
THE

House of Assembly Debates

(OFFICIAL REPORT)

SECOND SESSION 1976 – 81

HOUSE OF ASSEMBLY

Tuesday 12th May, 1981.

Pursuant to the adjournment, the House of Assembly met at 12.20 p.m. o'clock.

PRESENT

His Honour W. C. B. HINDS, J.P., (Speaker); Mr. R. St.C. WEEKES, C.B.E., J.P.; Rt. Hon. J. M. G. M. ADAMS, Q.C., M.A., (Prime Minister and Minister of Finance and Planning); Hon. H. deB. FORDE, Q.C., M.A., LL.B., (Attorney General and Minister of External Affairs); Mr. D. A. C. SIMMONS, LL.M.; Hon. Miss B. A. MILLER, (Minister of Health and National Insurance); Hon. L. B. BRATHWAITE, (Minister of Agriculture, Food and Consumer Affairs); Mr. J. G. ODLE, B.Sc., (Chairman of Committees); Mr. M. C. C. WARD; Mr. V. L. JOHNSON, M.A.; Mr. DeL. O. BRADSHAW; Mr. L. L. SISNETT; and His Honour E. E. ALLEYNE, LL.M., (Deputy Speaker).

Prayers were taken by Archdeacon F. A. Cayless.

Hon. C. L. BOLDEN, Hon. L. R. TULL, Hon. L. S. CRAIG and Dr. CHELTENHAM entered the Chamber and took their seats.

MINUTES

Mr. SPEAKER: The Minutes of the meeting of Tuesday, 28th April, 1981.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that the Minutes of the meeting of 28th April, 1981, be taken as read and confirmed.

Mr. SPEAKER: If there are no observations by hon. members, let those Minutes stand confirmed.

The Minutes of the meeting of Tuesday 5th May, 1981.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that the Minutes of the meeting of Tuesday 5th May, 1981, be ta' en as read and confirmed.

Mr. SPEAKER: If there are no observations by hon. members, let those Minutes stand confirmed.

PAPERS LAID

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, I am commanded to lay The Customs Tariff (Amendment) (No. 7) Order, 1981.

GOVERNMENT NOTICES

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, I beg to give notice of the following:—

Resolution to authorise the Minister of Finance to borrow, by the issue in this Island of Treasury Bills, further sums not exceeding \$55 000 000 and such sums as may be required to pay off at maturity bills already lawfully issued and outstanding.

Resolution to guarantee the repayment of a loan of a principal sum not exceeding U.S. \$40 624 591 with interest thereon made by the Creditstalt-Bankverein to the Arawak Cement Company Limited.

Resolution to approve the guarantee of the repayment of a loan of a principal sum not exceeding U.S. \$20 000 000 with interest thereon made by the Orion Bank Limited to the Arawak Cement Company.

Mr. Speaker, because of the urgency of the cement matters, all of these matters have been debated very fully in the House already and all we are waiting for is for these Resolutions to pass so that work may start. I may, subject to the exigencies of other business

of the House, ask for these matters to be dealt with in all their stages today, the three Resolutions including the Treasury Bill. This is also an urgent matter.

Hon. H. deB. FORDE: Mr. Speaker, I beg to give notice of a Bill to amend the Adoption Act.

Hon. C. L. BOLDEN: Mr. Speaker, I beg to give notice of the following:—

A Bill to revise and consolidate the law relating to road traffic.

A Bill to revise and consolidate the law relating to factories and the safety, health and welfare of persons employed therein.

BILLS READ A FIRST TIME

On motion of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, a Bill to amend the Adoption Act, was read a first time.

12.30 p.m.

On motion of Hon. C. L. BOLDEN, seconded by Hon. H. deB. FORDE, a Bill to revise and to consolidate the law relating to road traffic was read a first time.

On motion of Hon. C. L. BOLDEN, seconded by Hon. H. deB. FORDE, a Bill to revise and consolidate the law relating to factories and the safety, health and welfare of persons employed therein was read a first time.

SUSPENSION OF STANDING ORDERS

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Standing Orders Nos. 6, 16, 18, 20, 42, 43, 44 and 45 be suspended for the remainder of this Sitting.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is the Instant Order of the Day. Order No. 4.

FAMILY LAW ACT, 1981

Order No. 4 was called — To move the Second Reading of a Bill to reform the law relating to the dissolution and nullity of marriage, judicial separation and restitution of conjugal rights and to certain other related matters, and to provide for counselling with a

view to facilitating reconciliation in matrimonial causes and, in relation thereto, for matters connected with the parental rights and the custody and guardianship of children.

Hon. H. deB. FORDE: Mr. Speaker, Sir, this Bill has already received a full reading in the Senate and has been referred to the House with various amendments which I can indicate at the outset that the House will be accepting.

I wish to state that this Bill seeks to give legal clothing to certain recommendations made in the Report of the National Commission on the Status of Women. It is perhaps one of the most humane pieces of legislation to come before the House for sometime and it is also enlightened social legislation.

I believe I ought to say at the outset, Sir, it is part of the total Government package for the Reform of Family Law in Barbados and I need only to cite earlier legislation dealing with the Status of Children and the Domicile Reform Act, Legislation which has already been passed by both Houses of Parliament.

This Bill, Mr. Speaker, seeks to reform the laws relating to Divorce, Nullity of Marriage and Matrimonial Causes in general and seeks to update the provisions for maintenance of children of the marriage and of the parties to a marriage for their custody and welfare and also the method of enforcing those obligations before the Courts of Barbados.

I wish however today in the Bill to underscore various important principles which have guided this legislation. The Government considers that marriage is a very, very sacred relationship which ought as much as possible to be preserved and we have been guided in the formulation of this legislation in emphasising the principles which ought to guide the Courts in dealing with matters of Family Law.

Let me state these principles, Sir, because in most of the Reports of the Bill so far I have not seen them adverted to but we consider them so important that we have underscored them in this legislation so there can be no misunderstanding at all in interpreting the Bill of these principles:—

1. The need to preserve and protect the institution of marriage as the union of a man and woman to the exclusion of all other voluntarily entered into for life;
2. The need to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible

for the care and education of dependent children;

3. The need to protect the rights of children and to promote their welfare; and
4. The means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to the children of the marriage.

Mr. Speaker, those have been the paramount principles which have influenced the drafting of this Legislation and in keeping with those principles we considered it important that we should strengthen the services available for the protection of the marriage relationship and particularly in the area of reconciliation and consultation.

Mr. TAITT entered the Chamber and took his seat.

The Bill therefore contains the elaborate provisions dealing with the establishment of Marriage Counselling Services and the provision of Marriage Counselling Organisations and indeed it lays down various duties on the parties to a marriage as well as to their Legal Advisors and the Courts as a whole to ensure that before a marriage is dissolved the parties have had access to and the benefit of counselling with a view to achieving reconciliation of the marriage if possible. Not only in the area of reconciliation, Mr. Speaker, have we taken steps to strengthen the principle of the institution of marriage.

12.40 p.m.

But, we have also, in this Bill provided for the setting up of a family counsel whose duty it will be to give advice to the Attorney General and the other Ministries on the working of this legislation and on all matters pertaining to the preservation of the family unit. I have opened this debate in underscoring these points, Mr. Speaker for fear that people may see the legislation only in terms of the fact that it has come sensibly to recognise that when all else has failed, when reconciliation has failed, when the efforts of the parties have failed, when the efforts of the Church have failed, we still have to recognise that there are certain areas in which marriages do and have broken down and it is in those areas therefore, that the Law has sought to regulate the relationship which will result when there has been an irretrievable breakdown of the marriage union between parties.

In those circumstances, our review and evaluation since 1948 to date of the number of cases coming to the courts have revealed that more and more parties have moved to what may be considered a consensual form of divorce and although this is not at present allowed in our Law most of the petitions which have reached the courts

between 1948 and today have been undefended and most of them have been brought by wives. If I may give some figures for the last four years. In 1976, there were 178 petitions filed in the court, 102 of these were by wives and 76 were by men. The court in that year granted 114 divorces most of which were undefended. We have to consider these figures in relation to the number of marriages in that year. There were 729 marriages. In 1977, there were 220 divorces filed, 87 by husbands, 133 by wives. The court granted 153 divorces most of which were undefended. The number of marriages were 721. In 1978, there were 242 divorce petitions filed, 105 by the husbands, 137 by the wives. The court granted 132 divorces mostly again undefended. The number of marriages in that year were 742. In 1979, 257 divorces were filed, 104 by husbands, 153 by wives. Once again, roughly about 70% were undefended. The court granted 150 divorces. The number of marriages increased significantly by 206 during that year. There were 948 marriages. In 1980, there were 306 divorces filed in our courts, 123 by the husbands, 183 by the wives. The number of divorces granted 175. Again, with about a one third to two thirds proportion undefended if not higher than that. What is more significant and encouraging, Mr. Speaker is that there were 1 057 marriages. So that, the figures show that although there has been some increase in the number of divorces, the increase has not been as significant and dramatic as the number of increases of the persons getting married in our community.

Last year, for instance, the figure moved dramatically from what it was in 1976 something like 729 to the all time high of 1 057 marriages. Now, Mr. Speaker, the figures for the years prior to 1976 are contained in the report on the National Commission on the Status of Women and most of the research for that project was done by the Chairman, the Chairman of the Commission and they made the point from their analysis of the figures that the trend had developed where more and more divorces were being undefended because the marriage had irretrievably broken down, or had irrecurably broken down and it seemed to them that the time had arrived where we should move away from the concept of a fault and misconduct with all of the problems which those concepts posed and all the difficulties which it posed in leading evidence that was sometimes most unsavoury and in many instances was contrived, to a more manageable concept whilst moving away to one ground as a ground on which a petition for an application for divorce should be filed, we should at the same time take steps to strengthen the area of marriage counselling and the area of reconciliation. The Government has accepted this advice. The Commission's Report was a Report produced after considerable consultation with the public at large both by oral hearings before the Commission and written memoranda submitted to the Commission, as well as, the independent research of the Commission itself. Present on that Com-

mission, the Church itself was represented in the person of the Reverend Anthony Jemmott.

But, this decision also is in keeping with the changes made in legislation in several other countries in the Western Hemisphere in particular and I would like on this occasion to say that the public's attitude as manifested in the Commission's Report is in keeping with the sort of public attitude which was manifested also in England in 1965 when that Law Commission looked at the question of the reform of the grounds of divorce and had consultations with the public and with the churches as well. Perhaps, it may be timely for me to remind the Honourable House of the Report of the British Law Commission for the year 1965 published in 1966, CMND 3123, Command Paper 3123 and particularly from page 26 paragraph 52 of that Report. This is what the Commissioners said:

"In attempting to mark out the boundaries of the field of choice our point of departure must be the hard facts about social habits and public opinion in this country at the present time. It may be helpful therefore to set out a number of considerations which are we think undeniably real which limit the field of choice of reform which are frequently overlooked. Disregard of these considerations may render a proposal useless, or unjust, or unacceptable to public and parliamentary opinion. We think that the following are some of the factors which must be borne in mind when working out realistic proposals:

- (1) Public opinion would not accept any substantial increase in the difficulty of obtaining a divorce or of the time it takes, unless it could be shown that an appreciable number of marriages would be mended as a result.
- (2) Experience shows that the chances of reconciliation between the parties have become almost negligible by the time that a petition for a divorce is filed.
- (3) Whether a divorce is obtainable or not husbands and wives in modern conditions will part, if life becomes intolerable.
- (4) Children are at least and finally affected by their parents' divorce as are the parents themselves.
- (5) Breakdown of a marriage usually precedes the matrimonial offence on which the petition is based.
- (6) Public opinion would be unlikely to support a proposal which had the effect of say doubling the amount spent on divorce proceedings.
- (7) Public opinion will be equally unlikely to support a great expansion of the Queen's Proctor's office or

the employment of additional public servants with the function of investigating the truth of evidence given by parties to divorce proceedings."

12.50 p.m.

"And eight, even where a marriage is childless, divorce granted automatically if the parties consent would not be acceptable. There must be an independent check if only to ensure that the economically weaker party really and freely consents to the divorce and to approve the financial arrangements worked out by the parties and their solicitors."

I believe that those findings are as applicable to England as they are indeed to Barbados, and from my experience at the Bar there is not doubt that the courts in an effort to avoid the position where before the parties would bring in a so-called detective who would give evidence to the effect that he saw one party accompanied by a lady go to a particular house, he stayed outside for ten minutes, the lights went off, they moved to the back of the room, then the lights came on and they came out, and he saw the gentleman holding the lady.

When I came here in 1959 as a young practitioner that was the nature of the evidence, and it was a figment of people's imagination to imagine that the lights had to go off for adultery to be committed, and also to imagine that it could only happen on nights, but these were the types of evidence which inspired the granting of divorce petitions, and then more and more I think the legal advisers in the courts recognised that one had to prevent people from perjuring themselves, and they came to the position where divorces could become increasingly undefended, but the courts even ahead of this legislation, together with the various legal advisers to the parties have been at pains to ensure that divorces are only granted after every effort at reconciliation has been made, and the court is well satisfied that there has been an irretrievable breakdown of the union, and further that adequate provision had been made for the welfare and the maintenance of the children of the marriage or of the wife in circumstances where she is unable to maintain herself, or wishes to continue in her primary role, as she sees it, of being the person responsible for the upbringing of the children.

So, Mr. Speaker I think this Bill to the extent that it deals with the issue of the breakdown of marriage and with the grounds on which a decree for the dissolution of the marriage may be obtained, is catching up with the factual situation which obtains in Barbados today.

Now, Mr. Speaker, it is to be expected that we will emphasise very strongly the reconciliation and the conciliation provisions of this Bill, and that in due course Parliament may be asked to provide funds to assist marriage guidance organisations and marriage guidance

counsellors. Certainly, the Family Services Division of the Ministry of Labour and Community Services which has been performing this task before will be strengthened where necessary to ensure that there is always a large enough body of people properly trained for this task, a task which after all must inspire us if we believe in the family unit as the basic unit of society.

I am happy that Parts I, II and III of this Bill underscore this approach to the problem, but, Mr. Speaker, there are some other changes in the Bill which I would like to very briefly adumbrate for the benefit of honourable members, and that is the provision dealing with maintenance, with welfare and with custody of the children. We have set out in the Bill wherever possible to ensure that the party who is in need of support has the right to receive such need, and to this extent the new provisions move away from the legal position where there was a general entitlement to maintenance, and we shift the emphasis from the inherent right of automatic maintenance to the position where you are maintained where there is a genuine interest between the two parties.

There are other cases, Mr. Speaker, in which I believe, particularly among the women of Barbados, there will be this need, and we must ensure that a court in granting the request for maintenance holds the scales equally and sensibly between the parties, and that is why in the sections of the Bill dealing with the maintenance we have set out the considerations which should influence the court in making a maintenance order. For instance, the age and state of health of each of the parties to the union, their income, property and financial resources, and the physical and mental capacity of the parties for employment, whether a party has control and care of the children, the financial needs of each of the parties, the responsibility to maintain one another, the eligibility of either for pension rights, the sort of standard of living that they have been accustomed to and they are expected to maintain, the extent to which a person has contributed to the income and earning capacity of another person, the duration of the marriage — and I would like to underscore particularly this one, Mr. Speaker — the need to protect the position of a woman who wishes only to continue her role as a wife and mother, and if the parties cohabited with someone else, of course the other financial circumstances that he or she may find himself or herself into.

Mr. Speaker, I wish to say that these provisions are far reaching, but they are also fair, and I believe that in their implementation the country as a whole and those persons who are affected by this Bill will find this to be a fair Bill in that regard. We have also strengthened the provision for maintenance of children. In addition to the considerations which I have just outlined, provisions are made in the Bill that the income and the financial needs

of the child should also be taken into account by a court in arriving at a sum for maintenance.

There is a new departure too in the Bill, Mr. Speaker. Under existing legislation a child of a marriage can only be maintained up to the age of 18, regardless of whether that child is handicapped, mentally handicapped, physically handicapped, the child is undergoing education and his or her further education may need to be maintained, and indeed a child born out of wedlock is in a worse position because the cut off age for maintenance of such a child is the age of 16. In short, the law has consistently discriminated against children born out of wedlock, and the law has consistently failed to recognise the needs of children who have been handicapped, or the needs of children in real care, and this is because we have inherited the common law position and have paid regard to the principle of primogeniture, and have paid regard to concepts that are not in keeping with the social realities of the society in which we live.

We have found it necessary, and I am glad that this House is today passing this amending legislation to reverse the social inequality and inequity, and to make what is, as I said, a most humane change, and perhaps one of the revolutionary and radical changes in the family law of Barbados, but, Mr. Speaker, it is in keeping with the philosophy of this Government to make radical humane changes that will abound to the benefit of the society, and the reforming legislation which we have consistently brought to this House underscores the Government's deep commitment to the family unit in all aspects as manifested by the programme of legislation not only in the House today, but has already been passed by the House in the last five years of the Government's stewardship.

1.00 p.m.

I want to say, Mr. Speaker, and perhaps you will forgive me if I interject a personal note as father of a handicapped child, that I believe there is nothing more dehumanising than to think of these children being cast out by some parents who do not recognise their commitment, their obligations to children who are unfortunate in these circumstances. I have had regretfully in my practice as a lawyer to advise in cases where I have had to say to a mother "I am afraid there is nothing I can do for you before the court" to get an errant father to support a handicapped child suffering from a mental disability. In this particular case if I may advert to one, the husband contested the issue of custody and received custody of the child when she was a toddler, but as soon as he discovered that she was handicapped and had reached the age of 16, he abandoned her throwing her back on the mother who had to carry the financial and other obligations for her even now, and the young lady, she is a young lady

now, is unable to work. Even now her mother who is advanced in age is carrying that particular responsibility.

I really want to issue an appeal to the men of Barbados, the few or whatever number there is, who do not consider that they have responsibilities in this regard; that no humane society can continue to condone in law and otherwise that type of attitude as manifested by the particular case to which I have just adverted, and I am dealing in the realm of reality, Mr. Speaker, not in the realm of conjecture. I can cite several other cases of a similar regard.

I wish to look at the other picture where a couple is divorced, there are children in need of education, the children have the potential to improve themselves in life by going to further studies at a technical college or an apprenticeship or for a University degree. The former husband is in a position to give that support but the law states that the cut off stage in his case is 18 and he stops, perhaps in many cases ruining the chances of the children for the balance of their lives.

Once again, Mr. Speaker, this is a situation which I believe this community should never condone. That we have condoned it for so long is a matter, as I said of great regret, if I might use the understatement of the year. In this case too I am sure that this Government would have wished as part of its overall reforming programme and part of its overall concern for human rights, because this is an aspect of human rights, to ensure that this type of change is made in our legislation, and I am happy that it is being made now.

Now the question of custody. The law has been that a husband has the first right to the custody of his child. Automatically that the child is born, the husband has the right of custody. In the case of a child born out of wedlock, the mother has an automatic right, the father has none at all under law. Our view is that if you are to preserve the family unit, the parties should share joint custody and be encouraged to share joint custody, and the law should recognise this position. We appreciate that there are occasions where because either of a particular parent may be inhuman and abuse the child, the law must step in and remove that child from that parent's custody and give the child to the custody of a guardian or to an institution or to foster care; but that is only a step that we must regretfully take where the natural parental obligations and duties have broken down, but the law should not continue to condone a situation where we are divisive rather than bringing the parties together in a cohesive situation in the approach to the upbringing of their children.

We believe that this legislation in this regard is another step towards strengthening and preserving the family unit, getting parents to recognise that even if they themselves have difficulty between them they have a joint obligation to cushion the effect on their children and a joint obligation likewise to train and bring up their children to make them into better human beings in our society. Hence, Mr. Speaker, you will find that that approach inspires the particular provision dealing with the welfare and custody of children.

There is another part of this Bill that I should like to emphasise in my opening remarks, and I am sure that some members of this House who have consistently asked for this legislation will be happy today to welcome it. Mr. Speaker, over 72%, I think it is closer to 78% of all children born in Barbados are born out of wedlock. Despite the fact that the figures which I have cited to this House today show a growing trend towards marriage, and we would wish to encourage this trend, we have to recognise that the majority of unions in Barbados like the majority of unions in the Caribbean have a permanency in fact which is not recognised by the law. In other words we have a *de facto* or common law union sometimes as solid if not more solid than a legal union, and yet the parties to that union have not had the privilege of the law giving any recognition to some of the consequences which would flow from the permanency of the union.

This Bill charts new paths and it seeks to protect a common law union where parties by their outward conduct can satisfy the court that they have continuously lived together permanently for five years or more and have established a relationship which is not trivial, which is not arbitrary and which is not temporary. In those circumstances we have used the principle that if the relationship breaks down and one party is in need of support that the court should support that party, regardless of whether the party is a man or a woman, and likewise we have used the principle that the court should not discriminate in its treatment of children from that sort of union as against children from a union which has been clothed by a marriage ceremony.

Mr. Speaker, I want to be specific, not only outline the legislation or the principle, to show you how disadvantageous the existing legal position has been. Again if I may draw on my years of practice before the courts of this Island on family matters, I recall a case in which two parties in Paddock Road, I believe it was in that area, had lived together for several years, beginning from merely owning a chattel house, the lady had stayed at home and brought up the children, washed their clothes, cared for them, taken his small earnings and managed despite the difficulties to save, cultivate a back garden and used the produce not only to feed her family but to make some extra money, taken what money she had, Mr. Speaker, and bought what I refer to as stock, animals, not stocks

and shares, and by degrees changed the chattel building from the back with his assistance from chattel into wall, and he died without making a Will. Under the then legislation the brother who had lived in the United States and had never been heard of turned up and laid claim to all. This was even before we made changes in the 1975 Succession Act. She had not even a right under the then existing legislation to ask the court to grant her some continuing maintenance.
1.10 p.m.

Another case from experience, Mr. Speaker, it has happened recently. The parties have lived together for years and all of a sudden, for upwards to 30 years, Mr. Speaker, she is a lady no longer in her sallied days. She probably still gets a twinkle of an eye but no full eye from anyone so her chances again of that type of relationship are slender. She gave no cause for offence but he had grown tired of the lady after 30 years, Mr. Speaker.

He was sensible enough to probably get rid of her before I could get the Bill passed by the House. He threw her out without a cent. Obviously, Sir, I could not call the name of the parties and these are not even all the circumstances which one would cite. It is a difficult case. Sitting as the Attorney General I have seen the lady. She has even got advice from other persons in Bridgetown who gave her the correct legal advice that there was nothing she was entitled to. She had given no offence. She was getting on in years and he had seen something to which his fancies fitted so I cite these particular cases to show that the law has not always been fair, not fairly administered, has not always been fair in circumstances such as these.

I do not believe that any Caribbean country today can continue not to recognise in its legislation the strong case which parties of common law unions have for some support and other obligations flowing from that relationship and I agree with every word of the Report of National Commission on the Status of Women written on this subject.

I know that in some far East countries recognition has been given to this relationship in the Law of Divorce and it is time that we ourselves bring the factual position more up-to-date with the sort of consideration that ought to inspire humane and far-looking legislation, legislation geared, as I said before, Mr. Speaker, to enlighten the social reform and conditions of the day.

Those are perhaps the main highlights of what I believe is a far reaching, forward-looking and socially reforming bit of legislation which I think ought to be welcomed as I think it was in the Senate by all Legislators and by the people who are most involved with implementing and administering social legislation.

Let me say that we have sought to have the widest consultation on this Bill and we set up a Committee on Family Law as early as 1977 in addition to having the Report of the National Commission on the Status of Women and in addition to that, Mr. Speaker, the Bill which now comes before this House has been devised under a series of Meetings by an *ad hoc* Committee on which we gave full representation to the main Agencies in Government concerned with family life as well as to the Church and to the public at large.

I am indeed most indebted to the Barbados Council of Churches and the Barbados Evangelical Council of Churches for having appointed representatives who sat on the Committee as I am indeed indebted to the Methodist Superintendent and the Methodist Church for asking for their Organisation who is closely connected with counselling to be represented especially on the Committee.

I had the privilege of Chairing that Committee. This is the fourth and final draft of the Bill which has reached the House and we sat on many occasions on Saturdays and on Wednesdays we met under my Chairmanship or the Chairmanship of the Deputy Chief Parliamentary Counsel, Mr. Chase, whose drafting skills I believe are outstanding as manifested in this Bill and we managed to arrive at decisions that I believe generally took into account the various considerations affecting the main Organisations, the Church, Family Units, Women's Organisations, the Judiciary both the Magistracy and the High Court, the Bar Association and various other groups.

Therefore, I believe that this is the type of consultation extended over a period of four years with which no one can quarrel and I believe that the reaction of the Ecclesiastical persons from the Other Place reflects satisfaction of the Church with the final Bill which now comes before the Legislature.

Mr. Speaker, this Bill has a companion Bill which we will be debating shortly afterwards, the Maintenance Bill. I do not wish to anticipate the debate on this Bill but that Bill seeks to do the maintenance obligations for children born not only out of wedlock but outside of a union other than a marriage exactly what we are doing to children born out of wedlock and of a union other than marriage.

In other words we are standardising the same position, standardising the position of all children. They are being treated equally in all legislation and we will discontinue the position where children were stamped for the basis of the law, according to whether they were born in or out of wedlock. I think more and more we have moved from this.

There are other bits of legislation which I think it will be necessary to bring before the House in due course, like an amendment to the Minors Act standardising again the conditions affecting custody, and the House later this year will have the benefit of that legislation but in the meantime the Government has also taken other steps in relation to Income Tax allowances for instance, Mr. Speaker, in relation to the manner in which it treats women and men on an equal footing for the purposes of Income Tax deductions and assessment of Income Tax Returns to implement not only the report of the National Commission on the Status of Women but to give equality of treatment to all parties.

We believe that by this Bill and perhaps an amendment to Section 31(b) of the Income Tax Act as well, we would be in a position to improve the Income Tax deductions for Child Allowances up to the age of 18 or beyond in the cases of handicapped children and the Minister of Finance has asked me to say that he is giving early consideration to reform of the Income Tax Act in order to bring that in line as well with the provisions of this Bill so that the limitation of maintenance from 16 will be removed and benefits would be given for children up to 18 years or children over 18 where under this Bill an arrangement has been made or a Court Order has been granted for them as well, Sir. I believe that no one would have any doubts about Government's serious commitments on these matters.

Mr. Speaker, I want to make one further point. Many Legislators as well as many Lawyers have remarked on the difficult conditions which obtain where women have to queue up outside of the Courts to receive maintenance payments for their children, very often in the hot sun and at times as has recently happened, where the books are not immediately available, they walk on several occasions.

I have instructed that a child cannot wait until books are balanced by civil servants to get something in that child's stomach and I do not want to hear any time at all from the Law Courts in Bridgetown that women are being turned down for their maintenance because somebody is balancing the books and I have asked that if any of those cases occur, that the Officers concerned should be reported to the Public Service Commission. 1.20 p.m.

I do not want to hear that at all occurring at any time. But, in addition, Mr. Speaker, there are still men who are failing to pay although they are working regularly, the maintenance ordered to be paid for the support of their children and as the Law stands, we have to be chasing and running behind them in order to get sometimes it is no more than \$10 a week for maintaining a child.

A week ago, a couple of days ago, I was approached by a lady who said that the man would wait until ten weeks had gone before he pays the \$10 per week. Mr. Speaker, this is a gentleman who owns a store, it is a child born out of wedlock. He owns a store in Bridgetown. The court has only ordered him to pay \$10 because he manages to convince the court that he is losing money on the store. I told the lady to get a good lawyer and summon the Income Tax Commissioner to produce his income tax and to summon a few other people to produce and show his real estate. But, she gets \$10 a week and he waits for ten weeks before he pays in that \$10, so in the ten weeks' period, the child is not to eat, Sir. Sir, there are many of these cases. We feel very strongly that that must stop and therefore, we have empowered a Judicial Advisory Council to make legislation to attach wages at source, Sir. Just as indeed there is a deduction for National Insurance and there is a deduction for severance payment, there must be a deduction for child support, where the employer either with the consent of the defendant, the worker, or otherwise by the Order of the court deducts the money weekly and send it to her. She would not have the indignity of going down there, Sir.

We will make sure that the legislation is not of the sort that it takes away every cent that a man has, a man has to live too and in many cases, he is the bread earner. We do not want men to feel that this is being done to deprive them of anything. The only thing it deprives them of is any freedom to flout Court Orders, or any freedom to take up their own lawful obligations which they should attend, Sir.

But, the power to attach wages is an important power. It is not one that we like to use having regard to the Protection of Wages Act, but I am sure that there is no right thinking person in Barbados today, who would not consider it proper that a court, not a politician, not a social worker should have the power given all the circumstances and where all else failed to order an employer to pay over the weekly payment to the maintenance of a child rather than to have the child suffer in the circumstances which I have outlined.

Mr. Speaker, I have much pleasure in asking that this Bill be read a second time. As I said, there were some changes made, some typographical and otherwise to the Bill in the Senate which are accepted by the Government and in the Committee stage will go through. I believe that this is a forward looking bit of legislation, it is a timely bit of legislation, one that is welcomed generally by the public at large and one that should seek in those limited areas in which the Law should enter in the family relationship not only to strengthen the family relationship, but to minimise any adverse effect falling from those inevitable cases where the people can do no

more to save what has been a union of some duration. I believe that we should not legislate too widely in the area of the family, but we have to legislate circumstances regrettably, where not always the family unit can be preserved, or family obligations maintained.

I am happy on behalf of the Cabinet and on behalf of the Barbados Labour Party to bring once again to this Honourable House, as we have done consistently for five years one of the most forward looking pieces of legislation ever to be passed by any Parliament in the Caribbean.

Hon. C. L. BOLDEN: I beg to second that.

Mr. SPEAKER: The question is.....

Mr. TAITT: Mr. Speaker, I do not know what twist of fate puts me in the position of responding to the Honourable Attorney General on the Family Law Bill on the day which for me is 19 years since I have been a married man. I hope, Sir, that for the next 19 years, I will not have to resort to any aspects of this Bill in certain of its ramifications. But, Sir, I do not believe that there is going to be any opposition as such from this Side of the Honourable House to the passage of this legislation.

One would hope and to this extent he did not do too much of it except towards the end that the Honourable Attorney General would not see this Bill so much in terms of what his Party, or his Government has done not so much as a revolutionary piece of legislation emanating from his Party, but more, we would prefer and I believe it is factual in the context of a continuation of the assault on the legacy which has been the lot of Barbados arising out of the Barbadian condition of its history and its development.

The legislation which we are passing today, this Family Law Act and the accompanying bits of legislation is new to Barbados but is not I submit new in concept. There are other jurisdictions around the world that have been able to introduce and practice all, or part of the provisions which we are being called on today to adopt. In some parts of the United States, for example, the attitude to the family unit, the attitude to maintenance, the attitude generally to sharing of property has gone far beyond that which is being attempted today.

Most recently, in the newspapers, we had a very interesting claim made by one person of one sex for the sharing of property with another person of the same sex. I have no doubt that that could be considered revolutionary in the context of family law thinking. I believe, Mr. Speaker, that it is

appropriate to examine the institution of marriage in the context of Barbados and the West Indies and the history of that institution in Britain. As the Honourable Attorney General, I believe alluded to, we in the Caribbean have had unions that are considered or used to be considered illegal. Common Law unions for 70% or more of the population and yet for many years, those who were fortunate to marry were considered to be proper and lawful and those who were maintaining a family and who had not had the benefit of churching, if you will, were considered to be unlawful and illegitimate.

Mr. Speaker, as has been said before that was a very strange position because there was a time when the slaves and the descendants of the slaves could not marry on pain of breaking the law, it was illegal for them to marry. That being the case and if you add to that, Mr. Speaker, the requirement for those who were brought from all over the waters to produce as many children as possible in order to justify their existence, you can begin to understand that while the sociologists are now finding it desirable and necessary to examine the so-called Common Law union and the so-called promiscuity. 1.30 p.m.

It is necessary to examine the background of the West Indian man and the West Indian woman in order to understand that phenomenon. It is true that the male in the Caribbean has tended to be promiscuous. It is true that the women in the Caribbean have had to put up with a great amount of difficulty in the context of the legal requirements in the society, and some of the newer morality which has come to the Caribbean, but it is also true that it is going to take, or will take, a substantial amount of time before the inherent characteristics which were drummed into the males and females on the plantations for so many years, it will take some time before those inherent characteristics are finally ironed away, and finally out of existence and form no part of our society.

Mr. Speaker, many different cultures have many different attitudes toward the concept of marriage. In some places polygamous marriage is normal and natural. In some places marriage is nothing more than a simple agreement of two persons to live together, and they may go out under a particular statement, and then that constitutes marriage. It is well known that in some eastern cultures divorce is had by the simple expedient of announcing three times that you have divorced the particular individual, that is to say, a man has only to announce three times "I divorce thee, I divorce thee, I divorce thee" and that constitutes a divorce. In a world that has so many differing and varying societies, therefore, it is passing strange that for all these years we have allowed, or it has been allowed for people to feel inferior, to feel different and to suffer because they

did not have a union that had been, shall we say, sanctified in the presence of a third person and in a building normally known as a Church.

Mr. Speaker, as an Anglican I think I can understand some of the problems and difficulties and conflicts with which the person who wishes to be a good Christian, and the person who is cognisant of the realities of the society has to face when discussing or examining the question of marriage. It is not well known, for example, that in theology there was a time in early Christianity where there was a theology of marriage without the third person. It was possible therefore to be married in the sight of God without having had the benefit of a Priest who would act as, shall we say, the conduit from God. It is interesting that we had theology, I believe in the third century A.D., but within the Caribbean in slave society that theology did not see the light of day. It may very well be, Mr. Speaker, that we must take cognisance of the fact that it is only roughly speaking in the last 25 years or so that we have begun to see what may be termed a West Indian theology, and hence the Church in all its ramifications has begun to recognise that there are certain characteristics of the West Indian and the West Indies which must be taken into account if there is not to be irreconcilable conflict between Christian doctrine and the reality of living in these Caribbean countries, and hence Governments in the Caribbean, and more particularly Governments in Barbados, have been able to follow the trend. I think it is fair to say that Governments have not been leading in this respect, but Governments have been able to follow popular opinion in the society, and hence in 1975 finally we had a Succession Act that took cognisance of the reality of Barbados, and we had the establishment of a National Commission on the Status of Women, and what we are passing today is the result of the scholarship of those persons who served on the National Commission on the Status of Women in Barbados, and so I think it is proper that this Legislature should put on the law books generally the recommendations that have been made by that Commission.

Someone asked me the other day if I thought we may be around long enough to see the establishment of a National Commission on the Status of Men. He was of the view that there is a new propaganda which is designed to subjugate men and to reduce them to a position where women can continue to dominate them. He genuinely believed that, Sir, and he can give argument, and would attempt to give argument for as long as you wish to hear him on this matter. He too is of the view that a woman's place is in the home, whatever that means. Irrespective of one's position, however, it cannot be gainsaid that the failure to recognise that women are equally intelligent, that women are capable of doing anything

that men are capable of doing in the building of a society, if one is not prepared to recognise that finally, then one is not dealing in the realities of life in the 1980's. In the circumstances, Mr. Speaker, this kind of legislation loses some of its revolutionary character, it becomes instead a qualification of the unspoken beliefs, the unspoken law, the unspoken statement coming from the society at large.

Mr. Speaker, it is proper that there should be a separation of law and morality. It is proper that what is moral in the society ought not necessarily to be legislated. One of the things that is lacking in our society today, even if I say so, is a lack of moral leadership. There has been over the years a very slow but pervasive breakdown of the kind of moral leadership which a society of this kind must have if it is to continue to operate at the highest levels consistent with what is desirable for all of our people. That moral leadership is not necessarily found in the brilliance of a particular individual, that moral leadership is not necessarily found in the amount of legislation which we pass in this Honourable House, that moral leadership has to be found in our general attitude to one another as people and in the kind of reaction we have to those in the society who may have the courage of their convictions to suggest what is moral and what is not moral in the society.

1.40 p.m.

Our people in the Caribbean have been exposed to a lot of scholarship, Sir; they have been exposed to a lot of rhetoric and they have been exposed to a lot of lip service. Lip service is paid nowadays to the desirability of seeing everybody having an equal opportunity; lip service is paid to the desirability and I hope that is not what it is in this Act, of seeing that the handicapped children are properly taken care of, of seeing that children born out of wedlock are properly taken care of, but Mr. Speaker, with the greatest will in the world, if there is not a moral leadership accompanying the legislation which we pass, then the objective of this legislation, the objective of all the legislation we pass will not be met, because in its implementation flaws, difficulties and loopholes will be found. It is in that context that I say it is proper for the ecclesiastical leaders in the community to have their own position on such matters as marriage, on such matters as sexual offences, on all the matters considered part of the moral fibre of the society. But, Mr. Speaker, it is not the right of any morality to impose itself on the total society; it is not the right of the Anglican Church or the Roman Catholic Church or the Methodist Church or any Church to have its view imposed on the rest of the society, and that is why one has to agree that if freedom must mean anything, we must have laws that will legislate and allow people to be free to choose or not to choose. People must be free to marry or not to marry, people must be free to determine what kind of relationships they will have.

In that context I suspect that there would be some difficulty arising out of the five year arrangement recommended by the National Commission on the Status of Women. I do not know that I have the answers and I do not know that I disagree with the recommendation, but I can see some difficulty where two persons are determined to live together in a union, at the end of five years have they in fact by the very fact of living together forged a legal union? It seems as if the legislation is saying that if you do not want to get into a problem after four and a half years, you had better leave and come back in another six months and start again.

A question is raised about the Succession Act. It all forms part of the difficulty of how to deal with the so-called common law union, but I draw it to the attention of the Attorney General that the five year recommendation is fraught with questions to be answered. I am not sure that these questions have been answered or can be answered today, but I think it has to be borne in mind and the courts will have to get some thinking of the society on how to deal with the five year arrangement, because it cannot be, and I am sure there are some men who will wonder about this, that as long as you live with a woman for five years you are the equivalent to married. It cannot be.

Mr. Speaker, on the question of marriage counselling and marriage guidance, I note from the legislation that this attempt will be to forge reconciliation of those persons who believe they wish to bring their marriage to an end. I would like to issue a warning to the Attorney General, to the Government that while this is embodied in the legislation and while its objectives are obviously noble, we must be very wary of the rip-off artists, we must be very wary of those who will soon set up shingle and indicate that they have some ability to counsel as we have seen from time to time persons come into Barbados and set up shingle indicating that they are psychologists; some come in and set up shingle and say that they have ability to advise on employment. We have had bogus employment agencies that have done nothing more than rip off people, and we must avoid the kind of spectacle which exists in California where marriage counsellors and psychiatrists form part of the occupational hazard of walking the street.

I believe that there ought to be some qualification requirement for those who will put forward themselves as marriage counsellors. There are some persons who may be divorced who may make good marriage counsellors. They might be able to advise people on what to avoid but whatever qualification there is I believe there ought to be some qualification, and I hope that the legislation envisages that even if it makes no specific provision for it, I believe that regulations made by the Attorney General's Chambers ought to have some element of qualification, and those qualifications

should be written. In the same way that the Chief Welfare Officer or the Chief Probation Officer or a Priest has to meet some kind of training and qualification, then I submit, to say nothing of doctors and lawyers, that marriage counsellors and guidance counsellors ought to be professional people who can demonstrate by their training and demonstrate by their professional standing that they do in fact have the qualifications to advise people on how to live and how not to break up their marriage. I have a view on counselling. I believe that counselling is desirable and I believe that the priests and other people who now do it, have been doing the best they can in the circumstances, but I would say that when two persons reach the point where they are prepared to go before the courts and dissolve a marriage, that they are usually so far gone that counselling is really a form of torture. I submit that when persons recognise that they need counselling, it is usually too late and perhaps we ought to look at finding ways of assisting persons in the society long before they reach the stage where they feel that they wish to dissolve their marriage.

I make bold to say, Mr. Speaker, that it is wrong for any two people to stay together in mutual confusion, joined only by mutual debt merely because they have children. It is not right for two people to inflict such punishment on each other on a continuing basis for a long time to satisfy some societal need, and hence what I am saying, Mr. Speaker, is that I believe that persons who are divorced in the society ought not to suffer the indignities which are heaped upon them by some of the institutions in the society.

When a man or woman goes before the Court and he and she have been told by the Court legally that they may now go their separate ways, it is wrong for either the man or the woman to find it difficult to get the same kind of religious approbation which he or she would get the day before even though the two of them might have been living like cats and dogs. There is something fundamentally wrong with that kind of principle. I do not, Mr. Speaker, by so saying quarrel with the principles of the largest denomination in the religious world. I believe that the Catholics too have their right to their opinion; I believe that if Catholics accept that from the time one marries he or she is married forever in the sight of God, then that is their belief and they are entitled to it.

1.50 p.m.

What I think is wrong is when other denominations who have not so stated seek to use the same principle without announcing it. I believe that the Anglican Church has got to come face to face with the reality of divorce and I believe that the Anglican Church would have at some point to come face to face with the reality of using the Methodist's whose attitude in this regard has been

much more forward-looking and much more humane than that of the Anglican Church in general.

What has happened, Mr. Speaker, is that the Anglican Church has tended to ignore its responsibility, to move away from its responsibility and former Anglicans, as they are called, Anglicans who have had to go before the Courts find themselves if they wish to remarry, for example, having to go to the Methodist faith in order to do that which they have to do in the sight of God.

Mr. Speaker, in those circumstances this Bill will go somewhere towards letting the society at large understand that the will of Parliament or that their will has now been embodied in a Parliamentary Statement by way of a Bill but on this question of separation in a society that has not been economically as successful as the United States, I wonder if the Attorney General and his colleagues in the Attorney General's Chambers and all of the persons who met with the Committees are right to accept in principle or accept wholesale the concept of sharing according to what one has.

Mr. Speaker, for all the years married women have been discriminated against in their acquisition of property. They have been discriminated against until very recently in law. It seems to me that they ought at least to be given a chance to catch up before they find themselves now in a position where they might have to support some husband.

I do not know that this particular piece of legislation is not too far ahead of its time in so far as it allows the situation that on a divorce the husband may now lay claim to some of the wife's property. That is my understanding of what the Bill is and I believe that needs to be spelt out so that the people in Barbados must understand that is in fact what is happening with this legislation.

Equal status demands equal responsibility. Equal rights demand equal sharing and the principle therefore cannot be questioned. I am merely saying that in Barbados where women have only recently been able to acquire property it seems to me — (*Asides*) In the context of what we are discussing the hon. member must not think that one is not aware of the Married Womens Act and all of that. One was talking in the context — It is only recently and those who are more capable of observing the most subtle point will know what we are discussing.

It is only very recently, for example, that women were able to file separately, in the truest sense of the word, their Income Tax. It was only recently that women came into their own as owners of property, that is married women. Hence, this part of the Act may create some problems but I have a suspicion that since the Act is following reality, since the Act is merely qualifying what

has been going on in the Courts anyhow, that this will be applied with a high degree of discretion on the part of the Judges.

I believe that the Judges will go to some length before they implement this part of the legislation. I hope we never reach the ridiculous situation which now exist in the United States where all kinds of bogus claims are made but one of the things this legislation will do, Mr. Speaker, is that it will remove once and for all the need for Lawyers to go into the Courts and have clients say of their partners some of the worst and most vile things.

Mr. Speaker, I know of one friend of mine who, on being divorced, when he discovered that his wife was divorcing him was when he got the letter from the Lawyer for the first time and I saw this man with tears in his eyes when he read what his wife was prepared, under advice, to go into the Court and say that he had done. Mr. Speaker, it is one of the most painful episodes that I have ever had in the context of a friendship and the Lawyer was prepared to advise that woman to write down some of the most despicable things in an Affidavit, two crimes, Sir. Well, maybe not crimes, Sir, but moral crimes.

The woman was forced and perjured herself and she was forced to establish a lack of respect between that man and herself for all time for if a man is able to say those things about a woman or *vice versa*, it must be very difficult for them to reconcile themselves in the future.

Mr. Speaker, the Lawyers were forced to do what they were doing. They were forced to give that advice because the Law requires them to do it, to give that advice so now the Lawyers will be free, the clients will be free, all will be free to go into the Courts and say that the marriage has irretrievably broken down.....

Mr. SPEAKER: It seems as if we are hearing about a new Law. Let us hear about the Bill.

Mr. TAITT: In this Bill, in fact it is saying, Sir, that all that will be required now for a divorce is to demonstrate that the marriage has irretrievably broken down. When that has been pointed out, when it has been shown that the Counsel was attempting, when it has been shown that the Lawyer has done his duty to advise him of the availability of Counsel, then the divorce will be possible.

Mr. Speaker, I do not believe that it is necessary to speak on every point that was raised by the Attorney General as one is agreeing with the Bill. I do not accept that some of the ills which have been brought on those persons in common law union were necessary. I believe that some of them were the victims of very bad advice.

The lady, for example, who had been with the man for 30 years ought to have been able to recover some part

of her investment under Trust Law. I believe that if she had consulted a proper lawyer who knew and unless her circumstances in fact were not revealed to us, but it seems to me that when two people who have lived together for 30 years, one must be able to demonstrate that she contributed to the building up of the estate and it is well known in the United Kingdom, Sir, that decisions have been made under Trust Law which would allow such a woman to benefit in some way from her commitment to a 30 year arrangement but be that as it may, Sir.

There is one point which needs to be made. It has to do with the custody of children. Very often in these relationships, whether it has to do with common law union relationship or the new union relationship, very often divorced children are shuttled between one partner and the other and the requirements of the Law are met but the requirements of the child are not met.

I would have liked to see provisions made in this legislation for after separation counselling as well. I believe that after there has been a separation or a divorce, that as much counselling is needed at that time as was probably needed before separation arose.
2.00 p.m.

Mr. SPEAKER: Are you winding up?

Mr. TAITT: Yes. Children will get assistance no doubt under other legislation and one does not wish to anticipate that legislation, but it would be useful, it would be revolutionary perhaps if for a period after divorce that the parent who gains custody of the children would be required for some period of time to consult with either the Chief Probation Officer, or the Chief Welfare Officer or the Family Services Division, or indeed, the counsellors.

Mr. Speaker, as I said, we are not going to oppose the legislation and therefore, other things one wishes to say can be said in the Committee stage to which I now look, Sir.

SUSPENSION

Hon. L. S. CRAIG: Mr. Speaker, Sir, I beg to move that this Sitting be now suspended until 2.45 p.m. today.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division and Mr. SPEAKER accordingly suspended the Sitting at 2.04 p.m.
2.04 p.m.

On Resumption

Mr. SPEAKER: This Sitting is now resumed.

QUESTION TIME

Mr. SPEAKER: It is now Question Time. I am advised that there are no replies ready.

PRIVATE MEMBERS' BUSINESS

Mr. SPEAKER: We automatically go into Private Members' Business. The first Item on the Paper. The hon. member is not in his place.

GOVERNMENT BUSINESS

Mr. SPEAKER: We automatically go into Government Business.

When the Suspension was taken, the hon. member for St. Michael North Central had given an indication that he wanted to address the Chair. The hon. member may now do so, if he so desires.

Dr. CADDLE: Thank you, Mr. Speaker.

Mr. Speaker, usually there is a religious concept, and also a sociological or cultural concept of what marriage is or should be and although it is recognised that religion is only a part of the sociological or cultural behaviour or pattern of a country, you find that sometimes, it takes a dominance in the affairs of the whole community and when you apply that to the Barbadian situation, one would realise that for a very long time because of the dominance of religious thought ably supported by political and other economic factors, a conception of marriage in this country has come about which has put the majority of people at a rather great disadvantage. When you analyse exactly what is taking place in this country, you will admit, as we have already admitted that a large number of people in this country, or marriages, or associations maybe as much as 70% do not fall into the religious concept of what marriage is or should be. One wonders if this is right and you have to look at this question in the light of the changing patterns in this country.

Certainly, over the years, there has been a migration of people of other cultural patterns or behaviour, religious beliefs and so in the society and certainly, those people bring their own concept of what marriage should be or is and if you are going to rationalise all of this within the Barbadian society and it has to be done for the welfare of the total society, some general conception of what marriage is must be adopted either by those who frame the Laws of this

country, or by people in the society who by hard work, and through the process of education should be able to motivate people towards changing or moving away from the dominant concept of marriage.

So, you know very well, Sir, that there are Haitians in this country, Indians, Pakistanis, Jews, Syrians, Lebanese and others and more recently, we are having off shoots of other cultures or religious cultures in this society whose conception of marriage is at a variance with the established conception. I am saying this because if you have a conception which has been going on in this country and you allow it to continue as it is, you are putting a large number of people in this country at a great disadvantage and if you believe democracy should be what we say it is, then every attempt must be made to allow these people, 70% or more or less who vary in their beliefs and their behaviour from the established religious concept to have proper recognition within the society and also the protection of the Laws of this country.

It might have been better if the total society could be motivated to change their concepts, but education is a slow process and that is going to take a very long time. Having said that I am forced to recognise that even although you would pass this law today, it is going to be a very long time still before the total society gets around to the view of accepting that the unions recognised in this Law, as different from established marriage should be given the recognition and acceptance not only by the total society. Therefore, in addition to the passing of this Law, it becomes necessary at some stage, certainly soon afterwards to put in motion the necessary processes which will educate people and help people to remove those concepts which if they are permitted to continue will be an undoing of the Law as it now stands.

Sir, people say that marriages are made in Heaven, but one has to accept that divorce is a business and this has always been so because the society in any part of the world, in Barbados or in other countries after a while have come to accept that divorce is necessary. Whatever may be the reasons for divorce and unfortunately in Barbados, we have not had the benefit of any sociological survey of divorces in this country, as to establish the social classes reasons and things of that nature that motivate people to divorce in Barbados as compared say with the United States or other highly developed countries where such sociological analyses are common place. But, in spite of that we can come to the conclusion in Barbados that a large number of divorces do take place, just taking a rough glance at the number that occur year after year and the pattern seems to be that these divorces are on the increase rather than on the decrease in spite of the amount of religious activities that we do have in this small island.

What has interested me in this Bill, Sir, is that while one may agree with the lawyers that it is a good Bill and it may be revolutionary in some of its concepts, one of the things that has appealed to me, or struck me rather forcibly unlike the United Kingdom where really a decision was made to facilitate the obtaining of divorce without the redress of having to obtain legal assistance, you find that when you examine this Law as it now stands that that facility is not offered to people in this country. Looking at the Bill, as it now stands, it seems that there will have to be more and more reliance on the Attorneys-at-Law in this country for people who will be seeking to bring an end to the marriage.

There are a large number of people in Barbados, who live apart although they are married and who have been living apart for many, many years, although they have not taken that step to go to the court and formally dissolve their marriage and one wonders why, in drawing up a Bill like this if some Clause, or Section could not be introduced where such people could not have it a lot easier to take their petitions to the court and get their marriage dissolved without having to seek the assistance and advice of Attorneys-at-Law.
2.55 p.m.

As you know, Sir, legal advice is not any longer cheap. Like everything else in Barbados that has gone up too, and with the revision recently of the fees in the courts, and I understand that legal fees tend to bear some relationship to fees in the courts, one can anticipate that there will be, if it has not already taken place, an increase again in legal fees, so I wonder from that point of view why is it that when we pass laws which we claim are revolutionary, which we claim are designed to remove certain social injustices and to bring all these benefits to a large number of people in the society, why we make it so difficult for people to obtain these benefits because of the way in which the law is framed and the way in which the legal network operates.

I throw it out to the Hon. Attorney General, because I do believe that he has the interest of the people at heart, and it may be that he has very good reasons why he has not seen the necessity of introducing some form where people of a certain category can just fill in the form and lay it in the court and after due consideration have their marriage dissolved.

Sir, I would go a step further and say that maybe the women in this country may be feeling that the law has not gone far enough when we come down to the question of property settlements. Maybe the Attorney General is better aware of the factors or the information relative to this problem in Barbados and he would be better placed to advise us, maybe in Committee, why they have not gone as far as many women in Barbados would be expecting this particular Bill to go.

Sir, there are some problems which now obtain in this country as far as divorce goes, and I am going to bring a concrete example to the attention of the Attorney General, and maybe he can give me his reactions later on. I am well aware of a patient who attends me, who was divorced recently, some years ago, and who is a pensioner, and out of his pension then of \$20 he had to pay \$10 to his wife, who also is a pensioner. As a result of this he finds himself in a rather difficult position of having to eke out an existence on a day to day basis. When you look at the social justice of this decision, I think the Hon. Attorney General must agree that although there may be a need when having a divorce to make some settlement for the wife, the settlement must be of such a nature that it does not seem to be socially unjust to the other partner, and I draw that because this is one case that I do know of, and I dare suppose there can be many other cases of that nature. I am drawing this also because the individual has made attempts to get this matter redressed or reconsidered only to be told that the law allows this and nothing else. I see him nodding his head and I am taking that to mean that he agrees that certainly while you are following the letter of the law you are at the same time creating social injustice to an individual.

There may be other examples which can be quoted that obtain in Barbados under the prevailing laws which when set into operation in Barbados end up more in social injustice than in the type of justice which we believe should flow from decisions arising from these laws.

We look, Sir, at the category of people in Barbados referred to as the under privileged, and we are talking about the under privileged women especially, who may seek a divorce, and despite all the laudible provisions of this Bill they find that when they get their divorce they get nothing, because in the circumstances in which they find themselves there is nothing to be divided, or there is nothing to be settled as regards property. But if you examine seriously the social and economic importance of people at that level, especially the women, you must observe that the man who is married to such a woman at that level needs that woman and the economic importance of that woman is very great, because on the basis of his salary which he brings home he has to depend on the woman to provide a lot of facilities which when evaluated in terms of money augments his salary tremendously. The woman performs many roles, she not only is housekeeper, she not only is gardener, cleaner, laundry woman, so many other roles she performs, because in terms of his salary he is not in a position to send his clothes to the laundry when the week comes, or employ a gardener, or go to a restaurant and eat his lunch, and his dinner also, and do many other things because of the small amount of salary he gets. Therefore, the economic importance of the woman at that level is

far greater to the society than many of us would like to acknowledge, but when you move further up the ladder and you examine the economic importance of some of the females who happen to be married, you find that in comparison to them it reduces, for the simple reason that the man very often in that position is far better placed to pay for all the things which I enumerated before and still be financially well off after having paid for these things.

It is remarkable that in a divorce settlement it is these people who are socially higher up who will get good and gratuitous property settlements in great contrast to the person at the bottom who will get none, because of the way in which the society and the economic pattern operate.

These are things which I draw to the attention of the Hon. Attorney General because while one may look at this and accept that maybe in some areas it is revolutionary, one has to wonder to what extent it really impinges on the people or affects the people in this country who we say we are looking after and for whom we say we have brought this Bill to remove all the social inequalities which we believe have existed for too long in the society. In fact, it is my belief that after this Bill has been passed that section of the Barbadian community to which I have just adverted may see nothing in this Bill and may not be impressed or care two hoots about it, because that is the type of problem which faces them and will continue to face them regardless of how you change the law, you update it or how you make it revolutionary, because it would need a lot more to improve their position in a situation of divorce or marriage rather than the mere passing of a Bill.

Another point I would like to draw to the attention of the Hon. Attorney General, and this comes from the behavioural patterns in Barbados. I think the Hon. Attorney General knows as well as I do that children can be made to suffer because of differences which have occurred between parents, and very often they are used in such a way when these quarrels arise as to give great discomfort to one or the other parent. In Barbados it is common when parents separate that one parent may make every effort to ensure that the child has little or nothing to do with the other parent, although rightfully, morally, legally and otherwise each parent must have a right, an unabridged right, at all times to any child or children of the union, but the way in which people in Barbados seek to take revenge of each other you find that a child may be kept away from one parent because the parent in whose custody the child is, may consider that by so doing they are getting at the other parent. In fact, we have had in Barbados recently two instances where children have suddenly disappeared although they have been in the custody of one parent and normally going about their activities, going to school, etc., and they suddenly disappeared because either the

other parent, or somebody acting on behalf of the other parent has been in the position to come in and take the child away without the knowledge of the parent who is at that time the guardian.

These are interesting developments that have taken place in Barbados recently, and maybe have been going on for a long time. Only recently due to the presence of the Press they have been highlighted. I am throwing this out because when we make laws they may be sound according to what the lawyers and the judges may consider to be sound, but in practice they may fall short because a lot of the social awareness, a lot of the motivation which we expect to be there in the society is lacking.

3.05 p.m.

I do hope that as a continuation of this Bill in practice some effort will be made to ensure that the rights of parents to their children are not only respected, but wherever possible enforced and every effort should be taken to ensure that nothing underhand should be done or could be done to deny one parent of the right of his children. That is very important because unlike many other countries where it is accepted that both parents have rights to their children and the law and the court then go about to ensure that these rights are respected at all times, in Barbados maybe due to the way in which we go about our business and our traditions and so on a lot of this does not necessarily obtain, and I think if you are moving into the area where we are getting better laws, where we are trying to remove a lot of the social injustices, we must look at the total area of the injustices and not just one facet of injustices because we feel that by removing that particular set of injustices we may be making our political position in Barbados more secure and leaving other injustices untouched, because what I believe we should be setting out to achieve is social justice for everybody in this country, and we should be able to do it at the same time especially in matters of this nature, and not necessarily confining our activities in terms of whether we can get political advantage or not from a particular measure. This is important.

Sir, the Attorney General like myself, knows that when you look at the Barbadian society, many of its prominent sons and daughters are born out of, what the Church has recognised as wedlock, but I would like to say that for a very long time I have been of the view that every effort should be made to remove that. I should like to concede to the Hon. Attorney General that he needs to feel good that he has succeeded in an effort to achieve that, and I would go a step further and say to him that apart from passing the law he must necessarily in conjunction, say, with the other social agencies and with the Ministry of Education in this country, get about to educate people in such a way that they come to accept the spirit of the law because it is not enough to pass this

law here today because I am certain that with the way of thinking in Barbados in spite of the passing of this law, it will be a long time before the people in Barbados will stop looking at an individual and trying to look at him and say he is illegitimate or his father was not married to his mother and things of that nature. It is going to call for a lot more effort not only on the part of the Attorney General but on the part of all of us who today will get up and say that we welcome this Bill.

We have to go a lot further in ensuring the spirit of this law prevails in the society where later on maybe we will consider this law superfluous especially in relation to the acceptance of what we call, for lack of a better word, a union other than marriage.

Hon. H. deB. FORDE: Mr. Speaker, just a few comments in reply. I am much indebted to the two hon. gentlemen who have spoken and for some of the comments made on this legislation, and I think quite rightly as the hon. member for St. Michael South West has said, this legislation meets with the approval of both sides of the House and can be treated in a non-partisan manner.

There are a few points raised to which I would like briefly however to reply, and perhaps I may begin with some of the points made by the hon. member for St. Michael North Central. I agree with him wholeheartedly that we should wherever possible use our influence to have the country as a whole accept not only the legislation which we have passed dealing with the removal of the legal aspect of illegitimacy, but also to effect, try as hard as we can, the attitudinal change in the community so that people consider children as children of their parents and not really categorise into those who are more lawful than others who are less lawful, and I think it is something to which the sociologists, the teachers, community workers and the community as a whole must dedicate themselves, and most important I think the parents themselves should try to foster this attitude.

The hon. member raised the question of the disappearance of children in circumstances where they are abducted from the custody of one parent to whom the Court may have awarded custody. We are considering legislation to deal with this question of abduction. I think in this Bill it would be possible to pass some regulations on the matter, but we can only feel secure with the strength and the validity of court orders in Barbados by having them recognised in other jurisdictions to which the children go, and we can only do this when we are part of an international convention.

In October last year at the Hague, such a convention was entered into by certain countries and we are at present in the process in my Ministry of

considering the implications of that convention and the legislation which it will be necessary to bring before the Cabinet, and indeed when Cabinet gave consideration to this Bill, we were asking the Department to give priority to the legislation to implement the convention on the abduction of children and to strengthen the provisions where Barbados Custody Orders will be recognised outside of Barbados, and I am hopeful that within a few months the Law Reform section will have completed the necessary legislation.

The hon. member raised a particular situation of a pensioner who under existing law may find himself having to contribute part of his pension which is his only resource to the maintenance of a wife from whom he was separated and whom he has to support pursuant to a court order, and he did make the point that both of them may be pensioners. I agree that as the law stands, we can get these hard cases. It is still however even on existing law, open to the court to consider the means of both parties; but one of the functions of this legislation is to equalise wherever possible maintenance obligations, and I think this is a point made as well by the hon. member for St. Michael South West. In a case such as this where both pensioners are receiving, let us say, \$28 a week or whatever it is, the court will know unless the lady had a very high medical bill or something of the sort and a recurring medical bill, make an order that she should be better off than the man, and that is why I think the hon. member for St. Michael South West said although there may be queries about putting a woman in exactly the same position a man happens to be in today, we assume that the court in its discretion would use its discretion as the hon. member for St. Michael South West said, sensibly, and according to the circumstances make sure that neither party, neither the man nor the woman should suffer any disadvantage.

The hon. member raised the question that the Bill has not in some respects gone far enough in relation to matrimonial property. This is the hon. member for St. Michael North Central. That is true, Sir. We have reserved pretty wide discretion to the court to take account of the contribution of each of the parties to what is basically the assets owned during marriage, and to make a division according to the circumstances of the case. The National Commission on the Status of Women had recommended that the matrimonial home should be treated a little different, and we are giving consideration to a separate Matrimonial Property Bill which I hope in due course will be acceptable to the Cabinet. We will send this back of course to the ad hoc Committee which has been looking at family law in the hope that it will reflect not only the views of the National Commission on the Status of Women but any other views in the community as a whole.

3.15 p.m.

The other member raised the question of the accessibility of persons who have been living apart for years to the Courts to obtain a dissolution of their marriage without the need to carry lawyers having regard to the legal costs involved. Now, there is nothing in this Bill which will prevent anyone from presenting to the Court unrepresented, on their own right, rather than through Counsel, an application for dissolution of marriage.

In fact, I can assure the hon. member that we are now drawing regulations which will simplify the procedure for access to the Courts and there will be printed forms so that there will be no mystery in making application and one would not have to be running to the lawyers in order to present a case to the Court.

Indeed, Sir, I think that in many regards this new legislation would not only simplify the procedure, but I think to some extent it would get rid of the long arguments on the meanings of words, and whether this situation amounts to cruelty or not cruelty. Not that we are bringing anything to prevent people from getting legal advice where they have the money and the resources to pay for that legal advice. What I am saying is that we will put nothing in their way to make them feel that they have to get a lawyer if they do not have the resources to retain a lawyer, and I think that the hon. member will see in the Bill, a large section of the Bill, provision for the Family Law Counsel to advise the Minister on the provision of legal aid.

In another Bill which is coming before the House today, we are extending legal aid to maintenance and it is hoped that in due course it will be extended as well to the dissolution of marriage. Already the Ministry of Community Services has been provided with a grant in the Estimates to give assistance in the area of Family Law and it has been given assistance in that area. We will try to standardize this eventually under the Legal Aid Bill as well. I believe those were the main points raised by my friend, the hon. member for St. Michael North Central.

There are one or two points made by the hon. member for St. Michael South West. I think he adverted to the difficulty of deciding as to what is the correct period of determining whether a common law union is permanent or not. This is a difficulty which confronted all legislation, as he has said. He raised the problems and said that he did not think that there was an answer to it and we have decided to standardize all of the legislation, both here as well as in the Succession Act and similar legislation on the five year period because apparently the evidence before the National Commission on the Status of Women showed that a majority of people felt in the community that five years was a long

enough time to judge whether there was a permanency or just a casual affair.

I agree with some men or some women for that matter who may feel that they will cut off the relationship at the four years, 364 days deadline midnight on that time, Sir, but we have not found that this has happened under the Succession Act. We find that if people are in a permanent relationship, you can judge after a couple of years. I myself think that perhaps after three years, but the Ad Hoc Committee felt that three years was even too short a time and this is why we have accepted the five year period and we have now standardized that in the Succession Legislation and this Parliament has already passed the necessary amendment to the Succession Legislation.

Sir, the hon. member said and I think he fell suitably to the person who asked if we needed a National Commission on the Status of Men. I do not think so at all. I think that what we really need is attitudinal change of some men who continue to feel that a woman's place is only in the home. Now, they do not mean in the home that she has a role to perform alongside them as a family maker. They mean that she must be subordinate to them, Sir. I can never accept that. It is not true. I do not believe that there is any such thing as a boss in the family. There should be equal relationship between the two parties.

The boss concept "massa day done". We must say to the husbands, "massa day done." We must say that there is genuine equality. We must say that women are today not only maintaining the home as a family unit but contributing economically in so doing and the majority of women today are also going out today and working and if there ought to be any bosses on the basis of contribution, the women ought to be the bosses. That is the position. (ASIDES) It is not a matter of patronizing it, Sir. It is a matter of making a point. They are doing the work.

Sir, they do all sorts of things from repairing the electric lights, looking after the children, caring for the sick husbands, going out and earning, using their acumen in order to save and build up the matrimonial circumstances and even fighting with burglars when the burglars come into the houses and the husbands are not home, Sir. (ASIDES) Today the Acting Leader of the House is in one of his puckish moods, Sir, and I use the right letter of the alphabet. He is really in a mood of making fun and really enjoying himself in the situation but I know that he strongly believes in the equality of sexes and indeed, he always refers to his wife as his boss, so I am sure that his comments though *sotto voce* were not meant in any way to denigrate from the sentiments which I have expressed.

I now beg that this Bill be now read a second time.

Hon. L. S. CRAIG: I beg to second that.

The question was put and resolved in the affirmative without division.

On motion of Hon. H. deB. FORDE, seconded by Hon. L. S. CRAIG, Mr. SPEAKER, left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.

COMMITTEE

Mr. CHAIRMAN: The House is in Committee.

Hon. H. deB. FORDE: Mr. Chairman, before you begin, Sir, I am going to ask for leave of the Committee to deal with this Bill in Parts as soon as we have passed the first five sections, Sir.
3.25 p.m.

Clause 1 was called and passed.

Clause 2 was called.

Hon. H. deB. FORDE: I beg to move that Clause 2 with the amendments circulated to that Clause stand part, Sir.

Mr. BRADSHAW: I beg to second that.

The question was put and resolved in the affirmative without division.

Clause 3 was called.

Hon. H. deB. FORDE: I beg to move that Clause 3 with the amendments circulated stand part.

Mr. BRADSHAW: I beg to second that.

The question was put and resolved in the affirmative without division.

Clauses 4 and 5 were called and passed.

Part 1 was called.

Hon. H. deB. FORDE: I beg to move that Part 1 stands part.

Mr. BRADSHAW: I beg to second that.

Mr. CHAIRMAN: The question is.....

Mr. TAITT: Mr. Chairman, during the Second Reading, I raised a point, the Honourable Attorney

General did not deal with it, I think inadvertently and I would just like to reiterate the point.

I believe that this question of marriage guidance and counselling ought to be approached in a very professional manner and that there should be registration, but not only registration of marriage counsellors, there should be some qualification and I believe that the Bill ought to indicate a qualification requirement in the Bill itself with the qualification being determined in Regulations. As it stands now, the Attorney General may under 10(1) grant to an approved marriage counselling organisation, but nowhere in the Bill, as far as, I can make out does it indicate what are the requirements to become an approved marriage counselling organisation and who determines that an organisation is a marriage counselling organisation. I think that some authority ought to determine when an organisation, or individual has reached the point where it or he can be described as a marriage counselling organisation.

I think by definition all recognised ecclesiastical persons functioning in their own diocese or their own denomination probably fall into the category, if you can get a licence to be a priest, presumably, you have met the requirement that would be required for guidance in family matters. (ASIDE: Priest? I hope that you are not talking about your priest, I will tell you about him, now.) On the contrary, I would feel that I qualify, Sir, I am an expert in marriage, Sir. Today is my 19th wedding anniversary and if that does not make me an expert, you will never become an expert. As to giving guidance, I am not sure, I do not think that I would be willing to advise anybody. I really think, Mr. Chairman, I know it is a difficult proposition..

Mr. CHAIRMAN: Happy anniversary, by the way.

Mr. TAITT: Thank you, Sir, we are going to the Carolyn Leacock show later on, Sir at \$25 each.

Mr. Chairman, I better let the Honourable Attorney General indicate what his plans are.

Hon. H. deB. FORDE: Sir, the point raised by the Honourable Member was fully discussed in the Committee in which I said the Church was represented, particularly the Methodist Church which perhaps has the best marriage guidance facility at the moment among the denominations.

What we did in the Bill is that we set out under Clause Two the Attorney General must consult with the appropriate Ministry since we felt that the Ministry responsible for Community Services was the Ministry in charge of social work, services to the family that should give guidance not only on the general criteria, but on the particular case as well because we recognised that there

may be institutions or individuals and the Church was pretty concerned that we should do nothing to prevent that admirable work which is being done by the various denominations, the older ones, some that are supposed to be bigger than others in this State. Therefore, we drafted the Clause 7 in the manner in which it is set out here allowing conditions to be attached for the approval of the registration under Clause Three and it is intended under those conditions to standardise the conditions after the Family Law Counsel has had an opportunity to set out various things.

This is one of the subjects in which the opinion of the Ministry will be taken by Law. The Family Law Counsel will be fully consulted and I can say that we intend, where we are revoking a licence to consult as well with the Family Law Counsel. Under the existing Administrative Justice Bill reasons must be given and natural justice must apply also, where we are revoking a licence under Clause 8. So, those are the full circumstances, Sir.

Mr. TAITT: Mr. Chairman, if the Honourable Attorney General...in fact Clause 7 deals only with organisations, the whole part talks of organisations, marriage counselling organisations. I am contending that marriage counselling is now a recognised profession in some parts of the world. There is no provision under this Bill, unless you are going to use a broad description as an individual as an organisation there will be no provision under the Bill for the Attorney General to recognise a marriage counsellor *per se*.

The question is, will the Bill only recognise such counselling as is required under this Bill, if it has been counselling by one of the organisations recognised in Part 7, or will the courts be able to recognise counselling done by a professional counsellor? If in fact, it is going to recognise a professional counsellor, then standards have to be set for the professional counsellor.

I believe that provisions should be made in the Bill, I know that this can be done by Regulation and I think that given the Administrative Law problem, if the Bill makes no provision for a professional counsellor, the Attorney General is precluded from making Regulations creating such a counsellor and it would seem to me that provision ought to be made in this part to include professional counsellors.

Perhaps, the Honourable Attorney General might wish to consult with the Chief Parliamentary Counsel, who I think is around and add the appropriate words. But, if that is not done, it is going to mean that a person who is non denominational, it is now required in the Law that an Attorney must advise a person seeking a divorce that he must get counsel, that he should seek counsel. If he is non denominational, it would mean that the only

places available for him to see counsel would be the organisations referred to in this part. So, I am saying two things:

- (1) We should make provision for professional marriage counsellors.
- (2) Having made such provisions, we should set the standards for them.

3.35 p.m.

The standards can be set in regulations, but I think that you cannot make regulations, the Attorney General will be precluded from making regulations where the parent Bill itself does not include the category.

Hon. C. L. BOLDEN: Mr. Chairman, if I understand the hon. member correctly, he first started arguing about the Church's position, or the Priest's position as a marriage counsellor under this Bill. Secondly, he talked about professional marriage counsellors and the conditions under which they would operate.

In the first place, my view would be that if there was a breakdown in the relationship between married persons and they were hopeful of reconciliation, they would first seek the advice of the Church if they were practising church-goers before they reach the stage of having to apply the conditions of this Bill. Secondly, if you are talking about professional marriage counsellors, I believe if the hon. member reads the section correctly, section 7(3), he will see:

"The Attorney General may attach such conditions to the approval for the registration of a voluntary organisation under this section as he thinks fit, and may vary or revoke such conditions accordingly."

Now, I would not believe that the law is so drawn that persons who want to set up marriage counselling organisations would be debarred from operating under this, but on the other hand, one must be very wary where particularly persons coming out of the United States — because that is a country primarily where everything is on a commercial basis — one must be very wary in these small territories, and dealing with a social condition that exists in this country today, and which has existed for quite a long time, to allow at this stage of our development those money crazy persons who will come out and set up professional organisations, marriage counselling organisations, where people are lured into these organisations and will pay through their noses and still end up in the long run in the court to apply the same conditions.

I have practised as an attorney in this country some 14 years, and if you do that I see that you will run into the same situation that exists in this country when it comes to land law. Many lawyers will sit down and tell a prospective litigant that it is no use fighting for a piece of land that is worth \$2,000 when you have to pay court costs if you lose and pay lawyers, etc., but people in these small territories have an innate desire to own, and if you create professional marriage counsellors in this situation, they have the professional technique of the United States where they can try to tell everybody living in the rural areas of this country that "if you come to us we will bring back a man to you". We are not far removed from a situation which existed in the law courts of this country a couple of weeks ago where persons resorted to an 'Obeah' man and the 'Obeah' man was telling them how to bring back a relationship which ended up in the Supreme Court. He was acting as a marriage counsellor, but he told you what he charged as his fees.

If you seek to create the professional type situation you will see Broad Street, Swan Street and all the streets around the Supreme Court building with big signs all saying "Marriage Counsellor" and then you will find people going into the domestic court and heading across the road to these offices. They will pay through their noses and in the long run Government will end up having to pay the expenses of these organisations and the effect of joining back a marriage will not be there.

Mr. Chairman, I believe the Bill is on the right line. Persons who have a breakdown in a matrimonial relationship and they believe — the first thing you must operate on is the belief of the parties themselves — that there is a possibility of reconciliation. The Bill also provides for a Judge, and a Judge hearing evidence from both sides is in a position to identify whether or not there is the possibility of reconciliation. It is for the Judge to say go away and have counselling and come back. The Bill also provides that if either party does not want a reconciliation he can apply for the matter to be placed back before the Judge, and in those circumstances and you create professional marriage counsellors, you will find that one party to the marriage will end up in a marriage counsellor's office paying a substantial fee.

I have had the experience where I have had to represent people in court, and after the case had been heard the 'Obeah' man had more money than the lawyer. This is what will happen, you will hear the marriage counsellor had X dollars, but what has happened to the relationship? I am not saying that a person is not entitled to go and pay his money where he wants to pay it. That is his prerogative, that is his privilege, that is his constitutional right, but all I am saying the Bill must not open avenues for speculators in the relationship of man and woman to profit out of an area where there is no

possibility of reconciliation, and this is where the voluntary organisations will open their doors, because the voluntary organisations will have a genuine interest in keeping a relationship going, and they will be the people. Under the Act you can ask for a report but you cannot ask for what has been said, and the learned Attorney General in introducing the Bill has spoken about the situation where persons have gone to so-called private detectives.

I have had cases in which you go to a private detective today — and I have had a case, Mr. Chairman, in which a client of mine went to a private detective on a Friday and on the Monday morning the husband on the other side could ring me and tell me everything that we were doing, and the private detective still charged his fee, and insisted on his fee.

I believe voluntary organisations are the correct thing for this Bill. They will have a genuine interest, they will operate in the interest of the society and not in the interest of themselves, as opposed to professional organisations who can only see the commercial aspect of their operations.

Mr. TAITT: Mr. Chairman, I believe that the hon. member was not here when I gave my second reading speech and therefore he might have missed the point that I had made which covered much of the ground he has already covered, so that we are not in contrempts on this.

I was merely pointing out to the Attorney General, if you look back at page 5, it says that a marriage counsellor means, and it lists (a) (b) and (c). (c) is "a person authorised under the rules to offer marriage counselling services." If you come to Part I, where the application is made to the Attorney General, as it were, to practise marriage counselling, there is no provision in Part I for the individual, it deals only with organisations, so that the Bill anticipates that rules will be made that will also approve an individual.

All I am saying is that the administrative law point that if you do not make the provision in the parent Act, then the Attorney General might in fact not be able to create a category that does not appear in the parent Act. The parent Act deals with organisations. The Attorney General is therefore only able to approve organisations. Marriage counsellors then will be those persons attached to the organisations, but it also says under (c) on page 5, and here it anticipates that the rules would have included the individual. This is the point I am trying to make.
3.45 p.m.

Hon. H. deB. FORDE: Sir, I am very much seized of the point made by the hon. member. Indeed the hon. member's views on rip off men accords in toto with the

views of the hon. member for St. Joseph, the Minister of Communications and Works. They are both anxious that there will not be rip off men, therefore who are carrying out these functions. To that extent these views accord with the views which we hold. Let me explain a few things. It is intended that Rules would be made dealing with people who offer marriage counselling services. These Rules will be made by the Judicial Advisory Council under section 98 of the Act. Let me take that point. The Judicial Advisory Council will also deal with rules regulating how marriage counsellors or their voluntary organisations appear before the court. The only point we are making is that where we are giving money to a marriage counselling organisation as distinct from an individual here, that organisation must comply with certain conditions particularly accounting for Government funds etc., and we would go to the Ministry of Community Services for other conditions.

Now it is indicated that the Rules as a whole would be submitted to the Family Law Council, not only the Judicial Advisory Council who after all will have as the other council the Judge of the Supreme Court and a magistrate designated by the Chief Justice. Both are being designated, and the idea is to try to create within the judiciary at both levels persons who have the capacity to deal with these family law problems. So I think the point is covered and we will remember in the regulations when we are drafting them to make copies available to hon. members. For instance, my adviser has told me that the rules which he is drafting now will contain provisions where a judge or magistrate nominates a person other than a marriage counsellor, he must furnish the person with a notice in a particular form; that type of thing, and the criteria will be laid down; so cognisance is being taken of the point made by the hon. members and we will remember to deal with it as we go on.

The question that Part I stand part, was put and resolved in the affirmative without division.

Part II was called.

Hon. H. deB. FORDE: Mr. Chairman, I beg to move that Part II with the amendments circulated stand part.

Hon. C. L. BOLDEN: I beg to second that.

The question was put and resolved in the affirmative without division.

On motion of Hon. H. deB. FORDE seconded by Hon. C. L. BOLDEN, Parts III and IV with the amendments circulated were called and passed.

Part V was called.

Hon. H. deB. FORDE: Mr. Chairman, I beg to move that Part V stand part, with the amendments circulated.

Hon. C. L. BOLDEN: I beg to second that.

Dr. CADDLE: Mr. Chairman, I would just like to enquire of the Attorney General whether this Part pertains only to children born out of wedlock or to children who have been adopted in the process of the wedlock, because I see here in clause 39(b), second paragraph near the end "for a period of five years or more and a child has been born of that relationship".

Hon. H. deB. FORDE: I have amended that. The amendment has cut out the words "and a child has been born of that relationship". It is in the amendment which was circulated. I apologise to the hon. member.

Dr. CADDLE: The point I am making is that you would be aware that sometimes they do not have children and they adopt children, and in case they separate I would expect some settlement to be made in relation to the adopted child; so I would like to be clear on that.

The other point I want to draw to your attention is that children sometimes have problems, emotional, medical problems which may be the result of the conditions under which they live or which may develop subsequent to the separation, and I am wondering if the Attorney General has given any consideration to the fact that it may be necessary at some time for the benefit and welfare of the child to have the child properly examined and things like this.

The other factor which has some relation with section (2) is guidance counsellors, because sometimes the children need guidance and there may be some necessity for giving some recognition to child guidance counselling. In fact I would like to draw to his attention that some time ago under the Democratic Labour Party an arrangement was made to raise funds for a Child Guidance Council and it did get off the ground with a fund raising effort, but I do not know what has happened to that effort since then. Maybe you are in a position to throw some light on that.

Mr. TAITT: Mr. Chairman, I wish to raise a question with the Hon. Attorney General. He indicated that we wanted to be a little revolutionary and I wish to raise a question with him. Frequently in Barbados there are children who may in fact have both parents or one parent whether of a marriage or a union, and there is an indication that that child is suffering at the hands of the parent or guardian. I believe there ought to be provision where the Chief Welfare Officer could have some standing to make application to the courts in certain circumstances where it is indicated that a child is being brutalised. I know that we are dealing in a very difficult area when you are talking about rights of the individual *vis-a-vis* his children. I also know that we are

bringing a Bill that is going to be dealing with the subject "Prevention of Cruelty to Children" and perhaps that issue might be raised in that Bill, but in the same way that when a person appears to be going off the rocker provision is made for a certain procedure which would allow that person to be dealt with, it seems to me that where there is clear evidence and that someone like the Chief Welfare Officer is satisfied that there is an abuse of a child, even though in this legislation one or both parents might have the legal responsibility and custody of the child, if we are making advancement in the law, we should consider giving the Welfare Services the right to raise a question before a judge. Now the matter is still determined by a judge, but then it is a question of *locus standi*, and I am not certain if this is dealt with. (Asides) Yes, but that deals with where there is a proceeding already going on. Let me be more specific. Sometimes in the neighbourhood you become aware of child abuse at the hands of the legal parents of the child or the legal guardians of the child, serious child abuse. The question is, does the fact that a child was born of Mary and John give Mary and John exclusive and total right to abuse that child?

It is a revolutionary concept that the State might interfere in the family, but it seems to me that if we have the Rule of Law all the Welfare Officer would be given power to do is to bring the matter before the judge. Now as it stands, unless there is a proceeding going on for separation or some matter connected with the union, the Welfare Officer does not have any standing to go and make application before a court. It could be a Welfare Officer or a Probation Officer, but I would prefer a Welfare Officer.

3.55 p.m.

The Family Services Division, the Child Care Board, none of these people have any jurisdiction to raise any questions before a Judge as to the abuse of a child and it seems to me that some consideration should be given at the risk of offending some people, perhaps, but some consideration should be given to vest in the Chief Welfare Officer the right to raise a question, or to seek a declaration from the Court, for example, that Mary and Joe, who may have a problem but nonetheless that Mary and Joe are unfit and perhaps the Judge may even be able to direct that Mary and Joe should seek counselling before the child is returned to their custody.

I would like to hear the thinking of the Attorney General on this, Mr. Chairman.

Hon. H. deB. FORDE: All right, Mr. Chairman. There are two points raised, one by the hon. member who just sat down and one by the hon. member for St. Michael North Central.

Now, Section 44 deals with separate representation of children in circumstances where either parent or both

parents have brought proceedings before the Court, either for their custody, or maintenance or just plain divorce proceedings. Normally, it would be for guardianship or for custody and in those circumstances the Court can either appoint somebody else or the child can ask to be separately represented or the Welfare Officer or the Probation Officer can ask for the child to be separately represented.

In addition, both under this Bill and at common law, the Attorney General on behalf of the Crown as the parent of the country, the *parens patrias*, always has the right to appear before the Court in cases of this nature or to ask to represent the child separately.

Now, Sir, in addition to this, there are other bits of legislation, as I assured the House, which are in need of amendment and which Government will be amending. One of these will be the Minors Act and we are drafting legislation dealing with amending the Minors Act and that legislation will contain provision for Government's main agencies dealing with children, the Child Care Board, the Chief Welfare Officer as well as for children themselves to be separately represented under that Act.

In addition, Sir, we are amending today, for instance, in the Maintenance Bill, we are giving greater representation to the Child Care Board and the Chief Welfare Officer in cases of maintenance.

In cases of child abuse, the legislation on that has to be substantially changed. The Ministry of Community Services have issued instructions for further legislation dealing with the whole area of child abuse. The hon. member is quite right. The incidence of child abuse in this country is increasing and some of the cases are cases that would shock not only the conscience of this House but the conscience of the country as a whole.

Only two weeks ago, the Child Care Board wrote to me about a particular case in which this young child of less than 10 years old was being sexually abused by a common-law husband of her mother and she had been taken out under the care and protection of the Child Welfare Board. The mother went and removed her from under their jurisdiction unknown to them. They took her from the School and so on. They had to call in the Police and get a warrant in those conditions to bring her back. The Police had been bringing a case against the man and the idea of removing her was to remove her from being the principal witness. The Police had contemplated bringing a case and he had word of this. Now, Sir, those are very difficult circumstances.

Now, I have cited that as only one example but there are several of those cases and frankly the hon. member is right. We are treating legislation dealing with the abuse of children with the most urgency we can find

and that is why today we will see that we have another few Bills here to try to strengthen the existing hands of the Child Care Board and the administration of the Board and we hope that shortly that full area of child legislation will be dealt with.

People forget the Carol Fields Committee in 1969. I had the honour at first to be the Secretary of that Committee and then in 1971 I resigned and somebody else was appointed. The Committee first started under Bishop Evans, the then Lord Bishop of Barbados and that Committee made some very valuable recommendations for amending the legislation and for bringing updated legislation but unfortunately no legislation was ever started and it has gone on and on and we are now trying to implement the Carol Fields Committee recommendations together with updated suggestions on that legislation by a Committee which I set up a couple of years ago under the Chairmanship of Miss Hildegard Weekes, who is now the retired Probation Officer and we have updated the Carol Fields Report.

The Report was given to me earlier this year. Copies are in the hands of all of the main Ministries and now we are getting to the legislative stage and I can assure the hon. member that time permitting in this Parliament, I would hope to get it through this Parliament but if not through this session of Parliament, I would hope that it would be got through this Parliament by whoever will be the aspirants of the office which I now hold, Sir. They will find that it is not an easy office. It is one in which you get all the break-backs. Sometimes we do not deserve belonging to other Departments but they believe that we do belong, but we can only make the law after we have got adequate instructions from the other Ministries.

I am sorry that this legislation has taken so long. Not this one but the Child Abuse Legislation to be modernised and updated. I think that the point is a valuable point. It is one that I will be reporting on this Bill to the Ministries concerned, underscoring to the Minister of Community Services and the Deputy Chief Parliamentary Counsel who is here. He is carrying the bulk of this reform legislation and I am sure he himself is indebted by listening to the comments of the hon. member on this part of the Bill.

Now, the other point raised by the hon. member for St. Michael North Central was about adopting children. We do have a section at the beginning of the Bill in which we treat children adopted, either before or since the marriage, as children of the family.

Now, in the other instances where there are unions and not a marriage, we deal with that under the Adoption Legislation. The hon. member will be aware

that earlier today I gave notice of various amendments to the Adoption Legislation and I believe his point is covered in that Act but if it is not, I will be prepared, subject to consultations with the executive Ministry, to move the relevant amendments in the Committee stage of that Bill next week or whenever the House considers it, Sir.

The question that Part V stand part was put and resolved in the affirmative without division.

Parts VI to X inclusive were called and passed.

4.04 p.m.

Part XI was called.

Mr. TAITT: I think this is the one with the attachment. Yes, I formed the impression that the Honourable Attorney General indicated that application would be made to the court if the worker did not agree to attachment of his wages. (ASIDES: Under the Rules.) They were made under the Rules.

Hon. H. deB. FORDE: Yes, Sir. I would like to assure the Honourable Member that Rules providing for the attachment of wages will be made and the Judicial Advisory Council will be making the Rules. We are asking the Council to take into consideration the provisions of the Protection of Wages Act and to ensure that so much of a person's wages are not taken away that he has an incentive to continue working. I think we will try to follow the ILO Convention on this matter, that is why we want to make it under the Rules and the relevant Rules I hope will be sent to the various Workers' Organisations, so that they may be aware of the provisions as well, Sir.

The question that Part XI stand part was put and resolved in the affirmative without division.

Part XII was called.

Hon. H. deB. FORDE: Sir, I beg to move that Part XII, as amended stands part.

Mr. BRADSHAW: I beg to second that.

The question was put and resolved in the affirmative without division.

Part XIII was called and passed.

Part XIV was called.

Hon. H. deB. FORDE: Sir, I beg to move that Part XIV as amended stands part.

Mr. BRADSHAW: I beg to second that.

The question was put and resolved in the affirmative without division.

Part XV was called and passed.

The First, Second and Third Schedules were called and passed.

Hon. H. deB. FORDE: Mr. Chairman, Sir, I beg to move that you do now report to His Honour the Speaker, the passing of one Bill in Committee with the amendments recommended by the Senate.

Mr. BRADSHAW: I beg to second that.

The question was put and resolved in the affirmative without division.

Mr. SPEAKER: The Chairman has reported to me the passing of one Bill in Committee with recommended amendments.

On the separate motions of Hon. H. deB. FORDE, seconded by Mr. BRADSHAW, the Bill was read a third time and passed.

ORDERS OF THE DAY

Mr. SPEAKER: Item No. 5 is the Instant Order of the Day.

MAINTENANCE ACT, 1981

Order No. 5 was called — To move the Second Reading of a Bill to provide for maintenance of certain children born out of wedlock and for related matters.

Hon. H. deB. FORDE: Mr. Speaker, Sir, this is a companion measure to the Bill which we have just passed. Once we had provided for those children who were born of parents who had gone through a ceremony of marriage and those children who were born of parents of a union other than defined under the Bill, there would still be a category of children whose parents were unmarried and who have not been living together for five years or more or indeed who had never lived together at all. I mean live together under the same roof, but I am not using the expression loosely meaning cohabiting in any sense. So that, although they may have cohabited, they may be the product of a relationship which has not got the sort of permanency as that set out in the Bill which we have just passed.

Originally, our intention had merely been to amend the Affiliation Proceedings Act and leave the matter as it is, but it did not seem to us correct, given the context particularly of the recommendations of the National Commission of the Status of Women and the strong views which we hold on equalising the situation of children that these children should be treated any

differently from the children of a marriage or a union other than a marriage.

Now, Sir at present, such a child, no matter how much money his or her father may have, can only receive maintenance up to the level of \$20 per week in the Magistrate's Court. There is a limitation on the amount of maintenance and the legislation is also hedged around with all sorts of provisions which make it difficult for the mother to prove that the person is the child of the father and also difficulty for her to collect money for the maintenance of her children and indeed, the Family Services Division of the Ministry of Labour and Community Services have had great difficulty of administering the Act in such a way as to result to the maximum benefit of the children for whom the Act provided and they have been making representations for some time for amendments to this legislation. Also we find, where such children were brought under care and protection and were in a Government institution of the Child Care Board that Board had no power to recover from the parent of the child maintenance for the child. Such a power existed before in the Interim Commissioner for Local Government, but no amendment had been made to the legislation taking account of the new role of the Child Care Board.

4.15 p.m.

Therefore the Child Care Board and the Chief Welfare Officer very frequently found that they had to use public funds in order to provide for children whose parents, particularly, fathers, should be providing for the child's maintenance. We have therefore changed this Act to give the court power to award such sum as is reasonable, having regard to the means of the parents, the needs of the child, the property of the parents, the age of the parents, the age of the children whether the children are receiving further education or being trained as apprentices, and therefore the legislation is similar in many regards in the basis of the principles to apply as the legislation which we have just passed.

Now, Sir, I think the legislation also recognises the abolition of the distinction between legitimate and illegitimate children, and it also recognises the condition set out in the Status of Children Reform Act which permits a father to sign, for instance, a declaration that he is the father of the child, etc. You will see this is reflected throughout the basis of this legislation. It recognises the necessity to give assistance by way of the court services to a mother who may be unable herself to enforce the orders, so we have allowed the Clerks to continue to enforce orders, but we are also providing by regulations for the other means of attachment which are now also to be provided under the Family Law Act.

Mr. Speaker, as I said, I believe the Bill is a very humane measure, it is a reform measure, it updates the

legislation and it gets rid of some of the hiatus in our law. Let me say that this Bill could have been before the House a long time ago, not exactly in these words, but perhaps achieving the similar objects as we now set out to achieve. Back in 1978, I think it was, we drafted the Maintenance Act at the specific request of the Bar Association. We told them we were working on major family legislation, we were in consultation with the various bodies, and therefore we wanted to bring down all the legislation together rather than piecemeal, and the Bar Association represented to me that the situation was so bad that all they needed was a quick amendment removing the restriction on the amount of money which a court could award. Well, within a few days we produced a completely new Bill with provisions as updated as these which we now have. I sent that Bill to the Bar Association over two years now and I have never had a reply. I know the Chief Legal Draftsman is laughing.

I would like to confess that the then President of the Bar who made representations to me is a former distinguished member of this House and a former Attorney General. He himself has never replied to tell me what has happened to the Bill which was specifically addressed to him, but I am happy to say that in this new measure those members of the Bar who sat on our Committee made pretty strong recommendations on this. I am talking about people like the present President of the Bar Association, Mr. Elliot Mottley, who has co-operated tremendously on this legislation, as well as Mr. Patterson Cheltenham, Miss Sandra Mason, the Magistrate, and numerous other people, of course the Principal Child Care Officer, the Chief Welfare Officer, people of the Ministry of Community Services, the Church, represented by the Evangelical Council, etc., and we have taken into account the recommendations made by the National Commission on the Status of Women, and I wish particularly, and I am sure the hon. member for St. Michael South West like myself would wish to stress the tremendous research done by Miss Norma Forde, a Lecturer at the Cave Hill Campus of the University of the West Indies, on the whole area of family law, and both her formal research for the National Commission on the Status of Women as well as the individual articles which she has written, different periodicals, have helped us tremendously in formulating this legislation.

Mr. Speaker, Sir, I would like to take this opportunity to thank as well the public officers in my Ministry, particularly the Deputy Chief Parliamentary Counsel, Mr. Chase, who has shown an untiring interest in this legislation, has been extremely patient with the many changes that we have had to effect from time to time as a result of the various consultations that we have had on this legislation, but I think that although they worked with very little labour, I believe that their reward is the satisfaction which they see us bringing to a large number of young children of Barbados.

I beg to move that this Bill be now read a second time.

Hon. L. S. CRAIG: I beg to second that.

Mr. TAITT: Mr. Speaker, my comments on this particular Bill will be very brief, but I feel particularly strongly about them that I ought to record them. First, let me make it clear that I believe that every man who has a child should support it to the best of his ability. As long as he knows that it is his child and he accepts that it is his child, I believe he should support it to the best of his ability.

Mr. Speaker, at the same time I believe that in all the circumstances if we are moving to this point in our development that the method of determining who is the father of the child may itself be in need of reform, I do not believe, Sir, that where we are now reaching the stage in the development of the law and the development of our social approach that we are going to be saying that the amount of support which a man will give must be in accordance with his ability, that at the same time we can rely on the old method which embraced and encompassed a Magistrate on his own determining whether a man is the father or not. I believe that there are simple scientific methods for determining the paternity of a child, and I believe that this kind of legislation which we are passing now requires us, or ought to require that we move into that modern stage as well where the question of paternity where it is contested can be a fairly simple but nonetheless scientifically determined proposition.

I believe, for example, that in the United States they have established fairly simple straightforward methods for determining to a large extent the paternity of the child, and I believe that here in Barbados we could go a little beyond the question of a Magistrate finding out if you had relations with the woman or not. It is well known in Barbados that quite a number of men have paid for a very long time after a single excursion, Sir, and it is not outside the pale of possibility that notwithstanding the strong view that men ought not to be able to go around and drop children left and right, that men ought not to be able to be promiscuous and not pay the cost in terms of support of the children, all that notwithstanding, I believe that the principle I have just alluded to is one which ought to be given some consideration.
4.25 p.m.

In that context I also believe that the amount to be paid for the child ought to be fixed even if the range is reviewed from time to time. I think that we are running into the danger of persons having to pay much more in terms of the maintenance of a child only on the basis of the economic condition of the father. Now I believe there

ought to be a maximum amount which should be given consideration and which can be included in the Rules made by the Judicial Committee and which amount could be reviewed from year to year or from time to time. As it is here in this legislation, it is entirely possible, Mr. Speaker, for an individual because of his economic circumstances to find himself disadvantaged vis-a-vis other persons of reasonable worth in the community.

These are the only points I wish to make on this Bill for the consideration of the Attorney General, and I am not myself too concerned about the fact that men are going to be required to meet their responsibilities. There are many ways in which a man meets his responsibilities other than the paying to the courts of money on a weekly basis, and indeed it still remains for the woman to go to court, and in the vast majority of cases women in Barbados have eschewed going to court to get support for their children. They have settled the matter in a more amicable way with a number of men, so that where a woman has to refer to court, there is obviously some difficulty between her and the man concerned; but it is not unknown in Barbados and I think it ought to be said that from time to time some women have tended where they have had relations with one or two or three persons in a relatively short time, to pick the fellow that looks like he can handle the most cash and indicate that he is the father, and in those circumstances the point which I made of paternity I believe is relevant.

Hon. H. deB. FORDE: If I may reply very briefly to the comment of the hon. member, it deals with simplifying the methods of proving paternity, and we have attempted to simplify these methods in the Status of Children Reform Act, 1979 — 32 and particularly by setting out a series of presumptions in section 7 and also by giving the court the power to order a blood test in certain circumstances under section 15 of the Act and by Regulations to be made by the Judicial Advisory Council. So that that Bill in conjunction with this will go a long way towards answering the views expressed by the hon. member.

The question that the Bill be now read a second time was put and resolved in the affirmative without division.

On motion of Hon. H. deB. FORDE seconded by Hon. L. S. CRAIG, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. ODLE in the Chair.

Hon. H. deB. FORDE: Mr. Chairman, before you begin, I am asking for leave of the Committee to deal with this in Parts.

Mr. CHAIRMAN: If there is no objection, leave will be granted.

There being no objection, leave is granted.

Clauses 1 and 2 were called and passed.

Parts I and II with the amendments circulated were called and passed.

Part III was called.

Hon. H. deB. FORDE: Mr. Chairman, I beg to move that Part III as amended, stand part.

Hon. C. L. BOLDEN: I beg to second that.

Mr. TAITT: Mr. Chairman, I am going back to the question which I raised on the second reading. I take note of what the Attorney General said about the Status of Children Act, but I notice that it is not referred to here, and section 14(b) includes the words "the magistrate shall take into account only the matters set out in Subsection (2)."

Now I recognise this for purposes of giving an order and the question of paternity would have been settled if he determines an Order, but I am a little concerned that the powers of the magistrate are set out here for the purposes of maintenance in fairly broad and familiar terms and there is no reference to the test of paternity which is referred to in the Status of Children Act. My particular point was that I think that the Attorney General's Chambers should take a look at the question of paternity and see whether in fact the scientific approach which is now prevalent in all of the European and other countries..... (*Asides*) There is no scientific proof, but there is a scientific approach. There is certainly a difference in the approach we have in Barbados and the so-called scientific approach. Be that as it may, I am still satisfied that the test which is used in Barbados, if any, leaves a lot to be desired. It is dependent on the woman's word, the man's word and the Magistrate's belief on the basis of the behaviour of the two persons on the witness stand, and very often it is settled forever.

Mr. Chairman, it is as simple as that. The magistrate on a given morning, the lady and the gentleman, she says something, he says something, the magistrate looks at them, he believes them, he makes a judgment and that is that. Mr. Chairman, I do not think I need to prolong the point. I leave it at that.

Dr. CADDLE: Mr. Chairman, I am just enquiring of the Attorney General a certain point, and I am drawing to his attention page 19 clause 21 subclause (2) "Where, on the hearing of any such application, the magistrate is satisfied that the child is chargeable to the Chief Welfare Officer or Child Care Board and is actually in receipt of

relief therefrom, the magistrate shall make an order providing that there shall be paid to the Chief Welfare Officer or Child Care Board such payments under the maintenance order....."

4.35 p.m.

All I am inquiring is this. What happens to such payments?

Hon. H. deB. FORDE: There are two queries, one by the hon. member. In such cases as the hon. member himself knows having been in charge of Community Services, Parliament votes a sum of money annually to assist in cases where there are delinquent parents or delinquent fathers and it is intended where an Order is made paying the money to the Welfare Officer to go into the fund to be used for maintaining the particular child concerned and the Welfare Officer therefore pays over the money to either the foster parent or whatever bodies are looking after that child.

Now if it is the principal Child Care Board, it would be in the care of the Board or the Foster Home and the money is used for the maintenance of that particular child so that instead of the weekly payments from the funds to the Chief Welfare Officer or the principal Child Care Board payment is made in this way.

Under the existing legislation it was formerly to the Interim Local Government Commissioner but when that Office was abolished no change was made in the section so we have now substituted the two officers who have responsibility for giving assistance in those areas to children.

In relation to the point made by the hon. member for St. Michael South West, I will draw his comments to the attention of the Drafting Section to see what other amendment, if any, can be made to the Status of Children Reform Act.

The question that Part III as amended stand part was put and resolved in the affirmative without division.

Part IV was called and passed.

On motion of Hon. H. deB. FORDE, seconded by Hon. C. L. BOLDEN, Mr. CHAIRMAN reported to Mr. SPEAKER, the passing of one Bill in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On separate motions of Hon. H. deB. FORDE, seconded by Hon. C. L. BOLDEN, the Bill was read a third time and passed.

4.45 p.m.

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, the Resolutions of which notice was given earlier today, the two Resolutions of Guarantee, I would ask leave of the Honourable House to deal with them in all their stages, now, today. They have been circulated. Firstly to deal with those two.

Mr. SPEAKER: If there is no objection, leave is granted. *(Pause)*. The Honourable Minister may proceed.

RESOLUTION TO GUARANTEE THE REPAYMENT OF
A LOAN OF A PRINCIPAL SUM NOT EXCEEDING
US\$40 624 591 WITH INTEREST THEREON MADE
BY THE CREDITANSTALT-BANKVEREIN TO
THE ARAWAK CEMENT COMPANY
LIMITED

To move the passing of a Resolution to guarantee the repayment of a Loan of a principal sum not exceeding US\$ 40 624 591 with interest thereon made by the Creditanstalt-Bankverein to the Arawak Cement Company Limited.

Rt. Hon. J. M. G. M. ADAMS: Sir, the Arawak Cement Company Limited is a company owned 51% by the Government of Barbados and 49% by the Government of Trinidad and it is the company which will be building and operating the cement plant at Checker Hall in the parish of St. Lucy.

The company's Board, Sir is chaired by the Director of Finance and Planning and consists of a number of persons none of them related to politics, Sir and experienced in commercial, legal and construction matters. There is a majority of Barbadian Directors on the Board and a minority of Trinidadians. It is in my view, Sir, a very favourable deal which we were able to negotiate and I would like to pay tribute to the Austrian Ambassador to Trinidad and Barbados whose initiative when I met him some years ago when he made a formal call upon me has led to our being in position to organise this contract. Cement plants are of course very expensive things, Sir. The whole plant would cost something like BDS\$200 million, it is the biggest engineering undertaking ever put together in the island costing anything like four times as much as the Deep Water Harbour, but it is of great importance to the island. We have satisfied ourselves as to the environmental safeguards, we have satisfied ourselves as to the market. The market was the rock upon which the previous proposals to build the cement plant in the same spot by the previous Government failed because the Austrian company which is building the plant on what is known as a turn key contract, they will build the plant and we pay them for it full stop. MCW and local contractors, the Government will not have to be tormenting its mind about their performance. The Austrian company has promised to buy all the cement

that we do not use ourselves at such price as will enable us to repay the loan.

So, as far as a matter can be cast ironed in terms of economic development this is cast ironed because the very people basically to whom we owe the money are guaranteeing the means of our repayment and we in turn, as a Government have to guarantee that when we have the money in our hands that we will repay it to them and this is what this guarantee is about. It is a substantial guarantee and it will increase the contingent liabilities of Government by quite a substantial amount, but I do not believe that it is a guarantee which will ever be called.

Much of the money, Sir is at what is today an extremely concessional rate of 7.625% interest per annum and the remainder is at the Austrian Export Finance rate, Österreichische Kontrollbank Aktiengesellschaft Export Company which is an Austrian Government Agency, Sir. It really is a Government contract because the Austrian Government owns the company with which we are negotiating and we own the Arawak Cement company, Barbados and Trinidad and I recommend it to the Honourable House, Sir. It is a massive engineering project, very massive indeed, but the foreign exchange costs will be covered by these two guarantees the US\$60 million, \$120 million. Without the guarantees Sir of course the whole matter would not have come off.

The Cement Plant and its ancillary services is expected to employ 200 people in the parishes of St. Lucy and Peter Sir, the North Western portion of St. Peter. With the Plant will be associated a pier, there will be a harbour facility at Checker Hall and the Harbour facility will be used not only for the export of cement, but we expect also for the export of limestone to Trinidad, possibly to Venezuela for various industrial purposes related to the Trinidad steel plant. That is currently under negotiation, but in any case, Sir, I am sure that you would agree that fishermen and others in the area will benefit from a second harbour facility at Checker Hall while they are waiting for the Speightstown fishing harbour corresponding to the Oistin Fishing Harbour and development which will very shortly be undertaken. I consider this an important development for Barbados. It will enable us, Sir to escape from these shortages of cement and this dependence on foreign suppliers and these breaks upon construction which happen from time to time.

I beg to move, that this resolution do now pass.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

RESOLUTION TO APPROVE THE GUARANTEE OF
THE REPAYMENT OF A LOAN OF A PRINCIPAL
SUM NOT EXCEEDING US\$20 000 000 WITH IN-
TEREST THEREON MADE BY THE ORION
BANK LIMITED TO ARAWAK CEMENT
COMPANY LIMITED

To move the passing of the resolution to approve the Guarantee of the repayment of a loan of a principal sum not exceeding US\$ 20 000 000 with interest thereon made by the Orion Bank Limited to the Arawak Cement Company Limited.

Rt. Hon. J. M. G. M. ADAMS: Sir, very little needs be added to what I said earlier. The rate of interest on this loan is somewhat higher than the relevant concessional rates which we are paying for the Austrian money. It is $\frac{1}{2}\%$ to $\frac{7}{8}\%$ over the London Inter-Bank rate which is the official name for the Euro dollar rate. 4.55 p.m.

Nonetheless, Sir, in this day and age we have to face the fact that you cannot get money cheaply. The rates of interest are very high and we have to expect to pay adequate rates of interest on this particular loan. I would point out though, Sir, that we do have five and a half years before we have to begin repaying the capital from the date of the signing of the Loan Agreement, and I would also say that the Orion Bank has proved itself a very true friend to Barbados and has expressed its interest in participating in a number of projects locally. Indeed, Sir, the Chairman of the Orion Bank, Baron William de Gelsey, you can say is a personal friend of Barbados, has asked me to give him a list of the projects which the Bank could assist in financing in Barbados in covering the foreign exchange costs. We negotiated a loan with them two or three years ago, Sir, on very satisfactory terms, and they do hold themselves ready. I expect that projects which indeed are purely local, without any particular developmental element to them, such as the Supreme Court, even such projects they would be willing to assist in financing.

We were therefore very glad to join with the Government of Trinidad, which also has an excellent relationship with the Orion Bank, to borrow this \$20 million U.S. which is being guaranteed *pro rata* with the Government of Trinidad. Although the rate of interest is high, it is one of the paradoxes of international finance, Sir, that we effectively are lenders to the Orion Bank, because a part of our foreign reserves are invested in the Orion Bank, so the Central Bank is receiving a high rate of interest from the Orion Bank from the investment of our foreign reserves, and therefore the spread between what we are getting from the Central Bank's investments and what we are paying on this is perhaps something that could be looked at, because the spread is not so very great.

As long as the country is run in such a way as to maintain adequate foreign reserves that can be invested abroad to earn interest, we are in a position to borrow money to build cement plants locally and pay international rates of interest, and I beg to move that this Resolution do now pass.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

RESOLUTION TO AUTHORISE THE MINISTER OF
FINANCE TO BORROW BY THE ISSUE OF
TREASURY BILLS FURTHER SUMS
NOT EXCEEDING \$55 MILLION

Rt. Hon. J. M. G. M. ADAMS: Sir, as Barbados develops the need for Treasury Bills inevitably rises, the Government's cash flow and its expenditure rises, requires an increase in Treasury Bills to correspond with the fact that the Government's overdraft goes up automatically. Commercial banks, as their liquidity increases, may also need short term accommodation of Treasury Bills, they are already holding very near the limit that by law the Central Bank could force them to hold, and they are doing this quite voluntarily, but we would not like ourselves to be in the position where the rate of interest on Treasury Bills which we have to pay is bid up because of a shortage of Bills.

The last increase in Treasury Bills limit three years ago, according to my file, is 1978. The time has come around for a small increase. On that occasion we increased by \$40 million, we are increasing now by \$55 million, and I beg to move that this Resolution do now pass.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

SUSPENSION OF SITTING

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, Sir, we had intended to do Items 1 to 3 on the Order Paper, but I am told by the Clerk that difficulties might be occasioned because these Items have been given a first reading in the Other Place and are expected to be given a second reading in the Other Place tomorrow. Subject to any ruling that Your Honour gives upon this matter, we would have to ask to suspend this sitting until after the Other Place has dealt with these Bills. My impression is that there is nothing preventing us, having given them First Reading, to go ahead and give them Second Reading, indeed pass them, Sir, because the Senate has not yet gone beyond the stage

of a formal first reading, which they give when they introduce a matter anyhow, Sir.

Mr. SPEAKER: It is a fact that we are dealing with legislation that is initiated in the Other Place, but I must confess the matter has only been drawn to my attention since I took the Chair and I have not been able to either gain the assistance of the Clerk or to do any research on the matter, so I think I need a little time myself to bring myself up-to-date before committing this Hon. House one way or the other.

Rt. Hon. J. M. G. M. ADAMS: Sir, I move that this sitting be suspended until half past five, Sir.

Mr. SIMMONS: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER suspended the sitting accordingly.
5.05 p.m.

On Resumption

Mr. SPEAKER: This sitting is now resumed.

Before the suspension was taken, the point had arisen as to whether or not Items 1, 2 and 3 on today's Order Paper could be properly debated in this Honourable House today. These matters are currently before the Other Place because they form legislation that originates in the Other Place.

I am fortified in the view that legislation originating in the Other Place can only come before

this Honourable House after it has been passed by the Other Place. This Honourable House can only take note of the fact that legislation such as what we now have before us is in existence in the Other Place and at our meeting of the 5th May, we ought to have merely taken note and should never perhaps have allowed those three Bills to have formed part of our Order Paper for today's business. In the circumstances I do not find that we can proceed with these measures until they are passed by the Other Place.

Rt. Hon. J. M. G. M. ADAMS: Mr. Speaker, I do not know if they have been given first reading. I think one may have had a first reading, but in the circumstances what the Government is asking is that this sitting be suspended.....

Mr. SPEAKER: To get a first reading we will have to adjourn.

THE ADJOURNMENT

Rt. Hon. J. M. G. M. ADAMS: I am grateful for Your Honour's guidance. I will be asking the House to deal with these Bills in all their stages at the adjournment.

I beg to move that this House do now adjourn until Friday, 15th May, 1981, at 2 p.m.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly.
5.42 p.m.