that person out of harm's way while the counsellors arrive and other people try to defuse the situation.

The homes that the police service deals with are the St. Dominic's Children's Home; Christ Child Convalescent Home; the St. Jude's Home for Girls; St. Michael's for Boys; T.O.W.E.R.S. in Tobago; Happy Hill Home for Battered Women and Children; St. Mary's Children's Home; Cyril Ross Home; Home for Battered Women in San Juan; and Mizpeh Halfway House Incorporated.

Again, there is the matter of liaison agencies which are, in fact, mainly government ministries like the Ministry of Social and Community Development; the Ministry of Culture and Gender Affairs; the Ministry of Education—for placement of children; the Ministry of Health—for medical care; the Ministry of Sport and Youth Affairs; NADAPP—this is the organization that deals with the reduction in drug and alcohol abuse—for lectures—and the University of the West Indies for training. There is also the medical/social work department—medical care and counselling.

Other Non-Governmental Organizations are Families in Action—for training and counselling; the Family Planning Association—for referrals and training; the Rape Crisis Society—for referrals and training; and the Family Life Education

Unit—for training. There is also the Foster Care Unit Family Services—for training and counselling, and FEEL.

The point I am trying to make, Mr. President, is that this is not the first time that the police are addressing this issue of domestic violence, and the intention is to make sure—I cannot put a time table on it—but we are working out a time limit to see how many people can be trained in any 30-day period so we can estimate how long this community police training will take for the entire police service.

There are intervention techniques, Mr. President, and as I said earlier, crisis intervention techniques in domestic violence commenced with the training of police recruits at the Police Training College for all other police officers in the field. The community police officers, as well as some members of the E-999 units, are specially trained to intervene in such matters at present. In both cases, training is ongoing.

#### **2.40 p.m.**

As a matter of fact, an orientation training programme, Module I, for community police officers, in particular, and other members of the service, commenced on June 14, 1999 and ended on June 19, 1999. A specific training programme on handling domestic violence for members of the E-999 unit is due to start on June 28, 1999.

So, as I see it, another aspect of what is taking place is that while it is felt—and I am sure the question will be asked—how can we guarantee that there will be trained community police at every station? We cannot. But we do have the E-999 Unit which can be reached from anywhere in Trinidad and Tobago and for which there are vehicles stationed at strategic stations throughout Trinidad and Tobago. It is hoped that in the process of ongoing training, all members of the E-999 Unit as well as members of other various departments in the police service will themselves be trained and the entire police service in the long run will be better equipped to respond and handle these reports. The E-999 officers have also received training in the application of First Aid and can, if required, render CPR.

At present, many officers of the E-999 Unit who are usually the first responders have themselves been initially exposed to training in issues of domestic violence and are quite capable of responding professionally. One would appreciate that under pressure and stress, I do not think a victim has time to look up in the directory to see the number of the nearest police station—I certainly do not know the number of the St. Clair Police Station, which is the one responsible

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

for me—but they can dial 999 and the vehicle response, from the records we have, has been quite encouraging. Most, if not all, of these police have received training.

The 999 Division—and this is a report from the Superintendent of the E-999 Rapid Response Branch which I received today, dated Tuesday, June 22, 1999 and it deals with the accumulated domestic violence E-999 statistics for period December 1, 1998 to May 31, 1999.

Just as a matter of background. The E-999 system is a computerized system where all calls are recorded. The E-999 system has the capability of displaying the phone number from which the call was made, the address and the name of the occupant or the name of the person in whose name the phone was taken out. So, even while the phone is ringing, the call taker—as they are known—will see on his or her display where the complaint is coming from. There is also another section on the display which will indicate the nearest police station where 999 vehicles are located. One just needs to punch one button for that call to be sent to the station and one will get a hard copy printout just in case they get it wrong on the phone.

The thing is, these call takers are trained. They were trained by a US company which trains American call takers in their 911 system. These young people have the usual large book of references when dealing with any matter, from heart attack to anything. So, that was started on April 2, 1998. I think that what would happen eventually is that virtually all domestic violence calls or calls of any nature will be received at the 999 centre which is located at the St. James Barracks. That centre is in communication with all the other centres throughout Trinidad and Tobago.

So, what I am trying to point out is that this concern about the readiness of the police service to implement the measures contained in this Bill should not be so extreme. They are being trained and I cannot say when they will all be trained, but the point I want to make is that the police are functioning in a more proactive manner, and they have got up and have been taking note and putting measures in place to get themselves ready to address the matters that are of utmost importance to the citizens of this country and with which they will have to deal.

Again, the matter of recruitment has been changed. All recruits receive psychological evaluation and they are drug tested to make sure that the quality of the recruit is more in keeping with what the police service needs to provide protection to the people of Trinidad and Tobago. There have been complaints that a number of young men who were bright enough to pass the exam and clever

enough to fool the interviewers got into the police service, as they do get into other jobs. Sometimes the most impressive ones are, perhaps, the most dangerous. The interview package has been changed. In fact, last year the Commissioner of Police himself was a member of the interview team. So a high degree of seriousness has been attached to the matter of policing.

One of the major features in community policing that we have been saying for some time is forging this partnership with the community. When we say we cannot do it alone, we are not suggesting that the police service is in any way deficient or unwilling. We are saying it is everybody's business to contribute towards reducing crime and, of course, this more serious issue of domestic violence.

So the matter of the community policing and the E-999 Rapid Response are the two organizations that have been trained and are undergoing continuing training so all the people can be trained. In fact, I have somewhere here a report about what is taking place as far as the training goes. The reason I am doing this, is because I am giving you factual reports; I am giving you reports I get from the police, not my version of what should happen. I had thoughts about what I think they ought to be doing and I was glad to see that most of these things are taking place anyhow. The important thing is that the training is ongoing.

I would like to deal with one more matter, Mr. President, as far as the preparedness of the police is concerned to deal with this whole issue of domestic violence, taking into account the power that they will have under clause 23(2). I would like to point out in the *Community Policing Plan*, under "SCOPE", is a very relevant and interesting statement:

"The primary aim of the Community Policing Plan is to enhance the traditional policing functions. It is not to replace them. The plan incorporates private businesses, voluntary groups, government agencies and all members of the local resident community."

I think this is very significant, Mr. President. It continues:

"It focuses on building community trust, by changing the perception of the community towards the police; and the police attitude towards the community."

I acknowledge this would not happen overnight, but it is happening and very positive efforts are being made to ensure that the police service maintains this line

*Domestic Violence Bill*  
[HON. J. THEODORE]

*Tuesday, June 22, 1999*

so that the new recruits and the officers who are already serving will be exposed to this type of training.

I feel that like any other training, it cannot help but make the policeman a better individual. That training will probably assist him in his relationship with other people, maybe even in dealing with members of his family. So training is never lost or cannot be regarded as having been wasted.

With regard to the matter of police, there are, from what I can recall, approximately 120 community police stationed in the various districts. These training courses which are being conducted now will deal with groups of police. We are doing it in two ways. The very community police who are stationed at the districts will be conducting familiarization courses for the police in the station. We did find a problem with that because the police in the station tended to sideline the community police as, perhaps, other people whose offices were air-conditioned and they had their own cars and so forth. We had to remind the police service that they are all part of the same service and the community police, having started, are now charged with the responsibility of spreading the training until entire police stations will be community police oriented with the ability, the knowledge and the will to deal with matters in a humane and sensitive manner.

So, basically, the main thrust of my contribution is really to advise this honourable Senate of what is taking place in the police service and to look forward to this training reaching all the police as we go along; but it is not a course that is done once and will be finished; it is ongoing training and they are all positively geared towards that.

I would like to mention, before closing, the comment made by Sen. Diana Mahabir-Wyatt when she made her contribution. I will sort of paraphrase. She did say there was a need to trust in institutions such as the police—and I would like to thank Sen. Diana Mahabir-Wyatt for recognizing that trust is needed. Because the problem stems from nobody wanting to take a chance that the police will do the right thing. I would like to suggest that it might be useful to pay heed to the comment made by Sen. Diana Mahabir-Wyatt. Because while the honourable Senator does not hesitate to comment or indicate her displeasure; one thing I have found out is that the Senator is also prepared to take action where she finds things are not right and will contribute towards making them right. So I am very pleased and impressed that the honourable Senator said that she is willing to give the Commissioner of Police a chance.



I certainly would like to encourage the other members of this honourable Senate to have such trust and give the police this opportunity to show that what they have been working towards has been worthwhile and give them the opportunity to prove themselves because, so far, without any promises and without any laws, they have been making an effort to get themselves ready to deal with the domestic violence situation. I trust that we will get the support for this Bill which will give us an opportunity to reduce this scourge of domestic violence that is threatening our country today, and allow the police to do their job for which they have been very well trained.

I thank you.

**2.55 p.m.**

**Sen. Joan Yuille-Williams:** Mr. President, I would just like to make a short contribution this afternoon, mainly to identify with the business of domestic violence and to lend support to my colleagues. We are very much interested in eradicating—as the Minister said—this scourge of violence from this land. But I need to say quite openly, that we will not do this at any cost. [*Desk thumping*] We still maintain that we have to guard our fundamental rights and freedom. So much has been said on this already and, as I said before, I rise to support most of what had been said.

Let me just say very briefly, that in 1991 when this administration entered government, the previous administration NAR, had just passed a Domestic Violence Bill, and on taking office very early, there were a number of people and organizations who came forward and made comments. They were happy that the Bill was passed. I remember one saying, that it was not strong enough, some people did not feel the weight of the Bill and it did not have enough teeth. So one realized that somewhere along the line, certain amendments would have been made to the Bill—but it needed time to function.

One of the problems identified—and I looked at a number of committees that I know which sat before this Bill came here. I do not know why it was found necessary to bring a new Bill to this Parliament. I really do not see why we had to repeal the Act. I know that we can amend, and full amendments were done over the years. If I look at what had been said by the committee then, if the Bill were amended it would have given one more time to focus on those areas that needed strengthening, rather than trying to repeal the whole Act. Some of us recognized that in repealing the whole Act one can put the whole matter in danger.

Mr. President, even though it is this time of the year, and I know from a political standpoint how one votes it could be deliberately misinterpreted, yet we on this side need to be quite clear that when we vote for something that we can live with it and we do not do it for short-term political gains and we do not just move with the crowd. That is why this afternoon, I am going to make some comments on what I thought should have been happening with this Bill.

First of all, I disagree with an entirely new Bill, and last week, when we had to hurriedly end the debate—in fact, somebody called me and I almost said that the Bill had been shelved—because at some point in time, when one recognized you had to get the two-thirds majority, we might have lost the entire Bill. I do not know who you will want to blame for it.

Let us see what are some of things which were said that we needed to know. One of the things which was said by the committee is that we needed to strengthen the interpretation, and I think to some extent, some of that had been done. Then we were asked to look at all those who can apply and there is one area that I thought we might have looked at, and that is the area of close personal relationships—visiting relationships. In this country, this is a family lifestyle as well and, therefore, those people who have long standing partners who visit are not covered by the Domestic Violence Bill and this is Trinidad and Tobago and the society in which we live. Sometimes, we called it a family type as well, and I think we need to look to see to what extent it is necessary to have that covered. It was one of the proposals that came out of discussions over the years by some of the groups that were included, but I noted that this Bill did not include that group and I think we need to look at it to see if that proposal could be included in this Bill.

One of the other areas that we talked about was the lack of support for this Bill. I want to read something that Sen. Mark had said when he made his comments on this Bill in 1991 and I agreed with him fully when he said:

“Whilst the legal framework is critical and vital, there is crucial need for the establishment of the necessary support services. If we do not have resources, financial and otherwise, to give life to this piece of legislation, then it would just become another Act in our statute books. Resources are crucial to the success of this exercise. Therefore we need to establish the necessary support services and training in the short term. You see, there is need for an urgent formalized training programme for our judges, magistrates, prison officers and psychologists...”

and he went on to name a host of them. What Sen. Mark was saying here is that the support systems are necessary and I would have hoped that when the Bill was presented by the hon. Minister we could have heard a little more of the support systems which have been put in.

I am worried about that because we have been following so many Bills that come to this Parliament. Mediation—all kinds of matters have come to this Parliament and we have been passing Bill after Bill and we have been saying what are the services that are needed to be put in, but we have made no attempt to really put any of those in and clearly this Bill is not just to penalize the accusers. It says it wanted to strengthen the families and lessen domestic violence and it was necessary to have the support services. We could sit here and talk for all today and, probably later on, if we do not get to the point where we seriously look at putting in the support services, then we would have failed the nation.

I have noted when the hon. Minister spoke, she gave us some idea of some of the support services that she had attempted to put in. She talked about her drop-in centres. The Ministry said they started 22 drop-in centres, my record shows that it went down to eight and then they were all closed because of the lack of finance and, therefore, we are talking about support services, from 22 we went down to eight. Clearly, if this Government is serious, they would have been able to put in the financial resources. One just cannot come with the legal framework, as Sen. Mark himself said, and not spend the money. Therefore, one is very worried as to what would eventually happen.

This Bill calls for much counselling—mandatory counselling—I am still asking where are we sending these people to be counselled? We have counselling for this and the juveniles—we are only calling all these fancy terms and I am not seeing any big training going on, scholarships or centres being set up, I am not seeing where all this is happening—mandatory counselling. I have seen approved counsellors. I do not know who are these people and where are they? If they are private counsellors, who is going to pay them? The Bill did not say that when one is sent for the counselling who pays that Bill? I did not see that in the Bill. Who is going to pay—one just does not say send one to a counsellor.

The Bill talks about family services. The Family Services Division in this Ministry is a very small division. This is Trinidad and Tobago, it is most inadequate.

*Domestic Violence Bill*  
[SEN. YUILLE-WILLIAMS]

*Tuesday, June 22, 1999*

The hon. Minister talked about foster care which loses its credibility because foster care here consists of one senior staff and one other officer.

**3.05 p.m.**

There is no foster care system. The name has been going around all the time. We could read out a list of things here, but we have to ask ourselves—and be honest with ourselves—how true are we to ourselves? What are the support services? We do not have them and, therefore, we want to see resources, as Sen. Mark said, being spent in this direction. We want to see things happening.

It is not only for the Domestic Violence Bill that we have this concern. We have a similar concern for all the legislation that deal with the family and which come to this Parliament. People talk about the Family Court, we talked about all the other non-legal remedies, and I say it is very important to us on this side that when a Bill like this is brought, we need to see what else goes with it.

Someone asked me whether or not we consider that domestic violence is on the rise. As far as we are concerned, reported cases are on the rise. Sometime very long ago, some people almost thought it the cultural thing to have women beaten. I remember as a child where I lived most of the men worked at Pointe-a-Pierre, and they would go to a particular shop and have their drinks every Friday evening after they got their pay and certain people in the village would be beaten. They knew they were going to be beaten and to me, it was like an accepted thing. So domestic violence was going on for a long time and nobody reported it, so probably the number of reported cases had increased.

We also see a new phenomenon going around now, the murder/suicide phenomenon which we also have to look at. So the Bill is important to us. Maybe it is fortunate that we did not get a chance to focus on those areas by trying to repeal the whole Bill and go it all over. Nevertheless, we on this side, as much as we want to support the Bill, we need to have certain safeguards.

In terms of the protection order, I noted where the respondent would not have, or could be prevented from having natural access to what is reasonably his own. For example, if you have something jointly with the abuser, that could be taken away from you. If you have a bank account, a car, and these things are held jointly with the abuser, to me, at some point in time it says that the person could end up not having natural access to those things. I think we need to look very closely at this, especially at a time when we are seeing, as clause 23 pointed out, that you can be an innocent victim at times. So we need to look at that very closely.

There is a clause which concerns me, and I think I heard Sen. Alfred mentioning this on the radio, Clause 6(1)(c)(iv).

“immediately vacate any place or residence for a specified period, whether or not the residence is jointly owned or leased by the respondent and the applicant, or solely owned or leased by the respondent or the applicant;”

We want to tie in all this with clause 23 because in that case people could be honestly victimized.

Clause 6 (1)(c)(v) says:

“relinquish to the police any firearm licence, firearm or other weapon which he may have in his possession or control and which may or may not have been used.”

I think we need to look at that very closely. Before I go to the area of clause 23, I want to ask the hon. Minister, somewhere along it says that the police should respond to every call for domestic violence. I am wondering if the police fail to respond, and a person is injured, whether or not that person can sue the commissioner or anybody, because the law says a police officer shall respond to every complaint. Is it a breach of duty or not, if you fail to respond for whatever reason? I am asking, if that victim is injured whether he can sue the Police Commissioner for negligence because it is in the legislation and we need to know what it is. You just cannot put something in the legislation. We need to understand what would happen if that should happen.

Clause 25(2) says:

“Where an application for a Protection Order has been made or where a person has been arrested and charged under section 22 or 23 and after hearing all the evidence the Court is satisfied that—

(a) the incident was an isolated one;

I am going back to the words “an isolated one” because that isolated one could be fatal and, therefore, I am wondering whether or not we needed to have those words in there. Something must be done. It is said that the person could be charged after hearing all the evidence, and the Court is satisfied that the incident is an isolated one. I am saying that it might be the first, or it might be the second, but if it is an isolated one, that incident could be fatal and we need to look at that very closely.

If we go to the Powers of Entry on which many Senators spoke this afternoon, I would have liked to support the entire Bill, but I am very concerned, despite the

*Domestic Violence Bill*  
[SEN. YUILLE-WILLIAMS]

*Tuesday, June 22, 1999*

fact that the hon. Minister of National Security has asked us for trust—but not trust at any cost. I think we need to look at it.

What I am going to say is not something that has not been said before and I am reading from Sen. Mark's contribution when he quoted section 25 of the Bill in 1991.

“Where a police officer believes on reasonable grounds that—

- (a) a person has committed or is committing a domestic violence offence within the meaning of this Act; or
- (b) a person has committed or is committing an offence under section 18 of this Act,

he shall make an arrest without a warrant.”

And Sen. Mark said:

“Mr. President, from my assessment there is need for some guidelines in this area.”

We want to reiterate the same thing.

It continues:

“You see, we are living in a male-dominated society and if the police officer sees his partner involved in a violent act; if the police does not arrest the aggressor—although he shall; it is mandatory here that he shall—what recourse—Minister Hochoy Charles—what recourse does the victim have? Does civil liability come into the picture? Could the victim sue the police and the police service, or the Commissioner of Police? I am saying that there needs to be some refinement and clarification in this area.”

Mr. President, what Sen. Mark said today and what we have heard others on this side saying, seems to have some relevance to each other because if he asked for some clarification, and I wondered that if that privilege was abused, whether the victim would be able to get some kind of compensation? I think that is what Sen. Mark said in 1991 and I am quite sure in 1999 he is going to support that. We have to look at that very closely because it is even worse than it was then in terms of what we have been seeing with the police.

Do not think that I have anything against the police, my father was a policeman for 38 years and, therefore, I am not saying anything against the police,

but we have to be cautious and I am not very happy to support something which gives the police that authority to enter without any safeguards and the checks and balances which are necessary because we have seen it happening quite recently.

I read recently, I do not know how the story goes, but it is almost like if the police had sent someone else to go in some person's house to steal something and the police did it. Whatever it is, I cannot remember the story, but it is something like that and we have to get those safeguards and ensure that the abuser or the abusers are genuine and as I have said, it links back to what had happened earlier in this Bill, because remember I am going to be deprived of certain possessions, I could be put out of my house and you could very well set me up.

Sen. Mark said last week that it happened in Barbados. I do not know what the Constitution in Barbados says otherwise, I am not too sure, and I know we could pass some things and any other country could pick them up and say it happened in Trinidad, but we were against it. For example, when we did some amendments to a bill I remember we said we could designate any place a police station. Barbados could take it up and say it happens in Trinidad, but a simple majority gave it, and it happened, but we were not happy with it. So it is not what happened in Barbados necessarily is what you think should happen here. We have to look at it in the context of the society of Trinidad and Tobago. I am one of those who feel that those reports should go to the Director of Public Prosecutions because I think somebody should investigate this matter. I am not just going to accept the completion of a form and send it to the Commissioner or wherever it goes because of somebody who goes into that house unlawfully. That report must be examined. We need that check and balance.

I came here this afternoon saying if I am supposed to have inflicted that abuse, but I am innocent, I should be compensated after the police have come in and did what they did. They have deprived me of certain things, deprived me of my rights. I should be compensated. Those are the kinds of checks and balances we need to see and I do not think anybody would be against us for that. We want this Domestic Violence Act. It was there before, we could have done with some amendments, we do not need to repeal the entire thing, but at this point in time we are not going to repeal this at any cost. There must be safeguards put into it and, therefore, I am hoping that the Government would go through it as carefully as possible and see to what extent it really wants the support—probably Government does not need it—we would wish to support it because if this is not done, then

*Domestic Violence Bill*  
[SEN. YUILLE-WILLIAMS]

*Tuesday, June 22, 1999*

some of the same problems which happened over the years, the same weaknesses of the last bill—and I am not going to criticize it because I knew it was a great attempt—would continue to recur but at the same time we need to be quite sure that we are protected.

Somebody told me today that the incident with the last Miss Trinidad and Tobago involved an ex-policeman. Poor soul! I do not want to put it against him, I think I know him, I see him every day on the streets. I am not going to say that is the reason, and I do not want to say that we cannot trust anyone, but we need the safeguard and I am asking the hon. Minister to see that we get those checks and balances. We really want to support the Bill. We know that not only the women out there, but the men also are looking forward to this.

There are other supports I think we need to look at. Some people talk about a male-dominated society. We need to have not only training for the members of the legal profession which I would return to, but we need to have training for our people and I am thinking that the curriculum in our schools needs to be adjusted to some extent. We need to know how to manage anger, how to manage conflict. It does not happen just like that and I am talking about these non-legal remedies. I think it is time that the education system needs to come in line with what is happening here.

We need to go to secondary schools and do such programmes, to the youth camps which, unfortunately, we have almost done away with because many people just do not know how to solve problems. Many people do not know about conflict resolution, they just do not know. We have never taught them and we are now coming from behind to talk about counselling, but we are not thinking of being proactive by putting these systems in place. I am saying that we need to look at the curriculum a little bit and see what we could do in the schools, camps and wherever we have young persons growing up. The roles have changed over the years and we need to appreciate the changing role of the men.

There is one other area on which I would like to make a comment. I know that we have a number of organizations and the Minister named them. Most of them are non-governmental organizations which worked tirelessly over the years and we really need to finance them.



**3.20 p.m.**

It is all well and good to call a whole list of them as if the Government was doing the work, and that you can send people to those non-governmental organizations, but with bills like these coming up, we need to really put some money into those non-governmental organizations if we want them to work. The little money that they get every year as charity, if this has to be supported, we really have to come up with more, because they are doing a job that the Government should do. The Government says these non-governmental organizations could do a better job.

**Sen. Kuei Tung:** Are you suggesting that I should cut money from Toco, Cedros and Talparo? I am sure you have suggestions for us to get the money.

**Sen. J. Yuille-Williams:** I do not want the hon. Minister to tease me because when we had to find how many millions, we found them. But this is crucial.

We need to support those non-governmental organizations; we need to send some of the leaders of those organizations abroad for training. They have done it on their own. They have read books; they have paid for their own training and all that kind of thing, and we need to secure that. When you see where these people are, where their offices are located, where the buildings that they use are located, we almost need, not to say adopt them because they are liaisons for us, I think we really need to increase the grants and be a part of these organizations.

It is all well and good for the hon. Minister to read all those names but I know about some of those organizations and I know the problems they go through, the financial requirements of those organizations. Therefore, I am saying that the Government should really put money into them; financially, it should do some training.

I heard the hon. Minister also mention halfway houses and that they are building one somewhere. When I saw that they were going to put these people into safe homes, I almost smiled, because we have not put that in place yet, and if they say some of the policemen are building a halfway house, they really want to say that they are doing that as a community service, but I think we should move beyond the community service and we should get some of these set up. Even if some of the non-governmental organizations are asked to manage these, I think we need to set them up in such a way that we will have them, because there is no sense putting them into the Bill, saying they will go to halfway houses and all that kind of thing, and there is no safe house to take these people who are outside there.

*Domestic Violence Bill*  
[SEN. YUILLE-WILLIAMS]

*Tuesday, June 22, 1999*

In fact, some of them are just out on the streets. I do not know where they go and what is done with them but, with a Bill like this, I think that we need to give support to these halfway houses—houses for children and battered women, whatever they are called—and have them properly staffed and financed, with the things they need, have people there to help them get on with their lives.

I know they do that with whatever limited resources are available, but I am making an appeal to the Government now to go a bit further into it, because if it is left for the Government, I will hear things like the foster home and the family court, but when I hear about the Rape Crisis Centre and some others, I know those are genuine, I know people work with them and I think you need to spend some time on those areas because that is the support needed for this. I also think that we need to do some more training.

Now, the hon. Minister talked about the police and, although I listened to him—we need to say we are thankful for small mercies—I am not really convinced that we have had a comprehensive programme directed to this particular activity. I heard all that he has said, but I am still saying that we need to do some more in terms of that.

**Sen. Brig. Theodore:** Oh yes.

**Sen. J. Yuille-Williams:** Not only the police, from what I have read, but the magistrates did not know how to handle this at all. The magistrates also need training. Sending the Bill to them is one thing, training them in handling this—and I have not seen any real programmes out there where they are trained. In fact, I do not know how the training for judges and magistrates is done. I still do not know if they have any training at all and if they are not trained, we could sit here and put all the legal framework in place, we are not going to get the benefit.

As I see Sen. Nizam Mohammed looking at me, there was something here that referred to social welfare officers—Nizam Baksh, sorry. It was a little clumsy. I do not know if it was seen. Clause 4(5) says:

“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.”

I have friends who are welfare officers, but I am also saying that it is good to read about this here, but these people are just public servants. They came into that department, as any other public servant, without any special training as is known, and they are welfare officers going outside investigating cases. They have not

been trained to counsel anybody at all. Let us be fair to them. There is a clumsy expression there, “qualified in social welfare”, which I think we need to discuss because they have not been trained and it is unfair to put in here that:

“For the purposes of this Act ‘an approved social worker’...”

This probably will mean those who have gone to the university and done that programme for social workers, or something like that, but a number of people in that Ministry of Social Development are being called, “approved social workers” and they are really administrative officers, going out there investigating cases, making recommendations and paying out money. That is what it is, therefore, I think if we leave this where we are going to send those people to these people, we will not get the responses that we would like.

As I said before, it is all well and good to write these things down, but when you really go through what you see here, you recognize that it is only for the purpose of the Bill and we will go no further. We will always be doing one thing, trying to get the abusers, and we also said that this Bill was to help to develop family life. There is nothing in it here that gives me that kind of confidence, that makes me feel comfortable that at the end of the day, this will happen.

I read about sending persons to the counsellors or the therapists, who have to report to the court. How many therapists and counsellors do we have around to report to the court? I ask, too, in what way this report will go? It says nothing. Whether it is a standardized form or whatever it is, what format will it take for the reporting? There are just words here. It says at clause 6(3)(a):

“that the Court received written notification from the counsellor or therapist of sessions missed without reasonable excuse;”

It is really a bit sad when you read the thing and you know that no attempt, from what I have heard and seen, has been made so far to give me that kind of satisfaction that we have counsellors and therapists out there, who are people qualified to send back reports to the court.

As I said before, I do not know who is going to pay for it, who determines compliance with the prognosis and who makes the recommendations. Therefore, there are certain loose things in this Bill and I hope that the hon. Minister will look at them because if part of it were to strengthen what is there, and it has come back to us with a number of areas not being strengthened, then I would want to say that we have wasted the time to do this.

*Domestic Violence Bill*  
[SEN. YUILLE-WILLIAMS]

*Tuesday, June 22, 1999*

I want to compliment the number of persons who, over the last year and a half or two years, worked on certain aspects of this Bill. I saw a whole amended bill there already and then I saw a second bill coming forward here. But people did work and I am wondering to what extent, therefore, advice was taken outside of the legal framework, on things which were necessary to give support to this Bill.

One person did ask about the forms to be filled in. There are a number of forms at the back of this Bill which persons have to fill in and people did ask about the forms and whether there were difficulties, but I did not think too much about that.

There is one other area, that of substituted service, which I think is one of the recommendations people asked for. It is unfortunate that sometimes we are not a society where people really take time to read the newspapers and, therefore, if the only way you could know about that order is through the newspapers, then some people will really have to pay for it.

I think it was an attempt to get to the respondent, because in one case I asked the question: If the respondent were served and he refused to take the order or he destroyed the order, what happens as a result of that? I think it says here that the respondent must do something. There is an area that says the respondent must accept the order. I cannot see that and I am asking, suppose the respondent did not accept the order. I am asking myself, if the respondent did not do it or if the respondent decides to destroy the order, what is the position?

Therefore, there are a few things that I think we still need to look at as we go through this Bill. I know that clause 23 is one with which we have great concern but there are several other areas. As I said before, I do not know if it is because we tried to re-write the entire thing, why we sort of lost focus for some of the other areas which normally we would have been confined to look at.

In closing, let me ask the Government, through the hon. Minister to try to look at the support services. We would not be fooled by the names which are here, because as I said before, we have seen so many of these things—mediation, all kinds of things—coming through since we are here, all bills passed, all the high hopes for things, and we never saw anything happening with them again. That is one.

We also noted the training that we think is necessary and real comprehensive programmes that we feel should go along with this. We also feel that we need to put some money into the support services; money for the non-governmental

services doing the work of the Government—and when I say money, I really mean money, even though the Minister tried to tease me about it—money to put into the programmes, to put into houses, to put into training staff, real money; money for building new houses; money for getting people back on their feet.

We also have to look at that particular area where I think people could be deprived of their possessions for a period of time. I am saying if there are joint possessions, it might really put somebody at a disadvantage, especially when there is a Bill, as in this case, when you might not be wrong.

I also hope that we look at the case of the visitor relationship to see whether or not that can be catered for in this Bill, because we have people over years in that type of relationship and we probably need to look at that kind of thing.

There are a few untidy bits in the drafting and a few *ad hoc* statements which I really do not wish to go into. I am hoping that I have looked at the major ones that have come to me and I am hoping that the Government will really try to ensure that we could make a compromise, so that when we have accepted the legislation, it will be something we are all proud of and with which we can all work.

It does not matter at this point in time to say whether or not somebody supported the Domestic Violence Bill for certain reasons. We still need to safeguard ourselves and, as I said before, I am going strongly. And, I do not think Sen. Mark from 1991—1999 would have changed his position that much and, therefore, I know that Sen. Mark will give support to some of the criticisms and some of the suggestions we have made on this side of the Senate.

Thank you very much, Mr. President.

**The Minister of Culture and Gender Affairs (Sen. Dr. The Hon. Daphne Phillips):** Mr. President, I want to underscore my thanks to all Senators for their very spirited comments and the obvious interest which every single person expressed in this very serious and very important issue with which we are dealing. The comments, of course, were largely constructive and supportive and we are very pleased to see the willingness to support a Bill which addresses a matter which seems to have been getting out of hand in our country, as it is in other countries of the world.

**3.35 p.m.**

Mr. President, we again want to underscore the Government's responsibility to address a matter of this level of seriousness. While we were debating this Bill

*Domestic Violence Bill*  
[HON. D. PHILLIPS]

*Tuesday, June 22, 1999*

over the last couple weeks, two more women were killed as a result of domestic violence and others were injured. In fact, these are all that have come to the media but I am sure there are several others who have experienced domestic violence. Indeed, we heard about one woman and her teenage child who were chopped across the face and neck because she went to buy bread in the parlour or grocery. The issue is very serious. As I indicated when we introduced the Bill in 1998, we saw an upsurge in deaths of women and children and also men from domestic violence. It is a matter to which we must put great attention and we must offer greater protection to victims of this scourge.

If you would allow me, Mr. President, I will read just a small passage from an article I saw on the Internet addressing this issue. This tells us that it is a world issue and we are all experiencing this problem. I quote from a person called Carol Caplin from the Creative Community Group sponsored by what is called Divorce On-Line:

"Today another woman died  
and not on a foreign field  
and not with a rifle strapped to her back,  
and not with a large defense of tanks  
rumbling and rolling behind her.  
She died without CNN covering her war.  
She died without talk of intelligent bombs  
and strategic targets  
The target was simply her face, her back,  
her pregnant belly.  
The target was her precious flesh  
that was once composed like music  
in her mother's body and sung  
in the anthem of birth.  
The target was this life  
that had lived its own dear wildness,

had been loved and not loved,  
had danced and not danced.  
A life like yours or mine  
that had stumbled up  
from the beginning  
and had learned to walk  
and had learned to read.  
and had learned to sing.  
Another woman died today.  
not far from where you live;  
Just there, next door where the tall light  
falls across the pavement.  
Just there, a few steps away  
where you've often heard shouting,  
Another woman died today."

I would end the quote here, but it goes on. The death of women and, increasingly, children, is a matter to which we must put our attention and make the laws, indeed, more protective of women and children, because this is a particular kind of violence which we experience that has its own dynamics.

Mr. President, I want to comment on some of the issues raised by the Senators. All of them were very critical issues and all the Senators were creative and constructive in their criticisms.

Sen. N. Mohammed, who first commented on the Bill, questioned the origin of the Bill, whether there were any consultations with the Cabinet-appointed committee, and to what extent the Bill takes into account the recommendations of the *ad hoc* committee report. Those questions were largely addressed by the Attorney General when he spoke on this matter on June 8, 1999. I hope the Senator has taken note of the points made. I would probably not address those issues again.

*Domestic Violence Bill*  
[HON. D. PHILLIPS]

*Tuesday, June 22, 1999*

Sen. Mohammed was also concerned with whether the Cabinet-appointed committee recommended that an objects clause be included in the Bill. The Senator wished to know why this was not extended to the present Bill. Mr. President, it is my understanding that it is not the drafting practice in Trinidad and Tobago to include an objects clause as part of a Bill. Indeed, while the content of a Bill is seen as what the law is and not what the law proposes to do, but the drafting culture here, as developed over the years, is to place in a statute, the actual law and not what it is supposed to achieve. However, even though that is so, we are concerned that it is very important that the magistrates be directed in their discretion, the discretion which the law allows. Therefore, we have agreed to insert a new clause 2 which deals with the objects of the Bill. We will go through that when we come to the committee stage.

Another concern of the Senator was the whole issue of the definition of "child". The Senator thought that the definition could be simplified to say that a child is a person under the age of 18. Mr. President, it must be borne in mind, that a protection order which is granted under the domestic violence legislation in relation to a child is done where abuse is being carried out by a certain category of persons, that is, a member of the household. It is, therefore, important in the legislation that the child be defined in relation to the applicant, household or place of residence in which the violence is taking place. To do otherwise would be to allow a child to obtain a protection order in respect of any person. For instance, a child may obtain a protection order against a teacher or neighbour if the child is defined as a person under 18. This is not what is envisaged in this legislation, which seeks to focus on domestic situations, therefore, the definition reflects this policy.

There was another question by the Senator as to whether clause 3 attempts to introduce the offence of stalking. It is my understanding that there is no attempt in clause 3 to introduce the offence of stalking. The definition of emotional or psychological abuse to include the persistent following of a person from place to place, is now the existing law and can be found in section 3(2) of the 1991 Domestic Violence Act. This has been retained in the new Bill because conduct of this nature is so common in domestic violence cases that it would be remiss and perhaps irresponsible not to provide for it in the new legislation. Moreover, such conduct may be categorized as harassment rather than stalking and can be found in the domestic violence legislation in a number of jurisdictions.

Another question raised was the need to define the term "household". In its provisions the Bill makes reference to "members of the household" and to the



term "household". The term "household" is not used by itself and, therefore, does not require a definition. The phrase "members of the household" is very clearly and precisely defined in clause 3 and makes it absolutely certain as to which category of persons are to be included.

Another concern was whether the Magistrates' Court can deal with the issue of compensation. In the criminal justice response to domestic violence, if this is to be effective then legislative reform should seek to introduce the concept of abuser accountability. It is a means of imposing swift, consistent and meaningful sanctions, while at the same time compensating the victim for financial losses suffered as a result of the abuse situation.

While it is usually the practice in a number of matters of compensation to be dealt with in the Petty Civil Courts, I understand that the issue of costs and compensation is not novel in the Magistrates' Court setting. Section 73(3) of the Summary Courts Act clearly vests jurisdiction in the Magistrates' Court to order the payment of costs and compensation to a complainant as may be seen just and reasonable. Although such compensation is usually enforceable as a civil debt, it is felt that in domestic violence cases the issue of compensation should be viewed as a penalty and should be enforceable immediately against the respondent. In order to be effective, failure to comply with an order for compensation should amount to a breach of the protection order and attract sanctions provided for in clause 20 of this Bill.

Another issue raised was the need for clarification on the power of the court to order a respondent to relinquish his firearm, or firearm licence to the police, and whether such jurisdiction lies within the Commissioner of Police. Mr. President, I understand that the power of the court to order a respondent to relinquish a firearm or firearm licence is not new, and the proposed legislation merely seeks to extend this jurisdiction to domestic violence cases. The Summary Offences Act section 123 already vests jurisdiction in the Magistrates' Court to make an order as to the forfeiture of any ammunition or to revoke any licence held by a person under the Firearms Act. This is in relation to an offence committed during a public meeting or march. It is now necessary and, indeed, essential that this power of the court be exercised in domestic violence cases and must be seen as an important measure in preventing further abuse and violence.

There was another question—[*Interruption*]

**Sen. Prof. Ramchand:** I just wondered whether the Minister could clarify whether that provision is automatic or is it something that the court may do, that is, force the respondent to surrender his weapons or firearms?

**Sen. Dr. The Hon. D. Phillips:** I would want to hold the clarification of that for the committee stage when we are discussing the various clauses of the Bill.

Another question, Mr. President, was, what would be the use of the domestic violence register? If under clause 7 the court is to take into consideration the history and pattern of violence which had occurred before issuing a protection order, then a register kept by the police will be of vital importance. It is intended that the register would facilitate access to information not only for law enforcement officers but also for the courts, particularly in those circumstances where there is repeated violence and where a protection order has been breached. This register would, of course, enhance the police response to domestic violence as it would build information with respect to a particular respondent, and will go a long way in assisting both the police and the courts in future prosecutions.

Another issue raised was the whole matter—and perhaps this was the most common problem raised in the debate—relating to clause 23. What safeguards are being put in place to prevent abuse by the police under clause 23?

**3.50 p.m.**

I understand that clause 23(4) has been drafted in such a fashion as to act as a check on any alleged abuse of this section. It calls for mandatory reporting of any entry without a warrant to the Commissioner of Police. Any officer entering premises without a warrant would be required to immediately submit a written report to the Commissioner of Police indicating his reasons and the circumstances under which he was compelled to exercise such authority. Moreover, in his report, the officer would be required to state the manner in which he conducted the investigations. These matters were debated and discussed during the debate.

There are some amendments suggested. We have an outline of them. They were submitted by Sen. Prof. Spence and we would look at them when we are at the committee stage. There are other comments made by various Senators which we will also entertain when we are looking at that clause in the committee stage.

Another question in relation to clause 23, was the suggestion that: where the police exercise powers under this clause, a senior officer ought to be involved. Many Senators supported this view, and this too would also be taken up in the

committee stage where we all would have an opportunity—particularly persons with legal training—to comment on this.

Several Senators, particularly Sen. Prof. Kenny, queried the need to state the ethnicity and religion of a person in Form 7. He suggested that the word “offender” also be removed from the form. Mr. President, in all situations where we do social research—indeed these forms indicate that we are taking social data from people. In all cases the ethnicity, religion and other social data of persons are taken as a means to understand the situation. We want to understand the social phenomena with which we are dealing. These characteristics of persons, if that is what they are, are really not meant to embarrass anyone but for us to better understand the situation—where when, how and why it occurs. If it is at all related to religion, culture, social or economic conditions, we need to understand. This is the reason I would propose for this to remain in Form 7.

However, on the issue of the term “offender”, we agree that the word “offender” can be amended to read “alleged offender”. This will be included in the list of amendments proposed for the Bill.

The matter raised by Sen. Shabazz and others with respect to whether police officers would be trained to deal with domestic violence, I think this issue was clearly and adequately dealt with by the Minister of National Security, Sen. Brig. The Hon. J. Theodore in identifying the whole proposal of training police and, of course, concentrating on Community Police to deal with this situation.

Community Police as you have heard have been dealing with domestic violence situations. Some of them have been working in our drop-in centres referred to by Sen. Yuille-Williams and have been working with us. They have been trained in several areas and are being trained in collaboration with our various ministries: the Ministry of National Security, the Ministry of Social and Community Development, and the Ministry of Culture and Gender Affairs. Sen. Brig. The Hon. J. Theodore dealt adequately with that.

There was a question raised by Senators Mohammed and Yuille-Williams and others with respect to the family court which is so vital to this Bill. Again the issue was addressed by the Attorney General in relation to the coming on stream of the family court. I would refer you to those comments of the Attorney General.

Sen. Daly expressed misgivings about the term “financial abuse”. It is important for us to expose these ambiguities. In considering the reform of the Domestic Violence Act the Law Commission, I understand, noted that financial

*Domestic Violence Bill*  
[HON. D. PHILLIPS]

*Tuesday, June 22, 1999*

abuse was also a powerful and destructive form of abuse in the domestic context. It is no secret that in many families in this country, women are, at times, forbidden to work or are not given access to family funds. Indeed, the whole issue of violence tends to be very closely associated with financial dependence in several cases. Even if some women work they are often forced to turn over their income to their abusers. Such conduct has the effect of ensuring complete dependency of the victim on the abuser, and it makes it impossible for such a person to break free from the control and other forms of abuse which may be perpetrated against her. Usually it is “her”. It may also be “him”.

If we are committed to protecting victims from all forms of domestic abuse, then financial abuse must also be recognized as the sort of behaviour which should entitle the victim to apply for protection. The term “financial abuse” is not intended to be a legal avenue for playing out of financial disputes between co-habiting or married couples. For this reason the definition has been drafted in sufficiently narrow terms so as to capture the situation in which the abuser retains complete control and seeks to ensure that the victim cannot obtain financial independence. Moreover, the definition requires that such control must be exercised in an abusive and/or coercive fashion with a view to ensuring financial dependency.

The definition of financial abuse in the Bill is very explicit. I want to quote it again:

“ ‘financial abuse’ means behaviour of a kind, the purpose of which is to exercise coercive control over, or exploit or limit a person’s access to financial resources so as to ensure financial dependence.”

There was another suggestion that persons who give professional counselling should be approved by the court rather than by the Minister. We have no objection to this, and an amendment can be moved at the committee stage in order to facilitate this recommendation.

Senator Montano wished that we clarify the word “respond” in relation to the police response. I am advised by the Senior Superintendent in charge of community policing that the word “respond” envisages the act of a police officer being despatched to the scene of a crime or a disturbance.

**4.00 p.m.**

It does not merely mean the receiving of information on the telephone but the more positive action of attending at the scene of the incident in order to carry out

investigations and possible further action. This is the meaning of “respond” which is used in the Bill.

There were several other questions raised during the debate and I want now to turn to some of them in general. The first is the question of the protection order in relation to a child which should not only be made by a parent or guardian as a child may not receive the protection he or she needs. Indeed, the parent or guardian may be the abusive person. I think that was Sen. Alfred’s point.

It should be noted that the words, “*in loco parentis*”, include or mean any person who stands as guardian or parent in relation to a child and this could include a teacher or any other relative. It is to be further noted that by clause 4(4) a police officer, a probation officer or an approved social worker may apply for a protection order on behalf of a child. It would, therefore, be only necessary for anyone having information about an abused child to refer the matter to any one of these several persons.

There was also concern expressed about men who are abused and whether the legislation is directed only to women. Mr. President, the Bill is gender neutral. It applies to both men and women. Any person who is a victim of domestic violence can apply for a protection order and the remedies prescribed under clause 6 can be ordered against a male or a female spouse. There will, perhaps, always be persons who seek to abuse the provisions of the law and it is for the courts to ascertain from the evidence which is before it whether or not domestic violence has, in fact, occurred and to exercise the necessary jurisdiction.

There were some other matters relating to the ambiguity between clauses 17 and 18 and that would also be discussed at the committee stage. If you will allow me, there are just one or two other matters I want to raise which seem to have been of great interest to persons. One is the whole matter of close personal relationships and whether “visiting relationships” should be included. As you would note, Mr. President, we do have “visiting relationships” on the list of amendments which we will go through when we come to the committee stage.

The other point I wanted to raise concerns the last issues raised by Sen. Joan Yuille-Williams. Many of the points she raised were similar to those raised by other Senators, but one specific one was the whole matter of the support services and the social services which are necessary to protect and support the Bill. Mr. President, we all know that social services are not put in as part of the law so, therefore, they will not be in the Bill but our Ministries, Social and Community

*Domestic Violence Bill*  
[HON. D. PHILLIPS]

*Tuesday, June 22, 1999*

Development, Culture and Gender Affairs, National Security and others are working on these social services which must be in place.

I must tell Sen. Yuille-Williams concerning the drop-in centres that Cabinet recently approved the institutionalization of a drop-in centre so we have the centres back on stream and there are trained counsellors in all of them, university-trained, to which persons can be referred. On the matter of training, which is also part of the support mechanism, we have been doing various types of training. However, particularly in relation to the magistrates and members of the Judiciary, it is my understanding that the Chief Justice has given consent to training members of the Judiciary in other issues like money laundering and mediation, which require a social aspect, for the Bill. I am informed that there are attempts made now as well to gain his consent and to provide resources for training on the matter of domestic violence.

Mr. President, these are some of the issues raised. We want to reassert our commitment to the Bill. We want to thank all Senators for their very constructive criticisms and contributions. We are willing, when going through the committee stage, to look at each clause and to adjust, where necessary, so that we can indeed provide greater protection for our women, our children, our families, our homes and our communities in this matter of domestic violence. Mr. President, 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.** Hon. Senators, this is a Bill that contains seven parts, a Preamble, 30 clauses and two Schedules. What I would ask and request your approval for would be to deal with the various clauses in parts rather than individually and, where there are suggested proposed amendments, we deal with those individually. Do I have your approval?

*Assent indicated.*

**Mr. Chairman:** I also want to get your approval to deal with clauses 1 and 2 simultaneously because of a proposed amendment in each of the proposed amendments. Do I have your approval?

*Assent indicated.*

*Clauses 1 and 2.*

*Question proposed, That clauses 1 and 2 stand part of the Bill.*

**Mr. Chairman:** We have a proposed amendment by the Minister. The proposed amendment deals with deleting both clauses and substituting as follows:

- |                                    |  |
|------------------------------------|--|
| “Short title’,                     | 1(1) This Act may be cited as the Domestic Violence Act, 1999.                                     |
| Act inconsistent with Constitution | (2) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution. |

Any contribution, Madam Minister?

**Sen. Dr. Phillips:** Mr. Chairman, I propose that we delete both clauses 1 and 2 and substitute with a Short title one clause consisting of subclauses (1) and (2).

*Question put and agreed to.*

*Clause 1, as amended, ordered to stand part of the Bill.*

**Sen. Dr. Phillips:** We have a new clause 2.

**Mr. Chairman:** No, we will deal with new clauses last, after we have dealt with all clauses.

**4.15 p.m.**

*Clause 3.*

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

**Mr. Chairman:** There are proposed amendments by the Minister and Sen. Prof. Ramchand. I do not think they deal with the same matter. Madam Minister?

**Sen. Dr. Phillips:** At clause 3, we are proposing the insertion of a definition of “visiting relationships” in the appropriate alphabetical sequence as one of the areas. The amendment is as follows:

“Insert the following definition in appropriate alphabetical sequence:

‘visiting relationship’ means a non-cohabitational relationship which is otherwise similar to the relationship between husband and wife.”

**Sen. Mahabir-Wyatt:** Agreed.

*Question on amendment proposed.*

**Mr. Chairman:** I shall now move on to Sen. Prof. Ramchand's proposed amendments.

**Sen. Prof. Ramchand:** Mr. Chairman, it is in Part I, clause 3 where we are dealing with the meaning of "emotional or psychological abuse".

"(i) In paragraph (b) of the meaning of:

'emotional or psychological abuse' after the word 'persistent' insert the words 'harassing, stalking and'"

It is just an emphasis. I do not know if people are satisfied that "persistent following of person from place to place" is enough. I would not really fight for it, but I would like to see harassing and stalking worked in somehow.

**Sen. Mahabir-Wyatt:** Mr. Chairman, with the greatest of respect, I think that the existing wording, "persistent following of a person from place to place" is what we refer to as stalking, and harassing is probably covered by persistent intimidation by the use or abuse of threatening language. I think that other than for emphasis it is already covered adequately in terms of the language.

*Amendment withdrawn.*

**Mr. Chairman:** With respect to (ii) after (f), are you also withdrawing that, Senator?

**Sen. Prof. Ramchand:** I want to see those in. There is a lot of harassment that takes place by telephone. This amendment should stay.

"(ii) After paragraph (f) add the following paragraphs:

'(g) persistent telephoning of the person at the person's place of residence or work'

(h) making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person."

**Sen. Mahabir-Wyatt:** I want to concur with that, depending on how the Government feels, because it is not covered anywhere else. I do not know how we missed it, because one does get a lot of harassment over the telephone at home, at work, in the middle of the night. I think it is something that we might consider.

**Sen. Prof. Ramchand:** When we are young and we have a little quarrel with the young lady, we cannot sleep unless we get those calls at 2 a.m. and 3 a.m., but when the hormones have settled down, we really do not want it. *[Laughter]*



Mr. Chairman, should we go to (h) as well? I do not know if (h) needs to be discussed. I think there is a lot of blackmailing that takes place by these husbands, spouses or respondents, and they try to get at the woman most times through the children or through elderly relatives or other vulnerable persons. I do not know if that is the right phrasing for it, but I just wanted to deal with that situation where a respondent tries to blackmail a victim through a child or a vulnerable relative.

**Mr. Maharaj:** Mr. Chairman, I was wondering whether instead of putting it like this—because it would be so difficult sometimes to pin it down—when we look at the definition of “emotional or psychological abuse” it means “a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person including” and we put this as including. So it seems that persistent telephoning of a person at the person's place of work or residence can be covered under that, but if the Senators want to expressly state it, we can draft it.

It seems to me that with the other one (h), “making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person” we would be limiting it too much if we put it in that way, and it is better to have it wider as we have it in the definition section.

**Sen. Prof. Ramchand:** I was thinking of a particular kind of situation where the man goes to the school of the child morning, noon and night, and keeps menacing the child.

**Mr. Maharaj:** There may be other cases apart from that, because it would be covered, and depending on how the court looks at it, it means “a pattern of behaviour of any kind, the purpose of which is to undermine the emotional or mental well-being of a person including”.

**Sen. Daly:** Can I raise one thing, Mr. Chairman? The only thing about that is that none of the examples—if I am to accept that (a) to (f) are examples—actually gives a signal that the intimidation of a third party is intended to be included. So, putting (h) might give the signal and avoid any argument that all of the categories, even allowing for the word “including”, have to do with one on one as opposed to involving a third party. That is the only value of including (h).

**Sen. Mahabir-Wyatt:** Mr. Chairman, if we can find a way to do it, I would really welcome something along those lines. I think it has a great deal of merit.

**Mr. Maharaj:** Mr. Chairman, I wonder if (g) is necessary, because (g) is covered in the definition, but I want to include a third party. We can say—because

*Domestic Violence Bill*  
[MR. MAHARAJ]

*Tuesday, June 22, 1999*

I do not think it is difficult to define—“making repeated and intimidatory contact with the child or elderly relative of the person”.

**Sen. Prof. Ramchand:** I quite like the notion of the third party. Would these be examples of a third party?

**Mr. Maharaj:** A third party would make it very, very wide.

**Sen. Daly:** It can be “repeated or intimidatory”.

**Sen. Mahabir-Wyatt:** Mr. Chairman, we can have repeated contact with a child, but if it is not intimidatory, why worry about it? It has to be “unwelcome” or “unwelcome and intimidatory”. I like (g) as well. I prefer to leave (g) and put it in, because the telephone issue is something that is so common, I do not know how we missed it.

**Mr. Maharaj:** Since the view of the Government is that it is covered, we would have no objection to express it in (g) as is, and the suggestion is to have “unwelcome”? Emotional and psychological abuse is repeated contact if it is not welcome. Suppose it is welcome? Suppose it is a child visiting his or her mother? It is not abuse in that case. We have to have something negative to indicate that it is abusive.

**Mr. Chairman:** “Making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person”. Are you happy with that?

**Sen. Mahabir-Wyatt:** Yes. I am happy with that.

**4.30 p.m.**

**Sen. Yuille-Williams:** Mr. Chairman, I wonder if the word—I have it underlined here. I have “serves” instead of “is”. I do not know where I picked that up, “the purpose of which serves to undermine the emotional or mental well-being...”.

**Mr. Maharaj:** Where is that? What are we referring to?

**Sen. Yuille-Williams:** Clause 3, under “emotional or psychological abuse”, and I had underlined here, “serves to undermine the emotional or mental well-being...”.

**Sen. Prof. Ramchand:** [*Inaudible*—the effect of which or the purpose of which, but I thought I better leave that alone. Because “purpose” implies a deliberate motive, whereas “effect” implies one is doing it and it has had effect. If

we want to say “the purpose or effect of which”. So you catch him on both counts, premeditated or—

**Mr. Maharaj:** I take your point Senator. As a matter of fact, it may be better to put—and I am advised—instead of “purpose”, “the result of which”.

**Sen. Mahabir-Wyatt:** Why can we not just put “which undermines”?

**Mr. Maharaj:** Because it may be that one would have difficulty establishing the purpose, but if the result and effect of it is that—So, “means a pattern of behaviour of any kind, the result of which is to undermine the emotional or mental well-being of a person...”

**Sen. Daly:** [*Inaudible*]—which undermines.

**Mr. Maharaj:** All right. “...means a pattern of behaviour of any kind which undermines or is calculated to undermine...”

**Sen. Mahabir-Wyatt:** But if you put in calculated, if it happens and one cannot prove that it is premeditated or calculated, then you cancel it out. Do you want to do that or just put which undermines?

**Sen. Prof. Ramchand:** [*Inaudible*]—the meaning of “calculated”. It can be calculated by me, not necessarily by the man who is doing it. But it really is unsafe to put “calculated”, I think.

**Sen. Mahabir-Wyatt:** Well, put “the effect of which”.

**Sen. Prof. Spence:** Mr. Chairman, just leave it as “which undermines” because the person might be neurotic and it might not be the intention, but it might happen. Not because of the activities of the persecutor, but because of the characteristics of the person who thinks they are being persecuted. I would rather keep in the “calculated”. The thing is undermined not because the person is at fault, but because you are dealing with a neurotic.

**Sen. Mahabir-Wyatt:** Surely, Mr. Chairman, the magistrate is the one who will have to decide that. It is not done in limbo.

**Mr. Maharaj:** “which is calculated to and will undermine.”

**Sen. Mahabir-Wyatt:** “which is calculated and/or undermines” covers—

**Sen. Prof. Ramchand:** I could see why “the purpose of which” has been used. Because you may start to do it, but you would not have succeeded yet in undermining me, so we cannot wait until you finish undermining me. So if you do

the kind of action which may undermine me, you should be liable. I might say I am strong and I am not going to let you depress me or turn me mad, but you are still doing the behaviour. So I think that is why “the purpose of which” was put in there.

**Sen. Mahabir-Wyatt:** Let us leave it the way it is.

**Sen. Dr. Mc Kenzie:** I think it is good just as it is.

**Mr. Maharaj:** I think Prof. Ramchand has really crystallized it, so we better leave it as it is.

**Mr. Chairman:** In the case of Sen. Prof. Ramchand’s proposed amendment, he has withdrawn (i).

*Amendment to clause 3(i) withdrawn.*

**Mr. Chairman:** In Sen. Prof. Ramchand’s proposed amendment, (i) now becomes (ii). The amendment is as follows:

(ii) After paragraph (f) add the following paragraphs:

- “(g) persistent telephoning of the person at the person’s place of residence or work.
- (h) making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person.”

*Question put and agreed to.*

**Mr. Chairman:** The entire clause 3 will be amended as follows:

Insert the following definition in appropriate alphabetical sequence:

“visiting relationship” means a non-cohabitational relationship which is otherwise similar to the relationship between husband and wife.

(ii) After paragraph (f) add the following paragraphs:

- “(g) persistent telephoning of the person at the person’s place of residence or work.
- (h) making unwelcome and repeated or intimidatory contact with a child or elderly relative of the person.”

*Question put and agreed to.*

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

*Clause 4*

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

**Mr. Chairman:** We have three proposed amendments. Sen. Mahabir-Wyatt's reads as follows:

A. In subclauses (2), add a paragraph (g) to read:

“(g) a person who has had a close personal relationship with the respondent.

B. In subclause (5) line 3, delete the words “being a public officer and”.

**Mr. Chairman:** Sen. Mahabir-Wyatt, yours was the first to come in and I think that is addressed.

**Sen. Mahabir-Wyatt:** Yes, Mr. Chairman, I withdraw my proposals because all of mine are covered under what the Minister has put in.

**Mr. Chairman:** So you are withdrawing clause 4.

**Sen. Mahabir-Wyatt:** Yes. Sorry, Mr. Chairman, my clause 4 now becomes a new clause which has been included in the Minister's new clause 2, so that is the grounds on which I am withdrawing.

In clause 4(2)(g), the close personal relationship is covered under the visiting relationship which we have already accepted, and then there is a further clause which the Minister has recommended, a new subclause (2). So that will cover my argument. Thank you.

*Amendment withdrawn.*

**Mr. Chairman:** Madam Minister?

**Sen. Dr. Phillips:** Mr. Chairman, we are recommending this amendment which reads as follows:

In subclause (2)—

(a) delete the full stop at the end of paragraph (f) and substitute a semi-colon; and

(b) insert the following new paragraph;

“(g) a person who is or has been in a visiting relationship with a person of the opposite sex for a period exceeding twelve months.”

That will be new subclause (g).

**Mr. Chairman:** Any contributions?

Sen. Prof. Ramchand has proposed amendments to clause 4 which read as follows:

In subclause (2) add the following paragraphs:

“(g) a person who has had a close personal relationship with the respondent.

(h) a person who has a dating relationship with the respondent or is with the respondent on a holiday.”

**Sen. Prof. Ramchand:** Mr. President, I would modify it to “a person who has or has had a close personal relationship with the respondent”. Let me say that I have introduced this amendment in a delicate way, because during my contribution I gave some very telling statistics about gay and lesbian violence. I really do not believe that these people should be discriminated against by the legislation, but to satisfy the delicacy of Senators, I thought this form would allow the gay and lesbian relationships to come within the law without broadcasting to the world that that is what we are doing.

**Sen. Daly:** You are broadcasting now. *[Laughter]*

**Sen. Prof. Ramchand:** I do not see why we are burying our heads about something that is going on in this country as well. And whatever we may think, whatever people may think about these kinds of relationships, they do exist and they have a lot of domestic violence in them.

**Mr. Maharaj:** The difficulty we have is that as the law at present stands, the substantive law, those matters are prohibited, therefore we cannot introduce in a statute in an indirect form something which is calculated to have the effect of possibly implying the repealing of a law. I would respectfully submit that if Sen. Prof. Ramchand would not pursue this amendment, those are matters which we can consider and probably come back and have a policy document or a paper discussed. But in this day and age in our society even if you put a discussion paper as a green paper, it is regarded as a policy discussion, so we will have to find a new word to have this so that the population can discuss it. I do not know whether, in respect of this measure, the Senator may want to consider not pursuing this amendment at this time.

**Sen. Prof. Ramchand:** When it first came up under the NAR Government the same thing was put to me, so I suppose I can accept it now. *[Laughter]* I will withdraw it for the time being, Mr. President.

**Mr. Chairman:** What about clause 4(ii)(h)?

**Sen. Prof. Ramchand:** No. Again, I gave out some statistics about violence on dating relationships in the United States. Again, all I can say is that it is a fact that in this country, a young man will beat up a girl to make her give. There are situations on dates where young women get beaten up because they do not cooperate.

The second part of it about being with the respondent on a holiday, I have known instances of where people go away for a happy weekend in Barbados and fighting starts and licks is shared out and so forth. I do not know if that would fall under assault or whatever, but it seems to me that if you come to me and say, "Let us go to Barbados for the weekend", and I pack my bags and tell my mummy I am going to visit Hanky somewhere else, and I go with you, I am under your care and protection, almost as if it is a spousal relationship, and you have no right to abuse me. I am at your mercy when I take that plane and go with you somewhere else.

**Mr. Maharaj:** The Senator mentioned the answer in that he did not know whether it would be covered by assault and battery. In those circumstances, it would be covered by assault and battery, but you wanted to put in this legislation a class of persons who will be protected, and you do not want it to be too wide because you are really trying to put in legislation the ways of getting quick protection for persons who suffer domestic violence. The instances, as mentioned by the Senator, would be instances where you would still have the protection of the law in that if a Mr. "A" takes Miss "B" to Barbados and there is any assault and battery, under the Barbados law even, it can be dealt with as assault and battery.

**Sen. Prof. Ramchand:** What is the answer to the dating one?

**Mr. Maharaj:** If someone is dating someone else and there is assault and battery they can still be protected. By the amendments we have done here, we have a person who has been in a visiting relationship for twelve months, so we have tried to put some sort of permanence in the relationship. Otherwise everybody who dates somebody for one day can say they are part of the household. So I do not know if the hon. Senator will—

**Sen. Prof. Ramchand:** I will withdraw both.

*Amendment withdrawn.*

**Mr. Maharaj:** Thank you very much.

**4.45 p.m.**

**Sen. Dr. Phillips:** Mr. Chairman, if we look at part B in subclause (5) where we are asked to remove the words “being a public officer” based on the contribution given in the debate.

**Mr. Chairman:** Any contributions there?

**Sen. Mahabir-Wyatt:** Yes we agree. It just means that this would have limited social workers to public offices and no other persons who are social workers would have been able to do so. We agree with that amendment.

**Sen. Daly:** Is there a machinery for approval by the Minister?

**Sen. Mahabir-Wyatt:** That is a good question and perhaps someone could answer us. Do you have machinery for approval by the Minister for social workers? Is there a machinery so that people know that they can apply to the Minister to be approved under this Act?

**Sen. Dr. Phillips:** There is training for certification at the University of the West Indies.

**Sen. Mahabir-Wyatt:** I do not mean qualification at the University. The Act says that:

“‘an approved social worker’ is a person experienced or qualified in social welfare....and approved by the Minister in writing.”

The question was how does one get the Minister’s approval? Does one apply through the Minister, which Minister would this be?

**Sen. Dr. Phillips:** The Minister referred to here is the Minister with responsibility for Social Development and Family Services.

**Sen. Mahabir-Wyatt:** Can we request that we be given some guidance at some point by the Minister of Social Development and Family Services as to the procedures of this because for people who are practitioners, it is something which is important as soon as the Act goes through that they know how to apply.

**Mr. Maharaj:** Mr. Chairman, the Minister of Social Development is not here but the Minister who has presented this Bill would undertake to provide to the Senate and in the other place, when we are having the Bill done to make a statement on the process *etcetera* and how it is done.

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



*Clause 5, ordered to stand part of the bill.*

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

**Mr. Chairman:** There is a proposed amendment by the Minister.

**Sen. Dr. Phillips:** This amendment addresses the criticism that the “Minister” should be substituted for the “Court” and so in subclause (1)(c)(iii)—

**Sen. Mahabir-Wyatt:** Mr. Chairman, I wonder if I may ask a question on this. I do not understand why we are changing “Minister” to “Court”. What does the court know about programmes for counselling and therapy? The Minister is the one who has the expertise in his Ministry, and I would have thought that if someone is going to receive professional counselling and therapy from any person or agency of our programme, it should be approved by the Minister in writing and not the court. Surely this is consistent with the Minister’s powers under this Act. I wonder if the Minister could explain the change?

**Sen. Daly:** I am the one who effected the change because I was worried about two things. First of all, the absence of any system for approval and this is an even wider class, professional counselling, person, agency, or programme, so that really was my concern, that one must have an approval system. That was really my concern and certainly, at least in relation to professional counselling, the court could make a judgment about that. Maybe we need to split it up so as not to tie the hands of the court.

**Sen. Mahabir-Wyatt:** If we can get a procedure for the ministerial approval because it would be that ministry where the major expertise is. At the moment, the courts when they have to deal with counselling they send it to the probation officer and they are so overworked and not trained counsellors, they are going out of their heads and they do not have any others that the court refers to at the moment. I mean in real life it should not be like this but that is what it is.

**Sen. Daly:** So where do people go for therapy privately?

**Sen. Mahabir-Wyatt:** If one is going for therapy then it would be through trained medical social workers and, again, I would think it would be more the Minister than the court that would be good on this.

**Sen. Montano:** Mr. Chairman, I think that the situation seems to relate to the word “approved” and exactly what it relates to and it seems to me from my reading of it, that the word “approved” relates only to the programme, it does not

refer to counselling or therapy from any person or agency. It refers only to the programme approved by the Minister in writing. I think that is how it was written originally and to put in the word "Court" I think would disturb the essence of what it is saying.

**Sen. Mahabir-Wyatt:** In addition, this is a protection order which is going to be made by the court, so the court is making the order that the respondents or applicant or both receive professional counselling and therapy, so it is the court who is making the order. I agree with Sen. Montano that what we are looking at is that the approval has to be on a programme because the courts are already involved.

**Mr. Maharaj:** The court can direct a person to receive counselling *etcetera*, but they can also direct whatever programme that the Minister has already approved in relation to that so we should leave it as the "Minister".

**Sen. Daly:** The programme which is approved by the Minister.

**Mr. Maharaj:** That is what it meant. A programme which is approved by the Minister. So we will amend it instead after programme: "from a programme which is approved by the Minister in writing."

**Sen. Daly:** What misled me in the first place is that I thought the approval was related to all of this. So I apologize to the Minister.

**Sen. Yuille-Williams:** Mr. Chairman, there is a question I asked in passing, since you are sending these to approved counsellors, is there a fee attached to anything or who pays for this? I was just wondering.

**Mr. Maharaj:** It could be that depending on the means of the other party the state would obviously have facilities which the court can approve and direct.

**4.55 p.m.**

**Sen. Yuille-Williams:** Just another observation. I was hoping that the format for reporting should be one of the more standardized formats. It has something to do with compliance and recommendations and that should not be left open, there should be some kind of standardization on how it is done.

**Sen. Mahabir-Wyatt:** Mr. Chairman, could I point out that under subsection (4) when a court makes an order it can include the payment of compensation for medical and dental expenses and presumably therapy could be covered under medical expenses. It is covered further down in the Bill in clause 4(b) which says:

“Where the Court makes an Order which, *inter alia*, directs the payment of compensation under subsection (1)(c)(ii), such compensation shall include, but not be limited to—

(b) medical and dental expenses;

**Mr. Chairman:** That was just a point of inquiry. Let us take the proposed amendment to clause 5(b).

**Sen. Dr. Phillips:** Mr. Chairman, I beg to move that clause 6(5) be deleted and substituted as follows:

“The Court shall have jurisdiction to pay compensation not exceeding fifteen thousand dollars and the payment of such compensation shall be received by the Court on behalf of the applicant.”

**Mr. Maharaj:** Mr. Chairman, it is suggested we put the words “within the limits of the Petty Civil Court jurisdiction.”

- A. In subclause (1)(c)(viii) insert the words “which is” between the words “programme” and “approved” in line 3.
- B. Delete subclause (5) and substitute as follows:

“(5) The Court shall have jurisdiction to pay compensation not exceeding fifteen thousand dollars and the payment of such compensation shall be received by the Court on behalf of the applicant.”

**Sen. Dr. St. Cyr:** Mr. Chairman, should that not read: “The Court shall have jurisdiction to award compensation”?

**Mr. Chairman:** Let me re-read ‘B’:

- B. Delete subclause (5) and substitute as follows:
 

“(5) The Court shall have jurisdiction to award compensation not exceeding fifteen thousand dollars and the payment of such compensation shall be received by the Court on behalf of the applicant.”

*Question put and agreed to.*

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

*Clauses 7 to 17 ordered to stand part of the Bill.*

*Clause 18.*

*Question proposed, That clause 18 stand part of the Bill.*

**Mr. Chairman:** There is a proposed amendment by Sen. Mahabir-Wyatt.

**Sen. Mahabir-Wyatt:** Mr. Chairman, in clause 18 I had asked that certain things be changed because I thought they were conflicting with clause 17, but it would appear that clause 17(2)(c), because it includes service by advertisement in two daily newspapers, that covers my point and, therefore, I withdraw that amendment.

*Question put and agreed to.*

*Clause 18 ordered to stand part of the Bill.*

*Clauses 19 to 22 ordered to stand part of the Bill.*

*Clause 23.*

*Question proposed, That clause 23 stand part of the Bill.*

**Mr. Chairman:** There are proposed amendments by Sen. Prof. Spence and Sen. Prof. Ramchand. I would take Sen. Prof. Spence's first.

*[Sen. Prof. Spence is not in his seat.]*

**Sen. Mahabir-Wyatt:** Mr. Chairman, if I could just help out until Sen. Prof. Spence returns. The purpose of the amendments here, as Sen. Prof. Spence mentioned during the course of the debate, was simply to lay to rest those words which were mentioned by different people about clause 23 and to support what Sen. Theodore had said about giving the Commissioner of Police a chance to work out things himself by adding a provision that the report of the police officers who do enter without a warrant should be submitted to the Director of Public Prosecutions.

Sen. Prof. Spence said he would withdraw the head of the Family Services Department because the Director of Public Prosecutions and the police—



**5.10 p.m.**

**Sen. Mahabir-Wyatt:** May I ask if it is the officer or—

**Mr. Maharaj:** Against the police officer.

**Sen. Mahabir-Wyatt:** Thank you.

**Sen. Daly:** Mr. Chairman, can I ask a question with respect to the Police Complaints Authority? In the case of an ordinary complaint now, if they find that the complaint has merit, do they not send it to the Police Complaints Authority? What remedy do they give?

**Mr. Maharaj:** The Police Complaints Authority would compile a report and submit it to the Minister, and the Minister would submit it to Parliament.

**Sen. Daly:** In each case of a complaint?

**Sen. Brig. Theodore:** No. In each case, the Police Complaints Authority, if it is satisfied that an offence has been committed, it directs the Commissioner of Police to lay the appropriate charges.

**Sen. Daly:** Before the Commission?

**Sen. Brig. Theodore:** Before the Police Service Commission, yes.

**Sen. Daly:** Thank you very much, Mr. Chairman.

So now, what we are doing is cutting out the Commissioner, taking one step out of that process by the Police Complaints Authority taking it straight to the—

**Sen. Brig. Theodore:** To the Police Service Commission.

**Mr. Maharaj:** The reason for that is because of the bureaucracy, it may be there, so it is felt that it could go directly and it does not, in any event, undermine anybody's functions.

**Sen. Mahabir-Wyatt:** I prefer it this way. Thank you, Mr. Chairman.

**Sen. Daly:** I have one other question. Mr. Chairman, can I ask one other question?

**Mr. Chairman:** Sure.

**Sen. Daly:** It is not meant to be silly, but I wonder if “unwarranted” is the best word, given the subject matter of the section. I mean, I have some sympathy with the Chief Justice's recent complaints. We might have an argument that

“unwarranted” means without a warrant. I am just wondering if a more elegant way is not “justifiable” or “reasonably justifiable by the circumstances”. I do not like “unwarranted” there, maybe “reasonably justifiable by the circumstances”, or maybe “reasonably justifiable in all the circumstances”, or something like that.

**Sen. Mahabir-Wyatt:** But the report was without the use of a warrant. If we put that it was made without reasonable cause, we take, you know—

**Sen. Daly:** No. Not “reasonably justifiable in all the circumstances”. Yes, it justifies action if the person complains.

**Mr. Maharaj:** On the one hand, you do not want to intimidate police officers in going in and, on the other hand, you do not want them to abuse their power, so if you put “without reasonable cause”, you will have a situation where police officers would not go in at all. That is the difficulty we are having and if there is a formula of words we can use, but I do not think that “unwarranted” would necessarily mean they are without a warrant, that it would limit it to that.

**Sen. Daly:** I have heard worse.

**Mr. Maharaj:** I mean, I think the Police Complaints Authority would just have to look at the dictionary and see what “unwarranted” means.

**Sen. Daly:** What about abuse?

**Mr. Maharaj:** Well, that is too high a standard, too, because I think what you really want to do is to allow the police officers to go in if they have reasonable cause, but if there are facts which show that it was clearly not necessary to go in, and we thought about using the word “necessary”, too, but we thought that “unwarranted”—

**Sen. Prof. Kenny:** Mr. Chairman, I seek a little clarification. We learnt earlier that there are relationships which are not recognized legally. Now, assuming that in one of these non-recognized relationships, there is this call for help; the police approach and it looks as if it is going to be violent; do they break in?

**Mr. Maharaj:** Well, it says that where the police officer believes, it does not matter whatever relationship exists, the fact is whether he was justified in going in because of the imminent danger.

**Sen. Prof. Kenny:** So, we are really recognizing the possibility that there are other relationships.

**Mr. Maharaj:** Well, I would not like to answer it in that way but we are really recognizing it. What we are saying is as long as there is violence, it does not matter who, but just violence, the law should not discriminate against any individual where there is violence against an individual.

**Sen. Prof. Ramchand:** Philosophically, if you are pretending something is not there, that is an admission that it is there.

**Sen. Shabazz:** I still want to ask the Attorney General. I think what is meant is, let us say, for instance, in a same sex relationship, two males in a house are fighting. Could that come under domestic violence? Are you saying that if there is violence, the police have the right to go in?

**Mr. Maharaj:** Under the Criminal Law Act, there is the power of the police to go in if they believe that there is violence in a house, whether there is domestic violence or not. So that, there are existing provisions which authorize the police to go in, but what it is, is that the police normally do not go in where there are instances of domestic violence because of the relationship between man and wife. What we are doing in this law is, we are trying to do what Barbados has done and what some other countries have done, to say that even if there is fight and domestic violence with husband and wife or wife and husband, and we have extended that relationship, the police would be able to go in. Because the police would always be saying, "That is husband and wife business, I am not going in", but there is the power already given to the police that if there is an ordinary relationship—well, sorry, there is no relationship; I have to be careful what words I use—there is no relationship and there is violence in the house, the police do not have to wait for a warrant to go in to those premises.

**Sen. Shabazz:** All right. So you are saying that the only difference will be that whereas you have taken out the Commissioner where it is male/female for domestic violence, they would have to go another course if the police made a mistake. Let us say the police made an error where it is domestic violence there, male/female, the police could be reported and it is now taken straight to the Police Service Commission.

**Mr. Maharaj:** No. Well, in this instance, there will be a report normally by someone that there is imminent danger and the police could go in.

**Sen. Shabazz:** Yes. But I just want to be clear. In the case of a normal situation, what we call normal, the police could go without a report as long as he



believes, or he has a feeling. In the case of the other type of situation, what will happen with the police? He could go in the same way, you are saying?

**Mr. Maharaj:** Okay. Under the Criminal Law Act—

**Sen. Shabazz:** He could go in.

**Mr. Maharaj:**—he could go in.

**Sen. Shabazz:** In the case of what we call a normal relationship, the police, if he made a mistake, can be reported and there is a certain course of action for him to be dealt with. In the other situation, that course of action will not come up.

**Mr. Maharaj:** No. He can still be reported. As a matter of fact, the Police Complaints Authority would still have—

**Sen. Shabazz:** But he will have to go to the Commissioner, rather than straight to the Police Service Commission. Is that what you are saying?

**Mr. Maharaj:** Under this provision, because of the numerous complaints which are made for domestic violence, and because of the possibility of abuse, we are saying that in order to cut short the bureaucracy, that the Police Complaints Authority can submit it straight to the Police Service Commission.

**Sen. Shabazz:** I am clear with that. But what we are saying, what was asked and what I think we are trying to get is, you are saying that this is really for what we call “acceptable relationships”. Is that what you are saying?

**Mr. Maharaj:** I did not say “acceptable relationships”.

**Sen. Shabazz:** Well, then it cannot be for any kind of relationship.

**Mr. Maharaj:** We are saying “domestic relationships” as defined by the Act.

**Sen. Shabazz:** And then “domestic relationships” as decided here will be male/female. Is that right?

**Mr. Maharaj:** Yes.

**Sen. Shabazz:** Okay.

**Mr. Chairman:** Hon. Members, I shall now propose the amendment to clause 23. Attorney General, check carefully for the reading, please.

Add the following subclauses:

- (5) The report referred to in subsection (4) shall also be submitted to the Director of Public Prosecutions by the Commissioner of Police within seven days of receiving the report.

**Mr. Maharaj:** I did not have “also” but I do not know if you want to include it after “shall”.

**Mr. Chairman:** Okay, “shall be submitted”.

(5) The report referred to in subsection (4) shall be submitted to the Director of Public Prosecutions by the Commissioner of Police within seven days of receiving the report.

(6) Where a complaint is made against a police officer alleging that the officer’s—

**Mr. Maharaj:** No.

Where a complaint is made against a police officer by a person resident in premises alleging—

**Mr. Chairman:** Okay.

(6) Where a complaint is made against a police officer by a person resident in premises alleging that the officer’s entry onto the premises under subsection (2) was unwarranted, the Police Complaints Authority shall investigate the complaint and submit a copy of its report to the Commissioner of Police and the Director of Public Prosecutions within fourteen days of the complaint having been made.

(7) Where the investigation of the Police Complaints Authority finds that the entry under subsection (2) was unwarranted, the Police Complaints Authority shall also submit the report to the Police Service Commission and such report may form the basis of disciplinary action against the police officer.

*Question, on amendment, [Sen. Prof. J. Spence] put and agreed to.*

**Mr. Chairman:** There is also a proposed amendment by Sen. Prof. Ramchand to clause 23.

**Sen. Prof. Ramchand:** Yes, Mr. Chairman. My proposed amendment is as follows:

In subclause (2) line two, after the words “premises and”, delete the words “has reasonable cause to believe” and insert the words “can see or hear for himself/herself”.

I have been trying to imagine this scene of a policeman denied entry. Let us say he has got a phone call and somebody tells him that Mr. X is killing his wife, or beating a child, or something. He arrives on the scene; he knocks on the door; somebody comes out; maybe the wife, the husband or the child, or all of them come out and say, "You cannot come in here", so he cannot go in there. Can he do anything at that point?

**Mr. Maharaj:** Under this Act, he certainly—if it is domestic violence, if it is a relationship like that—

**Sen. Prof. Ramchand:** No. But all three of them have stopped fighting, have now come to the door and said to him, "What are you talking about? Go away."

**Mr. Maharaj:** Well, if they are telling him not to go in and the wife is there and everybody is there, on the face of that, it would be unwarranted.

**Sen. Prof. Ramchand:** So he pretends to go away and he gets to the gate and then he hears cries, can he then turn around and go in?

**Mr. Maharaj:** Yes. I mean, if he has cause to believe that what he was told is not correct, or that he attempts to go and then he hears cries which would show that people are in distress, he would be entitled to go in.

**Sen. Prof. Ramchand:** The point of my amendment is that we cannot get it 100 per cent of the time, but if the policeman goes there and he sees and he hears, then it would not be an unwarranted entry.

**Mr. Maharaj:** No, it would not. That is why—

**Sen. Prof. Ramchand:** Good. So I would like to give him that and say, in those circumstances, you may go but I do not want him to come and tell me he has reasonable cause to believe, give it leeway to say the neighbour phoned me up and said you are beating your wife, or come and stand up there and say to her, yes, I have cause to believe. I have reasonable cause to believe that this neighbour, who is the Archbishop, tells me that he heard cries of a woman bawling, "Oh God! Oh God! Oh God! Yuh killing me!" So, the Archbishop told me that, so I have reasonable cause to believe.

**Sen. Daly:** He could not have interpreted that situation right.

**Sen. Prof. Ramchand:** Well I wrote a story about the lady called Shatangee who was misinterpreted in that way.

**5.25 p.m.**

Mr. Chairman, I am supporting my amendment because I feel that this clause does not give them the right to enter in all cases, but gives them the right to enter if they hear or see that somebody is being mutilated or killed.

**Sen. Daly:** There is a great deal of pretending. They can do this and then pretend that they are righteous.

**Sen. Dr. Mc Kenzie:** Mr. Chairman, one community police officer told me of an experience where a neighbour called about a little child who she thought was being abused. When the Community Police went there and asked the parent who was at home about this child, the parent said, "Okay, fine, she is all right." He said, "Bring the child and let me see." They had to take the child to the hospital. So there was a case that you could have said, okay, and turn your back, because you did not see or hear—[*Interruption*]

**Sen. Prof. Ramchand:** But you called to see. [*Interruption*]

**Mr. Chairman:** Sen. Ramchand, are you pursuing your proposed amendment?

**Sen. Prof. Ramchand:** Yes, because I have not really heard a good argument against it.

**Mr. Maharaj:** Mr. Chairman, in response to Prof. Ramchand, may I say that if one goes that route it would be making the Bill probably a bit useless at times. What could happen is that the police would not have seen or heard anything, but when they go there would be injury going on inside, and it would not be effective. As a matter of fact, I think all we can do is to use the same words used in the Barbados legislation. It has worked quite well there, and in the Barbados legislation we did not have all these other safeguards.

**Sen. Prof. Ramchand:** Where an act of violence is going on behind closed doors, in how many instances would it be impossible to see or hear something?

**Sen. Daly:** I would have thought the argument was this: if the person is alert to the fact the police are coming and would quell the situation so there is nothing visible or that can be heard, and quell the situation just as long as the police was around.

**Sen. Mahabir-Wyatt:** Mr. Chairman, I would beg Sen. Prof. Ramchand to let this one go, because it is very frequent, all you have to do is cover up somebody's mouth and hold them down. [*Interruption*]

**Mr. Chairman:** If you wish I can put it to the Senate.

**Sen. Prof. Ramchand:** I will withdraw it.

*Amendment withdrawn.*

*Question put and agreed to.*

*Clause 23, as amended, ordered to stand part of the Bill.*

*Clauses 24 to 30 ordered to stand part of the Bill.*

**Mr. Chairman:** We have to revert to new clause 2, a proposal by the hon. Minister.

*New Clause 2*

**Sen. Dr. Phillips:** Mr. Chairman, the proposal is for the insertion of a new clause 2. The amendments are as follows:

- "2. The objects of the Act are *inter alia* to—
- (a) provide immediate injunctive relief to victims of domestic violence; and
  - (b) ensure a prompt and just legal remedy for victims of domestic violence."

*New clause 2 read the first time.*

*Question proposed, That the new clause be read a second time.*

**Mr. President:** We are going back to the original proposal by the Minister for the inclusion of a new clause 2, the first page of the proposed amendment.

**Sen. Dr. Phillips:** This addresses the matter of objects. It is proposed that we insert a new clause 2 as follows; there is a slight amendment to that which is stated on your document.

**Mr. Chairman:** Sen. Mahabir-Wyatt you had a similar proposal under new clause 4.

**Sen. Mahabir-Wyatt:** Yes, but I will withdraw mine in light of the Minister's amendments. [*Crosstalk*]

*Amendments withdrawn.*

**Mr. Chairman:** Any contributions to this new clause 2?

*Domestic Violence Bill*  
[SEN. PROF. RAMCHAND]

*Tuesday, June 22, 1999*

**Mr. Maharaj:** Mr. Chairman, I wonder if I can record that it seems Sen. Mahabir-Wyatt got everything that she wanted. [*Laughter*]

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 2 added to the Bill.*

*First Schedule.*

*Question proposed, That the First Schedule stand part of the Bill.*

**Sen. Alfred:** Mr. Chairman, in the First Schedule it says "Sexual intercourse with a female between fourteen and sixteen," but I notice that it stops at 16 years, the age of maturity is 18 years. What happens with sexual offences up to 18 years? I know that is the Act, but I am asking.

**Mr. Maharaj:** Well, that is the existing law as you know. Above 16 years it is a different offence, I think it is statutory rape. [*Crosstalk*]

**Sen. Alfred:** Thank you.

**Sen. Shabazz:** Statutory rape is from 16 to 18 years? [*Crosstalk*]

**Mr. Maharaj:** It must be an offence. Before 18 years it is an offence. I do not know why the Senator wants to find out. [*Laughter*]

**Mr. Chairman:** Sen. Phillips, will you please proceed.

*Question put and agreed to.*

*First Schedule ordered to stand part of the Bill.*

*Second Schedule.*

*Question proposed, That the Second Schedule stand part of the Bill.*

**Mr. Chairman:** There is a proposed amendment by the hon. Minister with respect to Form 7 of the Second Schedule.

**Sen. Dr. Phillips:** Mr. Chairman, this is where we are addressing the issue of offender. The amendments are as follows:

"A In the fourth line delete the words 'Relationship to Victim/Offender' and substitute the words 'Relationship of Victim to Alleged Offender.'

- B In the fourteenth line insert the word 'Alleged' immediately before the word 'offender'.
- C In the twenty-first line insert the word 'alleged' immediately before the word 'offender' wherever occurring."

**Sen. Prof. Kenny:** Mr. Chairman, I want to raise the other matter I raised earlier about these categories. I think we can accept the other one, but there is still a major problem. I ask first of all: In all police matters do you classify on the basis of ethnicity? [*Crosstalk*]

**Mr. Chairman:** This is on Form 7 itself, "Ethnic origin", in the middle of the form.

**Sen. Dr. Phillips:** On the issues of ethnic origin and religion, we are saying that they are necessary to understand the problem. For those doing social research in any way, when you are looking at what kind of variables are interlinked, ethnicity and religion, because they connect to culture and certain kinds tradition and practices, if they do, that is just a category to help us understand. It is not to in any way discriminate—[*Interruption*]

**Sen. Daly:** Senator, I actually pointed out that there is no reference to people of middle eastern origin.

**Hon. Senator:** That is under "etcetera".

**Sen. Daly:** "Etcetera", that in itself is offensive. The police are really quite offensive about this. Under "complexion" they write down "white", it is absolutely useless to describe someone's complexion as white. So I really think we need to look at this to be a little more sensitive about it. If we are going to have this at all, I do not see how we can simply condemn everyone else who does not fit into the first three categories to "mixed" or "Etc." That is really quite offensive.

**Sen. Dr. Mc Kenzie:** Mr. Chairman, I have had the experience where in proposing programmes for people, we have heard the medical or social people saying, when it comes to diseases like diabetes, we have a higher incidence among people of East Indian decent or when it comes to hypertension we have a higher incidence among people of African descent. What they did after was to target the diet of these people and they found that the use of certain foods by a certain sector of the population contributed to the type of disease they had, as against another type.

*Domestic Violence Bill*  
[SEN. DR. MC KENZIE]

*Tuesday, June 22, 1999*

There are also social workers who have analyzed cases of incest and so forth, and they found that in certain religions, regardless of the location it was more prevalent than in others. I know there is good use that could be put to the information, but probably what we need to do, if we are not going to put all, is we need not put some. Probably we may just put whether ethnic origin, not put anything and a person just fill in what it is. [*Crosstalk*]

**Mr. Maharaj:** We can take out the boxes then?

**Sen. Dr. Mc Kenzie:** Yes, take out the classifications, because some of us do not know what we are.

**Sen. Prof. Kenny:** Mr. Chairman, I want to add one little point to that. I do not think we ought to read more into it than is intended to come out in the form. I know we are changing it, but if the Government ever wishes to do this sort of thing, at least arrange it alphabetically. [*Laughter*]

**Sen. Prof. Spence:** Mr. Chairman, are we confusing ethnicity with race here? Sen. Mc Kenzie referred to factors of disease and so forth which are related to race and not ethnicity. We are talking about diabetes, these are genetic factors related to race and not ethnicity. Quite frankly, I find the whole thing offensive. May I register my disapproval to having that clause in at all? I think we should just take it out. What are we trying to determine in the long run, that certain ethnic groups are more prone to domestic violence? I really think it ought to come out completely. I have no sympathy with it at all, unless we are quite clear that we are talking about ethnicity and not race.

**Sen. Prof. Ramchand:** I find these categorizations offensive. I also find them unscientific. They do not bear in mind that this is a changing society. There was a time when you could speak about the people of different ethnic origins as if we had a plural society, but the whole evolution of this society is towards a meeting of the peoples and cultures of the place. We are moving towards a time when we are looking for the emergence of the Trinidadian person. These old ethnic classifications that are used in polls by Mr. Selwyn Ryan and so forth, serve to consolidate ancient stereotypes, and do not bear in mind the changes that are taking place in our society. I feel it is an unprogressive move on an official form to entrench these terms that can lead to the consolidation of stereotypes that are no longer valid.



**5.40 p.m.**

**Sen. Alfred:** Mr. Chairman, suppose we substitute the word “description” at line 22, where you have the words “name of alleged offender”, place the word “description” below those words.

**Mr. Maharaj:** I think sometimes we have to make very bold decisions. This is probably one of the times, regardless of what, historically, this has been in this Form. I think what we will do is delete ethnic origin completely.

**Mr. Chairman:** Just “ethnic origin”.

**Mr. Maharaj:** Just “ethnic origin”, leave “religion”.

**Sen. Mahabir-Wyatt:** The only time I can think religion would be relevant is if one belongs to one of those religious groups that refuses to allow blood transfusions. The purpose of this report is the domestic violence report. If the person needs medical help and that person is not allowed to have a transfusion, that is the only thing I can think of for “religion” that is valid.

**Mr. Maharaj:** In all public records we have “religion”.

**Sen. Mahabir-Wyatt:** Also because some people are Seventh-Day Adventist and they hold their religion.

**Mr. Maharaj:** I think “ethnic origin”—in this modern age and diverse societies—can be regarded as being offensive. I think that one recognizes that there are different religions in the society.

**Sen. Dr. Mc Kenzie:** Mr. Chairman, if a person does not want to say what religion he or she is, one cannot do anything about it, so it is an optional thing. The same goes for “ethnic origin”. I can tell you what I feel I am and you could write down whatever you feel.

**Mr. Chairman:** With respect to “ethnic origin” *et cetera*, I would classify that as “D”. In lines 9 and 15 delete the following words: ethnic origin, East Indian, African, Caucasian, Mixed, *et cetera*.

*Question put and agreed to.*

*Second Schedule, as amended, ordered to stand part of the Bill.*

*Preamble ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, with amendment.*

*Question put, That the Bill be now read the third time.*

**Mr. President:** This Bill requires the support of not less than three-fifths of all the Members of the Senate, so I shall ask the Clerk to take a division.

*The Senate divided:*      Ayes: 27                  Noes: 1

AYES

Mark, Hon. W.

Kuei Tung, Hon. B

Theodore, Brig. The Hon. J.

Baksh, Hon. S.

Phillips, Dr. The Hon. D.

Cuffy Dowlat, Mrs. C.

Tota-Maharaj, Mrs. V.

Hamel-Smith, P.

John, S.

Gray-Burke, Rev. B.

Moore, N.

Gabriel, A.

Williams, Mrs. A.

Ramnath, K.

Mohammed, Mrs. N.

Montano, D.

Shabazz, M.

Alfred, Miss C.

Yuille-Williams, Mrs. J.

Spence, Prof. J.

Mahabir-Wyatt, Mrs. D.

Teelucksingh, Rev. D.

Daly, M.

Mc Kenzie, Dr. E.

Kenny, Prof. J.

Ramchand, Prof. K.

Ayoung-Chee, K.

NOES

St. Cyr, Dr. E.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

#### ADJOURNMENT

**The Minister of Public Administration (Sen. The Hon. Wade Mark):** Mr. President, before moving to adjourn this honourable Senate, may I inform my colleagues that next Tuesday, June 29, 1999 we are going to be dealing with a Bill entitled: "An Act to establish a system of plea discussions and plea agreements and matters incidental thereto". The following week we will deal with Bill No. 4, a Bill entitled: "An Act to provide for the establishment of the Integrity Commission; to make new provisions for the prevention of corruption of persons in public life by providing for public disclosure; to regulate the conduct of persons exercising public functions, to preserve and promote the integrity of public officials and institutions, and for matters incidental thereto."

Mr. President, I beg to move that this honourable Senate do now adjourn to Tuesday, June 29, 1999 at 1.30 p.m.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 5.50 p.m.*