

**THE
PARLIAMENTARY DEBATES
OFFICIAL REPORT**

*IN THE SECOND SESSION OF THE NINTH PARLIAMENT OF THE REPUBLIC OF
TRINIDAD AND TOBAGO WHICH OPENED ON DECEMBER 17, 2007*

SESSION 2009

VOLUME 8

HOUSE OF REPRESENTATIVES

Friday, January 09, 2009

1.30 P.M.

The House of Representatives having assembled, and it being the first meeting of the Second Session of the Ninth Parliament of the Republic of Trinidad and Tobago, the Clerk of the House read the following Proclamation:

REPUBLIC OF TRINIDAD AND TOBAGO

No. 1 of 2009.

[L.S.]

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

GEORGE M. RICHARDS

President

A PROCLAMATION

WHEREAS it is provided by subsection (1) of section 67 of the Constitution of the Republic of Trinidad and Tobago that each session of Parliament shall be held at such place within Trinidad and Tobago and shall commence at such time as the President may by Proclamation appoint:

Now, therefore, I, GEORGE MAXWELL RICHARDS, President as aforesaid, do hereby appoint the Red House, Port of Spain, Trinidad, as the place at which the Second Session of the Ninth Parliament of the Republic of Trinidad and Tobago shall be held and 1.30 p.m. on Friday the 9th day of January, 2009, as the time at which the said Session shall commence.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago, at the Office of the President,
St. Ann's, this 2nd day of January, 2009.

Prayers

Friday, January 09, 2009

PRAYERS

[MR. SPEAKER *in the Chair*]

WELCOME

Mr. Speaker: Hon. Members, I hope you all would have had a very joyful Christmas with your families and I welcome all of you back.

As we begin the Second Session of the Ninth Parliament of the Republic of Trinidad and Tobago—[*Interruption*] Please, you have remain—it is good to see the hon. Prime Minister back with us sooner than most of us expected and looking in the pink of health. [*Desk thumping*]

I also welcome back the hon. Leader of the Opposition. I hope that the hon. Member for St. Augustine will be with us soon and that he also would have had a joyful Christmas with his family.

LEAVE OF ABSENCE

Mr. Speaker: The hon. Member (St. Augustine) has asked me to be excused from today's sitting and the leave which the hon. Member requested has been granted.

**STANDING COMMITTEES
(SUBMISSION OF NAMES)**

Mr. Speaker: May I remind the Leader of the House and the Opposition Chief Whip to forward to me the names of their Members who will constitute the Standing Orders, Privileges, House and Regulations Committees in this Session.

Mr. Manning: Thank you very much, Mr. Speaker, may I be permitted to formally respond to you under "Statements by Ministers"?

Mr. Speaker: Yes.

Mr. Manning: Thank you very much.

PETITIONS

Action Committee of the Tabaquite Constituency Against Crime

Mr. Ramesh Lawrence Maharaj SC (Tabaquite): Mr. Speaker, I wish to present a petition on behalf of the members of the Action Committee of the Tabaquite Constituency Against Crime.

I now ask that the Clerk be permitted to read the petition.

Petition read.

Chaguanas West Foundation for Justice

Mr. Jack Austin Warner (*Chaguanas West*): Mr. Speaker, I wish to present a petition on behalf of the members of the Chaguanas West Foundation for Justice.

I now ask that the Clerk be permitted to read the petition.

Petition read.

PAPERS LAID

1. The Working Document on Constitutional Reform for Public Consultation. [*The Minister of Finance (Hon. Karen Nunez-Tesheira)*]
2. The Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 2000. [*Hon. K. Nunez-Tesheira*]
3. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the period September 10 to 30, 1998. [*Hon. K. Nunez-Tesheira*]
4. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 1999. [*Hon. K. Nunez-Tesheira*]
5. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2000. [*Hon. K. Nunez-Tesheira*]
6. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2001. [*Hon. K. Nunez-Tesheira*]
7. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2002. [*Hon. K. Nunez-Tesheira*]
8. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2003. [*Hon. K. Nunez-Tesheira*]

Papers Laid

Friday, January 09, 2009

9. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2004. [*Hon. K. Nunez-Tesheira*]
10. The Second Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Library and Information System Authority for the year ended September 30, 2005. [*Hon. K. Nunez-Tesheira*]

Papers 1 to 10 to be referred to the Public Accounts Committee.

11. The Report of the Judicial and Legal Service Commission for the year 2007. [*The Minister of Works and Transport (Hon. Colm Imbert)*]

1.45 p.m.

STATEMENTS BY MINISTERS

Disbursement of the Senior Citizens Grant

The Minister of Social Development (Hon. Dr. Amery Browne): Mr. Speaker, I have been authorized by the Cabinet to deliver the following statement and I thank you for the opportunity to bring further clarity to the issue of the Senior Citizens Grant and the recent circumstances which impacted negatively on some older persons in receipt of this grant for January 2009. While I am certain that my esteemed colleagues in this House would have been made aware of the situation via media reports, I feel that the matter warrants the attention of the hon. Members of Parliament whose constituents were unfortunately affected by an unexpected reduction in one of their sources of income, the Senior Citizens Grant.

Mr. Speaker, in light of the national thrust towards developed country status by 2020 and recognizing the role of every citizen in this process, the Government since 2001 has invested more than one-fifth of the annual national budget into the social sector. A significant portion of this investment has been directed towards the elderly. To this end, several new programmes have been developed and implemented and existing programmes have been significantly enhanced to meet the needs of our elderly and to ensure that they enjoy a high quality of life.

The Ministry of Social Development administers a range of grants aimed at assisting the most vulnerable members of society. These grants are managed by the Social Welfare Division and include the Senior Citizens Grant, the Public Assistance Grant, the Disability Assistance Grant and a number of other grants that are classified under General Assistance Grants. All of these grants

have been increased over the past two years to provide increased support for persons in vulnerable situations.

It is to be noted that the Senior Citizens Grant increased incrementally by a cumulative total of 244 per cent from \$800 in 2001 to \$1,950 in 2008. The qualifying income ceiling was also adjusted from \$720 per month in 2001 to \$2,800 per month in 2008. In effect, there has been a significant increase in the number of persons benefiting from this grant, with a total payment population at present of approximately 70,000 recipients. Over the last five years there has also been a steady increase in expenditure on the Senior Citizens Grant from \$741.5 million in 2003 to over \$1.3 billion in 2008.

In the 2008/2009 budget, further adjustments were made to the Senior Citizens Grant. Permit me now to outline these adjustments for the benefit of this honourable House.

- An increase in the income qualifying ceiling from \$2,500 per month to \$2,800 per month; that is, an increase in the eligibility ceiling from \$30,000 to \$33,600 per annum. This measure has significantly increased the number of persons qualifying for the Senior Citizens Grant.
- For individuals whose monthly income is \$100 or less, an increase of \$300 in the maximum grant from \$1,650 to \$1,950 and as at December 18, 2008, a total of 45,664 persons were in receipt of this maximum grant amount.
- Individuals whose monthly income exceeds \$100 but is less than \$1,000, an increase of \$300 from \$1,550 to \$1,850; and
- For individuals whose average monthly income exceeds \$1,000 will receive a Senior Citizens Grant equal to the difference between the qualifying income ceiling of \$2,800 and the income received. For example, if an individual is in receipt of an average monthly income of \$1,500 his qualifying Senior Citizens Grant will be \$2,800 less the \$1,500 equivalent to \$1,300.

Through the National Insurance Board, additional benefits are available to senior citizens who were registered with and have paid contributions to the National Insurance System. I refer to the National Insurance Retirement Benefit and Survivors' Benefits. While provision has been made in consecutive national budget statements for the increase in the quantum of the Senior Citizens Grant and the qualifying income ceiling, it must be noted that the National Insurance Retirement Benefit was also adjusted in the 2008 budget from \$1,000 per month to \$2,000 per month, effective January 2008.

Senior Citizens Grant
[HON. DR. A. BROWNE]

Friday, January 09, 2009

Given the monthly qualifying income ceiling of \$2,800 in the case of the Senior Citizens Grant as of December 18, 2008, a total of 21,013 recipients of the grant who were in receipt of a Senior Citizens Grant of \$1,550 per month, were granted a reduced Senior Citizens Grant to \$800 per month. In this way, while the quantum of the Senior Citizens Grant payable to this category of persons was decreased, for most persons in this category, the total sum of their monthly transfers was not affected as they were still able to access the monthly income ceiling of \$2,800 in total. However, within this category, there were some recipients who were not in receipt of the National Insurance Retirement Benefit of \$2,000 and therefore had their grants inadvertently adjusted downwards.

Mr. Speaker, it is the application of these measures, in accordance with the Finance Act, No. 2 of 2008, that resulted in the reduction of the grant received by persons categorized at the second level in accordance with the sliding scale principle. One may recall that during 2008, following the introduction of the relevant provisions of the 2008/2009 national budget, a number of older persons began receiving an increased National Insurance Retirement Benefit, which resulted in an adjustment in accordance with the sliding-scale calculation of their Senior Citizens Grant quantum.

During the year 2008 a number of persons were impacted by this adjustment and there were requests for clarification. In response, the Ministry of Social Development engaged in a series of media appearances by senior staff which were designed to provide the necessary clarification as well as to allay fears and give reassurance with respect to the stability of the Senior Citizens Grant.

Mr. Speaker, information from the Social Welfare Division indicates that a number of persons who are in receipt of the increased National Insurance Retirement Benefit were yet to have their Senior Citizens Grant adjusted. This adjustment occurred in the January 2009 disbursement of the Senior Citizens Grant as the division sought to effect the provisions of the 2008 budget. This resulted in concerns being raised by persons who were affected. In accordance with the Finance Act No. 2 of 2008, no one who currently receives the \$2,000 NIS Retirement Benefit should at this stage be receiving more than \$800 via the Senior Citizens Grant. Persons with no other source of income or who are in receipt of a monthly income of \$100 or less, would get the maximum Senior Citizens Grant of \$1,950 up from \$1,650. Indeed, in excess of 45,000 senior citizens have already received this maximum increase.

Based on the concerns expressed by the grant recipients who were negatively impacted by the adjustment, senior staff of the ministry were asked to treat with the situation. It was recognized that a number of persons who were not in receipt of the \$2,000 NIS Retirement Benefit, were also allotted decreases, as previously

mentioned, in their Senior Citizens Grant. Many of these affected persons are in receipt of smaller benefits from the National Insurance System, such as the Survivors' Benefit, or some other source of income that is greater than \$100 per month but less than \$1,000 per month.

The Ministry of Social Development has taken immediate action to ensure that the reduction in payments to these persons is restored before the end of January 2009 and that their February payment of the correct quantum of \$1,850 will be effected. The ministry has also taken steps to communicate on an individual basis by letter with recipients whose grants were adjusted downwards to provide the necessary clarification and to supplement the public information that has been provided over the last week. These letters will be distributed fully before the end of January.

Mr. Speaker, I wish to assure this honourable House that the Ministry of Social Development remains committed to promoting the well-being of our vulnerable citizens and I take this opportunity to reaffirm our dedication to ensuring that all our vulnerable citizens are afforded the opportunity to maintain a high quality and a healthy standard of living. Towards this end, Mr. Speaker, the Social Welfare Division of the ministry is working around the clock to ensure that payments to those affected will be made as publicly promised. Staff at the local board offices of the Social Welfare Division have been rostered additional hours to ensure the preparation of all the relevant documentation to effect payments.

Additional staff members have been recruited and assumed duty effective Monday, January 05, 2009 to assist with managing clients who come into the local board offices for information and clarification and to undertake verification of the information available from key stakeholders together with divisional records to ensure that such a situation does not recur. A series of media releases and paid advertisements have been issued, and this will continue as the full solution to this situation is implemented.

As you and other hon. Members of this House have observed, senior and technical staff of the ministry have participated in and appeared on talk-format and call-in programmes on many radio and television stations over the course of this past week. The Government Information Services Limited was also contacted to ensure that a comprehensive communications drive is implemented to inform senior citizens of the requirements under the Finance Act No. 2 in respect of the sliding scale application, particularly as it relates to recipients of the NIS Retirement Benefit. Notices have also been posted for information at the local board offices of the Social Welfare Division, and the 800-OPIC helpline at the Older Persons'

Senior Citizens Grant
[HON. DR. A. BROWNE]

Friday, January 09, 2009

Information Centre of the ministry has been strengthened to receive calls for information on the situation on the Senior Citizens Grant at this time.

Mr. Speaker, I wish to offer a sincere apology to Members of this honourable House, and to again apologize to the nation at large, for the recent confusion regarding the disbursement of the social safety grants for our senior citizens. Unfortunately, this misunderstanding was temporarily exacerbated by political commentary which repeated certain erroneous phrases that began with inaccurate reporting in the media.

But, at the end of the day, what must remain clear is the Government's deep concern for the welfare of senior citizens who were negatively affected by the recent disbursement of this grant, the rapid action of the Ministry of Social Development to correct the situation and the comprehensive efforts that have been made to inform the people of Trinidad and Tobago on the status of this grant, which is so important to our senior citizens.

In closing, we committed to restoring to those who were inappropriately adjusted by the end of January 2009. I am now pleased to announce that the cheques for the corrected amounts have been distributed to the appropriate senior citizens as of today January 09, 2009. [*Desk thumping*]

Mr. Speaker, I thank you. [*Desk thumping*]

2.00 p.m.

**Scarborough Hospital Project
(Status and Outcome of Arbitration Proceedings)**

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. Speaker, I am authorized by Cabinet to make the following statement on the status and outcome of the arbitration proceedings between the National Insurance Property Development Company Limited (Nipdec), the agent for the Government of Trinidad and Tobago and NH International (Caribbean) Limited (NHIC), with respect to the construction of the Scarborough Hospital arising from the arbitration case.

Mr. Speaker, hon. Members should recall that Nipdec's Tenders Committee selected NH International (Caribbean) Limited to undertake the project in May 2002, for the sum of TT \$135,912,829.52 (VAT inclusive) or such sum as may be payable in accordance with the said terms and conditions of the contract.

NHIC's tender stated that they would construct the Scarborough Hospital within 730 days, a period of just over two years. Of course, they did not achieve

this, nor did they come anywhere near to fulfilling this mandate for the citizenry of Trinidad and Tobago.

I wish to state that the contract that was awarded was not based on a fixed price or a design/build model concept, but rather it was based on a traditional design/tender basis; a model which was proven to be unsuitable for public projects in Trinidad and Tobago. What normally happens, as in this case, is that the design consultants go to tender with drawings which lead to a situation where the contractor is likely to be awarded variations resulting in increases in the contract price. This Government considers that approach to be inferior to the design/build model, which ensures that the contractor who is designing and building is fully accountable for the entire project and must deliver at a fixed price unless there is a client-requested change of scope.

Hon. Members, in describing the NHIC's bid, an independent valuator found that while it was sufficient to cover the cost of the proposed works, it left little margin for profit since five elements of the NHIC tender were considered to be inadequately priced. This is the backdrop against which NHIC and Nipdec entered into the contract for the Scarborough Hospital Project. According to the evaluator, it is no wonder that from the outset NHIC appeared to be unwilling to conduct its affair in good faith with the Ministry of Health and with Nipdec, as the evidence suggests that the company's original intention was to escalate the price of the contract.

Mr. Speaker, you should recall that I indicated previously to this honourable House that NHIC commenced work on March 17, 2003 and subsequently raised a number of issues including variations in initial soils investigation and site survey, relocation of the building, realignment of the perimeter access road, construction of two tier retaining walls and importation of fill material almost immediately. The documentation suggests that the contractor was setting out immediately to establish claims for more sums of money, as opposed to working with its client to deliver solutions and value for money.

Whilst there were some changes in the number and sizes of retaining structures and poor procurement management issues NHIC further flagged disputes in respect of the suitability of the designs and drawings submitted by the Stantec consultant as well as the lack of utilities at the site. Again, the problems and eventual increases in cost associated with the consultant's drawings would have been avoided had a design/build model been utilized.

These issues ought not to have changed the cost of the project to the magnitude that NHIC claimed. However, on account of these issues the project

Scarborough Hospital Project
[SEN. THE HON. J. NARACE]

Friday, January 09, 2009

progressed slowly and formed the basis on which NHIC escalated the projected cost of construction works. This continuously pushed back the projected time for completing work activities. It should be noted that NHIC has alleged that Nipdec was responsible for this situation. There appears to have been a lack of commitment by the contractor to work towards a resolution of any issues for the benefit of the public. Instead, one could argue that the contractor was setting up a case for future litigation; a modus operandi that is not encouraged in public construction projects, where it is desirable for the contractor to have proactive attitude towards the resolution of issues in the best interest of the public purse.

Indeed, Mr. Speaker, this project and the attitude of the contractor underscored the challenges which Nipdec faced with a construction model that had neither a fixed price and which separated the building design from the construction of the hospital, thereby creating space for the contractor to blame the designer and vice versa.

Consequently, on August 24, 2004, less than one year and one-half of the life of the contract, NH International (Caribbean) Limited wrote to the International Court of Arbitration requesting arbitration for various disputes between itself and Nipdec. The main dispute at the time was the lack of appointment of the Dispute Adjudication Board and an arbitrator to determine various claims being made by NH International (Caribbean) Limited, which at this stage was partially quantified at TT \$24.5 million.

Furthermore, three months later NH International (Caribbean) Limited indicated its desire to suspend works under clauses 2.4 and 16.1 of standard conditions of Contract for Consultants First Edition 1999 International Federation of Consulting Engineers (FIDIC). NHIC requested from Nipdec, a wholly owned state enterprise, that it confirm availability of funding.

Mr. Speaker, given the trivial nature of this request and its lack of relevance, especially in light of the magnitude of the overall project and its importance to the people of Tobago, one cannot but wonder about the true motives behind this request.

As a result, inter alia, of disputes and the accompanying reduction in productivity, the initial claim by NHIC for work done on the project escalated from a projected delivery price of TT \$135.9 million in 2003 to TT \$286.9 million by May 2005; an increase of 111 per cent over the period of just over two years, with very little actual work having been accomplished.

Mr. Speaker, NHIC suspended works on the project on September 17, 2005 accusing Nipdec of continuously failing to satisfy the requirements pursuant to

clause 2.4 of the FIDIC General Conditions of Contract. NHIC was not satisfied with the written confirmation of the availability of funds given by the Permanent Secretary of the Ministry of Health. Nipdec expressed its disagreement with the position taken by NHIC that written correspondence from a Permanent Secretary confirming the availability of funds to pay NHIC was insufficient. Nipdec considered that the Permanent Secretary as the chief accounting officer of the Ministry had the authority to give such an undertaking having regard to the Exchequer and Audit Act. As a consequence of the disagreement over NHIC's claims, NH International (Caribbean) Limited initiated arbitration proceedings against Nipdec in December 2005 in accordance with the terms of the contract which prescribed arbitration under the International Court of Arbitration.

The arbitrator appointed by the International Court of Arbitration had to deal with variations of costs which were submitted by NH International (Caribbean) Limited. The company submitted revised figures of TT \$222.2 million as of November 2005. However, by October 2006, NHIC submitted yet another figure for completion of the said project of TT \$474.2 million. Mr. Speaker, that was well over TT \$338 million more than the agreed sum of TT \$135.9 million (VAT inclusive) originally estimated for the project in March 2003 with a completion date of March 2005, 730 calendar days thereafter. These significant variations in costs could have led to the conclusion that there was an overvaluation and inflation of the cost of the project by the contractor and thus gave rise to further disagreement between the parties.

However, during the arbitration, an independent quantity surveyor consultant was appointed by the arbitrator. The independent quantity surveyor consultant reported that the value of NH International (Caribbean) Limited's claims was only TT \$153.6 million. This was approximately TT \$130 million less than the estimated figure of TT \$283 million, which was originally submitted by NHIC back in July 2007. Mr. Speaker, based on the valuation submitted by the independent quantity surveyor consultant it is apparent that the claims of additional cost submitted by NH International (Caribbean) Limited have been clearly overstated and inflated. This is the most reasonable and plausible interpretation of the facts as they occurred.

Mr. Speaker, hon. Members should recall that in 2003, the cost was TT \$135.9 million; in 2005, \$TT \$222.2 million and in 2006, TT \$474.2 million. It is interesting to note that the percentage profit margin calculated at bid was 12.5 per cent and the percentage increase submitted in arbitration was over 300 per cent. Hon. Members of this House are asked to note the exorbitant claims being made

Scarborough Hospital Project
[SEN. THE HON. J. NARACE]

Friday, January 09, 2009

of State funds by NHIC and the fact that an independent quantity surveyor found that NHIC's claims were overstated by TT \$130 million.

The Ministry of Health has been pursuing this dispute through Nipdec to protect the public's interest and to reassure the public of Trinidad and Tobago of its intention to get value for its money. To this end, the arbitrator has ruled in the first instance in his first partial award in February 2006 that the Dispute Arbitration Board had not been validly appointed under the contract, and secondly, in his second partial award in April 2007, that NHIC was entitled to suspend the work and terminate the contract.

The Government appealed the decision of the second partial award in January 2008, thereby justifying the Government's commitment and unequivocal assurance in taking all necessary steps to recover and protect taxpayers' moneys and it will continue to do so in any such instance in the future, whenever deemed necessary. This Government will not be intimidated by any unreasonable or unethical contractor and will continue to protect the public's interests in the final award of the arbitrator.

The High Court has in fact agreed that the arbitrator never found that Cabinet approval is generally necessary to satisfy subclause (2.4) of the FIDIC contract as to reasonable evidence that financial arrangements have been made and are being maintained which will enable the State to pay the contract price. In other words, the Permanent Secretary of the Ministry of Health was indeed authorized to confirm funding availability. The matter, as raised by NHIC, was an unnecessary point that further delayed the construction of the much needed Scarborough Hospital.

2.15 p.m.

Hon. Members, the arbitrator handed down his third partial award on November 07, 2008 and has indicated that the claim of \$283 million submitted by NHIC was rejected and the actual cost of the work completed was valued at TT \$133.2 million. This Government has thus saved this country approximately \$150 million through its diligence and perseverance in this arbitration process. [*Desk thumping*]

In fact, the sum advanced to NHIC by this Government exceeded the arbitrator's value and as of today's date NHIC owes this Government over \$9.1 million. [*Desk thumping*] It is important to note that the Government has already paid to NHIC TT \$135.9 million. In other words, Mr. Speaker, as of today, instead of the Government having to pay NHIC \$150 million in claims, NHIC must now pay the Government \$9.1 million. [*Desk thumping*]

Mr. Speaker, there are also claims regarding NHIC's title to materials on-and off-site and corresponding claims for overheads and profit, which have been deferred by the arbitrator for now, but which we fully intend to defend. These deferred claims amount to \$9.7 million and are to be dealt with in the final award. There also remain NIPDEC's claims outstanding for materials removed off-site by NHIC. The Government intends to pursue these claims vigorously.

In terms of the final arbitration hearing, if the outstanding items are not settled by agreement, then both parties are to agree with the arbitrator the date for the final hearing. In the interim, NHIC and NIPDEC have both lodged appeals to the High Court of Trinidad and Tobago against the arbitrator's third partial award. At this time the arbitration has not been completed and no money has been awarded to NHIC.

This Government through its decisive action has so far saved over \$150 million in claims being made by NHIC. Clearly, this lends itself to interpretations of manipulation by some contractors to inflate their costs with the intention of draining the coffers of the Government. Mr. Speaker, at least this Government in this scenario as well as in the Piarco Airport Project has taken all necessary legal steps to recover its money and is resolute against the default of any contractors. I assure the hon. Members of this House that this Government will not allow any contractor to abuse the system to fill the pockets of its owners at the expense of the citizens of this country. Contractors whose modus operandi is to create claims and litigation and inflate costs when engaged in public projects, be warned this Government will not tolerate such unscrupulous and unethical behaviour.

The history of the construction of the Scarborough Hospital, thus far, suggests that there may be contractors who may seek to inflate the cost of projects to the detriment of the people of Trinidad and Tobago. Mr. Speaker, as the situation permits, this Government would not condone it. As a matter of urgency NIPDEC re-invited tenders for a modified design/build contract for the Scarborough Hospital project and the supply of medical and other equipment with a fixed price clause. NIPDEC informed the Ministry of Health that a tender was awarded to the only pre-qualified bidder, China Railway Construction Corporation in September 2008; construction has already begun and it will be completed by the third quarter of 2010, including the supply and installation of medical and other equipment in the hospital.

Consequently, the remedial works at the existing hospital site have commenced since September 2008 and currently there are two camps working on the site and the full complement of the third camp will arrive by the end of

Scarborough Hospital Project
[SEN. THE HON. J. NARACE]

Friday, January 09, 2009

January 2009. Further, ongoing discussions and site visits are being held with public health and utilities providers, such as WASA and T&TEC to ensure that all requirements in relation to these matters are met.

An examination of these figures indicates clearly that the estimated cost as prepared by NHIC for construction of the Scarborough Hospital alone in 2006 was \$474.2 million as compared to that of \$241.3 million by China Railway Construction Corporation in 2008, a difference of some \$232.9 million. Mr. Speaker, there have been suggestions that possibly NHIC was either overcharging or engaging in an inflation of prices. After all, NHIC has considerable experience in construction. Most importantly, I wish to reiterate that the contract awarded to the China Railway Construction Corporation is a fixed price, design/build/equip model and a turnkey operation with a completion date of 18 months. This country will be receiving much more than originally contracted and at a lower price that is also fixed.

Mr. Speaker, although this paints a positive future for the long awaited Scarborough Hospital, I wish to close by giving this honourable House the unequivocal assurance that the Government of Trinidad and Tobago has taken all necessary steps and has used all available avenues including the pursuit of litigation so as to recover and protect taxpayers' moneys. I wish to assure both this honourable House and the national community that this Government will continue to serve and fight for the interest of the people in Trinidad and Tobago, not only as it pertains to the Scarborough Hospital, but also as it relates to all projects we undertake, regardless of the challenges we may be called to meet in each case.

I thank you, Mr. Speaker.

Delivery of Public Sector Construction Projects

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I am authorized by the Cabinet to make this statement on the delivery of public sector construction projects.

On Monday, January 12, 2009 [*Interruption*] the hearings of the Commission of Enquiry into the Public Construction Sector in Trinidad and Tobago, under the chairmanship of Prof. John Uff, a distinguished engineer and Queen's Counsel, will commence at the Winsure Building on Richmond Street. We see this event as testimony to this Government's commitment to transparency and integrity in the public sector procurement process, and in our view, there are few governments in the history of this country that have opened themselves up to public scrutiny in this way.

However, there is a view held by some commentators and promoted by certain interested parties that this enquiry is intended simply to enquire into the procurement practices and projects of the Urban Development Corporation of Trinidad and Tobago (UDeCott), to the extent that these commentators have sought to refer to the enquiry as the UDeCott enquiry.

However, it should be noted that the Commissioners have established a provisional timetable with three distinct periods for hearing of evidence between January 2009 and May 2009. The first set of hearings in January will focus on UDeCott, but the second and third set of hearings, in March and May, respectively, are intended to focus on specific construction projects and other issues associated with the functioning and performance of the public construction sector. It is also expected that the Commissioners will enquire into the Cleaver Heights Housing Project at some stage. In this context, it should be noted that the Commissioners have been mandated to enquire into the following matters, inter alia:

- The effect of the use of provisional sums, prime cost sums, nominated suppliers and nominated contractors in construction contracts in the public sector;
- The effect of incomplete designs, design changes, variations, poor supervision and poor management on the cost and delivery of construction projects in the public sector;
- The performance of local and foreign contractors and consultants on public sector projects;
- The effectiveness of the turnkey approach, also called the design/build approach, for the delivery of public sector construction projects as compared to the traditional design and tender approach;
- The reasons for and the effect of cost overruns, delays and defective workmanship in public sector construction projects; and
- The existence of price gouging and profiteering in the public construction sector.

The Commissioners have also been mandated, inter alia, to make such recommendations and observations arising out of their deliberations as they deem appropriate to ensure that with respect to public sector construction projects:

- taxpayers get value for money;

Public Sector Construction Projects
[HON. C. IMBERT]

Friday, January 09, 2009

- the delivery of projects and the highest standard of workmanship are achieved and maintained;
- there is free and fair competition, full participation and access for all citizens in the public procurement process; and
- integrity and transparency in the public procurement process are assured.

Mr. Speaker, we expect that the Commissioners will deal comprehensively and professionally with all matters pertaining to the procurement practices and operations of UDeCott; the Cleaver Heights Project and the public procurement process generally, [*Interruption*] and we await the findings and recommendations of the Commissioners with respect to those particular issues.

However, as I have indicated above, the enquiry has a far wider remit than certain interested parties would want us to believe. For some time now, the Government has not been satisfied with the general performance of the construction industry in Trinidad and Tobago or with the delivery and quality of important national projects and we are of the view that in many respects our citizens and our country are being short-changed.

We believe that the root of the problem is an antiquated and outdated, but regrettably very entrenched approach to project implementation in Trinidad and Tobago, commonly described as the design/tender method of construction. This is why we have asked the Commissioners to examine the effect of incomplete designs, provisional sums, nominated suppliers and subcontractors, defective workmanship, cost overruns, design changes and variations on the delivery of projects, among other related matters.

We have also specifically asked the Commissioners to examine the performance of local and foreign contractors and consultants on public sector projects and the effectiveness of the turnkey approach, also called the design/build approach, for the delivery of public sector construction projects, as compared to the traditional design and tender approach.

There has been resistance, Mr. Speaker, from the local construction sector to our initiatives to improve project delivery, but we believe that we must pursue this matter to the end, otherwise the construction industry and the Government's and the country's capital development programme will continue to be embroiled in unproductive disputes, and construction projects will continue to be characterized by delays, cost overruns, poor workmanship and a chronic lack of accountability on the part of consultants and contractors.

Even cursory examination of the capital development programme laid in this Parliament over the last five years will reveal a number of basic and simple projects that have been listed for commencement or completion in successive years, without satisfactory progress being made. In some instances, years have elapsed without any meaningful or productive construction activity. These underperforming or unsatisfactory projects cover the whole spectrum of public sector activity and run the gamut of health to education to power and water supply, roads, drainage, national security installations and community facilities, among many other areas. The poor performance of these projects adversely affects virtually every aspect of national life and the persons who lose the most from this unacceptable situation are the taxpayers of this country.

2.30 p.m.

Mr. Speaker, it is fashionable for those involved in the actual design or construction of these projects and uninformed parties to blame the Government for this situation, but upon examination of the true facts, a familiar pattern emerges. Typically, with the traditional design/tender approach, the design process is cumbersome and takes an inordinately long time. In some cases, even on simple projects, the detailed drawings and contract documents that are required for the construction phase can take years to be completed. Further, with the traditional system, there appears to be no incentive to the designers to complete the drawings in a timely manner, perhaps because they are not exposed to any economic risk. Indeed, as the cost of jobs escalate with the effluxion of time during the design stage, it is customary for design consultants to simply increase their fees to suit.

With the traditional approach, there also appears to be no incentive to the designers to ensure that the drawings are complete and accurate, and that they have taken account of all relevant factors such as site and soil conditions, and the use of appropriate materials and technology in preparing the designs. Indeed, the concept of the standard of care expected of a professional man on the part of design consultants—*[Interruption]*

Mrs. Persad-Bissessar: Who wrote that?

Hon. C. Imbert: I did—quite often appear to a foreign concept, and far too often our local consultants avoid responsibility and bear no liability for their own mistakes, errors and omissions, some of which have proven to be very costly.

Mr. Ramnath: The Grenadian stadium.

Hon. C. Imbert: As a result, when the projects go out to tender, there are often significant gaps in the information given to contractors and, quite often, the designs are unworkable and impractical and the contract documents are deficient. The insistence by some local consultants on the use of nominated suppliers and subcontractors also creates difficulties for the smooth execution of projects, because quite often these nominated suppliers and subcontractors do not perform well. This creates a situation where the main contractors, who are businessmen first and foremost and thus, motivated by profit rather than by philanthropy, can and do exploit the deficiencies, errors and omissions in the design drawings, and the weaknesses in the specifications and contract terms.

The end result is disputes, delays, inappropriate or poor quality construction and cost overruns. Quite often, projects are left unfinished and abandoned to the detriment of communities and citizens generally, while contractors and the Government fight it out in court or in arbitration and consultants watch on from the sidelines, having already collected their design fees, in what could be viewed as an almost incestuous relationship with contractors and subcontractors.

To borrow a phrase from another jurisdiction, we consider these truths to be self-evident, and only those with vested interests, interconnected relationships or insincere agendas will contend otherwise. And it matters not which Government is in power, since this has been the situation with the local construction sector for at least the last 20 years. A classic example is the recent construction of police stations at various locations such as Belmont and Mayaro, which although not complex structures by any means, were inexplicably bogged down by design errors, poor supervision, delays and disputes over the liability for delays, and were adversely affected by poor performance on the part of contractors, to the extent that they took several years longer to complete than anticipated, at costs that far exceeded the original estimates.

Mr. Speaker, we have just heard the Minister of Health outline the unacceptable situation that he discovered with the construction of the Scarborough Hospital Project. Another project that was being implemented using the traditional design/tender approach, where the contractor had suspended work on the project for one year due to disputes with the Government over technicalities in the definition of the necessary conditions for ensuring availability of funds for the project, and complaints about the performance of the design consultants, among other things—*[Interruption]* We will.

It is for these reasons that the present Government is firm in its view that we must change our approach to the delivery of projects in the public construction

sector, and one of the key recommendations that we expect to come out of the Commission of Enquiry is a modern and effective framework—

Mr. Speaker: Order!

Hon. C. Imbert:—for a new and improved approach to construction projects that focuses on on-time performance, quality, value for money and efficiency, and minimizes or eliminates the potential for unproductive disputes, profiteering, exploitation and finger pointing. [*Desk thumping*]

Mr. Speaker, we have already seen the benefits of a different and better approach to construction on the Prime Minister's Residence and Diplomatic Centre, where the design and construction process took less than one year, with the end result being a magnificent building that is now part of the country's legacy. [*Desk thumping*] Apart from the incredibly short period of time for construction on this complex project, a matter of a mere nine months with design work barely taking another three months, this first-class and first-world project was also built at a cost way below the prevailing market rates and to the highest standards of quality. [*Desk thumping*]

Mr. Speaker, it is incumbent on me to inform you and this honourable House that the approach used on this project was the design/build method and not the traditional design/tender approach, and as a consequence of the success of this particular project and other similarly executed projects, we firmly believe that this method is the most appropriate method for the delivery of public sector construction projects at this time in our country's development.

Another project that has been successfully executed within time and budget using the design/build approach is the International Waterfront Development Project, and as we speak here today, another landmark project, the Performing Arts Academy is rapidly taking shape on the Princess Building Grounds, using the design/build approach to the amazement and delight of onlookers. [*Desk thumping*] You could put that in your pipe and smoke it.

In fact, it is common knowledge to anyone who drives around the savannah, that the work on this complex and substantial construction project at the Princess Building Grounds is being done at a much faster rate than a small and unsophisticated public convenience building that took almost one year to complete across the road on the savannah, using the traditional approach. Yet another example is the Interchange Project where the contractor assumed responsibility for the designs during the course of construction, thus putting an end to all arguments about design errors and omissions, and virtually eliminating

the potential for disputes and unnecessary delays on that project. The success of the Interchange Project is there for all to see.

Mr. Speaker, it would be prudent at this stage to briefly summarize why we are of the view that there must be a paradigm shift in the public construction sector. It is important to note that the design/build method has been shown time and time again to save the client money on the overall project and it often converts seemingly unfeasible projects into genuine opportunities for success. For example, such is the case with the design/build contract awarded to the China Railway Construction Company for the completion of the Scarborough Hospital Project, which we now expect to be completed without any major disputes, at a lower cost, to the highest quality standards, and in far less time than could possibly have been done using the traditional design/tender approach. You will see. [*Desk thumping*]

Further, Mr. Speaker, and for the benefit of hon. Members opposite, the research indicates that one of the most attractive features of the design/build approach is the significant reduction in the overall time for completion of projects. Other attributes of this method include:

- enhanced communication between the contractor and the client;
- increased accountability by the contractor;
- single source project delivery; and
- a value based project feedback system.

Let me now go through these points one by one.

Enhanced communication: Because the design parameters of a project are being developed using, along with the budget and the construction methodology, a design/build project is more likely to be successful than with the pure design approach or the traditional design/tender approach. The client also has greater access to the team working on project development as the details of the project are actually being finalized. This efficiency is a key factor to the success of the design/build model.

The teamwork approach to construction.

Accountability: Rather than the fragmented and counterproductive distribution of responsibility that exists with the classic design/tender approach, the design/build method provides an integrated and efficient solution for the client. This moves projects away from the "finger-pointing", the blame game,

that is commonplace in contemporary construction projects and allows the client to look to one entity with any questions or concerns.

Single Source Responsibility: Instead of having several contractors and consultants using the design/build method, a client just has one entity to deal with. Design revisions, project feedback, budgeting, approvals, construction issues, change orders and variations, and payments are all routed through the design/build firm and the design/build firm only. This single point of contact allows a certain degree of flexibility for the owner and most design/builders will leverage that flexibility for the owner's benefit as compared to the other approach by continually refining the construction programme to maximize the owner's value at the completion of the project. This is the opposite of the design/tender approach, where there is no real interest on the part of the contractor or the consultants in saving money or reducing costs.

Value-Based Project Feedback: Typically, in order for a contractor to bid on a project using the traditional design/tender approach, very specific details relating to the construction methods and materials to be used on the project must be given to avoid any ambiguity and to make an "apples to apples" comparison of bids. However, in the design/build model, the client and the design/builder usually can and do work together to determine what methods and materials will maximize value for money, which can only be in everyone's interest.

Research in North America and elsewhere has shown that over 70 per cent of traditional design/tender contracts in the public sector end up over budget and behind time, whereas for design/build projects, the figure is only of the order of 25 per cent. The research has also shown that in design/build projects increases in cost are generally as a result of changes made by the client, and thus under the direct control of the client rather than the traditional design/tender method, increases in cost are usually the result of a disconnect between the consultants, the client and the contractor. There is also an absence of focus by consultants and contractors on value for money, overall cost and time for delivery. This disconnect can be found on many public sector construction projects in Trinidad and Tobago.

Mr. Speaker, in conclusion, the country's capital development programme over the next five years will in all likelihood exceed \$10 billion and it could be much more than this if revenues permit. Accordingly, if we are able to save even 10 per cent of that figure through more appropriate systems and methods and a more efficient approach to construction, we would generate a reduction in the cost to the country and savings of \$1 billion. With a better system, we can also expect significant savings in time, which can only be of benefit to communities,

Public Sector Construction Projects
[HON. C. IMBERT]

Friday, January 09, 2009

stakeholders and the population in general, who will get their schools, their cultural centres, their community facilities, administrative buildings, roads, hospitals, health centres, police stations, fire stations and sporting facilities, among all of the other necessary public sector facilities delivered to them in good time to the highest possible standards, without contentious disputes and cost overruns.

Mr. Speaker, if we can achieve this, this will make the time and money spent on the Commission of Enquiry into the Public Construction Sector in Trinidad and Tobago well worth the effort. It is for this reason that we are firmly of the view that there must be drastic change to the way we do business in the public construction sector, and we expect that the deliberations of the Uff Commission of Enquiry will yield positive and tangible results and will point the way forward for a transformation of the local construction industry, and a much more productive and efficient system for project delivery for the lasting benefit of us all.

I thank you. [*Desk thumping*]

2.45 p.m.

Prime Minister Patrick Manning
(Post-Surgery Expressions of Thanks)

The Prime Minister (Hon. Patrick Manning): Mr. Speaker, I thank you for the opportunity to make this statement to this honourable House and the nation.

On Monday January 05, 2009, I resumed official duties as Prime Minister of the Republic of Trinidad and Tobago after my recent surgery. [*Desk thumping*] Though not yet back to full strength, I am recovering quite well and feel very capable of gradually getting back into full stride. I am very grateful for the prayers and good wishes of the people of Trinidad and Tobago.

In the days preceding the operation, I found great comfort in media reports of national concern for my well-being as well as the many expressions of caring that came through various channels. It was a deeply moving experience which continued after the surgery with the great many messages that were sent wishing a full and speedy recovery. All the sentiments were deeply appreciated, but particularly touching was the quite elaborate card sent with each child's signature and pictures by the children of the Hope Centre. I thank the children very much for the special effort they made to communicate their most welcome words of comfort. I am also grateful for the good wishes of my political colleagues opposite which too will always be especially remembered.

The Hon. Member for St. Augustine, Mr. Vasant Bharath, also had his challenge which he too has successfully overcome, and we are all happy to find him in good health even though he is not with us this afternoon. On behalf of the Government, I extend sincerest best wishes to him and his family.

Mr. Speaker, an experience like mine must be a cause for reflection; life is, indeed, a special gift from God. As we engage in our many pursuits and as we endeavour to fulfil our many responsibilities, we must exercise care with our health if we are to realize our fullest potential and experience the fulfilment to which we aspire. Though by no means a paragon of virtue in this regard, there has been considerable increase in my ability to meet the present challenge through the greater attention paid, in recent years, to my physical well-being, through increased commitment to fitness, moderation—yes moderation—and a healthier lifestyle, in most things.

We should all take a more proactive approach to caring for our health. The Government will continue its efforts to provide the best health care possible for our country, but we cannot deny the fact that the first responsibility for good health starts with the individual. If we adopt the right approach, and early enough, we could avoid the personal and family trauma that often comes from prolonged indiscipline or neglect and the lifestyle diseases that result. It is never too late to become more attentive to your health; indeed, the older you get, the greater the necessity to have regular checkups so you can take the necessary steps in time. *[Interruption]*

Hon. Members: Where? Where?

Hon. P. Manning: At an appropriate place. *[Laughter]*

There has also been some observation on my positive approach to life and the part it played in my successful surgery; there is no doubt that it did. It is certainly better to see the glass as half full rather than half empty and to go forward with enthusiasm and one's best efforts, whether the road be rough or smooth. It is this positive approach, in addition to a measure of confidence and optimism, that some persons mistakenly interpret as arrogance.

I wish to humbly recommend a positive attitude to all citizens of Trinidad and Tobago. Never yield to despair no matter how difficult the circumstances; take action as quickly as you can; avoid being mired in regret and despondency; this can sap the creative energy you need for getting ahead and for overcoming the challenges. Whilst being positive, however, do not be blind to the lessons to be learnt; never fail to make reassessments and re-examinations; make a vow to learn

Prime Minister Thanks
[HON. P. MANNING]

Friday, January 09, 2009

from every experience—as I have done—it is a fundamental aspect of the positive approach to life.

We should also recognize that however hard we try as mere mortals, however positive or prepared we are, challenges will always surface on the often bumpy road of life. My personal approach is to intensify my faith in Almighty God with every passing day and with every experience, good or bad. No one knows what lies around the bend; none of us really knows when or where the journey ends. [*Interruption*]

Mr. B. Panday: Hallelujah!

Hon. P. Manning: We can only do our best at all times and, especially, as we advance in years, endeavour to be always prepared for the ultimate experience of earthly existence, that is our departure hence. An essential part of that preparation, even more than good works, is firstly to develop as intimate a relationship as possible with Almighty God. [*Desk thumping*]

Mr. B. Panday: Hallelujah! Amen!

Hon. P. Manning: Mr. Speaker, I give the nation the assurance that I will continue to put my best foot forward for Trinidad and Tobago. As my strength increases daily, I am very confident of a full recovery. My life is completely in the hands of Almighty God and I am at peace—[*Desk thumping*—and I am at peace in the assurance that whatever comes my way it is, indeed, his will. I am very much at peace with that.

I especially wish to thank my dear wife, Hazel, the very distinguished Minister of Local Government, and my sons Brian and David, for their strength and support during this critical period. I wish similarly to thank Members of the Cabinet and Government. I once again express my gratitude to all citizens for their prayers and best wishes, and assure you, Mr. Speaker, of my continuing best efforts for our beloved country.

Thank you very much. [*Crosstalk*]

Mr. B. Panday: Pass the collection plate. [*Laughter*]

Hon. P. Manning: I will pass it first to the Member for Tabaquite and then to the Member for Chaguanas West. [*Laughter*]

Hon. Member: Especially Chaguanas West. [*Laughter*]

Hon. P. Manning: And if I can find some time, I will pass it to the Member for Mayaro. [*Interruption*] [*Mr. Manning displays bound document*]

Hon. Member: That is another budget?

Working Document on Constitutional Reform

The Prime Minister (Hon. Patrick Manning): Mr. Speaker, I am also thankful for today's opportunity to make this second, and most important statement on behalf of the Cabinet, to this honourable House and the nation.

During the period 1995—2001, the PNM was in Opposition, but we were neither fractious nor idle. During our more than half a century of service to Trinidad and Tobago, we have always considered it our inescapable duty, whatever our political fortunes, to serve the best interest of our nation at all times; therefore, with seriousness and sobriety, we took the opportunity of that period to take stock, both of ourselves and the country.

We reviewed the development path of Trinidad and Tobago and assessed the prospects for the future. It quickly became very clear to us, that the future would be very bright if we could fashion a vision that would harness all our potential and possibilities towards the next giant step forward. After deep deliberations, we determined that the vision had to be the transformation of Trinidad and Tobago into a developed nation by the year 2020.

On April 30 in the year 2000, meeting in special convention, the PNM adopted this new vision and we then began the preparation to take this new and exciting message to the people of Trinidad and Tobago. We did this with vigour and conviction, and made this vision the main issue in our manifestos and on our platforms in all subsequent elections. We succeeded in persuading the national community that this was the way forward for Trinidad and Tobago. In the general elections of 2001, 2002 and 2007, the PNM was repeatedly returned to office and with ever increasing majorities.

We have undoubtedly been given a strong and continuing mandate to pursue the transformation of Trinidad and Tobago into a developed nation. Based on this mandate, on our return to office in 2001, we set up a national committee of all stakeholders to further flesh out the vision.

After three years of consultations and deliberations at all levels in Trinidad and Tobago, this committee produced the Vision 2020 Draft National Strategic Plan, which was accepted by Cabinet and which has been guiding the Government's policies and programmes ever since. This document articulates the vision in this way:

“By the year 2020, Trinidad and Tobago will be a united, resilient, productive, innovative and prosperous nation with a disciplined, caring, fun-loving society,

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

comprising healthy, happy and well-educated people and built on the enduring attributes of self-reliance, respect, equity and integrity.

In which every citizen has equal opportunities to achieve his/her fullest potential. All citizens enjoy a high quality of life, where quality healthcare is available to all and where safe, peaceful, environmentally friendly communities are maintained.

All citizens are assured of a sound, relevant education system tailored to meet the human resource needs of a modern, progressive, technologically advancing nation. Optimum use is made of all the resources of nation.

The family as the foundation of the society contributes to its growth, development and stability.

There is respect for the rule of law and human rights and the promotion of the principles of democracy.

The diversity and creativity of all its people are valued and nurtured.”

As you can see, it is a comprehensive vision that takes into account the progress and development of every citizen of our beloved country, and projects a future of sustainable prosperity and security for our nation.

But we did not stop with the vision; we went further and determined the path towards achievement of our goals. Towards this end, we established five pillars as being absolutely essential for this important national enterprise; these were:

- “Developing innovative people;
- Nurturing a caring society;
- Enabling competitive business;
- Investing in sound infrastructure and environment; and
- Promoting effective governance.”

We have been taking action, with significant success on all these fronts, during the last seven years. However, on this occasion, it is to pillar No. 5, “Promoting effective governance”, that I wish to turn my attention [*Crosstalk*]

After almost half a century of development, in a constantly evolving international environment, it is inevitable that we should seek to modernize the way our society is governed. Our citizens, with justification, are demanding increasingly higher standards of governance that must produce greater efficiency,

transparency, accountability and effectiveness at all levels of operation in our society. It is clear that there is general agreement on the need to improve the system of governance in the Republic of Trinidad and Tobago.

3.00 p.m.

Mr. Speaker, our acceptance of Pillar No. 5 effectively commits us to a review of our governance systems at all levels: local, national, regional and international. We are also committed to paying attention to the special case of Tobago. At the international level with the purpose of modernizing our foreign policy, we held a conference of our Heads of Missions in December of 2006, from which emerged a technical team of Ambassadors and other foreign Ministry personnel, under the leadership of a distinguished citizen of Trinidad and Tobago, an expert in international relations, Prof. Jacqueline Braveboy-Wagner of City University of New York—a citizen of Trinidad and Tobago. As a result of this process, a document was produced in October of 2007. This document, among other things, mandates that we now place greater emphasis on pursuing the economic interest of Trinidad and Tobago in the global arena.

A review of our international system of governance commits us to a reexamination of the international agencies, like the International Monetary Fund, the World Bank, the World Trade Organization, the Inter-American Development Bank, the United Nations and the Organization of American States. We must, for example, ensure that these become more effective in advancing the interest of all members of the international community, especially those of the developing world. We also continue to reorient our foreign service personnel in the new direction which includes particular attention to the field of energy, bearing in mind that whilst with oil we are essentially price takers, we are not in that same position with respect to natural gas.

Mr. Speaker, I would like to repeat that. It recognizes that with respect to oil, we are essentially price takers, but that in respect of natural gas, the situation is vastly different for Trinidad and Tobago.

Indeed, Mr. Speaker, we are the only LNG exporting nation in the western hemisphere, the reward of a position we took in our administration of 1991—1995, that very momentous decision to allow gas to be exported in the form of liquefied natural gas. We must therefore do what is necessary to preserve our economic advantage in this area, as natural gas becomes increasingly important in shaping global relations.

At the regional level with our Caricom partners, we have already established a single market by 2006 and are now pursuing the attainment of the single economy by the year 2015.

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

Most significantly, there is now a new initiative in the Eastern and Southern Caribbean led by Trinidad and Tobago, designed to take the integration movement a quantum step forward, to the establishment of a single economy by 2011 and political integration by 2013 among nations in the sub-region. A team of distinguished Caribbean scholars has been studying this proposal. The team is led by Prof. Vaughn Lewis, former Prime Minister of St. Lucia, and includes: Dr. Cuthbert Joseph, our Ambassador of Trinidad and Tobago; Dr. Wayne Sandiford, Professor of Economics, St. George's University, Grenada; Mr. Earl Huntley, Representative of the Caribbean Community; and Independent Senator Prof. Velma Newton of Barbados. The team will shortly conclude its deliberations on this matter and present a report for the consideration of governments and, of course, the people of the Caribbean Community.

At the local level, the matter of local government reform has been on the agenda for some time. On October 29, 2004, after extensive consultations, a Green Paper on reform was laid in this honourable House and published for further comments. The consensual issues and positions that emerged from the consultations were reported to Cabinet in August of 2005, together with the findings and the recommendations of the Local Government Inter-Ministerial Transitional Task Force on functions and responsibilities to be decentralized to local government bodies. The Cabinet agreed that a revised Green Paper be produced incorporating both reports. In April 2006, a draft of this document was presented to Cabinet and found acceptance.

The revised Green Paper was eventually published as a draft White Paper, opening the way for the further national debate on this issue. Consultants were then retained to bring further expertise to the process to help translate the policy of the draft White Paper into an action plan, including legislation and recommendations for the structure of local government.

But, Mr. Speaker, what emerged from the entire process was a major divergence of views on the roles and responsibilities of local government. This is the reason for the postponement last year of the local government election. We clearly needed to review this aspect of the process and this necessitated the publication of a new Green Paper specifically on the role and responsibilities of local government. This was done last year and 15 consultations including one for local government staff were held throughout the country. New recommendations will shortly be considered by the Cabinet after which we will conclude all other considerations including legislation, to facilitate the conduct of local government election on time in 2009.

Mr. Speaker, at the national level, as hon. Members are aware, the fundamental matter of constitutional reform has been engaging the attention of the national community in an increasingly vigorous way. I now wish to examine this matter in some detail.

Mr. Ramnath: *[Inaudible]*

Hon. P. Manning: Yes, it is.

Mr. Ramnath: *[Inaudible]*

Hon. P. Manning: Yes.

Mr. Ramnath: You really have the ambition to be Executive President.

Hon. P. Manning: Yes.

Mr. Imbert: But you asking answers? *[Laughter]*

Hon. P. Manning: Any other questions?

Mr. Ramnath: “Oh my God, have mercy on us.”

Mr. Imbert: No mercy.

Hon. P. Manning: Mr. Speaker, it is important to trace the recent history of this important process. Hon. Members will recall a draft of a new Constitution prepared by the Principles of Fairness Committee, a group of leading and distinguished citizens of this country. This document was circulated, discussed and reflected upon by commentators in the media. The Government also examined this draft very carefully. At the same time, as I indicated on an earlier occasion to this honourable House, our administration had embarked on the process of having a draft prepared of a new Constitution for the country. This draft was written by Sir Ellis Clarke, former President of the Republic and someone of considerable experience in this field. I want to emphasize that it was done without any directions from either the Prime Minister or the Cabinet.

I laid this draft in Parliament and in so doing, made it quite clear that whilst the document reflects some of the thinking of my administration, it was not to be considered as government policy. The intention was that it will join other ideas and documents as part of the ongoing national debate on this critical issue. We wanted to stimulate as much national discussion as possible on the way forward.

In laying the aforementioned draft, I expressed our appreciation to the civic minded citizens of the Principles of Fairness Committee and observed that with these two significant documents, we had the basis for more informed dialogue,

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

meaningful comparison, and deep analysis on this matter of pivotal importance to the future of our nation. I then urged all citizens to read and ponder on both documents with great care.

Mr. Speaker, in laying the draft by Sir Ellis Clarke, I considered it appropriate to point out some of the main proposals for reform contained in the document and pointed, in some detail, to the four main areas dealing with the Presidency, the Parliament, the Judicial system and the Cabinet. I also dealt then with other suggestions in the draft pertaining to, among other things:

- improved fundamental rights;
- a modern and more effective system of local government;
- emergency provisions;
- the Office of the Ombudsman; and
- the Integrity Commission.

I pointed out that a serious reading of the document was necessary to get a full knowledge of all the recommendations and to grasp the thinking behind their creation. I urged all responsible citizens to become thoroughly acquainted with the contents of the document, if they were to contribute meaningfully to the national dialogue on this fundamental issue.

In fact, Mr. Speaker, we provided the opportunity for greater national discussion. We established a round table dialogue chaired by the Prime Minister. Thirty-one meetings of this round table have been held. The first on September 22, 2006, and the last recently, on Tuesday, January, 06 2009—that is just three days ago—which completed the process, the day after I came out to work.

Mr. Speaker, the role of the round table was to bring together the best expertise in the country with the political directorate to discuss, assess, analyze and chart the way forward, taking into account the views of the people which were being brought to the table by the process of national consultation that was being held at the same time. This represented a very different approach from two previous attempts at constitutional reform, one in 1972 and the other in 1987, both of which we can now say with assurance were fundamentally flawed. This is because they did not involve the politicians at the very start of the process. What was presented in these two attempts were the views of the technocracy, largely uninfluenced by the ideas of practising politicians of long standing and who, with their hands-on experience, would have been in the best position to bring the level

of pragmatism, practicality and applicability to an undertaking of this nature. Constitutional reform cannot be a purely cerebral exercise. It must be related to history, experience and existing realities, all of which vary from country to country. There is then no one size to fit all and the emergence of a unique product is inevitable, if we are to fashion the appropriate national vehicle for taking this country forward.

We are convinced that our approach will take us to this goal. Key players including politicians were involved from the very start, as the lawyers would say, *ab initio*. As I indicated, it also included the people, because simultaneous with the deliberations of the round table, we embarked on one of the most important aspects of this entire exercise, that is, consultation with the citizens of Trinidad and Tobago.

Participants in the round table included Sir Ellis Clarke, distinguished son of the soil; Mr. Tajmool Hosein, TC, SC, and Professors Emeritus Selwyn Ryan, John La Guerre and John Spence—three professors Emeritus. Dr. Hamid Ghany of the Principles of Fairness Committee, subsequently, also joined the round table and his first meeting was on January 15, 2008.

At the political level, members of the round table included Ministers from two administrations. From the previous administration, the Ministers were the Attorney General, the hon. John Jeremie, now High Commissioner to the United Kingdom; the hon. Dr. Lenny Saith; the hon. Camille Robinson-Regis, now High Commissioner to Canada; the hon. Christine Sahadeo, now a Senior Lecturer at the University of the West Indies; and the hon. Conrad Enill. From the new administration, the Ministers were the Attorney General, hon. Bridgid Annisette-George; hon. Dr. Lenny Saith; hon. Conrad Enill; hon. Karen Nunez-Tesheira; hon. Christine Kangaloo; hon. Paula Gopee-Scoon; and hon. Peter Taylor. Other members of the round table included Dr. Anselm London, Secretary of Finance, Enterprise and Development of the Tobago House of Assembly; Ms. Sandra Marchack, Permanent Secretary to the Prime Minister and Head of the Public Service; Ms. Nicole Fernandes, Research Officer; and Mr. Samraj Harripual, Legal Draftsman. It also included our very able secretary, Mrs. Thelma Nurse.

Mr. Speaker, it should also be noted that two members of the Principles of Fairness Committee, Mr. Tajmool Hosein and Dr. Hamid Ghany, as well as Sir Ellis Clarke who prepared the first draft, were also part of the round table—two from the Principles of Fairness and the one who did the other draft.

3.15 p.m.

A subcommittee of the round table, led by Professors Ryan and Le Guerre, went into the national community holding meetings all over the country to have

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

dialogue with the citizenry on this most important development in their lives. Fourteen public consultations were held on the following dates at various locations in Trinidad:

Date	Location
October 23, 2006	St. Augustine
October 26, 2006	Point Fortin
November 01, 2006	San Fernando
November 08, 2006	Arima
November 10, 2006	Sangre Grande
November 11, 2006	Princes Town
November 14, 2006	Chaguanas
November 15, 2006	Debe
November 28, 2006	Port of Spain
November 29, 2006	Siparia
December 02, 2006	Couva
December 19, 2006	El Dorado
January 08, 2007	Rio Claro;
January 11, 2007	Mayaro.

In addition, two more public consultations were held in Tobago on November 17 and 18, 2006.

The subcommittee explained, but did not defend, the document. Its main goal was to ascertain the voice of the people, and it held as many meetings as it considered necessary, fielding questions from the citizenry and recording the comments and concerns.

Mr. Speaker, after completing the process of consultation with the citizenry, the round table then worked towards the finalization of a revised document, which was completed on January 06, 2009, and which I now have the honour to lay in this honourable House. The Cabinet also considered this latest draft and endorsed this approach at its regular weekly meeting held yesterday.

This document is the culmination of very intense work that produced 11 drafts in getting to this juncture.

Just as an aside, sometime ago the Member for Siparia used one of these drafts and accused the Government of some surreptitious intention to do something with the Constitution; it happened to be draft No. 3. In fact, by the time it got into the hands of the Member for Siparia, draft No. 5 was already in existence. What is being laid in Parliament today is draft No. 11; it just shows the process through which we have gone; [*Crosstalk*]*—*all of these, after you commented on it.

I wish to thank all who have contributed thus far to this effort, including all our citizens in the various communities who participated in the discussions. I pay special tribute to the members of the round table for their wisdom and their commitment to national development, and alert them to the fact that their expertise will still be required at an appropriate time in the process that is before us.

Mr. Speaker, this is a working document on constitutional reform which I have laid on the Table, and which must now be the subject of further discussions and thorough examination at the national level. I wish to make it abundantly clear that though there are views and positions in this document to which both the Government and members of the round table subscribe, there is no complete agreement by anyone on the document as a whole. All the members of the round table agreed to participate in this exercise without prejudice to their personal views. The document does not represent a consensus on the part of those involved in formulating it. Not everybody has agreed on everything that is in this document. Indeed, some may not agree with the document at all. In other words, everything is up for discussion, and the door is wide open for the additional views and further influence of the national community in determining this critical way forward.

I must advise you, Mr. Speaker, that Prof. Selwyn Ryan withdrew as a member of the round table on October 20, 2008; by that time, he had attended a total of 20 meetings. We thank him for his contribution and wish him well.

I, therefore, wish that this working document be subjected to the utmost scrutiny. This draft will now be published for public comment and also be placed online, making it available to the widest possible audience. It is a discussion document and must become a great stimulant for intense national debate. I ask all citizens to be thoroughly acquainted with its contents. I urge all to read, study and make your views known on this matter that is fundamental to the future of Trinidad and Tobago.

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

The document is very user-friendly, with an explanatory note at the start, simply written and containing all the major provisions of the document itself. Get hold of a copy when dissemination starts; read and get ready for the debate. Citizens should seize this opportunity to shape the destiny of Trinidad and Tobago.

I wish to suggest that in reading the document, particular attention must be paid to the following: the Presidency; the Parliament and its composition; parliamentary committees; the Cabinet and Executive powers; the Director of Public Prosecutions; the Judicature and the final appellate court; the service commissions, and the Bill of Rights. These areas contain far-reaching implications for how our country can be governed in the future, and must be subjected to the most profound and rational analysis possible.

I wish to, again, underscore the need for all citizens to become actively involved in the debate. In addition to making the document available, the Government will dispatch a team of experts all over the country to discuss the document and to receive comments and suggestions from the population. We are encouraging all political parties to examine the document in all great detail. We in the PNM would be setting the pace with meetings and discussions in our party groups—in our 889 party groups—in the 41 constituencies in Trinidad and Tobago, [*Crosstalk*] because we want to ensure the best Constitution for the present and future development of our country.

All secondary schools and tertiary institutions must join the debate. I make a special appeal to the young people to get involved; you ought to have a special interest in this exercise. We are seeking here to chart the future and to provide you with a legacy of effective systems of governance, so that there would be sustainable prosperity, stability and security in Trinidad and Tobago in this new century. You are, therefore, exhorted to discuss the issues with your parents, teachers and community leaders, as well as among yourselves. Attend as many meetings on this matter as possible; you have a unique opportunity to exercise your responsibility and make your voices heard.

I, therefore, look forward to the coming months of discussion. We must approach this national dialogue in a completely nonpartisan way. All members of civil society have a duty to be intensely engaged in the process, and I, therefore, urge the participation of all community, cultural, religious and social organizations in this exercise.

Special arrangements will be made for the participation of Tobago in this process, including consultations with the Tobago House of Assembly (THA). In

any talk of constitutional arrangements, Tobago is a special case. Special attention will, therefore, be given to consultation with the people of the sister isle.

In addition to the general national meetings, a separate consultation will be held on the special relationship between Trinidad and Tobago. In this regard, it should be noted that this document contains no proposals with respect to Tobago; I repeat: This document contains no proposals with respect to Tobago. Those proposals would be developed after the appropriate consultations with our citizens in the sister isle. A major debate has been taking place for some time in Tobago, and we propose to tap these views before formulating proposals.

I am sure by now it is clear that we will have an extended period of discussion on a new Constitution for Trinidad and Tobago. My estimation is that it would be almost two years before we are able to finalize a document for the consideration of Parliament. The length of time, the depth of discussion and the participation by the citizenry are not only appropriate, but very necessary, given the seriousness of this matter. Arising out of these deliberations, the Government will then produce a Green Paper for further public comment.

Mr. Speaker, today we have completed an important phase in this all-important process. Let us, therefore, now go forward to shape a new Constitution for the Republic of Trinidad and Tobago; one that would serve us well in this 21st Century and beyond. As we seek to effect change, let us be mindful of one inalienable fact: the basic and fundamental rights and freedoms of all the people in our diverse society must not only be preserved, but strengthened. So thankfully entrenched are the principles of democracy in this country, that our citizens would tolerate nothing less.

Whatever changes we effect in our constitutional arrangements, we must continue to protect our country against any possible assaults on our freedoms or belief in justice and equality for all the people of our beloved country. Let us, therefore, never underestimate the gravity of this undertaking. It is one of the most important exercises since the attainment of independence of this country. We must give it the serious attention it deserves, and I urge all citizens to get involved. This is the inescapable responsibility of nationhood.

Before I take my seat, I would like to pay special tribute to two persons who have worked with us on this process all along; the first is Miss Nicole Fernandes, our research officer, who has done extremely well in this matter, and the second is Mr. Samraj Harripaul, who was the legal draftsman. I consider them both today

Constitutional Reform
[HON. P. MANNING]

Friday, January 09, 2009

experts in constitutional reform in Trinidad and Tobago. I thank them very specially. [*Desk thumping*]

Mr. Speaker, I beg to lay on the Table the appropriate document.

Thank you.

CHILDREN BILL

Bill relating to the protection of children and for matters related thereto [*The Minister of Social Development*]; read the first time.

Motion made, That the next stage be taken on Wednesday, January 14, 2008. [*Hon. Dr. A. Browne*]

Question put and agreed to.

STATUS OF CHILDREN (AMDT.) BILL

Bill to amend the Status of Children Act, Chap. 46:07 and to provide for DNA analysis in civil proceedings [*The Minister of Social Development*]; read the first time.

DATA PROTECTION BILL

Bill to provide for the protection of personal privacy and information [*The Minister of Information*]; read the first time.

ELECTRONIC TRANSACTIONS BILL

Bill to give legal effect to electronic documents, records and signatures [*The Minister of Public Administration*]; read the first time.

FINANCE BILL

Bill to provide for the imposition or variation of certain duties and taxes and to introduce provisions of a fiscal nature and for related matters [*The Minister of Finance*]; read the first time.

ADJOURNMENT

The Minister of Works and Transport (Hon. Colm Imbert): Mr. Speaker, I beg to move that this House do now adjourn to Wednesday, January 14, 2009, at 2.30 p.m. The reason we have picked that time is because there will be a Finance Committee meeting at 1.30 p.m., so we are allowing one hour for that.

We will adjourn and come back, as the case may be. The intention is simply procedural, so that we can send the Bill back to a select committee. I must just tell

Adjournment

Friday, January 09, 2009

Members that in addition to the Finance Committee meeting on Wednesday, we will be debating the report of the Finance Committee on Friday for the closing of the accounts for year 2007/2008.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 3.29 p.m.