

**HOUSE OF REPRESENTATIVES***Friday, August 11, 1995*

The House met at 1.30 p.m.

**PRAYERS**[MR. DEPUTY SPEAKER *in the Chair*]**PRESIDING OFFICER  
(Signature to Resolution)**

**Mr. Ramesh L. Maharaj** (*Couva South*): On a point of order, Mr. Deputy Speaker. We wish to raise the question whether the Deputy Speaker presiding in this House is lawful. I raise it on the basis that the Deputy Speaker is presiding pursuant to the provisions of the recently passed Constitution (Amdt.) Bill. According to that Bill the majority of Members of the House can sign a resolution which result in the immediate suspension of the Speaker, after that the resolution is handed to the Clerk.

I was supplied with a copy of the resolution last day and in that resolution I noticed that the Deputy Speaker signed that particular resolution. When the Deputy Speaker signed the resolution, he was in effect, a presiding officer. One needs 19 Members in order to sign that resolution. Therefore, the question arises whether the Deputy Speaker, whilst performing the function of the Deputy Speaker, the presiding officer, can sign such a resolution.

It would appear to us that there is a distinction between an elected Member when he is presiding. Presiding as an elected Member, he does not have a vote or a jurisdiction to sign such a resolution or he would appear to be partisan because he is signing it with the governing party. Therefore, it is a serious question which arises and it is our duty to draw it to the attention of the House.

Sir, we would like you to consider it. If that particular resolution is not effective, with the greatest respect to you, you do not have the jurisdiction or the power to preside, because you can preside only if the Speaker is unavailable.

**Hon. Members:** Expel him.

**Mr. R. L. Maharaj:** We are saying you do not have any jurisdiction to preside in this House, and we raise that as a point of order. We await your ruling, Sir.

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. Deputy Speaker, the Constitution provides that in the absence of the Speaker,

*Presiding Officer (Signature to Resolution)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

the Deputy Speaker shall preside. I am not certain exactly what point the Member for Couva South was making. But quite clearly, as a Member of Parliament, and prior to signing the resolution as a Member of Parliament, you are so entitled to sign the resolution. If the signing of that resolution causes certain events to take place that now put you in the chair, then I do not understand the difficulty that the Member for Couva South has. You have quite properly signed the resolution and you have quite properly, under the Constitution, assumed the Chair in the absence of the Speaker.

**Mr. Deputy Speaker:** I thank very much the hon. Member for Couva South, and the Attorney General and Minister of Legal Affairs.

This question, to some extent arose at the sitting of August 4. I took the opportunity then to draw the attention to the member for Couva South, and I believe with inputs from the Member for Couva North as well, to Standing Orders 5(1) and 93.

I ruled then that the Deputy Speaker has every right to preside over the sitting in the absence of the Speaker. As the Attorney General explained, the Deputy Speaker and Member for Arima signed a resolution based on the amendment to section 50 of the Constitution. I ruled that the Member for Arima and Deputy Speaker, was right to sign that resolution at the time and before and before he occupied the Chair.

I so rule.

**Mr. Valley:** Proper ruling. *[Interruption]*

**Mr. Deputy Speaker:** Order, please! May we have order, please!

#### LEAVE OF ABSENCE

**Mr. Deputy Speaker:** Hon. Members, I have granted leave of absence today to the Member for Port of Spain North/St. Ann's West (Mr. Desmond Allum).

#### NATIONAL YOUTH PARLIAMENTARIANS (VISIT)

**Mr. Deputy Speaker:** Hon. Members, we are pleased to have today with us the young parliamentarians who will be participating in the National Youth Parliamentary Debate.

As Members will recall, in an effort to foster and promote youth development, the Trinidad and Tobago Branch of the Commonwealth Parliamentary Association, under the sponsorship of Petrotrin, will be holding the third National

Youth Parliamentary Debate carded for Monday, September 18, 1995 at 1.00 p.m. in this Parliament Chamber.

We are indeed pleased to have them with us today. I anticipate that, as a result of their presence, Members will choose to display their best possible behaviour.

**Mr. B. Panday:** Starting with the Chair.

**Mr. Deputy Speaker:** Yes, starting with the Chair. You are assured.

**SEATING ARRANGEMENT  
(MR. R. MARAJ)**

**Mr. Deputy Speaker:** Hon. Members, at the last sitting of this House I had advised Members that there is a specific requirement of all Parliaments, that a Member should sit on the side of the House to which he belongs. I further advised that in this and previous Parliaments of Trinidad and Tobago, Members of the governing party sit on the right side of the Chair, once there are sufficient seats, and Members of the Opposition on the left.

Having regard to the fact that the Member for San Fernando West indicated to me that he remains a member of the ruling party, I had instructed the Sergeant-at-Arms to place the card representing the Member's constituency on the Back Bench on the right side of the Chamber.

At the last sitting of the House, I had requested the Member for San Fernando West to provide me with the reasons for relocating himself to the opposite side of the Chamber.

**1.40 p.m.**

Hon. Members, I have today received a letter from the Member for San Fernando West, which I shall read into the records of this House. The letter is dated 11.8.1995. It states:

“The Deputy Speaker of the House of Representatives,

The Honourable Rupert Griffith.

Dear Sir,

In response to your request for an explanation regarding a change in my seating arrangement in the parliamentary Chamber, I write to inform you that I feel more comfortable in my new position.

*Presiding Officer (Signature of Resolution)*  
[MR. DEPUTY SPEAKER]

*Friday, August 11, 1995*

I am convinced you are sensitive to my feeling on this matter, but I am also very prepared to abide by your ruling.

Yours respectfully,

Ralph Maraj”

I noted today that the hon. Member is still located where he was over the last two sittings. Hon. Members, a presiding officer can only exercise authority in accordance with formal procedures and practices. He or she has no other authority.

According, and notwithstanding the Member’s discomfort, the position remains that the Member should sit on the side to which he belongs, in the seat designated to him.

#### **PAPERS LAID**

1. Statement of the president under section 9 (1) of the constitution setting out the specific grounds on which the decision to declare the existence of a state of public emergency in the city of Port of Spain was based. [*Attorney General and Minister of Legal Affairs (Hon. K. Sobion)*]
2. Report of the auditor General on the Accounts of the Trinidad and Tobago Unit Trust Corporation for the Year ended December 31, 1994. [*The Minister of Finance and Minister of Tourism (Hon. W. Mottley)*]

*(To be referred to the Public Accounts Committee)*

3. Executive reports on the divestment of the following companies:

Arawak Cement Limited

Trinidad and Tobago (BWIA International) Limited

Trinidad and Tobago Mortgage Finance Company Limited

National Fruit Processors

National Flour Mills Limited

Point Lisas Industrial Port Development Corporation Limited

Trinidad Cement Limited

National Poultry Company Limited

Polymer (Caribbean) Limited

Certain Minority Interest Public Companies

Angostura Holdings Limited

Angostura Bitters Limited

Neal and Massy Holdings Limited

*[The Minister of Trade and Industry, and Minister in the Ministry of Finance (Hon. K. Valley)]*

4. Annual report of the Tobago House of Assembly for the year ended December 31, 1993. *[Hon. K. Valley]*

#### ORAL ANSWERS TO QUESTIONS

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Mr. Deputy Speaker, the Government is able to answer question No. 164 on the Order Paper and is requesting a postponement of two weeks for the other questions.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, I regret having to stand up almost every Friday in this House with respect to this issue. I know that the Speaker or the Deputy Speaker does not have any authority to command the Government to answer questions, but questions are a means by which the Opposition can ask the Government to account to the population through Parliament.

And having regard to the fact that these questions have been adjourned time and time again and the Government is not keeping its promises, I put on the record again that the Government should really make an effort to answer these questions as we are coming to the end of the session. Maybe it could give a commitment that at the next sitting it would try to get rid of all the questions.

**Hon. K. Valley:** Mr. Deputy Speaker, it is incorrect to say that these questions were deferred before. Questions were deferred before, but not these questions. If Members would look, they would see that these are recent questions. I would undertake to try to have all answers that are pending answered at the sitting of Parliament, even if one has to waive the Standing Orders, if we are allowed to do so. You know how difficult it is to waive Standing Orders in the House.

**Mr. Deputy Speaker:** I think that is a response that at least both sides can take note of.

*The following questions stood on the Order Paper:*

**Enterprise Community Centre  
(Rebuilding of)**

- 134.** (a) Would the hon. Minister of Community Development, Culture and Women's Affairs state whether the Enterprise Community Centre is to be rebuilt?
- (b) If it is to be rebuilt, would the Minister state:
- (i) when construction work is expected to begin;
  - (ii) where would it be built;
  - (iii) the type of centre to be constructed;
  - (iv) the estimated cost of the project? *[Mr. R. Palackdharrysingh]*

**Crime Escalation—Central Trinidad  
(Remedial Steps)**

- 165.** Would the hon. Minister of National Security indicate whether any steps have been taken to deal with the escalation of crime in Central Trinidad?  
*[Miss H. Bhaggan]*

**Road Improvement Fund  
(Second Biannual Report)**

- 177.** (a) Would the hon. Minister of Works and Transport indicate to this House whether the Second Biannual Report of the Road Improvement Fund Programme has been completed;
- (b) If it has been completed, could he state why it has not yet been presented in Parliament?
- (c) If it is not completed, could he give the reason why it has not been completed, and could he also indicate when the report is likely to be completed and presented to Parliament? *[Mr. R. L. Maharaj]*

**Central Bank  
(Statement of "Other Assets")**

- 178.** Would the hon. Minister of Finance please state:
- (a) The amount appearing under the heading "Other Assets" in the latest weekly statement of the Central Bank of Trinidad and Tobago?

- (b) Full details of the items aggregated under this heading and the corresponding figures against each item? *[Mr. T. Sudama]*

**WRITTEN ANSWERS TO QUESTIONS**

**Road Improvement Fund  
(Award of Contracts)**

- 168.** (a) Would the hon. Minister of Works and Transport please state the names of the companies and/or firms which have been awarded contracts in respect of projects under and/or in respect of the Road Improvement Fund;
- (b) Could the Minister state whether officers of his ministry and/or their spouses or relatives have shares and/or interests in these companies? If they do, could he give the names of the officials, the names of the spouses or relatives, the nature of the family relationships and the names of the companies;
- (c) Would the Minister give the particulars of these contracts, which particulars are to include the names of the contractors, the contract price of each contract and the place the contract was performed? *[Mr. R. L. Maharaj]*

**Road Improvement Fund  
(Rental of Vehicles)**

- 169.** (a) Would the hon. Minister of Works and Transport state whether the Road Improvement Fund has been used by his ministry for vehicles to be rented for officials of his ministry?
- (b) If the answer is in the affirmative, would the Minister state whether the officers who used these vehicles also collected travelling allowances as public officers?
- (a) Would the Minister give particulars of the rental; agreements, giving the names of these companies and/or firms with which these agreements were entered, the sums of moneys paid for each rental and the reason and/or reasons for the rentals? *[Mr. R. L. Maharaj]*

*Questions, by leave, deferred.*

## ORAL ANSWER TO QUESTION

**Police Stations—Central  
(Serviceable Vehicles Assigned to)**

**164. Miss Hulsie Bhaggan** (*Chaguanas*) asked the Minister of National Security:

Would the hon. Minister indicate the number and type of vehicles in good working condition, which are assigned to the Cunupia, Caroni and Chaguanas Police Stations?

**The Minister of National Security (Hon. John Eckstein):** Mr. Deputy Speaker, one vehicle, a Toyota jeep is assigned to the Cunupia Police Station. This vehicle is in good working condition.

At the Caroni Police Station, there is one Land Rover jeep, which has been recently repaired and is now in good working condition.

The Chaguanas Police Station is served by four jeeps, one prison van and two motor cars. At present, however, two jeeps, the prison van and one of the motor cars are undergoing repairs. They would return to the station as soon as they become serviceable. The remaining vehicles, two jeeps and one motor car, are in good working condition.

**Miss Bhaggan:** Would the hon. Minister indicate whether his Government intends increasing the number of vehicles to the Caroni and Cunupia Police Stations?

**Hon. J. Eckstein:** Mr. Deputy Speaker, I cannot give an answer to that question at this point, but I am prepared to research the matter and make the answer available to the Member.

**PRESIDENT'S STATEMENT  
(STATE OF EMERGENCY)**

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. Deputy Speaker, I beg to move the following motion:

*Resolved:*

That this House take note of the statement of the President under section 9 (1) of the Constitution setting out the specific grounds on which the decision to declare the existence of a state of public emergency in the city of Port of Spain was based.

Sir, we have had a very eventful parliamentary session and as I understand from the Leader of Government Business in the House, shortly, we should be



taking a brief recess so as to replenish our energy until we are recalled to do business in the House.

I also noticed the return of the Members for Tobago East and West who were not here on the last two occasions when we sat on matters of some critical importance, one being the Constitution (Amdt.) Bill which amended section 50 of the constitution, and secondly, the situation where the state of emergency which was declared on Thursday last was ended by resolution of this House.

**1.50 p.m.**

Section 9 (1) of the constitution provides that the President of the Republic ought, within three days of the making of the proclamation of a state of emergency, deliver to the Speaker for presentation to the House of Representatives, a statement setting out the specific grounds on which the decision is based, and that a date shall be thereafter fixed for a debate on that statement.

There are some who may argue, and not without some merit, that a debate on the President's statement is essentially designed to determine whether a state of emergency should be extended. By section 9 (1) the debate must take place within 15 days, and the Proclamation made by the President—and this is section 9 (2)—

“... for the purposes of and in accordance with section 8 shall, unless previously revoked, remain in force for fifteen days.”

So that the argument, which is logical to some extent, is that the purpose of a debate on the President's Statement is essentially designed to determine whether the state of emergency should be extended beyond the 15-day period.

The statement has been laid and if we accept that line of reasoning, we may be pursuing a fairly academic exercise, as the Proclamation was determined by resolution of this House without debate last Monday. If, however, that line of reasoning is wrong, then we can ask to what purpose is a debate on this Motion, because the House cannot really lend any assistance to an individual who may be of the view that some right or rights of his may be infringed by reason of the declaration. So, to some extent, this House cannot really provide a remedy. A remedy, as we all know, must be sought in other places.

I, therefore, wish to recommend to this House, that as the resolution is framed, we note the President's Statement. Before I take my seat, however, perhaps I should say a few words on this matter.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

The Constitution of Trinidad and Tobago provides, happily, at section 8, for a proclamation a state of emergency. The Constitution, as we all are aware, provides for the protection of the fundamental rights and freedoms of the citizen and the safeguard that where it becomes necessary, those fundamental rights can be suspended by way of the proclamation of a state of emergency. It is a serious situation. It is one which ought not to be taken lightly, but quite clearly it provides a remedy for the State to take control of affairs where an emergency arises.

The human rights advocates among us—and I count my friend the Member for Couva South as being in that category—will perhaps stridently argue that it is a step which ought not to be taken at all. That is one view. There is a view that the ultimate sanction of the State, perhaps, ought not to be taken at all because it means the suspension of the fundamental rights and freedoms of the citizen.

These very human rights advocates will also tell us that they have the right to defend the fundamental rights of persons who commit even the most atrocious offences in our society, and some of them are even moved to tears in defence of the Glen Asbhys and the Lincoln Guerras of this world. I have no difficulty with persons holding on to those sections of the Constitution which provide a remedy and relief for those who may act outside the scope of the law.

The argument goes even further. They have a right to a defence attorney of their choice. Certainly this Government, in a democratic society such as Trinidad and Tobago, will never seek to take away those rights which are enshrined in section 4 of the Constitution.

In relation to the declaration of the state of emergency, there are those who will make the kind of argument that it ought not to be done at all because it interferes with the fundamental rights of individuals. There are some who have argued and will continue to argue that the Government, in this particular instance, perhaps acted too early and that it should waited until it had become quite clear exactly what the Presiding Officer of this Chamber intended to do.

I also have no difficulty with that argument because it is those very persons who, in the aftermath of 1990, argued that the Government then should have acted sooner. So that when they say now that the Government acted too early, I think they do not understand the provisions of section 8 of the Constitution.

Section 8, specifically subsection (2)(c), provides for a situation where action taken by a person, or action, threatened by a person, is such as leads to concern as to public safety. So that by itself section 8 recognizes that pre-emptive action is sometimes necessary.

We must face reality. Up to last Friday we had a Presiding Officer, who, in the view of many, was acting almost like a runaway train; a Presiding Officer who was seen to be acting in accordance with the Standing Orders of the Parliament. She had virtually cast aside our little blue book of rules and we were faced in this Parliament with a circumstance where it was very likely that suspension of Members could, almost in lotto-like fashion, become a regular Friday activity—a virtual “quick pick” situation—Who is next? We were reaching a situation, where there were concerns as to the operations of the Presiding Officer and as to how effectively this Parliament could continue to function.

**2.00 p.m.**

The President has submitted a statement, and that statement was circulated on Monday, but was formally laid in Parliament earlier today. The President in his statement said:

“On Thursday August 3<sup>rd</sup>, 1995 a Proclamation was issued declaring a state of public emergency in the city of Port of Spain. Section 8 (2)(c) of the Constitution makes provision for a state of emergency to be declared *inter alia* when the President is satisfied that action has been taken, or is immediately threatened by any person of such a nature and on so extensive a scale, as to be likely to endanger the public safety.”

In so doing, the President of the Republic of Trinidad and Tobago noted, among other things:

“During the period July 5 to July 31, 1995 on diverse occasions The Honourable Speaker flouted the Standing Orders of the House and did not comply with established parliamentary practice and procedure.”

What are we to make of such a statement? Let us consider briefly for a moment what transpired between the period July 04, 1995 and July 31, 1995. The chronology of events reads almost like a sci-fi horror story.

On or about July 5, 1995 the hon. Speaker, without lawful authority, amended a motion of no confidence put forward in Parliament by the Government. The amended motion was then placed on the Order Paper, and on or about July 12, 1995 the hon. Speaker, again, without authority, amended the parliamentary Order Paper to create opportunities for establishing her own defence in respect of the motion of no confidence. On that day, having amended unilaterally the Order Paper, the hon. Speaker dismissed the said motion of no confidence, again, without lawful authority, and outside the scope of the Standing Orders.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

I do not wish to comment much further on the July 12, 1995 scenario, but those of us who were present in the House would all be aware that the Speaker, then having a motion for the adjournment of the House before her, without putting the question on the adjournment, invited responses from Members sitting in the Parliament who conveniently were able to respond, by way of prepared text, to the particular questions and issues which concerned and troubled the Speaker.  
*[Interruption]*

**Mr. Robinson:** Mr. Deputy Speaker, on a point of order. I object to this misrepresentation. I was one of those replying and I have in my possession the notes that I used on that occasion.

**Hon. K. Sobion:** Mr. Deputy Speaker, the Member for Tobago East denies that he spoke from a prepared text and I am not going to press the point, but it just so happens that he has, even today, a manuscript text which he waved.

**Mr. Robinson:** Mr. Deputy Speaker, apparently the Attorney General does not know the meaning of the manuscript text. I do not have any manuscript text. I have brief notes of my speech and those notes are available.

**Hon. K. Sobion:** I will not press the point. The Member for Couva South read from a prepared text. The Member for Tobago East read from copious written notes. So that there was that convenient scenario where certain particular issues were raised by the Presiding Officer and certain particular responses were given by Members opposite. We continue from July 12, 1995.

On July 20, 1995, the hon. Speaker suspended the Member for Diego Martin Central. Sorry, I have run ahead of myself—I am certain that it is a condition which will apply to the Member for Couva South; he may scamper as much as he wishes, but he will not avoid detection.

On July 24, 199, at a sitting of the House of Representatives, again, the hon. Speaker without lawful authority and in breach of the Standing Orders of the House, arbitrarily refused to rule on a motion for the adjournment of the House of Representatives to a specific date put by the Leader of Government Business. On that day, without putting the question to the House of Representatives to make a ruling on the adjournment of the House, the House was adjournment unilaterally by the Speaker to a date proposed by her and—I should perhaps, add—also proposed by the Member for Couva South.

**Mr. Sudama:** According to Standing Order No. 9.

**Mr. Valley:** Read it!

**Hon. K. Sobion:** The Member for Oropouche is right; there are provisions whereby the Speaker can adjourn the House. He is wrong about the Standing Order. It relates to a situation where a grave disorder is taking place in the Chamber. On that day there was so much grave disorder but, unilaterally, the Presiding Officer in face of a motion for the adjournment decided that she would protect the minority interest and adjourn the House to a date convenient to her.

**2.10 p.m.**

And I may say, Sir, that the Member for Tobago East sometimes protests too much. But I do recall, on that day, he threatened never to come back to the House if it was adjourned to the date on which the Leader of Government Business had proposed.

I say no more, Mr. Deputy Speaker.

**Mr. Robinson:** I never said 'never'. I wish he would use a dictionary or some guide to the use of the English language so he could understand clearly what I said.

**Dr. Rowley:** You said you were not coming back to the House.

**Mr. Robinson:** Since the Attorney General is sitting, before he concludes his speech, may I ask whether the Government side would pay me the courtesy of presenting me with a copy of the Prime Minister's speech delivered to the nation? Because that also purported to give some basis for the state of emergency. I request it today.

**Hon. K. Sobion:** Mr. Deputy Speaker, the Member for Tobago East did not say he would never come back to the House; he merely said that he would not come back again. So we would accept that.

**Mr. Robinson:** I never said that, again. Mr. Deputy Speaker, would you protect me from the tricks of the Attorney General? I almost said dirty tricks.

**Mr. Deputy Speaker:** I am not standing to protect you from tricks. But what I would merely suggest is that *Hansard* would have exactly what was said, and perhaps members could look at it and come back. Let us proceed, please.

**Hon. K. Sobion:** Mr. Deputy Speaker, I do not propose to press the point, but I would certainly consult a dictionary to determine the difference between 'never' and 'not' come back. The Member for Tobago East made that point very firmly in such a way one might say to influence the Presiding Officer as to what should be done, whether it was with the Standing Orders or not.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

When one proceeds from July 24, one goes to July 28. On July 28, the Presiding Officer suspended the Member of Parliament for Diego Martin Central, the Leader of Government Business, for a period of six months. Again, that action was without lawful authority and outside the ambit of the Standing Orders.

The suspension related to an incident which had occurred at the prior sitting. It related to a statement made by the Leader of Government Business and it was thought necessary by the Presiding officer on the next occasion after having first suggested that her powers included the right to imprison a Member, suggested that she also had the right to evict permanently a Member, but decided on the lesser of three evils—and that was a suspension for a period of six months.

I do not know where in the history of the annals of this Parliament, a Member has been treated in that way by a Presiding Officer for an offence of the nature which it is alleged he had committed, particularly where the Member, on that occasion, volunteered an apology.

I think it was in last Sunday's newspapers, I saw a report of an incident in the Legislative Council when Captain Cipriani cuffed a fellow legislator and he was suspended for that sitting. I am not, however, on the question of whether the sanction met the offence, but I am on the point that even if the Presiding Officer had the authority to do what was done, one could only term that action, excessive.

Nonetheless, the Member for Diego Martin Central dutifully retained legal advice and brought proceedings in the courts of Trinidad and Tobago and obtained from the court a conservatory order which permitted him to resume his rightful place in the Parliament.

What followed next is of some interest, because at that stage, having a conservatory order in his pocket and having expressed his determination that he would take his seat, we were faced with a scenario whereby the Presiding Officer signalled that the Order of the court was not going to affect her determination and the suspension that she had ordered.

**Mr. B. Panday:** Did she say so? Where did she say so?

**Mr. Sudama:** Could you tell us what her exact words were?

**Mr. Maharaj:** Mr. Deputy Speaker, I would like to know in what publication or where she said so, because I have some newspapers in my possession. *[Interruption]* I wonder if the hon. Minister would indicate to the House where she did say so.

*[Lights dim]*

**Hon. K. Sobion:** Mr. Deputy Speaker, I think the electricity is failing.

**Mr. Sudama:** The whole Government is failing.

**Mr. Deputy Speaker:** May we suspend for 10 minutes until the situation is corrected.

**Mr. Robinson:** Mr. Deputy Speaker, before you suspend the sitting, may I be provided with a copy of the Prime Minister's statement?

**Mr. Deputy Speaker:** I assume that hon. Members have taken note.

**2.17 p.m.:** *Sitting suspended.*

**2.33 p.m.:** *Sitting resumed.*

**Hon. K. Sobion:** Mr. Deputy Speaker, before we took the short adjournment, I was cataloguing for the benefit of Members of the House, the series of events which took place between July 5 and 31, 1995. I think I had reached the point where I noted that the Member for Diego Martin Central was suspended, and I had made reference to an article which appeared in one of the Sunday newspapers which dealt with an incident relating to two Members of parliament. That was some time ago.

Perhaps, to be a little more current, one can also refer to the suspension of another Member of this Parliament, the hon. Member for Naparima, who had an altercation with the Chair whilst the Parliament was in session and was at the time challenging a ruling of the Chair that he should withdraw a certain statement. He had the comfort of his chair to such an extent that he had to be physically removed from the Parliament. He was suspended from the service of the House for a period of two weeks.

I am making the point that quite apart from what appears to be the extreme response of the Presiding Officer in relation to the Member for Diego Martin Central, the basic point is that it was against the Standing Orders, against the practice, against the procedures, of this House.

I think I was asked where was a statement made that certain action was contemplated against the Member for Diego Martin Central on his return. I read the newspapers and I looked at the comments that are made; I read the interviews that are done by people who, as part of their profession, report the news to the public, generally. It was clear to me from statements attributed to the Speaker, which were not denied, that certain action was contemplated by the Speaker in relation to the conservatory order which he had obtained.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

More specifically, at a sitting prior to that of the House, the member for St. Joseph and the member for Ortoire/Mayaro were both warned, in no uncertain terms, that the question of their contempt of the Chair was deferred for further consideration. That was on the occasion when prepared scripts and extensive notes were used in relation to the speaker's particular problem.

What is clear is that there was a course of action taking place in this Parliament over a period of weeks which led one to the reasonable conclusion that action was being contemplated by the Presiding Officer against Members of this House and particularly against Members sitting on the Government Benches.

**Mr. Panday:** Where is your evidence?

**Hon. K. Sobion:** I am certain that even the most pious amongst us—and I include the Member for Tobago East in that category—would, no doubt, be concerned that all was not well in the state of Trinidad and Tobago; that unilateral activity was taking place in the Parliament by the Speaker outside the Standing Orders that could have led to a situation where the majority of those who exercised their franchise in the last free and fair elections of 1991 could have found themselves in a situation where they would be without representation, whether temporarily or permanently.

That was the state of affairs. There are those who want to assume some other level of moral thinking in order to convince their own political support that that was not the case, but I am certain that it is not a view shared by the population at large.

Clearly, things are beginning to break down in the Parliament, the elected forum for persons who have the right to exercise their franchise under the Constitution, and that could have resulted in a situation where they would have been disenfranchised, as it were, by the stroke of a pen. That is a situation which we, as parliamentarians, really, ought not to have tolerated.

I wonder what the average kid from Castara would have thought if the Member for Tobago East was evicted from this honourable House? I would be very concerned to know what that average kid from Castara would have thought if he had heard on the news that this Member, the erstwhile representative for Tobago East, was to be summarily ejected from the Parliament.

**2.40 p.m.**

What about the people of Charlotteville, if their dear representative, Sister Pam, were to follow suit? I am certain that every constituent of Tobago West



would have played his or her last trump to ensure that the Member for Tobago West retained her seat.

**Miss Nicholson:** We would never behave like that.

**Mr. K. Sobion:** A very good defender of the people of Tobago. I am certain that if they were to have been summarily ejected from the Parliament—

**Mr. Eckstein:** Or put to jail.

**Hon. K. Sobion:** —or put in jail, worse yet—the people of Charlotteville would have reacted strenuously on their behalf.

I do not want to forget my good friends, the Members for Couva North and Couva South. To some extent, one got the impression that they felt a little insulated by the whole situation, and felt a certain degree of protection, that they could not have been summarily ejected.

**Mr. B. Panday:** Where is your evidence?

**Hon. K. Sobion:** I do not know, but the way things were going from July 5 to 31, 1995, it may very well be that this Parliament would have been reduced to the extent that we would have been inquorate. Although the Members for Couva North and South felt somehow protected, one wonders whether there was some degree of communication between them and the Presiding Officer, which led them to that conclusion.

I am not imputing improper motives to any Member of this honourable House, but the communication which appeared to have existed, in fact, led one to have some degree of concern. I read the newspapers from time to time. I understand that at the recent public meeting certain disclosures were made with respect to a prospective Cabinet, involving who was going to be a new prime minister; who would be a good attorney general; and who would be a good minister of labour.

I am not ascribing improper motives to any Member of this honourable House, but it strikes me as strange that all these developments were taking place; new Cabinet was being picked I have no doubt, that the people of Couva South would have rallied around their Member if he was put in jail, or summarily ejected from the Parliament. He is comfortable sitting at the right hand of his leader. He is a right-hand man. I have warned the Member for Couva North, time and time again, because I do not think he can take a right hand, but he has a right-hand man whom, I am sure, his constituents would have done everything to ensure he was not summarily ejected.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

The statement of the President refers to that chronology of events and it is then left to him to determine what reasonable conclusion he can draw from that sequence of events.

He therefore notes, in the statement, that—

“The Parliament is the most critical institution which provides for the representatives of the people to establish laws and provide for the governance of the state. Any threat to the stability of the Parliament is therefore a threat to the stability of the society and therefore constitutes to public order, peace and good government.”

He says that—

“Public order and public safety are based in part on the reasonable expectations of the citizenry that the institutions of governance and democracy are functioning effectively. Once this assurance is removed the real threat of anarchy emerges. Public safety and public order are therefore seriously threatened with the attendant risks of injury to persons and damage to property.”

Section 8(2)(c) of the Constitution talks about action taken, and threatened action. It presumes a President acting reasonably, having analyzed the facts and the circumstances which existed in this country over a period of four weeks coming to certain conclusions with respect to the threat to public safety.

**Mr. B. Panday:** The President should be impeached and we would do it.

**Hon. K. Sobion:** I have no doubt that the acting President of the Republic of Trinidad and Tobago must have been concerned about the activities which were taking place in Parliament and the possible, or likely consequences, which could have flowed there. That is all that was required to be done. By section 8(2)(c) of the Constitution, the President must analyze the facts and circumstances which exist and come to a reasonable conclusion as to what is likely to happen. In his statement, which is now part of the record of this House, the President expressed his view in clear and unambiguous language.

He said—

“As a consequence of these events I was satisfied that the public safety was endangered to an extent that warranted the declaration of a state of public emergency...”

I am sure that when he contemplated these matters he was satisfied that the potential or likelihood of a breakdown of one of our most important democratic institutions could have led to serious instability in the country.

Pre-emptive action was necessary, and, in fact, has proved to be effective. Our Parliament is mandated by the Constitution to make law for the peace, order and good government of the country. The Parliament is comprised of persons elected by their constituents; elected by persons who have a right to so do. In our tradition we have had free and fair elections over a considerable period, and it is not for any person not elected in that process to frustrate the *vox populi*.

The people have spoken; they have put some of us on the Government Benches and they have put some of them on the Opposition Benches. I am not going to second-guess the thinking of the population of Trinidad and Tobago. Suffice it to say that in my view, they did right by making the arrangements which they have made in the Parliament.

**Mr. B. Panday:** By a minority vote.

**Hon. K. Sobion:** There are some who suggest that the Government was somehow weak in the way it acted in relation to that trail of events. Those who criticize the Government for being weak are exercising their right of freedom of speech; a right which this Government will continue to uphold.

**2.50 p.m.**

We in Government are of the view that in all our actions we must do the right thing. We must do the right thing for the benefit of the population as a whole, and not on any partisan basis. We will continue to do what we think is right in the interest of Trinidad and Tobago and in the interest of preserving democracy and our democratic way of life.

If it means utilizing the ultimate power which is vested in the state to institute a state of emergency in order to preserve the democratic rights of the majority of the population of Trinidad and Tobago, this Government will do it. If acting in accordance with the laws and the Constitution of Trinidad and Tobago is being weak then so be it; if acting with dignity and restraint is being weak, then so be it. When the crunch comes, if one has to act decisively in the interest of the nation, then so be it.

Arising from the events of the past few weeks, there are several matters now engaging the attention of the courts. I say no more in respect of those matters, save that I can only hope that there would be an early resolution and that the

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

processes of the court would aid this Parliament in getting back to the kind of mode that the Constitution demands.

As a Parliamentarian and a Minister of Government, I have complete faith in our democratic institutions; the courts—their processes—the Parliament. I have complete faith that our democratic institutions will continue to work in the best interests of the people of Trinidad and Tobago.

Time after time we have demonstrated to the world that we firmly abide by due process and proper recognition of our democratic institutions. Aberrations will come and aberrations will go, but once we are committed to the path of democracy and right thinking, no aberration will stand in the way of our democratic institutions. The rule of law. In my view, will always continue to prevail. It will, perhaps, be a light which shines over this parliament and keep the people's representatives on the right path with their continued faith in our democratic institutions.

I thank you.

I, therefore, beg to move.

*Question proposed.*

**Mr. Basdeo Panday (Couva North):** Mr. Deputy Speaker, I am amazed at the frivolity with which the hon. Attorney General and Minister of Legal Affairs has treated a matter of so serious a nature. One of the most important provisions in the Constitution is the enshrining of our liberties, freedom. A state of emergency is an act which suspends that freedom. It is the most serious act that a government can perform insofar as the liberties of the individual are concerned. The Attorney General and Minister of Legal Affairs treats this with frivolity, as if it were a joke. I refer to section 8 of the Constitution which says:

- (1) "Subject to this section, for the purposes of this chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.
- (2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied-
  - (a) that a public emergency has arisen as a result of the imminence of a state of war between Trinidad and Tobago and a foreign state;"

Firstly, that is the kind of grave situation that the Constitution contemplates should exist before one suspends the rights of one's citizens by declaring a state of emergency.

Secondly, the President must be satisfied that there is a state of war—and there was no state of war as far as I am aware. The only state of war existed in the ruling party and that is not the kind of war, I am sure, the Constitution is speaking about.

Since there was no state of war, the President had to be satisfied:

“(b) that a public emergency has arisen as a result of the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or of infectious disease, or other calamity whether similar to the foregoing or not.”

There was some flood, yes. There must be a catastrophe before one suspends people's rights. Since none of these existed, according to the Constitution, the President must satisfy himself, not somebody else, must satisfy himself:

“(c) that action has been taken, or is immediately threatened, by any person, of such a nature and so on extensive a scale, as to be likely to endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.”

That is what the Constitution says. Having declared a state of emergency the Constitution further states:

“(9) (1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable but in any event no later than fifteen days from the date of the Proclamation.”

I disagree with the Attorney General and Minister of Legal Affairs that this is an academic exercise and that the purpose of the statement by the President and its debate, is to determine whether the state of emergency should continue, and having regard to the fact that the state of emergency no longer exists, there was really no point in debating this. I disagree with that totally.

The point of enacting and compelling the President to present a statement to this House is for the House to adjudicate upon it. We must say whether that state of emergency was properly declared or not.

**3.00 p.m.**

**Mr. Sobion:** Mr. Deputy Speaker, for the record, let me indicate to the Member for Couva North that it was not my view that this was an academic

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

exercise. I clearly said that some may argue that it is purely academic. The fact that we set the debate on this statement for today shows that we are not of that view.

**Mr. B. Panday:** I am happy to hear the Attorney General and I apologize to him if I have misinterpreted what he said. I repeat what I said. The purpose is for the House to adjudicate upon whether the state of emergency was properly declared or not. I want to assure him that we propose to amend this motion to the effect that this House must declare that the state of emergency was unlawful.

I now come to the President's Statement having declared the state of emergency. Under section 9 (1) he delivered his statement as to why he was satisfied that conditions existed which endangered life and denied people of basic supplies of service.

I read the statement of the President.

**Mr. Robinson:** Before the Leader of the Opposition proceeds, I ask for your guidance on this Mr. Deputy Speaker. I seem to have information that the legality of the state of emergency is a matter before the court. Is that so? Could the Attorney General state what is the position in respect of that matter?

**Mr. Sobion:** Several matters have been filed in the court. I do not think there has been a direct challenge to the state of emergency at this point. The Member for Couva South tells me, "not yet."

**Mr. B. Panday:** I was about to read the statement of the President to this House. It reads:

"On Thursday, August 3, 1995 a Proclamation was issued declaring a state of public emergency in the city of Port of Spain. Section 8 (2) (c) of the Constitution makes provision for a state of emergency to be declared inter alia when the President is satisfied that action has been taken, or is immediately threatened by any person of such a nature and on so extensive a scale, as to be likely to endanger the public safety.

In determining that public safety was endangered I acted in accordance with the advice tendered to me by the hon. Prime Minister as follows:-

As far as I am aware, the Constitution said that the President must be satisfied. The Prime Minister cannot declare any state of emergency! According to this, it is the Prime Minister who declared the state of emergency. The President said that he had acted in accordance with the advice, not information, as tendered to him by

the hon. Prime Minister. He now uses quotation marks to indicate that these are the words which the prime Minister used to him.

“During the period July 5 to July 31, 1995 on diverse occasions the Honourable Speaker flouted the Standing Orders of the House and did not comply with established parliamentary practice and procedure.”

Who is telling him that? The Prime Minister. The Prime Minister now assumes the role of the judges. He determines whether the Speaker is interpreting the rules properly or not. It is not this House that determines that. It is the Prime Minister. He is judge, jury and executioner. He is now referred to as the boy emperor. I continue the statement as given by the Prime Minister to the President.

“The honourable Speaker on July 28, 1995 in contravention of the Standing Orders of the House of Representatives and established parliamentary practice and procedure suspended the Member of Parliament for Diego Martin Central, the Leader of the House, for a period of six months and intimated her intention to similarly apply contempt charges against other Government Ministers.”

Today in this House, one would have expected the Prime Minister to give the evidence that he supplied to the President. He cannot merely tell the President his feelings and what he thinks is in somebody's mind. That is worse than a kangaroo court. The President accepts that he is going to act on a possible aberration of the Prime Minister; something that he had a dream about, not evidence. Where is the hard, cold evidence that the Speaker intended similarly to apply contempt charges against other Government Ministers? Not a shred of evidence has come out in this Parliament today!

“On the 31<sup>st</sup> day of July, 1995 the honourable Member of Parliament for Diego Martin Central was granted a conservatory order by the High Court allowing him to continue to sit in the House of Representatives.”

Is that itself evidence and if the Speaker suspends someone wrongfully or not even wrongfully, but while the matter is being adjudicated upon, that person gets a conservatory order to come back into the House? Where is this danger to the community? Even assuming, but not admitting, that the Speaker intended to suspend—because as far as I am aware there is no evidence of it—or to apply contempt charges against other Members, how could that have endangered public safety and deprived the community of basic supplies essential to life?

**Mr. Manning:** You think I am foolish?

**Mr. B. Panday:** Now I am sure that you are.

**Mr. Manning:** You will find out.

**Mr. B. Panday:** I continue.

“The hon. the Speaker indicated her intention to disregard the Order of the High Court at the next sitting of the House of Representatives, namely, Friday, 4<sup>th</sup> day of August, 1995, by stating that the High Court had no power to interfere in the internal management of the House.”

If the Speaker expresses an opinion that she is of the view that the High Court cannot interfere with the power of the House, is that statement of the Speaker evidence of an intention to breach the order? How can that be a statement of intention to breach the order? It cannot be! On many occasions an injunction has been granted to other people and they come outside and say that the judge was wrong and biased. I would be in contempt if I breach an injunction and therefore, I shall abide by it. If I say that the judge is wrong, does that automatically mean that I am going to break the injunction? How can that possibly be evidence of that?

### **3.10 p.m.**

The Prime Minister went on to tell the Acting President:

“From reliable information, The Honourable Speaker intended to continue this course of action against other members of the Government thereby rendering it impossible for the Government through Parliament to provide for peace, order and good Government and to protect the public safety.”

Again, where is the evidence? That is your opinion. Your opinion is not sufficient to declare a state of emergency and take away the rights of people. It seems that the emperor needs new clothes. *[Interruption]* What can be more hollow than the Prime Minister telling the President “from reliable information”? What is that information? We expect him to get up in this house today and say what that information is. We are not asking him to tell us how he got it; we are asking him to tell this House what information he had, when he told the President he had reliable information.

That information was that the Speaker was going to take action against other Members. That is an illusion in his head. That is a vision. Where is the evidence? Where up to this moment is the evidence that the Speaker was going to act in such a way? *[Interruption]* My learned colleague has pointed out to me that the



newspaper report actually said the contrary. An article in the *Newsday* by Mr. Curtis Williams and Naline Seelal on August 4, 1995 says that:

“House Speaker, Occah Seapaul, yesterday said that she made no special plans for today’s sitting of Parliament and as far as she is concerned today’s sitting of the House will be a normal one in which she will preside as part of her functions.” So, the evidence that is here is evidence to the contrary, and he has read the newspaper. My colleague will make reference to others.

I do not want to lose the gist of the point I am making, that is to say, what he told the President and the President acting on what he told him. The Prime Minister went on to say:

“The Parliament is the most critical institution which provides for the representatives of the people to establish laws and provide for the governance of the State. Any threat to the stability of the Parliament is therefore a threat to the stability of the society and therefore constitutes a threat to public order, peace and good government.”

The prime Minister is talking to the President. He is not forming any opinion. The Prime Minister continues:

“Public order and public safety are based in part on the reasonable expectations of the citizenry that the institutions of governance and democracy are functioning effectively. Once this assurance is removed the real threat of anarchy emerges. Public safety and public order are therefore seriously threatened with the attendant risks of injury to persons and damage to property.”

That is a *non sequitur*. It does not follow that if the Speaker wrongly suspends someone, the Parliament collapses. The Member for Diego Martin Central claims that the Speaker wrongly suspended him. He is sitting here today.

**Mr. Valley:** But the Speaker is not here.

**Mr. Sudama:** That is why they have declared that state of emergency.

**Mr. B. Panday:** Now, we know the reason for the state of emergency.

“As a consequence of these events...”

What events? These events related to him by the Prime Minister? Not the opinion, the events. He acted on events not on opinion. So that all the opinions the Prime Minister gave him must be discarded. As least he is saying so.

*President's Statement (State of Emergency)*  
[MR. B. PANDAY]

*Friday, August 11, 1995*

“As a consequence of these events I was satisfied that the public safety was endangered to an extent that warranted the declaration of a state of public emergency in the city of Port of Spain.”

Any President of this country who makes a statement like that, brings the nation into contempt and ridicule and should be impeached.

When he made the declaration, his Proclamation read:

“Whereas

- (a) it is enacted
  - (i) by section 10 (4) of the Constitution that a ‘period of emergency’ means inter alia any period during which there is in force a Proclamation by the President declaring that a state of public emergency exists; and,
  - (ii) by section 8 (2) of the Constitution that a Proclamation made by the president shall not be effective unless it contains a declaration that the President is satisfied that action has been taken or is immediately threatened by any person of such a nature on so extensive a scale as to be likely to endanger the public safety or to deprive the community of supplies or services essential to life; and
- (b) I am satisfied that such action has been taken or is immediately threatened.”

Upon this statement, and on what the Prime Minister told him, he is satisfied.

“Now therefore, I, Joseph Emmanuel Carter, Acting President as foresaid in pursuance of the powers conferred upon me by section 8 (1) of the Constitution hereby declare-

- (a) that action has been taken or is immediately threatened by persons of such a nature and on so extensive a scale as to be likely to endanger the public safety;
- (b) that a state of emergency exists in the City of Port of Spain in the republic of Trinidad and Tobago.”

This is the most frivolous reason given for declaring a state of emergency. It seems that they are not too sure, because the Prime Minister goes on a public radio and television hook-up and says something else. He says that there is a conspiracy, a diabolical plot. The Prime Minister sees ghosts around every post.

He sees the devil everywhere. Go and be baptized again, for God's sake! He suffers from hallucinations, illusions and delusions. *[Interruption]* Yes, that is strong language.

In the statement the hon. Attorney General on the Seapaul issue and how the state of emergency has been declared, said to this House:

“...the Government, last evening, advised the Acting President of the Republic to proclaim a state of emergency, limited to the City of Port of Spain. Subsequently, an order of detention was served on the Speaker of the House of Representatives, Madam Occah Seapaul. Madam Seapaul will remain in detention at her residence, 9 Mary Street, St. Clair, until further order.”

Obviously, that is why the state of emergency was declared—so that they may imprison the Speaker so she cannot sit in the Chair. That is the reason, and I do not know any other incident where a state of emergency was declared to arrest one person. *[Interruption]* C. L. R. James. You know, Prime Minister, I always say you should not try to follow Eric Williams. You have all of his bad habits and none of his brains.

The hon. Attorney General went on to say:

“For the past few weeks, the Parliament of the Republic of Trinidad and Tobago has been subjected to action by the Speaker which is unprecedented, and which now threatens to usurp the rights of the elected representatives in Parliament, and in particular, those of the representatives of the majority.

Indeed, these actions are aimed at destroying the very parliamentary democracy to which we all subscribe. The Government, throughout this unfolding drama, has sought to act with restraint and within the bounds of proper legal, parliamentary and constitutional procedures. We saw it as our duty to uphold the dignity of Parliament and that of the office of Speaker. In doing so we endeavoured to protect the interest of the citizens of Trinidad and Tobago. Whilst as a Government we had several options, it was our hope that we would not have had to apply the ultimate constitutional powers of the State.

### **3.20 p.m.**

They are applying the ultimate constitutional powers of the State, the ultimate coercive machinery, to lock up one little lady because she is interpreting the Standing Orders of this House in a manner that he considered unlawful. That is not a reason to declare a state of emergency. A government does not declare a

*President's Statement (State of Emergency)*  
[MR. B. PANDAY]

*Friday, August 11, 1995*

state of emergency to effect personal spite, vindictiveness and venom against someone. That is not the way a government behaves.

The Attorney General told this House that at every stage the Government hoped:

“that good sense would prevail; and that moral suasion and established parliamentary procedures and conventions would prevail. Regrettably, this was not to be.

In keeping with this approach, the Government did pursue the following courses of action: It initiated private and confidential discussions with the Speaker; that failed.”

As far as we are aware, the private and confidential discussions were, indeed, a threat, because the hon. Member for Couva South made a statement in this House which was not challenged by the other side.

**Mr. Maharaj:** You did not want anybody to know. I see. You wanted it to be a secret. I see.

**Mr. B. Panday:** As a matter of fact, My friend has pointed out something to me which I did not see because I do not read the *Express* newspaper.

It reads:

“Seapaul, I am standing on my ground.”

In a telephone conversation on July 03, Occah Seapaul was warned by the Attorney General, Keith Sobion when he said:

“The going would be very rough and things could get nasty.”

The Attorney General went to the Speaker and that is the confidential conversation he had with her, telling her that the Prime Minister is a stubborn man. The Attorney General went there to tell her to go, because the Prime Minister said she must go. That is the private conversation he had with her. In fact, he has not stated what the private conversation was about up to today.

**Mr. Sobion:** That was private and confidential.

**Mr. B. Panday:** It was private and confidential as far as you are concerned.

**Mr. Maharaj:** So the Government is entitled to have private and confidential talks, but when we talk it is a conspiracy. But that is not a conspiracy?

**Mr. B. Panday:** Private and confidential.

**Mr. Manning:** You all had better be careful.

**Mr. B. Panday:** You stop threatening people! Be careful of what! Who do you think you are? Be careful! Be careful!

**Mr. Maharaj:** Threaten people! Who do you think you are?

**Mr. B. Panday:** The Prime Minister behaves so puerile; he is like a little boy. Threatening people—Panday should be careful how he is asking to arrest other people. Why does he not arrest other people? He behaves like a little child.

**Mr. Maharaj:** The Prime Minister got a few police officers and tailored them—his drug friends.

**Mr. B. Panday:** You must not threaten people, please. It is unbecoming of a Prime Minister. Act if you have to act.

What I am saying is that Madam Seapaul supplied to her lawyers a statement of the conversation and the behaviour that the Attorney General refers to as confidential discussions in which he simply went to her and told her to go, and this failed.

“The Government was then forced to file a motion of no confidence in the Speaker. Common decency and established conventions dictated that the Speaker not be a judge in her own cause. The application of this convention was dismissed by the Speaker.

The Government then introduced a constitutional amendment which was passed in the other place with an overwhelming majority.”

That in itself was an act of indecency—to go to a nominated body to adjudicate first upon what was happening in the elected body. Obviously, the Government went there because it felt the motion would have been passed and that was going to influence the happenings in this House. That, in itself, was an act of indecency and contempt for the elected Members of this House.

“These measured and procedurally correct approaches have been met at every turn by arbitrary and capricious action of the Speaker. In short, the Speaker effectively sought to frustrate the will of the elected Members of Parliament, the representatives of the people.”

But the Government did not go to the representatives of the people to determine what should happen in this House; it went to the other House.

*President's Statement (State of Emergency)*  
[MR. B. PANDAY]

*Friday, August 11, 1995*

“The final act of usurpation was the suspension by the Speaker of the hon. Member for Diego Martin Central in clear breach of the Standing Orders and procedures of Parliament.”

Who determines that? The PNM party determines whether the Speaker is right or wrong? Is there not a provision in our Standing Orders for determining whether a Speaker rules rightly or wrongly? As far as I am aware, the Standing Orders contain a provision where one can move a substantive motion to overturn the ruling of the Speaker—if the majority of this House is of the view that the Speaker's ruling is wrong.

As a matter of fact, the Standing Orders make provision that even if the Speaker lawfully—not only unlawfully—suspends from this House for a period, a motion can be brought to this House to remove the suspension. One cannot say that he or she went to the President and said, “This woman will mash up this Parliament and there will be chaos in the society,” when Standing Order 43 (70 says,

If a member is suspended under any provisions of this Standing Order, his suspension shall continue until it is terminated by resolution of the House.”

So if the Speaker suspends someone you come to the House. The person did not even have to go to court, but the point is you went to court and the court granted a conservatory order. If the Speaker acted unlawfully there are two methods—to go to court to get a conservatory order so that the suspended Member can sit in this House, or to use the Standing Orders of this House in order to end the suspension.

**3.30 p.m.**

**Mr. Maharaj:** They have now utilized both. They have filed a motion.

**Mr. Sudama:** A state of emergency.

**Mr. B. Panday:** Exactly. The hon. Attorney General went on to say, “It was only when there were clear indications, that the order of the court would not be accepted by the Speaker,”... Where is the Attorney General? Has he gone?

**Mr. Sudama:** He has fled.

**Mr. B. Panday:** He has fled. Again, we ask: Where is the clear indication that the order of the court would not have been accepted by the Speaker? That is a figment of their imagination—“and that the reckless suspension of other Government members was to follow.” Where is that evidence? I have read

nowhere in the newspapers that the Speaker intended to suspend other Members of the Government. As a matter of fact, there is something about a Committee of privileges. This country is in grave danger. It has a Prime Minister who suffers from hallucinations; he is a seeing ghost everywhere.

It was reported in the press, and my Friend will make reference to it, that the Speaker actually spoke [*Interruption*]

“The events of the past week outside Parliament have caused the Chair to actually consider whether or not both the Attorney general and the hon. minister of Education have been in contempt, not only of the Chair but also of the Honorable House and ought to be referred to the Committee of privileges of this House.”

This is *Hansard*.

**Mr. Sudama:** Not for suspension. On which Government has a majority.

**Mr. Maharaj:** And the Government has the majority on the committee and in the House.

**Mr. B. Panday:** So that I almost said that the hon. Member told a lie, but I cannot say that, can I? Yes, I know that. The hon. Member is a stranger to the truth. In fact, we have it on record that the Speaker had said that her intention was to refer the matter to the committee of privileges. The hon. Member went to the President and told him that she was going to fire other Members of the House.

How could the hon. Member do that? That is a total negation of the truth and the President should have taken note of what was said by the Speaker in the Parliament. So the evidence is turning the other way around, that there is no evidence that the Speaker had any intention of suspending any other Member of the House. None. That is the evidence.

Listen to what the hon. Attorney General is telling this House:

‘It was only when there were clear indications that the order of the court would not be accepted by the Speaker, and that the reckless suspension of other Government Members was to follow, that the final option had to be exercised.

Make no mistake, the constitutional option of declaring a state of emergency was always available, but the Government chose to exercise it, only to prevent the systematic overthrow of the duly elected Government and the dangerous instability which would have followed...”

*President's Statement (State of Emergency)*  
[MR. B. PANDAY]

*Friday, August 11, 1995*

What an imagination they have!

“A state of emergency under our Constitution is a vital instrument...”

Indeed it is to be used sparingly.

“to be utilized in order to preserve our democracy. The Government is concerned, however, that we, as a country, should return to a normal state in the shortest possible time. The Government recognizes that a state of emergency such as this, would occasion some inconvenience to some members of the national community. We, however, believe that this is much more palatable than the state of constitutional crisis into which the Speaker was leading this Parliament and this country.”

Mr. Deputy Speaker, that is not the statement that the Prime Minister made, and I, like the Member for Tobago East, would have liked to see a copy of it but I think it was reported in the newspapers.*[Interruption]*

**Mr. Maharaj:** Look it is here; it is on the line.

**Mr. B. Panday:** You make it so easy for me, Chief Whip. You are not only my right arm, you are my left arm as well.

**Mr. Humphrey:** That is a combination, left and right.

**Mr. B. Panday:** Listen to what the Hon. Patrick Manning, Prime Minister of Trinidad and Tobago goes on television and says:

“Through all of this the Government has patiently and scrupulously followed the established procedures as one obstacle after another was improperly placed in our way in the Parliament...If we could have tolerated the recent aberrations, we certainly could not have been expected to tolerate the execution of a diabolical conspiracy aimed at converting the majority elected Government into a minority simply by the Speaker improperly suspending enough Government Members. When this objective became evident it was time for the Government to act decisively within the ambit of the law. This is what we did.”

Where, on God's earth, is the evidence of any diabolical plot? Does that mean that Members on this side cannot speak to the Speaker? The Acting Speaker before the last Speaker of the House, has invited Members on this side on several occasions to tea in the official room at tea time. That is a courtesy that is extended to Members of Parliament. I would say that the Speaker has not only the right, but a duty to consult Members on both sides of the House on matters which she deems to be relevant and important. If the Speaker does that, is that a conspiracy?



If there was a conspiracy, why did they not lock up the co-conspirators? I think the Prime Minister owes it to this country to go back to the nation and tell them that he lied—I beg your pardon, Mr. Deputy Speaker—and tell them that he spoke untruth. He owes it to the Parliament. Go back on the television and tell them so.

**Mr. Robinson:** And mislead the President.

**Mr. B. Panday:** Thank you. And mislead the President.

In all my life—I have not been here as long as you have, but I have been here for some 19 years—I have never seen anything like this before. Never.

This nation must sit up and recognize who or what it has occupying the seat of Government. We are on dangerous ground when we have a government which sees visions and ghosts everywhere; that manufactures evidence recklessly; tells untruths.

Therefore, this House ought to set an example to governments and presidents who would willy-nilly declare states of emergency and bring this nation to its knees to take away people's rights. It is for that reason that we shall move, at the appropriate stage, an amendment to this motion to the effect that this House declare that it is of the view that the state of emergency is unlawful, illegal, outside the powers of the Prime Minister and the President.

Thank you very much.

**The Minister of Works and Transport and Minister of Local Government (Hon. Colm Imbert):** Mr. Deputy Speaker, the Member for Couva North has sought to present arguments that the action of the Government in declaring a state of emergency on Thursday, August 3 was invalid. He has also sought to present arguments that no danger or conditions existed that warranted a state of emergency. But he quite correctly, referred to the appropriate section in the Constitution, section 8 (2)(c); and I shall read it into the record—it needs to be emphasized:

“(1) Subject to this section for the purposes of this Chapter, the President may from time to time make a Proclamation declaring that a state of public emergency exists.

(2). A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied—

(c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to

*President's Statement (State of Emergency)*  
[HON. C. IMBERT]

*Friday, August 11, 1995*

endanger the public safety or to deprive the community or any substantial portion of the community of supplies or services essential to life.”

Section 9, Mr. Deputy Speaker, prescribes that:

“(1) Within three days of the making of the Proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based,...

(2) A Proclamation made by the President for the purposes of and in accordance with section 8 shall unless previously revoked, remain in force for 15 days.”

### **3.40 p.m.**

The learned Attorney General made the point that this House, by resolution, had already revoked the state of emergency. What are we debating today, therefore, is the statement of the President, specifically, the grounds on which the President declared a state of emergency. I go now to the last line of the President's Statement, which states:

“As a consequence of these events, I was satisfied that the public safety was endangered to an extent that warranted the declaration of a state of public emergency in the city of Port of Spain.”

The Member for Couva North sought to make heavy weather of the fact that the President was informed by the Prime Minister of certain events, of certain matters that had occurred that caused the situation leading to the request for the declaration of a state of emergency. But the fact of the matter is, the President has categorically stated that he was satisfied that events occurred that warranted a state of emergency. That indicates that the President believed the Prime Minister. This is the point. The Prime Minister, as stated in the statement by the President—  
*[Noise in the public gallery]*

**Mr. Deputy Speaker:** Persons in the public gallery ought to remain silent during the debate. If you fail to do so, I would have no alternative but to ask the police officers to escort you out.

Proceed, please.

**Hon. C. Imbert:** Thank you, Mr. Deputy Speaker. Let me continue my point. The Prime Minister brought certain information to the attention of the President and the President acted on that information believing the information to be correct, and therefore declared a state of emergency. It is as simple as that.

I shall now go through the various events that led to the advice that the Prime Minister gave to the Acting President. May I also say that in this House today I have noted that the Member for Couva North and others have questioned the conduct of the President and I consider that to be a despicable action on the part of members opposite and a violation of the Standing Orders which state specifically that the conduct of the Governor, in our case, the President, cannot be questioned unless on a substantive motion to that effect.

With the Member for Couva North's experience, he should be well aware of that. But you see, the Members on the other side, in my opinion, have absolutely no respect, no regard, for the Standing Orders, for the law, for any honourable conventions or traditions of this Parliament—no respect whatsoever; none!

The hon. Attorney General in this parliament made a statement on Friday, August 4, which indicated that the Government had acted with considerable restraint before—

**Mr. Robinson:** Mr. Deputy Speaker, before the Minister continues, would he tell this House what he considers this section of the Constitution to mean:

“...and a date shall be fixed for a debate on this statement...”

What does he consider that to mean?

**Hon. C. Imbert:** Mr. Deputy Speaker, it seems to me that I would have to repeat the relevant section of the Constitution for the Member for Tobago East who should know better. Section 8(1) states:

“Subject to this section...the President may from time to time make a Proclamation declaring that a state of public emergency exists.”

Section 9 says:

“Within three days of the making of the proclamation, the President shall deliver to the Speaker for presentation to the House of Representatives a statement setting out the specific grounds on which the decision to declare the existence of a state of public emergency was based, and a date shall be fixed for a debate on this statement as soon as practicable...”

It is clear that the debate that takes place today is in accordance with section 9 of the Constitution, and I think the Member for Tobago East should be well aware of that. I would ask for your protection, Sir, because it is clear the Members on the other side are seeking to interrupt the flow of my presentation. Let me move on.

**Mr. Robinson:** Mr. Deputy Speaker, the clever hon. Minister should not be permitted to get away with it. He attacked Members on this side for criticizing the statement on the grounds that they are criticizing the conduct of the President. I pointed out to him that the Constitution says that a date shall be fixed for a debate on the statement. I am asking him what is the interpretation of that, because, clearly, what he was saying was patently wrong. I did not think that I would have had to explain to him. I thought that by drawing attention to this, he would see that Parliament is not a joke, that a debate has to be a debate in a very honest and forthright manner.

**Hon. C. Imbert:** Mr. Deputy Speaker, I certainly hope that the Member for Tobago East does not also intend to make derogatory remarks about the President. Perhaps that is what he is signalling by his statement. But let me go on.

The Attorney General advised the Parliament on August 4 that the Government had acted with considerable restraint. This Government has been accused of weakness because it did not take the action that it took long before it did. But this Government has sought at all times—and this has been maintained in the statements made by the Attorney General, the Prime Minister, the Leader of Government Business, and so on—to maintain the dignity of the Parliament. Because this Government is aware that once the public loses confidence in the institution of Parliament, then this can lead to a state of public disorder. This is precisely what was about to take place, in my view.

The Attorney General has made the point, and persons have made the statement, that we should have waited until certain actions took place on the Friday in question; waited until the Presiding Officer suspended three or four Government Ministers; waited until the Presiding Officer prorogued the Parliament or adjourned the Parliament for one year, or something like that, and then challenged the matter in the courts.

If we had waited, then we would have gone the way of the administration of the Member for Tobago East who did not even know that insurgents were on their way to enter this Parliament. Through the lack of action on the part of the Government of the Member for Tobago East, insurgents entered this Parliament, leading to a complete breakdown of the law and order and a complete loss of confidence by the population in the institutions of the State.

One of the qualities of this Government is anticipation. This Government was not prepared to allow the situation to deteriorate to the point where the population would become so confused by the carryings on in Parliament that there would be a loss of public confidence in the institution of Parliament.

**3.50 p.m.**

Let me revert now to the statement of the President, and I hope I would not be interrupted by Members on the other side who wish to, as I say, insult the President.

“During the period July 31, 1995 on diverse occasions the Honourable Speaker flouted the Standing Orders of the House and did not comply with established parliamentary practice and procedure.”

In order to get a proper understanding of what has taken place in this country over the last month or so, one must go back to the beginning to find out exactly what transpired in this House. We have to go as far back as July 12, 1995. As a matter of fact, on that day, the Presiding Officer made a number of statements in this House. I have the *Hansard* because I know the hon. Members on the other side have very short memories. They get up for frivolous reasons and challenge statements made by the Members on this side, even when they know that the statements are correct.

Let me now go to the sitting of this House on July 12, 1995, and look at the contribution of the Member for Diego Martin Central. On that occasion the Member for Diego Martin Central made the statement essentially requesting that the Speaker vacate the Chair during the proposed debate on the motion of no confidence. He went on to make the following statement under the heading “ADJOURNMENT”. I am quoting the *Hansard*—

“Madam Speaker, in the circumstances, I beg to move that this House do now adjourn to a date to be fixed.”

These are the words of the Presiding Officer—

“Hon. Members, I have listened to the statement by the hon.—

Hon. K. Valley: Madam Speaker, please, I moved that the House be adjourned.

Madam Speaker: Yes, I have to rule on your motion. You have moved that the debate not be proceeded with.”

The Member for Diego Martin Central pointed out to the Speaker that that was not what he was moving.

“Madam Speaker: What are you moving?”

*President's Statement (State of Emergency)*  
[HON. C. IMBERT]

*Friday, August 11, 1995*

Hon. K. Valley: I have moved that the House be adjourned.

Madam Speaker: All right I am ruling on that.”

The Member for Diego Martin Central got up to point out to the Presiding Officer that on a motion for the adjournment of the House the question should be put without debate.

“Madam Speaker: Will the Member please take his seat.

Hon. K. Valley: Madam Speaker, that question, according to the Standing Order, has—

Hon. Member: Sit down! Sit down!

Madam Speaker: We are not debating the issue, hon. Member. With the greatest respect, we are not debating the issue. The Speaker has to rule on that motion. We are not debating it.”

Again, the Member for Diego Martin Central protested—

“Madam Speaker, with all due respect—

Madam Speaker: Will the Member please take his seat!

A Speaker has the power to refuse a motion for the Adjournment of the House on any debate and I have to take into consideration the statement of the Minister and the points raised in that statement. To do so would make a mockery of this Parliament and I have no intention of putting this to the vote and the Motion would accordingly proceed.”

Very unusual state of affairs.

“Hon. K. Valley: Madam Speaker, with all due respect—

Madam Speaker: I have ruled on the motion. I am not putting it to the vote.”

Hon. Members have short memories in this Parliament, so I think it is necessary to refresh their memories.

“Hon. K. Valley: Madam Speaker, I do not know which Standing Order...For my own guidance, would you point me to the Standing Order that you are under?

Madam Speaker: You must take your guidance from the Attorney General.”

**Mr. B. Panday:** On a point of order, Mr. Deputy Speaker. The Member is being irrelevant. This is not a trial of Speaker Occah Seapaul. This is a declaration of a state of emergency. My friend is trying Madam Seapaul.

**Hon. Members:** Oh no, he is not doing that.

**Hon. C. Imbert:** Mr. Deputy Speaker, as it said, I would have to ask for your protection. The Members on the other side just want to interrupt me. I shall again refer to the statement of the President as pointed out by the Member for Tobago East.

“During the period July 5 to July 31, 1995 on diverse occasions the hon. Speaker flouted the Standing Orders of the House and did not comply with established parliamentary practice and procedure.”

That is an integral part of the President's statement, and one of the fundamental reasons the state of emergency was declared. I am now going through some of the occasions on which the Speaker flouted the Standing Orders and did not comply with established parliamentary practice and procedures.

Madam Speaker continued—

“Hon. K. Valley: Madam Speaker, the question before the House—

Madam Speaker: Will the hon. Member please sit! I have ruled that I am not putting the question to the vote! We have had enough of this and Members ought to have been prepared...”

Very instructive statement.

“Members ought to have been prepared for the debate on this matter today.”

Some of them were, as I would point out. The Speaker then goes on after making the very instructive statement that Members ought to have been prepared for the debate on this matter today:

“Hon. Members, before I call upon the hon. Minister of Education to propose the motion listed on the Order Paper, I wish to indicate that there is a procedural point and a few matters on which the Chair seeks assistance and which must be determined before I call on the hon. Minister to propose the motion before us.”

Then the Speaker went on to make certain statements about the matter on the Order Paper. She made statements with regard to alleged extracts from May's *Parliamentary Practice* and so forth.

**Hon. Member:** Alleged.

**Hon. C. Imbert:** Alleged, yes, alleged. I would illustrate that they are alleged.

*President's Statement (State of Emergency)*  
[HON. C. IMBERT]

*Friday, August 11, 1995*

Again, the Member for Diego Martin Central tried to interject and Madam Speaker recognized the Member for Couva South. Surprise, surprise. The hon. Member for Diego Martin Central—

“I beg to move that this House be adjourned...”

The Speaker refuses and goes on—

“I have called upon the Member for Couva South. Nobody else rose. I see the Member for Couva South rise. Proceed, please.”

Then we have the Member for Couva South talking from 10.10 to 11.00 a.m. The hon. Member for Couva South proceeded to speak for 50 minutes; extemporaneously and spontaneously.

**Miss Nicholson:** He bright!

**Hon. C. Imbert:** According to him, but as far as I am concerned—I used to occupy a seat a little closer to the Member for Couva South—I am satisfied that he was reading from a prepared text. I saw the text myself.

Here we have a situation where the Speaker, in violation of the Standing Orders, does not put the question for the adjournment of the House without debate. Standing Order No. 10(4) states:

“Before 8.00 p.m. the House shall not adjourn except in pursuance of a resolution moved by a Minister. Notice of the motion shall not be required, and the question upon the motion shall be put without amendment or debate.”

#### **4.00 p.m.**

The practice in the House of Commons, for the benefit of those Members on the other side, is quite similar. The 21<sup>st</sup> edition of May's *Parliamentary Practice*—I shall return to this point. The hon. Speaker referred to the 17<sup>th</sup> edition. There is something called an edition superceding another. The present, current and lawful edition of May's *Parliamentary Practice* is the 21<sup>st</sup> edition. Not the 20<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup>, 17<sup>th</sup> 5<sup>th</sup> or the 1st, whenever that was, in the year 1280, but the 21<sup>st</sup> edition. The 21<sup>st</sup> edition of May's *Parliamentary Practice* tells us that the House can only be adjourned on a question put from the Speaker in accordance with Standing Orders 10 and 45.

In this particular case, the Leader of the House moved that the House be adjourned to Thursday, July 27, 1995 pursuant to Standing Order 9 and in accordance with Standing Order 10. Despite the fact that our Standing Orders require that this question be put without amendment or debate, the Speaker did



not put the question to the House. Quite to the contrary, Madam Speaker announced that the House adjourned to Friday, July 28 upon a motion to this effect moved—surprise, surprise—by the Member for Couva South, the person who spoke for 50 minutes from a written text and, yet, attempts to tell this House that that was spontaneous.

The Member for Couva South also walked with copious books, law books, precedents, all kinds of learning on this matter—spontaneously and extemporaneously—from other Parliaments. Oh, he walks with them at all times. Where are they today? I am not seeing them today.

After the contribution by the Member from Couva South, the Member for Tobago East made a statement as follows:

“Madam Speaker, I wish to make it absolutely clear that I have not been consulted in this matter by any of the parties involved.”

My goodness! He doth protest too much.

“My views are views which are being expressed from my own independent capacity and as representative of the humble people of Tobago who are so often ignored in proceedings of this House.”

Then my hon. friend, the Member for Tobago East, using prepared notes, by his own admission—let us not quibble about text and notes. Once notes are reduced to writing—when I went to school and was a student of English, my understanding of the word “text”, was that when notes are reduced to writing they become text. As far as I know, text is the printed word. Let us not go into that.

The Member for Tobago East from prepared notes went on from 11.00 to 11.20 a.m.—I know he is a good speaker, but he is not so good. This is worthy of the ex-tempore competition at the Savannah where calypsonians, on their feet, make up things just like that. Anyway, 11.20 to 11.30 a.m., so the Member for Tobago East talked for half an hour spontaneously, so he says.

I am sorry, I do not accept that. I am merely expressing my opinion, I do not accept that the Member for Couva South spoke spontaneously and I do not accept that the Member for Tobago East spoke spontaneously. If the Members wish to challenge my opinion, they are free to do so. I find it bit too convenient to be true.

This brings me to the statement made by the hon. Prime Minister when he indicated that persons in opposition to the Government—the Prime Minister was very careful with his words. He did not say Members of the Opposition. He said persons in opposition to the Government would have orchestrated certain events

*President's Statement (State of Emergency)*  
[HON. C. IMBERT]

*Friday, August 11, 1995*

leading to a situation where the Speaker, under Standing Order 43(12)—I believe that is the relevant Standing Order; I am using memory—would have ruled it as a case of grave disorder and adjourned the Parliament.

I do believe that the hon. Prime Minister has sufficient evidence of this fact. When I looked at the actions of the hon. Members opposite, I believe that their intent was clearly indicated as far back as Wednesday, July 12.

The Member for Couva South—I come back to some of the statements he made:

“If the Government felt that the Speaker’s ruling was wrong, it could have moved a resolution to overturn the ruling.”

I was going to say that statement is nonsensical, but that word has been used before by persons in this House and I do not really think it is an appropriate word. That statement does not make any sense.

If, in the Parliament, it has been clearly demonstrated that the Presiding Officer has acted against the wishes of the majority of Members in favour of the minority; if it has been clearly demonstrated that the hon. Presiding Officer is not following the Standing Orders of this House; if it has been indicated that the Presiding Officer is using precedents that are not known to exist in any written law, then on what basis would the Presiding Officer entertain a resolution from the Members on this side to overturn a ruling previously made by her?

It was clear that if this Government had sought—and I am going to develop that point since they say conjecture. It is clear that the Speaker on diverse occasions had not followed the wishes of the majority of Members of this House. The Speaker had ruled a motion of no confidence out of order. The Speaker had written the Acting Leader of Government Business.

Since Members want to know where the Speaker issued veiled threats, quite apart from newspaper reports where it was clearly indicated that the Speaker had made statements that the courts had no jurisdiction in the matters of this House—numerous newspaper reports and editorials arising from statements made to newspapers by the Presiding Officer of this Parliament—

#### **4.10 p.m.**

I go now to July 12, 1995 to the letter sent to the Acting Leader of Government Business, the hon. Minister of Education at that time, sent by the Clerk as follows:

“I am directed by the Speaker to convey to you her ruling on the Motion you so filed:

‘That you be informed that the Motion is unfounded, misconceived, and is an abuse of the rules of the House of Representatives and the parliamentary process and is indeed *wholly out of order*.’

I am also directed by the Speaker to convey to you the following:”

Listen to this very carefully.

“‘That you attempt to flagrantly undermine and disregard the authority of the Chair and to abuse the rules of the House of Representatives and the Parliamentary process border on contempt and that you so take note.’”

As far back as July 12, 1995, the Speaker was issuing veiled threats to the Member for St. Joseph. All the hon. Member did was simply file a motion, and the Presiding Officer said that his action bordered on contempt and he should so take note. What does take note mean? It means, watch out!

After lengthy discourses from the Member for Couva and the Member for Tobago East, the Speaker went on to make a very lengthy statement. Eventually, on that day, after listening to the contributions, she ruled the matter out of order and then allowed the Member for Diego Martin Central—her business being concluded—to adjourn the House in the proper manner. Funny! Prior to that the Member for Diego Martin Central was not allowed to move the adjournment of the House under the relevant Standing Order. After the contributions of the Member for Couva South and the Member for Tobago East, suddenly, the Standing Orders came back into force. That was very strange.

Let me go on to the 21<sup>st</sup> edition of Erskine May’s *Parliamentary Practice*. I am putting Members on that side on notice. Please do not come to quote the 20<sup>th</sup>, 19<sup>th</sup>, 18<sup>th</sup>, 17<sup>th</sup> or 15<sup>th</sup> edition of Erskine May. They have been superseded. The relevant edition of Erskine May is the 21<sup>st</sup>. Page 267 states:

“The conclusion of public business at each sitting is followed by the moving of an adjournment motion by a member for the Government. Standing Order No. 9 allows an interval of half an hour between the moving of this motion and the compulsory adjournment of the House without question put...and the right to choose the subject of, and initiate, the discussion during this period falls to a private Member...”

The Speaker of the British House of Commons has the power to refuse a motion for the adjournment of the House. This is provided for in the dilatory motion in the abuse of rules of the House for which Standing Order 37 was fashioned with certain amendments. I am just trying to educate Members on the other side before

they try to misquote Erskine May. I will explain the significance of Standing Order 37 later on.

**Mr. B. Panday:** That will work against you.

**Hon. C. Imbert:** Let me refer the Members on the other side to Standing Order 91. It states:

“In any matter not herein provided for, resort shall be had to the usage and practice of the Commons House of Parliament of Great Britain...”

I am trying to tell Members on the other side that May's *Parliamentary Practice* applies only if the Standing Orders are silent. The Standing Orders are very clear on this matter.

On that occasion, the Speaker called on the House to proceed with the no confidence motion before ruling it, very curiously, out of order. That was a very strange day, Mr. Deputy Speaker. Before ruling that it was out of order the Speaker actually asked the Government to go ahead. Does that make any sense to you, Sir? Obviously, that was for some reason to allow certain Members to make certain statements. I can come only to that conclusion. This is my opinion. I continue.

“Will the hon. Member please sit! I have ruled that I am not putting the question to the vote. We have had enough of this and Members ought to have been prepared for the debate on this matter today.”

What does that tell you? The Speaker was clearly asking Members of the House to proceed with the no confidence motion and then mysteriously, she ruled that it was out of order. This is a direct contravention of Standing Order 21. Government business shall be set down in such order as the Government thinks fit. No provision can be found which allows a Speaker to compel a Member to move a motion which stands in his name. In fact, the Member has the right to move that a motion or Bill in his name be withdrawn.

In the United Kingdom the right of the Government to arrange the order of its business is assured. Again, that is in Erskine May's 21<sup>st</sup> edition. The point I am making is that if the Member for Diego Martin Central indicated to the Chair that the Government was not ready and willing to proceed with the debate, the Speaker had no authority to say continue with it. It was in the name of the Member and he had decided that the Government was not going to proceed, and the Speaker had no right to indicate that the Member should proceed.

As I had indicated, interventions on procedural points were not raised by anyone on the other side. What happened on that day was that they did not get the

plot right. I am talking about in a theatrical context where there is Act 1 Scene 1, and Act 2 Scene 2. They did not read the script properly. There is no known practice or procedure which allows interventions on procedural points which had not been raised by anybody. Nobody on that side raised a procedural motion. The Speaker then ruled that the motion was conceptually and constitutionally improper.

The texts on parliamentary practice in the Commonwealth all confirm that it is not the business of the Speaker to interpret the Constitution or the law. I shall refer the Member for Couva South to the book *House of Representatives Practice (Australia)* by A.R. Browning. He advises on page 228 that:

“Speakers have generally taken the view that, with the exception of determination of points of procedure between the two Houses, the obligation to interpret the Constitution does not rest with the Chair and that the only body fully entitled to do so is the High Court.”

Before my hon. friend the Member for Couva South misquotes or misinterprets some other learning, as he is often wont to do, may I inform him that Kaul and Shakhder writing in the *Practice and Procedure of the Parliament* on page 110 said that the Speaker of the Lok Sabha, India, invariably declines to decide whether a measure is *ultra vires* the Constitution or whether the House is competent under the constitution to enact it.

We see that in India the presiding officer does not interpret the Constitution or rule on matters of law with regard to the constitution. In England, the Mother of our Parliament, the Speaker does not do that. The Speaker in Trinidad does it though. There is no known law or precedent for this.

In the section dealing with powers and duties of the Speaker, Erskine May's *Parliamentary Practice* makes no mention of any such authority on the part of a Speaker. It is therefore incorrect, out of order, *ultra vires* and wrong for the Speaker to assume these powers.

**4.20 p.m.**

The Speaker on that same day directed the Clerk to remove the no confidence motion from the Order Paper. The Speaker had accepted and had allowed it to go on the Order Paper. We do not know what legal advice was given and from which quarter, but I have my suspicions. A motion is placed on the Order Paper only if the Speaker accepts it, so she had previously accepted the no confidence motion. Possibly the hon. Presiding Officer received bad legal advice.

**Mr. Deputy Speaker:** The hon. Member's speaking time has expired.

*Motion made, That the hon. Member's speaking time be extended by 30 minutes. [Mr. K. Valley]*

*Question put and agreed to.*

**Hon. C. Imbert:** Mr. Deputy Speaker, let us move now to July 24, 1995—a most auspicious day. What happened on July 24? That is the day to which I had adverted, on which the Speaker said as follows:

“Having regard to all the views expressed in this House, there does not seem to be any agreement on this matter, and so I have not given my consent.

This House is therefore adjourned to Friday—what is Friday's date.

Mr. Valley: Madam Speaker, I object!”

Madam Speaker ignores him.

“Mr. Valley: Madam Speaker, I am putting it on the record that I am moving to have this House adjourned to—”

Madam Speaker again ignores him.

“Madam Speaker: What is Friday's date? Is it the 28<sup>th</sup>?”

The Member for Diego Martin Central again asks that the House be adjourned to Thursday, July 27, 1995 at 1.30 p.m.

“Madam Speaker: To Friday, July 28, at 1.30 p.m.;...”

And then she went on to say:

“You all must learn to have some agreement on minor matters”

This is a very interesting and important event. The Presiding Officer said that there did not seem to be any agreement on the matter. That is a *non sequitur*. The reason something is put to the vote is so that there is a majority vote as well as a minority vote. One side agrees and the other does not, so clearly there could not have been agreement on this matter. That is why it was being put to the vote. That is why everything in this House is put to the vote.

On most occasions, there is no agreement, so the Speaker could not say that because the two sides could not agree, she was adjourning the House. In my respectful opinion, that does not make sense. The reason it was going to the vote was that there was not agreement. So that cannot be used as a reason for violating the Standing Order, which was what transpired after that, and adjourning the House to a date chosen by the minority, for debate of matters chosen by the minority.

I am merely outlining some of the actions where the hon. Speaker flouted the Standing Orders of the House and did not use any of the established procedures, laws, rules, parliamentary practice and so forth. There were a number of occasions. They are all here in *Hansard*—all of the incorrect rulings of the Speaker. I might add there are published statements, made by persons who agreed with Members on this side that the Speaker was violating the Standing Orders and not following known parliamentary practice, which have been referred to as “uninformed public opinion.”

No lesser mortals than two previous Presiding Officers; one of this House and one of the other place have stated publicly that from their experience and their reading of the rules and precedents, the hon. Speaker was violating the Standing Orders. That has been referred to as “uninformed public opinion.”

The newspapers are replete—in the editorials, in the articles—with expressions from academics and statements from members of the public, and the consensus is that the hon. Speaker was not following the established practices of the House.

When one goes to the meeting of Friday, July 28, 1995, the hon. Presiding Officer made certain statements which allegedly came from May's *Parliamentary Practice*, 17<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> editions, and these statements referred to the authority of the Chair, where it is manifest that an offence had been committed in the face of the Chair.

“...the Chair should at once or at the next earliest opportunity proceed to deal with and punish the offender for contempt.”

What I have been able to determine that happened on that occasion is that the hon. Presiding Officer apparently replaced the word “House” with the word “Chair” *[Interruption]* No! No! No! I am not saying that at all. My opinion is that this is just a misinterpretation of procedure. That is what has been taking place.

What the hon. Presiding Officer did on those occasions was that wherever the word “House” was used, the Presiding Officer put “Chair.” The authority of the House is derived from its elected Members—by all of us who sit in this House; all of us who have been elected by adult suffrage, by the people who voted for us under free and fair parliamentary democratic elections. We are the authority of this House. The Members of this House are the authority. It is clearly demonstrated in May's *Parliamentary Practice* where, regrettably, the word “House” was taken out and substituted with the word “Chair.”

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

If any punitive action should have been taken against any Member, it should have been done by the House, voting on a resolution to that effect. The Speaker, with the greatest respect, has confused contempt of the House with contempt of the Chair. The Speaker is neither judge nor jury in this House. The House is the judge and jury and it is for the Members of this House to determine the action that is to be taken against Members. As far as I am aware, the only action a Presiding Officer can take in this House is to suspend a Member for the duration of the sitting, not for six months not for two weeks, and certainly not for life.

The Speaker also apparently misquoted the features of “ancient practice” which are referred to in the 17<sup>th</sup> edition dated 1964—Disciplinary Powers of Speakers, under ancient usage. But the Speaker did not state at that time that the powers she was referring to were ancient usage, in other words, no longer in effect.

I wish to advise the Members on the other side, particularly the Member for Couva South, that Members of the House of Commons have not been imprisoned since 1880.

**4.31 p.m.:** *Sitting suspended.*

**5.06 p.m.:** *Sitting resumed.*

**Hon. C. Imbert:** Mr. Deputy Speaker, shortly before the House was suspended I made the point the Presiding Officer had been consistently substituting the authority of the House with the authority of the Chair. Let us go now to the 21<sup>st</sup> edition of Erskine May's *Parliamentary Practice*. Before I go to that, let us read what the hon. Speaker said on July 28, 1995:

“May's *Parliamentary Practice* tells us that when a contempt is committed in the actual view of the Chair, the Chair should proceed at once, without hearing the offender. But *Maharaj and the Attorney General* goes a little further and says: You give the offender a chance to explain himself or to apologize. When a contempt is committed the Chair should proceed at once without hearing the offender, unless by way of apology, or to manifest his contrition, to punish him for his contempt.”

According to the hon. Speaker, that is allegedly what is in Erskine May's *Parliamentary Practice*. I shall read page 136. It says:

“When a contempt is committed in the actual view of either House, as for example by the prevarication of a witness, by his false evidence or refusal to answer, the House proceeds at once, without hearing the offender, unless by



way of apology or to manifest his contribution, to punish him for his contempt.”

When we go to May's 21<sup>st</sup> Edition on page 397—“Proceedings on the Naming of a Member”—it says:

“When a Member is named by the Speaker for grossly disorderly conduct (Standing Order No. 42) or for disregarding the authority of the Chair... a motion may be made...”

and clearly a motion by the House—

“... ‘That Mr...[the offending Member] be suspended from the service of the House’; and the question on that motion must be put forthwith...’ ”

Again, the question to the House. On page 398 of Erskine May's *Parliamentary Practice* there is another interesting extract which says:

“Suspension continues on the first occasion for five sitting days,...”

Not six months. It continues:

“...and on the second occasion for 20 sitting days.”

The most recent edition of Erskine May's *Parliamentary Practice* indicates that the House is the body that has the authority to take action against Members, and not the Chair. Again, this was an action in the President's Statement where, advised by the Prime Minister, the hon. Speaker flouted the Standing Orders of the House and did not comply with the established parliamentary practice. Clearly, some confusion in the mind of the Presiding Officer assuming the powers of the House which, as I said, are given by the people of this country to the elected Members of this House.

We have all contested elections and won our various constituencies on the basis of popular vote and we are the authority in this House in terms of taking action against Members; the Speaker has no such power. Let us go on.

Before the House was suspended for the tea-break I referred to the fact that the Speaker was using the principles of ancient usage which have gone out in the House of Parliament centuries ago, totally obsolete. What I do not understand, having just looked again at the contribution of the hon. Speaker as recorded in *Hansard* on July 28, 1995 the Speaker makes the statement that page 91 of the 17<sup>th</sup> Edition of Erskine May's *Parliamentary Practice* speaks about the authority of the Chair—notwithstanding the fact that the 17<sup>th</sup> edition is obsolete.

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

It is not apparent to me. I cannot really understand why the Speaker referred to page 91 of the 17<sup>th</sup> edition of May's *Parliamentary Practice* and Procedure because the references in that section of May's are to non-existent principles of committal by non Members. That section was a treatment of what powers the Speaker used to have centuries ago. Let me read page 91 of the 17<sup>th</sup> edition May's *Parliamentary Practice*. It says:

“But the main value of the power lay...”

not lies; we are speaking about the past.

“in upholding the dignity of Parliament and defending it against disrespect and affronts which could not be brought or could only be brought by implication, under the head of any of the specific privileges.”

The other references in that section of May's are the origin of the power of committal which was at that time—1964—the power of the House of Lords and not the power of the House of Commons.

It seems to me that the hon. Presiding Officer completely confused the current and modern day privileges and powers of the Chair with the privileges of the House and with the privileges of ancient usage of centuries ago. The Speaker has no power to imprison any Member; the Speaker has no power to expel any Member, and, as I said, as far as I am aware, the only thing I have been able to determine from my research is that, perhaps, the Speaker can suspend a Member for the remainder of a particular sitting. I am very thankful for my hon. Friends on this side of the House.

### **5.15 p.m.**

Let me now go back to Standing Order 37(3) where the only reference to the Speaker's power not to adjourn a debate is mentioned. Standing Order 37(3):

“Where during the course of a debate a motion is made (a) for the adjournment of the debate... unless it appears to the Chair that that motion is an abuse of the rules of the House or an infringement of the rights of the minority, the question on the motion for the adjournment as aforesaid shall be put forthwith without amendment or debate;”

It goes on:

“... Member who has moved or seconded such a motion shall not be entitled to move or second any similar motion during the same debate:”

What this says is that if a debate is in progress and the Members opposite have not all spoken and the Leader of Government Business rises in an attempt to

adjourn the House, the Speaker has the power at that time—and at that time only—to say that she is not allowing the adjournment of the House, and the reason is to allow the rights of the minority—the hon. Members opposite—to speak. That is the only occasion when the Speaker can refuse an adjournment of the House moved by the Leader of the House. But, let me go on.

I am reading from Standing Order 37(3).

“But this paragraph shall not be construed as restricting the customary right of the Minister in charge of arranging the business of the House to move the adjournment of the House on the conclusion of the business of the day.”

The Standing Order is clear. Even though the Speaker may not allow the Leader of Government Business to adjourn the debate when Members on the other side have not concluded their contributions, at the end of the day, the Speaker must allow the Leader of Government Business to move a motion on the adjournment and put the question without debate. Clear, clear, clear. The Speaker has no power to adjourn the House to a date fixed by herself; no power whatsoever.

Again, I return to the statement of the President, that he had been advised that the Speaker had disregarded the known parliamentary practice and so forth.

It is a matter of public record—the Members opposite can deny it as is their wont; the Member for Couva North has already done so—that the Speaker is reported as indicating that action might be taken against the hon. Member for St. Joseph and the hon. Member for Ortoire/Mayaro. That is on record. It was reported in the daily newspapers. It was not denied before the event; it was conveniently denied, in my opinion, after the fact, but before that fateful Friday it was not denied. It was reported in the newspapers on several occasions and was not denied.

Editorials were written based on statements made by the hon. Speaker to the newspapers to the effect that she did not consider that the courts had any jurisdiction in the matter and that action was being considered against the hon. Attorney General and the hon. Minister of Education. I might add that I have no doubt in my mind that action would also have been taken against the hon. Member for Diego Martin West for certain statements of fact which he made at a meeting in Diego Martin a few days before.

I am satisfied that we would have had a situation where the ruling of the court would not have been recognized with regard to the membership of the Member

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

for Diego Martin Central so that would have reduced this side to 19. The Member for St. Joseph would have been similarly suspended, expelled or even imprisoned—who knows? Or beheaded perhaps. The Member for Ortoire/Mayraro would have been suspended also.

The Member for Diego Martin West would have been suspended, reducing us to 16 and since we can no longer country on my hon. Friend, and erstwhile colleague the Member for San Fernando West, we might have gone down to 15. Then one would have seen an introduction of a motion from the Member for Couva South—this is my opinion, Mr. Deputy Speaker, simply an opinion. One can challenge it if one wants. One would have seen the introduction of a motion of no confidence in the Government from the Member for Couva South which would have been allowed, because, remember, the Standing Orders had been violated and were no longer applicable. So no notice would have been given, leave of the Chair would have, perhaps, been given and the House would have proceeded to debate a motion of no confidence in the Government in a situation where the Opposition had at least 16 Members and the Government would have been reduced to 15.

The illegally successful passage of that motion would have resulted in a challenge, no doubt, by the Member for Couva South, that elections be held within 7 days, or the Parliament be dissolved within 7 days, and there would have been mass confusion in the country. I believe that was what was going to take place on that Friday. The Member for Couva South could deny it all he wants, all I will say is that...

**Mr. Maharaj:** Mr. Deputy Speaker, if this Member does not have evidence to support that, I ask him to withdraw it. I ask him to produce the evidence to this House, if he has any, because he is making an improper allegation, imputing an improper motive against a Member for Parliament. He must produce the evidence, otherwise I could say what my opinion is about him, about any other Member of the House.

**Dr. Rowley:** You have said so a dozen times already.

**Hon. C. Imbert:** As I have said with regard to the Member for Tobago East, “Methinks he doth protest too much;” thou also doth protest too much. I am merely stating my opinion, one could deny it if one wishes. I am imputing no improper motives. This is my opinion.

**Mr. Humphrey:** It is out of order for a Member to do that.

**Hon. C. Imbert:** Mr. Deputy Speaker, let me also mention the mischief that took place inside and outside this Parliament, aided and abetted by persons in opposition to the Government—I am being very careful, before the Member for Couva South jumps up like a jack-in-the-box. The Member is not the only person in opposition to the Government. The mischief perpetrated inside and outside this House by persons in opposition to the Government was not restricted to Trinidad and Tobago. I have here a copy of an article in the *Sun-Sentinel*, foreign journal in Florida, where certain information was given. *Sun-Sentinel*, Saturday August 5, 1995.

“The Government which appointed her says she brought the Speaker’s Office into disrepute and should resign, but it lacks the two-thirds majority needed to force her out.”

I wonder who could have told the *Sun-Sentinel* that. Listen to this piece of mischief:

“After a no confidence motion against Seapaul was narrowly defeated in the House, the Government introduce a bill to reform Trinidad’s Constitution.”

I mean, who told the *Sun-Sentinel*...

**Dr. Rowley:** Who has contact in Miami?

**Hon. C. Imbert:** I think some of the friends of the Members on the other side. But who told the *Sun-Sentinel* that a no confidence motion was narrowly defeated in the House of Representatives in Trinidad and Tobago and as a result this Government brought a Bill to move the Speaker with a simple majority? I wonder who told them that. Who says in this House that we require a two-thirds majority? The language is very similar to certain utterances of Members on the other side, very similar. Anyhow, he whom the cap fits—

**Mr. Palackdharrysingh:** Mr. Deputy Speaker, on a point of order, Sir. The Member is imputing improper motives to the Members of this side. I am included. And unless the Member is prepared to identify those Members, he accuses, he must withdraw those statements. Otherwise, this House would be setting the stage for disorder.

**Hon. C. Imbert:** Mr. Deputy Speaker, I would respectfully request a few minutes of injury time because the contributions of the Members for Couva North and Couva South and even the spontaneous extemporaneous advice given by the Member for Couva South to the Presiding Officer spoke about a two-thirds majority. They are ones who have been talking about this, not we. So I wonder where the *Sun-Sentinel* got that from. But anyway, let us proceed.

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

**5.25 p.m.**

We have a situation where the Presiding Officer of this House criticized, interrupted and directed Members to take their seats, indicated that motions would not be entertained—legal, constitutional and perfectly proper motions would not be entertained—and proper motions were out of order.

When it was demonstrated by Members on this side that motions relating to the Business and Sittings of the House and moved by a Minister were ignored, veiled threats were issued by the Presiding Officer against Members on this side. Threats of imprisonment were issued against Members on this side—Ministers! So not only are we dealing with the majority of the elected members of this House, we are dealing with the conduct of the Government.

It is instructive to note that threats were issued against Ministers. So not only the voting rights of Members of this House were being affected, but also the conduct of government business; ministries were being affected by these arbitrary rulings, and the Ministers were only conducting their lawful parliamentary work. Every effort was made by the honourable Presiding Officer to prevent sittings on days of the Government's preference by blocking vital Government motions at any stage without any procedural justification. This is what took place.

The Chair was vacated without a lawful adjournment. The majority of the House was ignored. The views of the minority were taken as the will of the House. There was definite bias and partiality and the Speaker failed to function as the guardian and servant of the Parliament.

Arising out of all those events came the threats against the Ministers. What do you want this Government to do? Sit here and be emasculated, to use some of the words of some of the Members on the other side? Sit here to be castrated? To be reduced to an impotent minority where the wishes of the thousands of persons who voted for People's National Movement would be subverted by unlawful actions? What do you expect the majority of persons who went to the polls in free and fair elections to do?

There was a reasonable possibility that public disorder would have followed when the population realized that the Government that it voted into office was being systematically reduced by the unlawful actions of an unelected person, a person who did not face the polls and did not campaign in the general election in a constituency in Trinidad and Tobago.

It is only the Members on the other side and the, thankfully, few mischief-makers in our society who believed that our Parliament was not in chaos. The editorials, day after day, used all kinds of language, "constitutional rogue

elephant”, “a Speaker running amok,” “a total breakdown of procedure”, and so on. Twenty thousand Frenchmen cannot be wrong.

I notice that the Member for Couva South is attacking a certain editor in a certain daily newspaper, but I would like that Gentleman on the other side to remember it was every single daily and weekly newspaper, even his newspaper, that indicated the actions of the Speaker were unlawful. He knows which one I am talking about.

**Mr. Deputy Speaker:** You have three more minutes.

**Hon. C. Imbert:** Even some of the staunchest critics of the Government, even some of the persons who weekly criticize the Government, wrongfully or rightfully—I do not question that—even they, in those periodicals that that Member has such access to, in which he appears with such consistency—every Saturday when I open a certain newspaper I see his face displayed on two full pages—even they condemned, the unlawful actions of the Presiding Officer of this House. So as far as I am concerned, it was the view of the vast majority of our citizens that the Members on this side were correct in their assertions that the Speaker was not following any known law or procedure.

And so, I accept the statement of the President. I apologize on behalf of Members of the other side—because they would not apologize—about any impertinent and insulting references to the President. I apologize for them because they are not honourable in that regard, and I fully endorse the action of the President and, indeed, the action of the Government, in moving in the nick of time to stave off the diabolical plot that was orchestrated by persons in opposition to the Government.

I thank you, Mr. Deputy Speaker.

**Mr. A.N.R. Robinson (Tobago East):** Mr. Deputy Speaker, on occasions when matters of moment arise for discussion, I sometimes throw my mind back and cull into my experience. I can remember the days when we were preparing for Independence. I remember the great debates that took place in the run-up to Independence. I remember the discussions on the Constitution, the most famous of which took place at Queen’s Hall, St. Ann’s I remember such stalwarts as Hugh Wooding, Algernon Wharton, Mitra Sinanan, Ellis Clarke, and others, constitutional experts, debating the issues which arose in discussing the kind of Constitution we wanted to frame for our independent nation.

At that time I was a mere slip of a youth, very idealistic, very enthusiastic, very anxious for change. So matters such as the separation of powers and checks

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

and balances in constitutions, matters such as arose in discussions on, say, the American Constitution, I did not consider of such importance for a new developing nation where change, and expeditious change, was so important. Therefore I tended to downplay the need for these checks and balances, for brakes upon the operation of executive powers. Experience of 40 years has taught me otherwise.

I have come to learn the usefulness of these provisions in the Constitution which are entrenched, which require a three-fifths majority, or a two-thirds majority or a three-fourths majority for change. I have come to appreciate more the wisdom of the founding Fathers of the Constitution and of the inputs that went into the framing of the Constitution which is the basis for the Republican Constitution we now operate.

As I listened to contributions in this debate today, as I have listened previously, I am more convinced than ever that these brakes on executive power are of the utmost importance for the freedom, the liberties, the welfare and the happiness of the citizens of Trinidad and Tobago. We have just had an example of the kind of thinking that goes on in the Cabinet of Trinidad and Tobago. Frankly, it frightens me.

**5.35 p.m.**

I want to refer to section 8 of the Constitution, which we are discussing today, and the statement of the President. This section 8 of the Constitution, ironically, was one of those which gave rise to the lengthiest and most acrimonious debate. Another one in those days was the control of the police by a Minister.

This section 8 was giving to the Executive—the politicians—the power to declare emergencies and wipe away the rights and freedoms of the citizens of the country. There were many who insisted and argued that one must trust one's representatives; trust one's politicians and give them the powers because they would become necessary.

And, there were others who argued that, "Oh yes, trust them," but in the history of mankind, we have learnt in that famous aphorism of Lord Acton, that power tends to corrupt, and absolute power corrupts absolutely.

So, a certain phrase and provision was introduced into this section of the Constitution, and I now draw attention of hon. Members to it—

"8(2) A Proclamation made by the President under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied—"



(a), (b) and (c); those have already been referred to.

“A Proclamation made by the president under subsection (1) shall not be effective unless it contains a declaration that the President is satisfied—

- (a) that a public emergency has arisen as a result of the imminence of a state of war...
- (b) ...as a result of...earthquake, hurricane, flood...
- (c) that action has been taken, or is immediately threatened, by any person, of such a nature and on so extensive a scale, as to be likely to endanger the public safety...”

The critical words are, “the President is satisfied”.

Section 80 of the Constitution says—

“(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this Constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) In accordance with the advice of any person or authority other than the Cabinet.”

What this section is saying is that unless the Constitution provides otherwise, the President is required to act on the advice of the Cabinet. Another section says that the advice of the Cabinet is given to the President by the Prime Minister—nobody else—unless the Constitution provides otherwise.

If those words, “the President is satisfied,” were not there, then all the President had to do, and he was forced to do as is required by law, was to accept the advice of the Prime Minister. In the declaration of a state of emergency, there is the exception provided, “You, Mr. President, do not act on the advice of anybody; you have to be satisfied.” I know, because I know the debate that went on. The President was interposed between the politicians and the citizens so as to ensure that he preserved the rights and liberties of the citizens.

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

When one looks at this document, the statement of the President, under section 9(1), this is what one finds:

“In determining that public safety was endangered I acted in accordance with the advice tendered to me by the Honourable Prime Minister...”

This is what the Constitution says the President must not do. The President must not act on the advice of anyone; he must be satisfied. He could have said he verified it from independent sources. He could have said that. He did not say there was any reference to independent sources. The *Hansard*, as somebody pointed out, is available to the President. The record of proceedings, not only in the Cabinet, but also of Parliament is available to the President. The President could have said that he acted in corroboration with what the Prime Minister advised.

There is nothing in this document which indicates that the President acted on any other basis than the advice of the Prime Minister. That immediately removes the important check on the power of the executive and the power of politicians which the Constitution, in its wisdom, installed and entrenched. It is a very serious matter.

Most of what is there is the opinion of the Prime Minister. For example:

“During the period July to July 31, 1995 on diverse occasions the Honourable Speaker flouted the Standing Orders of the House and did not comply with established parliamentary practice and procedure.”

That is opinion, and we heard much, given to us by the expert Member for Diego Martin East, on these matters.

The Member for Diego Martin East may be an expert on these matters in the Cabinet. I do not blame them in the Cabinet for regarding him as an expert. Surely, the Attorney General should advise. The best thing I can say about the Attorney General—the highest compliment I can pay him in his office—is that Cabinet does not accept his advice.

“The Parliament is the most critical institution which provides for the representatives of the people to establish laws and provide for the governance of the State.”

That is argument.

“Any threat to the stability of the Parliament is therefore a threat to the stability of the society and therefore constitutes a threat to public order, peace and good government.”

That is argument.

“Public order and public safety are based in part on the reasonable expectations of the citizenry that the institutions of governance and democracy are functioning effectively. Once this assurance is removed the real threat of anarchy emerges. Public safety and public order are therefore seriously threatened with the attendant risks of injury to persons and damage to property.”

That is argument. One expects to find this in a book on politics. What are expected to be found in this debate are facts or reasonable conclusions on the basis of which one can say that a state of affairs existed which warranted action. It is not only that it existed, that there was a threat—that action has been taken or is immediately threatened.

I noted also that the Attorney General left out the word “immediately” and went on to discuss, anticipate and project a progression of events into the future, part of which was mere speculation. That action has to be immediately threatened, and it has to be threatened by any person, and has to be of such a nature and on so extensive a scale as to be likely to endanger the public safety. So we need to have the action, not speculation, as to whether things might happen in the future and, as a consequence of those things, public safety might be endangered.

**5.45 p.m.**

I need to draw attention to these matters. I am sorry that many of the young aspiring parliamentarians are not still here because my contribution is on the question of the resolution and the procedure which the Government proposed to adopt in this matter. Let me say that the root cause of the situation which developed in the country was the nature of the procedure the Government insisted on adopting to handle this matter. The procedure was wrong. They were told that in the other place. But they would not recognize and admit that the opinions expressed—opinions which, I, myself, expressed in this House were expressed in the other place.

In fact, even before the matter went to the other place the Attorney General and Minister of Legal Affairs saw it fit to insert provisions to enable a second principle of natural justice to be observed, that is, that the Speaker should be heard in her defence. Previously, there was a motion which made no reference, and there was no provision in the procedure, for the Speaker to be heard.

She would have had to vacate the chair, not being a Member of this House she would have had to go outside. The debate would then have proceeded behind her

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

back. All sorts of damaging statements would have been made behind her back. The majority would then have passed its resolution and demanded that she go. That is why I insisted that the Government should think its procedure through before it acted. Let me refer to what is said then. This is from *Hansard*.

“One, therefore, has to look at this matter very carefully; one cannot rush into it blindly. One has to think about it deeply and agonize over it responsibly and when Madam Speaker, the procedure is adopted, it should be capable of being examined and scrutinized critically and should pass that critical examination.”

I further went on to say:

“Whatever you read in the books, the modern civilized practice is that you hear a person before you condemn him and put him out of office.”

I repeat:

“Whatever you read in the books, the modern civilized practice is that you hear a person before you condemn him and put him out of office.”

This was not in defence of the Speaker, this was in defence of the rights of all citizens of this country. It was asserting a principle of natural justice which the Attorney General asserted when he went to the other place. The Senators insisted that he should go further, not only to inscribe the principle and make provision for that principle of natural justice that a person must be heard in his or her defence, but that one must have an independent tribunal. As a corollary of the principle, no one must be judge in his own cause.

If one is not judge in his own cause, then one's prosecutor must not judge one either. That is the root cause. The root cause of all the commotion in the country is that this Government has been seeking to act as prosecutor, judge, jury and as executioner—hangman—all at the same time. When they went to the other place they were told this and had to reinforce the principle that a person must be heard—principle of natural justice—in his defence, and that one is not judge in one's own cause, so an independent tribunal was introduced in order to give an opinion on the matter.

What should have happened? Yes, it is true that the matter comes back to the House, but that is bad law. This matter should have been approached, as a Parliament should, without reference to personality. That was another fundamental error in the approach of the Government, to personalize the matter. This is not a personal matter. It is a matter that concerns the country. The Attorney General and Minister of Legal Affairs should have stayed in the

background advising on a generalized basis on what principle should be asserted and what principle should be pursued. That is the kind of advice.

If that approach was used, we would not have had a tribunal for the Speaker alone; it would have been a tribunal or ethical committee for everybody and cases that arose could have been referred to that body, so nobody could say, a single person was picked on; that Government had picked on a single person—and goes hammer and tongs after that person—and it is prepared to mobilize all the institutions and instruments of the State to get at that one person.

That is the argument against them and they cannot withstand it, with the result that where Abu Bakr failed, they have succeeded—taking over the Parliament by the barrel of a gun; it imprisons the Speaker, surrounds her with guns and prevents her from performing her functions in the Parliament. It has committed a coup.

There were alternatives available to the Government along the line. They are seeking to inject into the minds of the population that there was only one course they could have pursued if they wanted to protect themselves. They wanted to protect the Minister of Finance, the de facto, Deputy Prime Minister, possibly even Prime Minister. So there is no generalized approach; there is a personalized approach; so it is limited to one person and anybody is prevented from dealing with anybody. That is the procedure.

If I had anticipated this before I campaigned for Independence, I am not sure I would have campaigned at all. This is the very antithesis of democracy and independence. It was a road that was followed by people like Kwame Nkrumah, Idi Amin and all the tyrants of the Third World. They personalized matters and went at particular people, when there should be certain principles, so the children in the schools can learn what to do and what not to do; so that the police can know when to take action and when not to take action. The Government lays the principles and the laws on the basis of which the police act.

Another fundamental error made by this Government was the confusion of government with Parliament; the feeling that the Parliament is the Government. The approach should have been, the Speaker is not the property of the Government. Once one becomes the Speaker of this Parliament one is expected to be independent and impartial. That is the principle upon which one acts. One is not the property of either side.

**5.55 p.m.**

In the House of Commons, when one becomes a Speaker, one's seat is not even contested in the next election. Within recent times the minor parties have started doing it, but it is the practice by the major parties that the seat is not contested. You continue as Speaker into the next term in order to emphasize the role of the Speaker as an independent and impartial one. This is what is frightening when the Executive comes in and ignores Members of Parliament.

It may not be worth anything to Members opposite, but this Member for Tobago East, as I have repeatedly said, has had the experience of 40 years, served in the highest executive position in this country, represents a whole island and yet they did not even think it fit—Rather than consult or even talk to the Member for Tobago East, they brought out the guns, locked up the Speaker, and declared a state of emergency.

This is not trifling matter. They symbolism of that goes as far as you can want. It has never happened in the history of democratic institutions insofar as I am aware. I know of no case in the world where a Speaker of a democratic Parliament was locked up, a state of emergency was declared and the office was taken over. This country has to understand the seriousness of it. I also said in that contribution and it is recorded in *Hansard* as follows:

“That is why the citizens of this country must take a stand. The merits of this matter can be dealt with and should have been dealt with in the proper way.”

If they had adopted the proper procedure the merits could have been dealt with.

“So long as Madam Speaker remains Madam Speaker her office must be treated with respect.”

What I saw coming from the Government Benches was that everybody lost their head. That is what happened. I was amazed at the kind of behaviour. When the Government should set the standards and exercise leadership, they created a situation with all sorts of aberrations, as they called it. This Government is an aberration.

**Mr. Manning:** No! No!

**Mr. Valley:** Nineteen eighty-six.

**Mr. A.N.R. Robinson:** Go back! Tell what you were telling them then! Tell them about the state enterprises! I hope they accept their history. They protected

that O'Halloran; they protected their Chairman, Prevatt and all else who were involved. They went to great lengths to protect them and now they are protecting their own.

May I say that I had nothing to do with the appointment of that Speaker. I was not even the country.

**Mr. Valley:** You were still recuperating.

**Mr. A.N.R. Robinson:** My wife was recuperating. She is a diabetic and she was seriously ill. The Prime minister called me in Barbados; he knew where I was and that she was seriously ill, but he went behind my back in Belmont at a public meeting and criticized me for not being here. That is the attitude. He was joined by the very Speaker in criticizing me for my absence, but yet when I came here, I treated her with the greatest respect. I hold no brief for her or anybody else. As long as I am in this Parliament, as I said, I do my duty as a representative of my people, and in accordance with the oath that I have taken as a Member of Parliament.

You can threaten me as you like; that will have no effect on me.

**Mr. Valley:** Nobody has threatened you.

**Mr. A.N.R. Robinson:** Your assurances are not worth the air with which they are issued.

I was saying I had nothing to do with the appointment of the Speaker.

**Dr. Rowley:** Had you been here you would have voted against her.

**Mr. A.N.R. Robinson:** I was surprised when the hon. Leader of the Opposition concurred in the appointment. Immediately, I said the moment the Prime Minister and the Leader of Opposition get together, there is bound to be trouble.

**Mr. B. Panday:** That is why we never concurred with you.

**Mr. A.N.R. Robinson:** Mr. Deputy Speaker, I am by no means a male chauvinist, but the French have a phrase which says, *cherchez la femme!*

**Dr. Rowley:** What does that mean? Be careful with woman?

**Mr. A.N.R. Robinson:** I was quite surprised at this agreement for the appointment. I do not want to say why I was surprised. I wondered; took my seat and I have been behaving like a good boy. My apprehensions were there. When I saw the fury with which the Government pursued this matter, I had to say something had to be wrong.

*President's Statement (State of Emergency)*  
[MR. ROBINSON]

*Friday, August 11, 1995*

There are certain principles which one must extract from this whole exercise. We must take out ethnicity from our public business and insert ethical principles.

**Dr. Rowley:** Say it again!

**Mr. A.N.R. Robinson:** We must take out ethnicity from our public business and insert ethical principles. I say so because at present I am engaged in very extensive discussions at an international level.

**Miss Nicholson:** They are jealous!

**Mr. A.N.R. Robinson:** They do not like to hear it. *[Interruption]* Just keep quiet and you will learn. It involves Bosnia/Herzegovina and the setting up of international tribunals to try persons who have been guilty of gross crimes such as mass rapes against women and even children; ethnic cleansing; the killing of thousands and massing of people in concentration camps, and the moving of thousands of those people from their homes into other places. It is also happening in Rwanda and Burundi. It happened in Cambodia and it threatens to happen in some of the countries of the former Soviet Union.

I should like the Attorney General, to note that when I speak of these tribunals, I am listened to with respect by many persons more eminent than he and his colleagues. If he wants to doubt it, one of these days I can take him to all these places where I go.

**6.05 p.m.**

There are many different juridical systems in the world and when one is seeking to set up a court to apply uniform standards, then one has to seek to reconcile these different juridical systems—some of the practices, some of the principles and the laws of these juridical systems—some of the practices, some of the principles and the laws of these juridical systems. One of the things that everybody is agreed on—there is no dispute in the world community—is that a person must be heard in his or her defence. That is a principle of natural justice all over the world. That is why I said, whatever the books may tell you the modern civilized practice is that a person must be heard in his defence.

Then I went on to say, and I quote from a speech that I gave in this House.

“When and if ever the time comes for any other action to be taken...”

That is action other than the procedural action. That is to say, when one comes to the stage where there is a punitive decision, then that action must be taken responsibly, with dignity and in a manner that befits an independent country that



purports to hold its head high among the countries of the world. So that, on every count, this Government has failed to adopt the proper procedures in dealing with this matter and the natural consequence has been the extreme step of the use of guns to solve what is essentially a political and human relations problem.

This assembly is called a Parliament. The conceptual basis is that when we have a problem, we discuss it and seek to hammer things out. It is the height of irony that the very Parliament which is supposed to discuss matters, have interchange and hammer things out through reason and compromise where necessary, has been the subject and the object of an armed attack on the person of the Speaker of the Parliament.

**Miss Nicholson:** This is disgrace of the lowest order, and if he does not recognize it, he is a brute. He is not human.

**Miss Nicholson:** Despot!

**Mr. A.N.R. Robinson:** I have to say he who does not recognize it is a brute.

**Miss Nicholson:** Vindictive, savage!

**Mr. A.N.R. Robinson:** I am going to recommend a procedure this afternoon that we should adopt at this late stage to redeem our humanity. Let us redeem our humanity. Let those of us who are appointed by the rest to do so, get together—both Government and Opposition: both sides of the Opposition if you like, or three sides of the Opposition. This is an appeal to their humanity. Let us get together; let us discuss. If necessary, bring in the lawyers that are involved in these court cases which will go on for a long time.

In Trinidad and Tobago, we cannot afford to have matters involving the constitutionality of a state of emergency, the arrest of a Speaker and the functioning of a Parliament going on for months and months and going to the Privy Council. We say we are independent? That was the point of Queen's Hall. When Capildeo and Williams were tearing at each other's throat, Williams had the good sense to appeal to Capildeo and say, "Let us, among ourselves, try to settle it here, rather than let it go to London." If they allow these matters to go to London to be determined there, when they can be settled here, that is the greatest betrayal of our independence. I am sure you agree with me, Mr. Deputy Speaker.

**Mr. Bereaux:** Would the hon. Member give way, please? I am hearing with some empathy what he is saying. However, under the circumstances, could he please tell us who would represent the Speaker in this matter?

**Mr. A.N.R. Robinson:** Well I said, get the lawyers together. I do not know. There can be a preliminary discussion and I am sure it can be decided who should

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

be the participants in the ongoing discussions. So get together and discuss the procedure and then continue from there in order to get into substantive discussions.

That is my contribution. With the greatest respect and humility, that is the course I propose to my colleagues on this side of the House and on the opposite side.

**Mr. Ramesh L. Maharaj** (*Couva South*): Mr. Deputy Speaker, we are witnessing in this Parliament today, a situation where the Government caused a state of emergency to be declared. It is clear from the document which has been laid in this House as the statement of the President, and from the contents of the Order of Detention against the Speaker, that the reason for declaring the state of emergency was that the Government was dissatisfied with the rulings of the Speaker. That is no basis for the declaration of a state of emergency.

**6.15 p.m.**

It is recognized that a state of emergency is a machinery which the State must have to defend itself when it is under attack or about to be attacked. It must be used as self-defence.

A state of emergency must be used as a shield and not as a sword. What we have seen in this case is that the state of emergency was used under the cloak of constitutionalism, but in truth and in fact, it overthrew the Constitution and the rule of law and it acted without lawful powers. There is no difference between what this Government did and what the Members of the Jamaat Al Muslimeen did—no difference whatsoever, conceptually and juridically. The Members of the Jamaat did not have any basis in law. They acted unlawfully; and the Government acted without any basis of law. The Jamaat Al Muslimeen got an amnesty from the President.

**Mr. B. Panday:** And we are not giving this Government any amnesty.

**Mr. R. L. Maharaj:** This Government has been granted no amnesty by the President; that amnesty has been recognized by the courts.

Mr. Deputy Speaker, no amount of diversion by the other side as to what may have happened in this matter should take away from the conscious of the national community the fact that the Government staged a coup on the Parliament of Trinidad and Tobago, staged a coup on the democratic process of Trinidad and

Tobago, and use guns—raw power—to imprison the Speaker so that it can come, as it says, to Parliament and feel protected.

The Government has put the office of Speaker and you, Mr. Deputy Speaker, in very embarrassing circumstances. What message is this Government giving to other institutions? Is it that if this Government is dissatisfied with a decision of the courts of Trinidad and Tobago, it is going to say that the judge flouted the law; or disregarded the law? Is it going to create a state of emergency and put the judge under house arrest? Is that a precedent for Trinidad and Tobago and the Caribbean?

**Mr. Manning:** Shame!

**Mr. R. L. Maharaj:** Shame on you! By their very actions Mr. Deputy Speaker, they had to resort to law in order to protect the Parliament if they felt the Parliament was under siege, or the Government was under siege. I am not disputing that. The Attorney General said that the people in this House may say that the Government cannot declare a state of emergency because it attacks human and fundamental rights.

Yes, states of emergency, when they are created and declared, involve a suspension of human and fundamental rights, but in every nation that power is given. That is not the issue here; the issue is whether the power was misused or abused; whether the power was rightly used; whether the power was used as a sword or as a shield; whether there were ordinary recourses which could have been had in order to protect whatever fears they had.

There is a book entitled, *Emergency Powers in Peacetime* by Bonner, published by Sweet and Maxwell, 1985. It deals with principles which never old unless they are overthrown or reversed. Referring to states of emergency, it says:

“those extraordinary powers permitted to government to deal with threats to the nation that cannot adequately be met by ordinary powers—which are currently available in the United Kingdom.”

Could the threats which this Government said existed, or that it perceived, or which it has alleged, have been dealt with by the ordinary procedures? That is the issue, Mr. Deputy Speaker.

Let us see what the Government said. It said it disagreed with the rulings of the Speaker and it felt that the Speaker was wrong—flouted the authority of the Standing Orders and of the law. What procedures were available to the Government to deal with that situation except a state of emergency?

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

We had the power of the Standing Orders under which this Government could have used a motion in order to deal with a reversal of any of those rulings.

There was the process of a constitutional motion which Mr. Kenneth Valley, the hon. Member for Diego Martin Central, in High Court Action No. 24547 of 1995 filed against the Attorney General and the Speaker to get an order of the court, the guardians of the Constitution. The courts have the power to declare actions of the Parliament and of the Speaker unconstitutional and although it is the law of the land that one cannot get it *ex parte*, he got an *ex parte* order which showed that the judge considered it urgent. There was no application by the Speaker to have that order vacated although it was granted *ex parte*.

The fact of the matter is that the courts could have been used by virtue of a constitutional motion which is the machinery given to any individual in Trinidad and Tobago, including Government Ministers to approach the court, where, not only a constitutional right has been infringed, or where there is a threat that it may be infringed, according to section 14 of the Constitution.

So that the courts were there as the guardians of the Constitution. You go to a judge morning, noon or night, even without papers, and get an order. *[Interruption]* All right—if the Speaker was in the Parliament, and they did not want to come to the Parliament they could have gone to the courts with a constitutional motion.

That is not the only way. I do not like to discuss law with the Member for Diego Martin West. Public law has developed—any student of public law or any Parliamentarian who is interested in reading about public law—to the extent today that any public official who exercises public power which affects the rights and interests of any individual, must exercise that power lawfully, and if that is not done that is to say, in contravention of any rule of law or procedurally improper exercise, or without considering relevant matters or relevant law or even acting unreasonable, the courts have the power to set that order aside and to prohibit the public official from acting.

In the United Kingdom and the Commonwealth judicial review is used under Order 53 of the Rules of the Supreme Court to prohibit all types of public officials from acting unlawfully.

**6.25 p.m.**

In India, judicial review has been used against the Speaker of the House; in Mauritius, constitutional motion has been used against the Speaker; in Barbados,

the Privy Council recently held that even in respect of the Cabinet of Barbados, judicial review can be granted against the Cabinet to prohibit it from awarding a contract when there was allegation or there is suspicion or finding of corruption. So judicial review is a means which the Government could have used to prohibit any fears, but the Government was not interested in law, nor resorting to law.

I mentioned to the hon. Attorney General during the tea break [*Interruption*] I mentioned a case in the Commonwealth which I do not consider to be confidential information, it is public—Ramlogan and the State of Mauritius reported in the recent edition of *Law Reports of the Commonwealth*.

**Hon. Member:** Ramgoolam.

**Mr. R. L. Maharaj:** Ramgoolam. That case from Mauritius, is one where the Government felt that the Speaker was acting unlawfully and went to court in order to prevent the Speaker from presiding. Then there were discussions which took place. There was a different situation where the Speaker decided to attack the Opposition and the Speaker, in collusion with the Prime Minister, declared the seat of the Leader of the Opposition vacant and the court set it aside.

The face of the matter is that they could have resorted to court. It is a serious matter.

**Dr. Rowley:** Well phrased.

**Mr. R. L. Maharaj:** It is a serious matter and it is being considered a laughing matter. Here it is that the reasons which this Government is giving is disagreement with the Speaker's ruling, when it could have gone to court. Then it said that there were fears—because it had no evidence but in its imagination and thoughts. The Government also said here it is Member of Parliament got up and read from prepared texts.

Well, I want to show how ridiculous—and I want to put it in *Hansard*—and how petty these people are. They do not love this country; they love themselves, and should be ashamed of themselves.

We came to this Parliament on a certain day to debate a motion of no confidence in the Speaker. It was known to everyone that a motion of no confidence could never have been used to remove the Speaker from office, and we came to debate that motion. Did the Government expect us not to be prepared for the motion to be debated?

Would it not have occurred to any Member of Parliament who is interested in his duty that there was no basis for that motion to be entertained? Would the

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

Members of Parliament not be prepared to attack that—that is to say, whether such a motion could have been filed?

When the Opposition comes now, prepared to—

**Mr. Imbert:** I thank the hon. Member for giving way. Since the Member is indicating that Members came prepared to prove that a motion of no confidence should not be entertained, could he indicate why the Opposition tabled a motion of no confidence against the Speaker?

**Mr. B. Panday:** Do not answer that.

**Mr. R. L. Maharaj:** That is so ridiculous, because any second standard child would know there is a difference between an Opposition motion of no confidence. Anyhow—

**Dr. Rowley:** Nonsense! Absolute rubbish!

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, I would refer the hon. Member to what the Member for Tobago East said about an Opposition motion of no confidence, I want to be able—

**Mr. B. Panday:** And it is not a motion to demit office.

**Mr. R. L. Maharaj:** I want to fully express what I want to say in this Parliament. Our Members came prepared; the opposite side are aware that they made a blunder so they are looking for other people to blame. As a matter of fact, that is part of PNM culture, a culture of political harassment of people with whom they do not agree. I have been a victim of that, and I continue in this House to be a victim.

**Dr. Rowley:** You and your file.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, he could talk about file. I have been arrested, persecuted, done all sorts of things by the PNM Government.

Justice Lennox Deyalsingh gave a judgment and condemned the PNM Government and it arranged a demonstration against the judge. What we are seeing here today is part and parcel of PNM culture of political harassment.

I am not surprised at their attitude. Nowhere in the statement of the President, or in the detention order one sees anything mentioned about a conspiracy of any Member or Members of Parliament, but the Prime Minister goes on television—he does not come here in this House to face the music, but to his public relations officers—and he makes that statement. Do you know why? He wants to divert

public attention from the main issue which is that he used raw power and guns to lock up this little lady because he was afraid to come to Parliament. That is what he did.

Then they come and say that what they said to the Speaker was confidential. I want to deal with something here today. Whilst the Speaker was presiding and before she presided, she campaigned for the PNM. She was on the campaign trail with the PNM, the Prime Minister and Dr. Lenny Saith.

**Mr. Manning:** I do not know anything about that.

**Mr. R. L. Maharaj:** Yes, you do not know. As a matter of fact, if they want to doubt that, we could prove it—collected contributions. As a matter of fact, after the election for the four years the Speaker had been in office here they—

**Mr. Manning:** Mr. Deputy Speaker, I think I had better put it on the record that Madam Speaker was not authorized to collect any contributions on behalf of the People's National Movement.

**Hon. Member:** And she turned over none.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, I am saying that the Prime Minister knew that Madam Seapaul then, not Speaker, was campaigning and collecting moneys for the PNM and I can provide the evidence to this House.

**Mr. Manning:** I just wish it to be known, Mr. Deputy Speaker, that the Prime Minister has no knowledge of any collections by Madam Speaker on behalf of the PNM.

**Mr. R. L. Maharaj:** I suggest you agree that we have a committee of this Parliament and let us investigate it.

I want to continue. After the appointment of the Speaker, Members on that side, including the Prime Minister, knew that the Speaker was involved in political work on behalf of the PNM in the constituencies of the Opposition. They supported, condoned and encouraged it. As a matter of fact, she went into the constituencies of Oropouche, Couva North, Couva South campaigning on behalf of the PNM. A building was provided for the Speaker in order that she could more effectively operate. The PNM was part of that. If there was a conspiracy to undermine this Parliament, it was a conspiracy between the PNM and the Speaker.

When the Speaker accepted the motion of no confidence against the Prime Minister, all hell broke loose. As far as the Prime Minister was concerned, there was no basis for that. When the Speaker ruled against—

**Mr. Manning:** Mr. Deputy Speaker, I thank my hon. friend the Member for Couva South, but it is really not my intention to interfere in his contribution in any way. The record will show that the device of a motion of no confidence against the Prime Minister is a device that we used in Opposition, and it is legitimate. Secondly, the record will also show that the motion of no confidence filed by the Member for Couva North against the Prime Minister within the last year was one of the greater mistakes he has made in his years.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, what the hon. Member for San Fernando East and Prime Minister has said today, is totally different from what he said in response to the motion of no confidence filed. Their contributions were to the effect that one could not have such a motion, and that it was a motion against the Government.

The records of this Parliament will show that in recent times the Speaker ruled against the Government. One may remember there was a motion on the Road Improvement Fund where the Speaker ruled against the Government and in favour of the Opposition.

What happened then was when the Leader of Government Business and Members of the Government spoke to the Speaker in the absence of the Opposition; nothing was wrong then. No conspiracy. Nothing wrong, everything was above board—campaigning for the PNM, nothing wrong. But if the Speaker and the office of Speaker are under attack, it is the function of the Opposition to, in effect, rescue and defend the office of Speaker. Therefore, we want to tell this Government that no amount of threats, no amount of terrorism, from the PNM, or any other quarter would prevent us from doing our duty.

### **6.35 p.m.**

So when the Attorney General goes with the Member for St. Joseph to see the Speaker in our absence and without our knowledge, that was not wrong, that was not conspiracy. Having regard to the conversation, that was not a conspiracy to undermine the Parliament. That was right. “Different strokes for different folks; different rules for different fools.”

I want to tell this Government and this country at large that the Opposition will not allow any office under the Constitution in this country to be attacked, and if called upon or if it is aware of it, this Opposition in its power to defend the independence of that office. As a matter of fact, it happened. When the office of the Commissioner of Police was attacked, we defended it, and we went and saw



the Commissioner of Police. When the Service Commissions were attacked, we defended them and we went and saw them.

I want to remind those gentlemen there that before Mr. Clinton Bernard was appointed Chief Justice of Trinidad and Tobago and when he felt that he was being attacked, he came to us and we defended his office and his entitlement. We fought for equality of treatment. The records will show that around 1984/1985 the Human Rights Bureau and the Leader of the Opposition were involved in a national campaign to promote the rights of Mr. Clinton Bernard for chief Justice of Trinidad and Tobago when they tried to prevent him from getting into office. So we were not afraid then and we are not afraid now.

So that here is this conspiracy. If there was a conspiracy, not only should we have been arrested and detained like the Speaker, but the ordinary law of the land could have dealt with that and there was no need for any state of emergency. Because if we conspired, there is an offence known as conspiracy in criminal law. The Government charged me with that already. It could have charged me; it could have charged other Members of Parliament.

Mr. Deputy Speaker, do you know what this Government did? In 1985 the PNM Government put me on five criminal charges. The magistrate said there was no case, and there are High Court actions pending against the Government for damages. Whilst the files were in the Chief Justice's Chambers, they disappeared and according to the Government, Ramesh Maharaj is responsible for that.

Do you know what this Government did me? In 1986 it charged me with conspiracy to murder. The magistrate dismissed the case. The witnesses have gone on evidence and on public record and said they were paid by the PNM Government. That is a matter of record. There are cases in the courts now. The Government is talking now about smear campaign but we, on this side, know about smear campaign. *[Interruption]* Go outside and say that?

Let us go for the other reasons for the state of emergency—

**Dr. Rowley:** I thank the hon. Member for giving way. I simply wanted to get clear in what order things went. Is it that the case was dismissed and then the files disappeared or the files disappeared and then the case was dismissed?

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, I thought the Minister would know because he was involved in the disappearance of the files. He was in Government. I was not in Government. I have never been in Government.

**Hon. Member:** And you will never be!

**Mr. R. L. Maharaj:** Time will tell that.

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

The other matter which they said was in support of the state of emergency was the editorials in the newspapers. Have you ever heard any government supporting a state of emergency because of the editorials written in newspapers? The Government should be ashamed to say that. I cannot believe—

**Mr. Imbert:** Who said that?

**Mr. R. L. Maharaj:** Who said that? That Member. Anyhow, we—

**Mr. Imbert:** Mr. Deputy Speaker, I think the hon. Member for giving way. Since the hon. Member is saying that I was the one who made that statement, let me refresh his memory. What I was saying was, it was published in the newspapers that the Speaker had indicated that she was not going to consider the ruling of the court and there were editorials written on the basis of that information given to the newspapers. I never said that the Government acted on the basis of editorials.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, he has admitted what I said that he admitted. I wonder sometimes whether Mickey Mouse did not have a Patrick Manning watch, because this is really amusing. The Prime Minister sits down there and he is hearing all these contributions and he smiles. He does not get up and tell them they should not be saying that. Is he saying that his Government created a state of emergency for these reasons?

It is well known in Trinidad and Tobago that the *Guardian*, the *Express* and *Newsday* are the public relations machinery of the Prime Minister and the Government. As a matter of fact, we shall deal with that at another stage.

When one looks at this detention order, one sees that nowhere in it is there anything about conspiracy with any Member of Parliament. All the reasons given had to do with the rulings of the Speaker and, in effect the fears of the Government. In the advice which the Acting President stated that he got, there is nothing mentioned at all.

In an extension of what the hon. Member for Tobago East sated, I think it is important for us to understand that the President of the country has a discretion that he must be satisfied as to whether the conditions in section 8 are satisfied. He must be satisfied and he has that discretion. That is a discretion which is given to him and which he must exercise independently; must not surrender it. He must not allow his discretion to be fettered, because if he allows that, it is no longer his discretion but that of the person who influenced him.

So that where in this matter the Acting President exercised the powers of declaring a state of emergency on the advice of the Prime Minister, it was not the

President who declared the state of emergency; it was the Prime Minister. Yes, the Acting President was the functionary, but it was not his discretion. It was the Prime Minister—and the Prime Minister has no powers to declared any state of emergency.

**6.45 p.m.**

Let us understand that under section 80 of the Constitution there are basically two kinds of powers which the President exercises in respect of matters. We are legislators; we are lawmakers. Section 80 of the Constitution states:

“(1) In the exercise of his functions under this Constitution or any other law, the President shall act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet, except in cases where other provision is made by this constitution or such other law, and, without prejudice to the generality of this exception, in cases where by this Constitution or such other law he is required to act—

- (a) in his discretion;
- (b) after consultation with any person or authority other than the Cabinet; or
- (c) in accordance with the advice of any person or authority other than the Cabinet.”

Where he acts on the advice of the Prime Minister, in cases where he has to act, he cannot question the advice of the Prime Minister. He must act! But, where he has a discretion, he does not have to act. It is significant that this Acting President was misled, misinformed and misadvised, that this was a case in the category where he had to act on the advice o the Prime Minister.

He did not say, “I acted after consideration of the information given to me.” He acted on the advice. And the advice was that he should declare a state of emergency for these reasons. The Prime Minister dictated to him. There is nothing else on that document. Therefore, the Prime Minister fettered the exercise of this discretion and the Acting President abdicated his responsibility to exercise the discretion. The Acting President surrendered his discretion to the Prime Minister. *[Interruption]* That is the attitude. Create a state of emergency; use force and take it to court. It would take some time in the court, so they could take it to court.

If that is the attitude of this Government, then the people of this country would have something coming. As a matter of fact, it is stated in all these works on states of emergency and history, that where a precedent is created, and the people do not react and show to the government that it is not prepared to accept

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

that kind of abuse of power, the people then give legitimate authority to the government to use it for other purposes.

If this is correct, after a general election and another party—whether it is National Alliance for Reconstruction; United National Congress; NJAC or so forth—wins the election—

**Dr. Rowley:** Why do you not call MUP?

**Mr. B. Panday:** That is not a political party.

**Mr. R. L. Maharaj:** —what prevents the Prime Minister from saying that he fears public safety would be jeopardized and advises the President to declare a state of emergency, the President acts on his advice, declares a state of emergency and puts all Members of the newly elected government under house arrest?

**Mr. Robinson:** It happened in Burma.

**Mr. R. L. Maharaj:** It happened in Burma.

**Mr. Valley:** Mr. Deputy Speaker, just for the record it is known that the People's National Movement lost the election in 1986 and demitted office without any noise whatsoever.

**Mr. B. Panday:** That is not the point!

**Mr. Robinson:** We never locked up a Speaker.

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, nowhere in the history of Trinidad and Tobago was any Speaker locked up. Nowhere in the history of the Commonwealth was any Speaker locked up by the Government to be prevented from performing her duties.

What I am saying is that this precedent can be a sign of things to come; a sign that this Government is prepared to use power to stay in office. This Prime Minister has shown that he is a dictator. Here it is when he wants to get rid of people, he resorts to political terrorism.

Mr. Deputy Speaker, do you know what is a governmental terrorist? I have tried to define it: A governmental terrorist is one who, under the cloak of constitutionalism and by virtue of the powers given to him by his office, imposes his decisions although he knows that they do not have any constitutional or legal basis.

**Mr. Manning:** What document is the Member reading from?

**Mr. R. L. Maharaj:** That is my definition.

The Government has the powers; that is why we have to understand the doctrine of the separation of powers. We have to understand it in order to see what this Government has done to nakedly violate the rule of law. Do you know what is the rule of law? No one is above the law. Even the Prime Minister and the Government did not subject itself to the law.

**Mr. Manning:** What was the unlawful act?

**Mr. R. L. Maharaj:** The unlawful act was that there was no constitutional basis for the state of emergency—

**Dr. Rowley:** That is your opinion!

**Mr. R. L. Maharaj:** —and the Speaker was locked up.

Before I talk about the separation of powers, and to show what has happened in this matter, it is important to see what this book, *Emergency Powers in Peacetime* has to say about “The Role of the Legislature” on page 37:

“Parliament’s role is not to govern, not to carry out or direct the carrying out of policies, but to scrutinize, influence and legitimize the Government, its measures and its actions; to provide a degree of critical oversight and to endeavour to ensure that executive powers are used wisely, effectively and properly; to strive to maintain the political responsibility to it of Government and of Ministers. Its limitations in exercising its functions are well known.”

We know that under our system the function of Parliament is not to govern. The function of Parliament, as it is today, is to scrutinize governmental action in order to point out where it went wrong if it did go wrong. What we saw in this issue is a situation where the Parliament appointed a Speaker. The Speaker was not appointed by the Government, but not appointed by the Parliament. The Parliament, the House of Representatives, is a completely different arm of the state to the Government. The Government does not administer the Parliament and the Government is not supposed to do so. The Government is not supposed to control the office of Speaker. The Speaker does not belong to the Government.

**6.55 p.m.**

Here, we see from all these matters, the Government is saying that it disagrees with the Speaker; it wants control of the Speaker; it wants the Speaker to decide in favour of the majority and not in favour of the minority. We saw that when it could not persuade the Speaker—and although it had the alternative to go to court—it decided to use force to get control of the Parliament. It is a matter of history that whilst the Speaker was under detention the Bill was passed.

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

This state of emergency was really a situation where this Government decided that it was going to use raw power, take control of the Parliament, imprison the Speaker, prevent her from presiding, get her out of the way, get through with the Bill, and it did not resort to law.

If it is that the Government used force to prevent the Speaker from coming to the Parliament when it could have resorted to law, and the rule of law demands that the Government must be subject to law—and the Government has not given any plausible explanation for not going to law when it had that machinery to go to the court—and if a state of emergency could only be granted as a last resort where ordinary resort to law cannot be had to protect the situation, then obviously, the state of emergency had no constitutional basis.

**Mr. Deputy Speaker:** The speaking time of the hon. Member has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [Mr. R. Palackdharrysingh]

*Question put and agreed to.*

**Mr. R. L. Maharaj:** Mr. Deputy Speaker, I thank hon. Members, but I do not propose to take the 30 minutes.

In the book, *Rule of Law in a State of Emergency* by Subrata Roy Chowdhury, published in 1989, dealing with the cases decided by the European Commission on Human Rights under the United Nations Convention under the International Covenant on Civil and Political Rights, at page 14, there is a case referred to as the Greek case. It stated some of the conditions which must exist before a state of emergency in law can be created. The one which is relevant to what I am talking about is:

“(d) The crisis or danger must be exceptional, in that the normal measures or restrictions, permitted by the Convention for the maintenance of public safety, health and order, are plainly inadequate.”

We are also party to the International Covenant on Civil and Political Rights. Under the International Covenant on Civil and Political Rights, Article 4 of the United Nations Covenant on Civil and Political Rights says:

“In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the State Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race,…”

One sees that not only by the municipal law, the ordinary law, the national law and the constitutional law, but even in respect of the covenants which we have entered into with the United Nations in respect of which there are international bodies to adjudicate in respect of governmental action, they clearly say that the government ought not to declare a state of emergency where the ordinary law of the land can deal with the situation.

The hon. Attorney General and Minister of Legal Affairs said yes, persons who are human rights activists would object to the declaration of a state of emergency. He even talked about lawyers appearing in respect of criminal matters. I want to tell him that quite recently there was a condemned prisoner, Asbhy, in Trinidad and Tobago, who was due to be executed. He was hanged although the Government knew that he did not complete his recourse to law. That was also a breach of the rule of law.

A serious crisis was reached in our society when the Government appealed to emotions to throw away the rule of law. There is a trend in what the Attorney General said, in that the Government to which he belongs was prepared to use emotions in order to throw away the rule of law. It has done it with respect to the crime situation in Trinidad and Tobago; it has done it with respect to the Commissioner of Police. What it has done with the Commissioner of Police is exactly what it did with the Speaker.

Mr. Deputy Speaker, you would recall the newspapers went on a campaign against the Commissioner of Police—editorials—calling upon him to resign. That is the strategy. The Government called in the editors, told them what it wanted and the editors of the daily newspapers obeyed, creating a situation—press terrorism. This Government actually created a post for the Commissioner of Police to fill and up to now the post has not been filled. It is the same kind of situation. The Prime Minister is a “fireman.” He fired the Speaker by a state of emergency; he fired a diplomat by fax, he fired Mr. Gift—by what?—television or radio announcement? This Prime Minister should not be a Prime Minister; he should be a fireman.

I want to read what Abraham Lincoln said. It is quoted at page 2. The United National Congress recognizes that a state of emergency is a useful power. It has no problem with the Constitution having power given to declare a state of emergency. The United National Congress is against the misuse and abuse of

*President's Statement (State of Emergency)*  
[MR. MAHARAJ]

*Friday, August 11, 1995*

power, to use a state of emergency when it should not have been used. We adopt these words from Abraham Lincoln's book:

“Every man thinks he has a right to live and every government thinks it has a right to live. Every man when driven to the wall by a murderous assailant will override all laws to protect himself, and this is called the great right of self-defence. So every government when driven to the wall by a rebellion will trample down a constitution before it will allow itself to be destroyed. This may not be constitutional law but is a fact.”

The underlying rationale for the state of emergency is self-defence.

There could not be self-defence in this case. There were other means to defend itself. The concept of self-defence is where a person is being attacked and he has no other way of getting away but to kill or stab the other person.

Where a government has other avenues in order to defend itself, a state of emergency is outside the powers of the law and, therefore, we accuse the Government of a diabolical conspiracy to overthrow the Constitution and the rule of law, and to overthrow the institution of Parliament and to do so without the protection of the law. It has done even worse than the Jamaat al Muslimeen because the Jamaat al Muslimeen knew that they did not have law. But the Government acted under the constitutionalism that it had law. The Jamaat al Muslimeen had an amnesty.

I want to tell the Government that it does not know the serious consequences which can befall a government when it acts outside the law. Therefore, we advise the Government that the next time it has to exercise these powers—if it has to exercise them—to consider the matter carefully before resorting to a state of emergency when other law could be used to deal with the situation.

Thank you very much.

**7.05 p.m.**

**The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Keith Rowley):** Mr. Deputy Speaker, I would like to make a short intervention on this matter in support of the actions of the Acting President as outlined in the statement before the House.

My colleague the Member for Diego Martin East in his excellent contribution on which I roundly congratulate him made the point that the business of this House is managed by way of the exercise of a vote, because it is recognized that there would be differences of opinion. The Government has an opinion and those



of the other side, but it is resolved by a vote. Obviously, this entire matter has to impressed those on the other side, so therefore they would interpret it the way they see it, but by the same token, we on this side have our opinion.

We have heard the opinion of the Member for Tobago East and the Member for Couva South. I think the Member for Tobago East made an excellent point which I support. That is at the end of the day, having reached where we have reached, it would do this country good if all parties involved find some way to get rid of this matter in Trinidad and Tobago. I would really like to see that because I would take no pleasure in this matter being taken to the Privy Council.

**Hon. Member:** You all would lose.

**Dr. The Hon. K. Rowley:** It is not a question of winning or losing. It is a question of country. Where I differ with the Member for Tobago East is that I do not have a guarantee that that position can be arrived at even with the best will in the world. If any of the parties decide that, regardless of whoever else is around, it is not accepting it and it is going to the next stage, we must remember, that as of now there is no law in this country which says that one cannot do so. It is very likely that even if the vast majority of people in this country believe that we should keep it in this country and end it here, one person can decide not to accept that, and over and above the will of the vast majority, take this matter to the hands of the British law lords. There is no guarantee that it would not get there.

I remember in 1992 I was watching a boxing match in the Olympics. A boxer named Park put up a good show but was beaten. He did not agree that he was beaten. When the judges gave the decision against him he sat down in the middle of the ring and refused to move. About 40 or 50 million people were looking at the match and he decided that he was not moving in spite of what the referee said or how many hard cuffs he received from the other boxer. People can take these positions. Of course, eventually the ring was cleared.

**Mr. Humphrey:** Mr. Deputy Speaker, if all the parties in this battle agree prior to going into a procedure, that the majority position at the end of the process will be accepted then, no party can take it further I refer to the procedures that are used in the United States to avoid having to take matters before the judge. In the alternative dispute mechanisms that exist, parties agree and that agreement has the force of law. There is no reason why we cannot adopt that process.

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I am simply saying that I have no guarantee that all interested parties would take that position. We have come to this position because of unreasonable action. I beg to differ with

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

Members on the other side who have a different point of view. I respect their point of view. I simply do not agree. We have come to this position because of unreasonable action on the part of others.

I commend the Member for Tobago East, an honourable gentleman of international stature on his involvement in the hot spots of the world such as Bosnia/Herzegovina and I wish him success in his mission. I hope that he manages to solve the crisis there. He made some points which one has to take in the context of our experience. He laid them very forcefully and emotionally and I do not want to be uncharitable—I think he believes in what he is saying. He says that the Speaker is not the property of the Government or the other side.

I am a student of my friend the Member for Tobago East. I listen to his every word and I watch his every move. The other day when he went to Tobago he called a meeting to deal with the scandal between the Government and its Speaker. When he is talking to his constituents in Tobago who he thinks do not know better, he tells them that scandal in Trinidad and Tobago—

**Mr. Robinson:** I wish the Member would be accurate.

**Dr. The Hon. K. Rowley:** Are you going to deny that?

**Mr. Robinson:** I do not know what the media may have said, but I never said so. I said the Government and its chosen Speaker.

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I know sometimes one can talk and not recognize what was said. I heard the Member in a broadcast saying the scandal between the Government and its Speaker. What caught my attention—

**Mr. Robinson:** May I insist that I never said that. I said the Government and its chosen Speaker, indicating that the choice was the Government's.

**7.15 p.m.**

**Dr. The Hon. K. Rowley:** I guess he would deny the fact that he went on to say that the problem is all within one party—when party colleagues cannot see eye to eye. The point was being made that the Speaker is a member of the ruling party. Let him tell me he did not say that, too.

**Mr. Robinson:** I said between colleagues—officials who are colleagues at the top of the Government.

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I give up, but I hope those members of the media who carried the broadcast would check back to ensure that they do not mislead the country again by distorting what the Member said.

The point of view was that it is a party matter and what we are seeing is a party problem. It was as a result of that kind of statement that the Prime Minister in addressing the nation had to make the point that contrary to what was being said by the media—and I take the word of the Member for Tobago East that he did not say so—the Speaker was not, never was and is not now a member of the PNM. That was a misconception to be corrected because the general impression being given by some is that the Speaker—

**Mr. Robinson:** The Speaker, as the sister of a Cabinet Minister—I am sorry I did not mention it in my presentation today—is a factor which should have been taken into account at the very beginning. I do not know how it could have been agreed that a Speaker could have been put in a position where she has to take decisions in respect of a brother in the Cabinet, or even in the Opposition. That was a fundamental error of judgment. That is what has led to the embarrassment of both the Speaker and her brother.

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I had a course of action to outline here, but this kind of policy on the hoof, I must respond to. What decision does a Speaker have to take with respect to her brother? We are all brothers and sisters here, and every single one of us would have sworn to an oath to eschew affection or ill-will.

What brother/sister story is he talking about? That is coming from my friend the Member for Tobago East, who, if my memory serves me right, and history is correct, was in the same Cabinet with his brother. So, is there a problem with a brother and sister—one being in the Chair and one being in the Cabinet? We have heard a long discourse from my friend the Member for Couva South about how far removed the Government should be from the Chair.

**Mr. Robinson:** I am saying that prudence should dictate that one does not put persons of such consanguinity in such positions.

**Dr. The Hon. K. Rowley:** I guess that is why he left the PNM Cabinet—because his brother was there.

The speaker never was the possession of the Government; never was the party's creature and we, in all our transactions on this matter, made this very clear. This afternoon it was said very eloquently by my colleague the Member for Diego Martin East that the Speaker is a servant of the House. We have recognized all along that the Speaker is the servant of the House. If there are other points of view on the other sides, then we on this side disagree with those points.

**Mr. Maharaj:** Did the Minister not say publicly that he was coming to take over his House?

**Mr. Valley:** I said that.

**Dr. The Hon. K. Rowley:** My colleague spoke on your behalf. We the elected Members of this House will take control of our House because we are the elected Members here. *[Interruption]* There is no apology for that.

**Mr. Robinson:** May I point out that that is not how it came over in the media. It came over as though the Leader of the House, on behalf of Cabinet and other Members, was coming to take back the House. *[Interruption]* I am telling you how it came over. In fact, it came over as though the PNM was coming to take over the House, and that may have been one of the reasons for the state of emergency, I do not know.

**Dr. The Hon. K. Rowley:** Let me treat with it as it comes up. What was happening to the Member of this House was that the Speaker had taken the authority to adjudicate on matters which should have been put to the vote. She denied Members the right to vote on the matter, and was ruling by her own discretion. It is in that context that my colleague the Member for Diego Martin Central said that we, the Members of this House, would retake control of our House, not PNM. *[Interruption]* As the Government of Trinidad and Tobago, we always speak on your behalf and we always act on your behalf. We are the Government of Trinidad and Tobago.

There is one other point of principle that was raised by my friend the Member for Tobago East, about the Speaker not contesting elections, because we want to maintain that fact of independence and not being opposed in a general election. I remember in 1991, the Speaker, the Member of Parliament for Tabaquite, without let or hindrance, with the concurrence, I presume, of the leader of the party, who made the same point this evening about that being a problem, contested his seat and duly proceeded to get the result. I did not hear then what I heard this evening. So if there is a change of position—

**Mr. Robinson:** What I was saying that in the United Kingdom, in the House of Commons, they go so far in order to maintain and demonstrate the independence and impartiality of the Speaker. I am not saying that it has happened here.

**Dr. The Hon. K. Rowley:** That was happening in the United Kingdom before 1986. So if that was the principle which was of some value, I would have

hoped that my friend the Member for Tobago East would have taken that on board in 1986. It seemed only to come on board now.

The Member for Tobago East in ridiculing the statement before the House and casting aspersions on the Acting President's judgment or lack of it, said that the opinions of the Prime Minister were all he found in the document and he was horrified to find that the Prime Minister's opinions have any value in this matter.

**Mr. Robinson:** Mr. Deputy Speaker, I do not want to be rising so often, but it is misrepresentation I have to deal with. I said most of it is opinion. I did not say all. I ask your protection, Mr. Deputy Speaker, that if the Minister is going to quote me, that I be properly and accurately quoted and not misrepresented.

**Dr. The Hon. K. Rowley:** All right. He said most of it. Having said that most of what the statement contained is the opinion of the Prime Minister does that change the point I was going to make?

My point is that the Prime Minister is the head of the Executive in this country. He is the head of the majority of Members on this side. He commands the majority of Members in this House. He is the head of the National Security Council. But we are being told that any opinion that he expresses to the Acting President is a problem. To the best of my knowledge, the Acting President does not have available to him his own executive sources.

**7.25 p.m.**

The Acting President does not have available to him sources of national security outside the Prime Minister's, so our system anticipates that the President will act on information provided to him by the Executive. He will have to look at the information provided by the Prime Minister and, in his own deliberate judgment, take a decision. Therefore, it is null and void and of no effect to seek to raise, as any matter of consequence, the fact that the Acting President acted on the opinion of the Prime Minister.

**Mr. Robinson:** Mr. Deputy Speaker, on a point of order. The document said the Acting President acted on the advice, not information—they are two different things. If the Member reads the document he will see what it says; it did not say information, it said advice.

**Dr. The Hon K. Rowley:** Mr. Deputy Speaker, all this time that I have lost I hope that I will recoup it as we go along. His interpretation is that the Acting President acted on advice and not on information. I guess the copy I have is not the one he has because when one looks at the last paragraph of page 1, all of pages 2 and 3, there is information on specific actions.

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

When the Acting President tells this House that during the period July 5 to July 31, 1995, on diverse occasions the hon. Speaker flouted the Standing Orders of the House and did not comply with established parliamentary procedures, is that the opinion of the Member for San Fernando East? I want Members on the other side to say that in their view that did not happen, that the Speaker acted properly and, therefore, to have said to the Acting President—as the Prime Minister would have said—that the Speaker has done that—I want them to put in *Hansard* that they are not of the view that the Speaker acted improperly.

The statement was spelt out and my colleague the Member for Diego Martin East went through, chronologically, what has happened at every stage of the proceedings. That was not opinion or advice, that was statement of facts that took place in this House. We may disagree as to the import of those actions. I want to quote from an article in the *Newsday* of Friday August 11, 1995 by some individual who had this point of view. This is one of the many points of view expressed. It says:

“The absurd impasse had gone on *ad nauseam* and had long passed the stage of a sick joke.

In the event, it was open season for opportunists and sundry political grasshoppers to do their own thing and jump on the bandwagon in the hope of extracting the maximum political mileage therefrom.”

That is only one point of view; whether it is PNM, MUP, or whatever, it is a point of view. So, do not be surprised if there are those on the other side who have a difficulty with the Government's interpretation of the Speaker's actions and the situation which faced the country on Thursday last. We differ on that.

**Mr. Maharaj:** Mr. Deputy Speaker, I think the hon. Minister is misunderstanding the point which has been made. The point is not whether the decision is right or wrong, because we are not to decide whether it is right or wrong in this matter. In this debate the point that we have made—which the Member has to answer—is that according to what is stated, ‘acting in accordance with the advice of the Prime Minister’, what the Prime Minister did was mention these matters and he caused the Acting President to act on that advice.

**Dr. The Hon. K. Rowley:** The President of Trinidad and Tobago lives in a cocoon, so with respect to all that happens in this Parliament he has to wait for the advice of the Prime Minister.

**Mr. Manning:** Mr. Deputy Speaker, I think it might assist hon. Members to note that in accordance with the provisions of the Constitution the Prime Minister

meets with the President on a weekly basis to keep the President informed of what is taking place in the country. That has been done with the substantive President and the Acting President. The meeting takes place every Wednesday morning.

**Mr. Maharaj:** So what?

**Dr. The Hon. K. Rowley:** What follows from that is that the President is advised about how the country is going every day, constantly, not only on this matter, on an ongoing basis. Just in case they think that out of a whim and fancy, I want to read section 81 of the Constitution. It says:

“The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Trinidad and Tobago and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of Trinidad and Tobago.

If the Government came to Parliament three or four times and found that it could not transact Government business under the Standing Orders, and the Prime Minister does not advise the President about that, he would not last three hours, because he is in duty bound to advise the President as to what is happening with the Government. I do not expect Members on the other side to be enthusiastic. *[Interruption]* The Member again! He is overdoing it!

**Mr. Robinson:** Mr. Deputy Speaker, I am being asked by the Prime Minister, on the basis of my experience. What I am saying is, you never know, nobody can tell what the Prime Minister says to the President except the President and the Prime Minister.

**Dr. The Hon. K. Rowley:** Since the Member for Tobago East seems to be in a getting-up mood this evening, I would ask him—to cut a long story short—whether, in fact, he agrees with the actions of the Speaker as taken, and as outlined by my friend the Member for Diego Martin East. Get up and tell me that! He has suddenly gone deaf!

**Mr. Humphrey:** Why does the Member want to ask that now? That is what should have been asked first.

**Dr. The Hon. K. Rowley:** I will ask him again. The point was being made by my friend the Member for Couva South that this Government wants to take over the Parliament and the Speaker. Let me put that to rest, Mr. Deputy Speaker. For a start, this Government took over the Parliament on December 17, 1991—whether you like it or not it is the elected majority that takes over the Parliament.

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

The principle is, the majority in the Parliament; that is why issues are brought to a vote and if there is discipline in the Government and the Government votes as a block, that is the direction the Parliament will go. That is why we have difficulty with the Speaker not putting matters to the vote for the Government's opinion is subverted when that happens. Do you understand that?

**Mr. Robinson:** Mr. Deputy Speaker, I must interrupt. Why then is a three-fifths majority required for some legislation; two-thirds and three-fourths majorities for others? How can you take over when you said you want to get rid of the Opposition?

**Dr. The Hon. K. Rowley:** When the Member had 33 seats did not his Government have the ability to do as he saw fit? He did not do anything. In fact, let me tell the Member all that he did not do even when there was grave danger to the State. An opinion that he express here this evening was tantamount to saying that the Government acted on speculation. On Thursday night, a state of emergency was declared and it prevented certain developments in the country. The Member for Tobago East said that was speculation, and I was not surprised to hear that. It was speculation in 1990, that elements within the country were prepared to take action against the State, but since their point of view was, let it happen first before the government acts—even when it happened, 16 hours later they declared a state of emergency. You see, we have a fundamental difference as to how the State should act. Sixteen hours had passed before a state of emergency was declared in this country. By that time, my friend the Member for Couva South had long flown the coup. *[Laughter]*

**7.35 p.m.**

So one understands that there is fundamental difference between this administration and the last one. If the Government perceives a threat to the State, pre-emptive action is taken to protect the State. I have absolutely no doubt whatsoever that had the Member for Tobago East—the Prime Minister at the time—declared a state of emergency to protect the State before that nefarious action took place, there are those in this country, including the Members for Couva North and Couva South, who would have attacked him for doing what they say this Government did. They would have called him dictator and all sorts of things. We know what the outcome of not taking timely action was.

Mr. Deputy Speaker, I want to take you to the Constitution. My friend the Member for Couva North took us through section 8(1) and (2). He made heavy weather of (a) talking about imminence of war—nobody is talking about was. (b)



hurricane, floods, pestilence. Nobody is talking about that; we are talking about (c). Let us talk about 8(2)(c) where the provision says:

“(c) that action has been taken, or is immediately threatened, by any person,—”

Speaker, talker, walker whomever it is

“of such a nature and on so extensive a scale, as to be likely to endanger the public safety...”

That is the provision under (c). It is under that provision that this Government acted. I tell you we will differ because you see—public safety. Mr. Deputy Speaker, I went to a meeting in Diego Martin Central, I think it was last Wednesday night, and there were a few hundred people there. I spent a lot of my time trying to pacify them because they, under the provision of the law, elected my colleague the Member for Diego Martin Central, who was summarily dismissed from this House. I want my friend the Member for Tobago East to tell me, as a parliamentarian of long-standing and international repute, whether, in fact, it is incorrect to say that the Member for Diego Martin Central was improperly dismissed from this House on that Wednesday.

Tell me your view.

**Mr. Robinson:** If you want my opinion, the action was a bit extreme, just as the Government's actions are extreme.

**Hon. Member:** Was it right or wrong?

**Dr. The Hon. K. Rowley:** We are saying that it was improperly and illegally done because there is no provision in our Standing Orders or in any law in this country for a Presiding Officer to summarily dismiss a Member from this House in those circumstances.

If the Speaker had a problem with the Member for Diego Martin Central, the matter should have been put before this House and this House would have voted on it. Only in recent times my colleague the Member for Naparima had a problem with the Chair; a motion was moved and this House took a vote to suspend him.

So this business of the Speaker summarily dismissing from her presence and from the precincts of this House my colleague the Member for Diego Martin Central—before he goes to jail—has seriously incensed the people of Diego Martin Central. I was in their presence and had the duty to pacify them and tell them that the Government is taking this matter step by step, and not to take matters into their own hands. That was Diego Martin Central.

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

Then there were persons in this country who were being told via media interviews with “Madam Muscle”, what was hanging over the heads of the Members for Ortoire/Mayaro, St. Joseph and possibly Diego Martin West. But I will tell you, as a Government, we understand the rights of the majority and of the minority. Unfortunately, in this matter there were those who saw potential political benefits and sought the interests of the minority.

In this country of Trinidad and Tobago, I would like anybody on the other side to tell me that had the Speaker of the Parliament of Trinidad and Tobago dismissed the Members for Diego Martin Central, Diego Martin West, Ortoire/Mayaro, and St. Joseph—just dismissed them from her presence—that was not something that would contribute to instability in Trinidad and Tobago and threaten the security of the state.

If the answer on the other side is no, it would not, I would tell them that I speak for the people of Diego Martin West and had the Speaker dismissed me from this House, she would have had to speak to many people from Diego Martin West who elected me, because I was elected by 9,600 voters. Do you understand? I did not come here at the behest of any of you; the people of Diego Martin West elected me to represent them.

**Mr. Manning:** Correctly and lawfully. Correctly and legally.

**Dr. The Hon. K. Rowley:** Yes. We move a motion in this House and one is free to vote as one wants. There is a procedure, and we have heard from the Member for Tobago East this afternoon a lot about procedure, and I agree with him. When the House took action against the Member for Naparima, the procedure was followed.

**Mr. Sudama:** Not the merits, the procedure.

**Hon. Member:** The merits, too.

**Dr. The Hon. K. Rowley:** One has the opportunity to adjudicate on the merits. If one does not agree that the case has merits, then one votes accordingly. Each Member of the House has a vote and votes accordingly; if there is no merit, one does not vote in favour. I am not concerned about private agenda or opinion. I am saying that if the Speaker had a problem with the Member for Diego Martin Central, the procedure required that that problem be put before this House. Do you understand?

It is in the context of public safety—if the Parliament of this country ceases to function—the Government comes to Parliament once and cannot proceed—and

those on the other side would tell me that that does not contribute to serious instability and poses no threat to public safety in Trinidad and Tobago, all I can say to them is that I disagree and, in this case, the Acting President agreed that it posed a threat to public safety.

**7.45 p.m.**

They do not agree with the Acting President, so they castigate him; they want to impeach him. But the bottom line is, the Constitution requires that the President be satisfied that public safety is at risk. In this case the Acting President was satisfied and he took appropriate action.

I also heard from my friend the Member for Tobago East. He says, "You must hear a person before you condemn him and put him out of office." I agree 100 per cent. I only want to ask him: Did he hear the Members for Couva North, St. Augustine and Oropouche when they were summarily dismissed from his presence?

At least in one case this House was going to hear about the Speaker, and history has now shown that the Speaker had more than opportunity, and instrument, to be heard. Because, you see, we sat here and heard the Speaker present a defence to a motion which was not before the House. So as of now, the country has heard the Speaker's defence and has not heard the case yet. I am sure my friend the Member for Couva South would agree that that is not how trials are done.

To date the Government has been denied the opportunity to present to this House the case against the Speaker, but in *Hansard* lies the Speaker's defence. If those on the other side have no problem with that, then we, on this side, disagree with them. It is as simple as that. They could say whatever they want, we would disagree with them. When the Member for Tobago East talks about not being heard we always knew that if the Speaker wanted to make her case known to the House she could have done that, as she demonstrated.

But look at who is lecturing me about hearing people! We wanted to move one Speaker and we get a lecture. He moved half of the Cabinet. My friend the member for Couva North was down in Cedros talking to fishermen and he heard on the radio that he was dismissed. My constituent MP for St. Augustine, my neighbour, up to now does not know why he was dismissed. He has not heard the charge. As for Oropouche, he has not recovered as yet. All of that—

**Mr. Robinson:** There is a principle of natural justice called *audi alteram partem*, which means hear the other side. Do not take one side. Hear the other side.

**Dr. The Hon. K. Rowley:** Do not get me wrong, I think he had good reason to dismiss all of them, but he never gave them a hearing, not that a hearing would have changed the outcome. But being such a strident advocate of procedure, his book should be clean, but it is not.

As he was speaking, the Member for Couva North was cheering. He forgot he passed in the rush also. But you see, he, too, is guilty, because when the MP for Couva South at the time was dismissed from his presence, I am not aware he got a hearing. My good friend the Member for Siparia, I understand bought the newspapers and there he read that there was a conference in his constituency. How could they do the man that? As for the Member for Chaguanas, I am sure she can—

#### SITTING OF THE HOUSE

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Mr. Deputy Speaker, I beg to move that the House continue sitting until the conclusion of the debate which is in progress.

*Question put and agreed to.*

#### PRESIDENT'S STATEMENT (STATE OF EMERGENCY)

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, what did the Government do? After the Speaker, on numerous occasions, violated the trust of this House, violated the Standing Orders, took action which could have the effect of inciting people in constituencies and across the country, the Government, under the specific provision of the Constitution, took action to bring this House back to sobriety, and all kinds of descriptions are being given to the Government.

I must remind you, it was in this country, I was driving along the Beetham Highway and I heard that an entire Cabinet was asked to resign, out of the blue. That was November 1987, I think it was. At the end of the day the Cabinet was reconstituted as it was in the beginning, minus one man. Yet today, the Member for Tobago East, who was the architect of that action, is lecturing me, saying that our treatment of the Speaker is political and that the actions were heavy-handed and meant to deal with a political problem. He had it within his power as Prime Minister, to just advise the President to send home "Trinity," but did not do that. He threw the whole country in turmoil.

The entire Cabinet in Trinidad and Tobago was dismissed for, God alone knows what, and when it was reconvened, the Member for St. Augustine was

gone. But the Member for Tobago East is telling me this evening about the Government having other avenues that it could have used to deal with the Speaker and therefore the Government did not have to go by way of a state of emergency. But the easiest way of dealing with a recalcitrant Minister is to write a letter to the President and sign your name to it and he "gone."

**Mr. Deputy Speaker:** The speaking time of the hon. Member has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [*Hon. K. Valley*]

*Question put and agreed to.*

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, here it is that you could fire a Minister by simply advising the President to remove him. That is all you have to do. That was not done. But in this case we came to the House to tell the House that the person in whom we had confidence, whom we had advanced to this House to sit in that Chair, no longer enjoys that confidence, and give us the opportunity to tell the House why we have lost confidence in that person.

We do that by way of a motion of no confidence wherein every single Member of this House, whether he or she is for or against, or on the fence, would have had an opportunity to take part in that process, because that is the procedure available to us. We came to the House and that is after we had private contacts.

There is a point of view that this did not have to come out in public. I would have been much happier had this never have come out in public and we never got to this impasse, but it was not for me to determine. It was the Speaker who decided that: "I am not moving." What are the Government's options? The Government has very good reason to have lost confidence in the Speaker. The Members on the other side might not agree, but again, I agree to disagree. But the Government has very good reason not to repose confidence in the Speaker any further.

So the Government has a duty to come back to this House and tell that to the House. So we attempted to do that, and what did we find? We find the said Speaker in the Chair saying: "You are not passing here and I am not moving." So we could not tell this House what the House should have been told. Even Members of this House who should have been told became assistants to the Speaker, providing legal assistance to her on cue, on time, and based on that assistance, the Speaker then moves to remove from the Order Paper a motion which she had approved and which was lying there for over a week.

**7.55 p.m.**

The Member for Tobago East said that this is the first time anywhere in the Commonwealth and in any democratic country, that a Speaker has been arrested. I would say it must be the first time any Speaker ever begged for that arrest. *[Laughter]* It must also be the first time in any democratic system where a Speaker threw out a motion of no confidence which was directed at him or her. Do we know of any other instance?

If it is the first time that a Speaker sits in the chair facing a motion of no confidence and the Speaker throws out the motion, thereby denying the House the opportunity to adjudicate on it, then it follows from that that it would be the first time that such a Speaker would be put under house arrest so that the Parliament could come back to sanity. So, we make no apology for that. The circumstances followed one from another.

I heard a Member querying section 8 of the Constitution which states that the threat must be—

“(c) ...of such a nature and on so extensive a scale,...”

Do Members want a more extensive scale than week after week one coming to the Parliament and meeting a Speaker in whom the Government has no confidence, sitting in the chair, and saying: “I am not treating with this matter?” Extensive from July 5 to 27? Clearly, we differ. We differ on this matter.

Had we come to the Parliament on Friday, the Speaker having quoted extensively from legal opinions provided by certain lawyers—known and unknown—having taken the position *[Laughter]*—In fact, I want my colleague the Member for Couva South—we are talking as colleagues here—to get up and tell me that half of what the Speaker quoted—and what she quoted outside—about the court having no jurisdiction in the matter, was not supplied by the Member. Let the Member get up and say that.

**Mr. Maharaj:** Mr. Deputy Speaker, I think that if this Member wants to make any allegation against me, he should make it.

**Dr. The Hon. K. Rowley:** I am asking a question!

**Mr. Maharaj:** The Member should make it! Let him make the allegation!

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I am asking a question: Was half of what the Speaker carried on with, especially the legal advice about the court having no jurisdiction in the matter, not based on advice researched and supplied by my friend the Member for Couva South? I am asking a question.

**Mr. Maharaj:** Why does he not make the allegation? I would deal with him.

**Dr. The Hon. K. Rowley:** Mr. Deputy Speaker, I am asking a question.

**Mr. Maharaj:** Make the allegation.

**Dr. The Hon. K. Rowley:** I have advised my friend the Member for Couva North, on many occasions, that to take advice from the Member for Couva South is to get into trouble. *[Laughter]* Apparently, when I was talking *sotto voce* to my friend the Member for Couva North, the Speaker did not hear me.

The Member for Tobago East made the point that the Government did not approach this matter in any other way, because to have done so, would have been to expose Government Members. Therefore, we chose a route using the arm of the State which focused on one person to the exclusion of others who should have been treated in a similar fashion, and he made mention of the Minister of Finance, the Minister of Planning and Development and the Prime Minister.

I want to dismiss that argument, again, using his ground of procedure. If it is that anybody on the other side, including the hon. gentleman the Member for Tobago East, has any difficulty with anybody on this side, the procedure is available to bring a motion of censure against the relevant Minister.

In fact, when the Member felt sufficiently convinced that he had a case against the Prime Minister, that motion was brought to this House; it was duly debated and the majority of Members in this House voted against it. If it is that—*[Interruption]* Now hear this Member. He does not like the way we voted. So he wants to vote for me now? I had only one vote. The Member had a vote and at the end of the day—

**Mr. Sudama:** Mr. Deputy Speaker, if the Member would give way—

**Dr. The Hon. K. Rowley:** The Member would have one and a half hours just now.

I am hearing this talk from Members of Parliament. I would excuse the public outside because they have no recourse to this kind of procedure in the House. Members of Parliament somehow have a difficulty with the choice of spouse of the Member for St. Ann's East. If one feels so sufficiently strong about it, one should bring a motion of censure and try to have him censured and throw out. That is the option available to Members.

I am hearing about the Minister of Planning and Development. *[Interruption]* I am hearing now that Members have difficulty with majority rule.

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

We have no difficulty with majority rule. We subscribe to it. When we found ourselves in the minority, 33/3, we accepted that. We never once complained in this House about the 33/3. All of a sudden, however, the Opposition has a problem with majority now. We take objection to a Speaker ruling in favour of the minority, and we would disagree with the other side on that matter.

We have been told that the threats of the Speaker acting to reduce the Government majority and to convert the majority elected Government to a minority, could have been dealt with through the courts. How ridiculous can one get! That was part of the problem! When the first Member was thrown out, what did the Government do? We went to the court. The court ruled that the Member should be reinstated. What did the Speaker say? She said, "I do not recognize the authority of the court in the Parliament." So, we are being told that we must go back there, but this time not having lost one Member, but having lost one quarter of the Government. 'You doh see we would be dotish?'

If we had sat on our hands and waited until the Speaker threw out one quarter of the Government, and then acted—and listen, while we are going back to the court to argue to tell the court that 'she ent taking us', we would have exposed the majority Government to a motion of no confidence, and once that vote was carried in this House, one would have heard a completely different argument from the other side.

All this talk about the Constitution would have been spoken from the other side of the Member's mouth. Because at that time, I can tell you, Mr. Deputy Speaker, that the argument would have been that the Government was defeated. The argument would have been that the Government had only 16 votes and the majority votes were from the Opposition, so that Government was defeated.

If I had waited here for that to happen, having been so clearly signalled by the Speaker, when I go back to Diego Martin, Westmoorings and Carenage, they should chase me from there because I was 'dotish' to come into the House, as part of the elected majority and allow the Speaker to abuse the privileges of the House, break the law and throw us out. We deserved that if we had got that.

### **8.05 p.m.**

This Government acted in a responsible and timely fashion to prevent the massive instability that would have taken place in this country had that plot been allowed to unfold to its conclusion. To hear now that, "We were not going to vote with them," "We were not going to come to the House," and "That could not happen," is for them and the birds. It was the Government members that the



Speaker was threatening to throw out. It was the court order in favour of our Member that the Speaker refused to accept.

The state of emergency—we are being told of a state of emergency. What state of emergency? If the Speaker knew that she had no food at home, then she should have behaved herself. It is as simple as that. We come here on Friday with 18 Members and a colleague who is having some difficulty, he is wandering; we walked to the Parliament with 15 or 16 Members and then we are supposed to ask the Opposition to please not vote against the Government side because it has only 15 Members? That is the scenario. My friend the Member for Couva South smiles from ear to ear as the circumstances unfold.

I am not surprised that he prosecutes this case with such venom and vitriol because, just as he was about to breast the tape in his prime ministerial suit the tape receded.

One must understand. I feel for the Member. He went to bed on Thursday night with his plans laid. He goes before the mirror Thursday night and as he brushed his teeth he said, PM; he brushed his shoes, shined them, took out his suit of prime ministerial cloth and woke up 'fo-day mornin' and he heard a state of emergency. He must have a problem.

I do not expect anything else from the other side. I understand their position. The country saw this thing unfold.

**Mr. B. Panday:** I am terrified for this nation.

**Dr. The Hon. K. Rowley:** I know the Member is terrified. I understand how the Member feels. I understand the circumstances. There is a saying "There is many a slip 'twixt the cup and the lip." "They buss me mouth." That is what they are saying. We were here and saw what happened. The Leader of Government Business got up and sought to move an adjournment of the House. It is spelt out in the Standing Orders how an adjournment is done, that the question be put to the House without amendment and without debate. The Opposition saw what happened. To this day, the motion has been put to the House. Nobody has a problem with that.

I saw a comment made by the Law Association which while all this was happening, had pip. The Speaker was in the Parliament and not observing procedures, not once, twice, but repeatedly. While I would excuse the layman for not understanding the import of that kind of action, I cannot excuse the Law Association because it comprises people who should understand what is

*President's Statement (State of Emergency)*  
[DR. THE HON. K. ROWLEY]

*Friday, August 11, 1995*

happening. I expected a comment from them to elucidate the situation and to enlighten the population. But not a word came from them. But when the Government acts to protect the rights of the majority, all of a sudden, they had something to say. I was not surprised.

Recently, in the San Fernando court something happened which has me quite disturbed. If Members are disturbed about the state of emergency, I am not disturbed at all. If those on the other side have a problem with the state of emergency which confined a renegade Speaker to the luxury of her home while the country got back on an even keel, I have no problem with that.

Almost every day I hear about the massive corruption in our courts and about cases being undermined and subverted in a variety of ways. We heard that the police arrested a lawyer who offered a bribe to a policeman to throw out a case and other lawyers marched in support of their colleagues. That bothers me. Obviously, we have different positions on these matters.

This Government has shown extreme patience in this matter; it sought to handle this matter behind closed doors. It did not work. This Government has experienced the humiliation in this House of a Speaker treating elected Members in a most high-handed manner.

When the Government intervened decisively to protect the stability of Trinidad and Tobago, to ensure that the Parliament functions for good order and good Government, it was not afraid to act and it acted. We did not institute a curfew on anybody. We did not lock up anybody left, right and centre. We did not say one could not have gathered in threes and fours.

There was a limited state of emergency to deal with the problem as specifically as possible, and as soon as the problem was dealt with, the state of emergency was lifted. Is that the action of a dictatorship? Of course, I have not heard a single presentation from the other side up to this point which says that they supported the actions of the Speaker.

All kinds of descriptions are being heard about the effect, but the members on the other side have very studiously steered clear of the case. This Government had the responsibility to deal with the cause. If the Opposition in all its forms and fashions wants to deal with the effect on its sister, brother, uncle and nenen, if it wants to treat it in that way, that is for it to do. This Government had a duty to this country to deal with the cause and it did so decisively without fear or favour.

As the statement says the President uses his powers under section 8(2)(c) when he:

“is satisfied that action has been taken, or is immediately threatened by any person, of such a nature and on so extensive a scale as to likely to endanger the public safety...”

The other side must give us guarantees, not just “old” talk. They must give us guarantees that had the Speaker been allowed to carry on in the way she was carrying on, there would have been absolutely no threat to public safety in this country.

Until such time as they can give those guarantees, then my opinion is that it fell to the Government to advise the Acting President, and for him to satisfy himself. If the other side do not agree, I respect their right to disagree.

When the Acting President talks about being advised of the Speaker's intention to reduce the Government's majority, I did not hear any condemnation of that. I have not heard any condemnation of the fact that the Speaker said that she has a certain position with respect to the court matter and the court order. I am hearing only about the action the Government took to treat with the cause of this temporary instability.

### **8.15 p.m.**

I would like to go on record as having played a significant role in restoring stability and good order to Trinidad and Tobago, by ensuring that the Parliament of our country remains under the control of the elected Member of the House. When I put my signature to the resolution or any similar document, it is to ensure that the Speaker of this House remains a servant of this House, and not a master of the elected Members of this House. Because of all the action we have taken on behalf of all Members, this House is now under the control of Members of this House. Therefore, we have succeeded.

Thank you.

**Mr. John Humphrey** (*St. Augustine*): Mr. Deputy Speaker, I think that side should seriously consider the advice extended to this House by the Member for Tobago East before they put themselves into deeper and deeper trouble, and Trinidad and Tobago on the world scene, in perhaps the most embarrassing situation any fledgling democracy could face.

We are here to debate and take note of the statement of the Acting President under section 9 (1) of the Constitution setting out the specific grounds on which

*President's Statement (State of Emergency)*  
[MR. HUMPHREY]

*Friday, August 11, 1995*

the decision to declare the existence of a state of emergency in the city of Port of Spain was based. We have heard enough to know that the state of emergency was declared on the advice of the Prime Minister to the Acting President. In the statement that we are debating the Acting President had this to say—everything else was a quotation of the Prime Minister's advice to him—it is the final paragraph:

“As a consequence of these events I was satisfied that the public safety was endangered to an extent that warranted the declaration of a state of public emergency in the city of Port of Spain.”

What are the events to which he alluded? If we go through the statement, we would see the events identified by the Acting President. They are as follows:

5. The hon. Speaker flouted the Standing Orders.
6. The hon. Speaker did not comply with established parliamentary practice and procedure.
7. The hon. Speaker suspended the Member of Parliament for Diego Martin Central.
8. The hon. Speaker stated that the High Court had no power to interfere in the internal management of the House.

That is the totality of events listed in this statement by the Acting President of the Republic. Are those events sufficient to warrant the declaration of a state of emergency? In no uncertain terms, I say no. They are not sufficient to conform with the requirements of the Constitution in declaring a state of emergency.

**Dr. Rowley:** That is your judgment.

**Mr. J. Humphrey:** It is the judgment of this side and it will be the judgment of those who will judge what has been done. Let us go to the Standing Orders which they say have been flaunted.

**Mr. Imbert:** The statement also said:

“..and intimated her intention to similarly apply contempt charges against other Government Ministers.”

He left that out.

**Mr. J. Humphrey:** I am sorry, Mr. Deputy Speaker. Intimating an intention is certainly not an event. This statement says clearly:

“As a consequence of these events I was satisfied that the public safety was endangered to an extent that warranted the declaration of a state of public emergency in the city of Port of Spain.”

One has to look at the statement and to see what the events were. I have done that. There are no other events listed in this statement than the ones I have pointed out. The rest is speculation and presumption. It could have come from anywhere. We are talking about the Speaker flouting the Standing Orders.

The Standing Orders are our Standing Orders, not the Speaker's Standing Orders. These are the Standing Orders of the House of Representatives. Read the front cover. It states:

“TRINIDAD AND TOBAGO  
STANDING ORDERS  
OF THE  
HOUSE OF REPRESENTATIVES

Made by the Governor under the provisions of section 8 of the Trinidad and Tobago (Constitution) Order in Council, 1961.”

It is true this is an ancient document and it is about time that we re-visited it. That is quite clear. Even with these ancient Standing Orders, allow me to refer you to Standing Order 94. It states:

“Where agreement has been reached by leave of the Speaker between the Leader of the House and the Leader of the Opposition with regard to the transaction of any of the business of the House for any sitting or period, such agreement shall be announced in the House by the Speaker and the Speaker shall, the provisions of these Standing Orders notwithstanding, conduct such business in accordance with the terms of the said agreement.”

If there were problems with the Speaker in this House, that is the first Standing Order to which Members should have referred and relied upon. The Speaker had no discretion if the Government had consulted with both the majority and minority Opposition. If the Government had consulted with those on this side we might have avoided this terrible embarrassment that has been inflicted on Trinidad and Tobago.

In addition to those who understand the delicate workings of democracy, we know that what has happened has threatened the whole principle of the separation

*President's Statement (State of Emergency)*  
[MR. HUMPHREY]

*Friday, August 11, 1995*

of powers under the State of Trinidad and Tobago. The House of Representatives has now been compromised because the attitude of the majority of Members of this House is that this is their House. We heard it expressed loudly and clearly this afternoon.

What else was available as remedy? The President of the Republic is elected by an electoral college. The Members of this House participate in that election, and it has become tradition that when someone is nominated by the Government for President, we all support the nomination.

**8.25 p.m.**

If we have problem with flouting of the Standing Orders, do you not think that the Acting President could use his good offices to assist the House of Representatives in resolving that problem? And if the Prime Minister advises the Acting President on a weekly basis, as he has stated, was it not possible for the Prime Minister to suggest to him that he intervene in this matter?

The Acting President can call on the Leader of the Opposition. He can call on every single one of us as Members of this House for discussions. Is that not so, Mr. Deputy Speaker? As a Member of Parliament, do you not feel that the Acting President's door is open to you? It certainly is and, therefore, if we had a problem here we could also have pursued that remedy.

There is something else that could have been pursued. There is a convention of our Parliament and the parliaments of the Commonwealth, of the Prime Minister consulting with the Leader of the Opposition on matters of concern to the nation. Could the Prime Minister not have called the Leader of the Opposition and consulted with him on the problem that faced this Parliament and the national community? Yes, he could have. He could have done that very easily. In fact, I have information that when the situation got completely out of hand, the Prime Minister communicated with the Leader of Opposition.

The Leader of the Opposition was waiting to have a meeting with the Prime Minister to see if he could assist in resolving this problem, but the Prime Minister never got back to him to have such a meeting. This is a fact whether they like it or not. Not a single one of these remedies was pursued. And there were the remedies that were prescribed by a competent attorney of the court but they were not pursued.

**Dr. Rowley:** The Member for St. Augustine seems to be very well informed. I just want to get some information from him. Since the Member knows that the

Prime Minister took certain action with respect to the Leader of the Opposition, does he also know for a fact whether the Acting President tried to assist?

**Mr. J. Humphrey:** I am a Member of this House. Nobody approached me for assistance in this matter. I observed the situation as members of the national community observed.

I remember being called to a meeting of this House and receiving an Order Paper. It was a meeting which was not on the normally scheduled day, so it put Members out. We all came to that meeting. We had the Order Paper delivered to us in advance: We knew what we came for. The Order Paper indicated that the Speaker was Occah Seapaul, and we came to this House to debate a motion of no confidence in the Speaker that was on the Order Paper. Everyone of us came here prepared to debate that motion. I had notes. The Member for Tobago East had his notes. The Member for Couva South had his notes.

We were all assembled here and the Speaker was in the Chair. The Leader of Government Business announced that they were not debating that motion as long as the Speaker occupied the chair. Mr. Deputy Speaker, that was a contempt of the House. They brought us here with the advice that the Speaker would preside over the debate of a specific motion that was on the Order Paper but when we reached here they told us that we are not debating that motion. What did they bring us here for? To try to move the Speaker from the chair?

**Mr. Valley:** Mr. Deputy Speaker, the Member's recollection is not correct. The Member would know that on the Friday before, the Acting Leader of the House indicated that the Government would not debate the motion as long as the Speaker was in the chair and that he had filed a motion to waive the Standing Orders to allow the Deputy Speaker to take the chair. The Speaker replied to the Acting Leader of the House stating that she found the motion out of order and contemptuous and promised to haul him before the Privileges Committee. That is my recollection of that situation.

**Mr. J. Humphrey:** Mr. Deputy Speaker, I have been here for 17 years in the other place and in this place, and I have been absolutely ashamed of this House of Representatives through this whole debacle because it was absolutely unnecessary to put Members of this House and the national community through this agony. The Speaker did not initiate any action in this matter. The Speaker was the object of the action. The Speaker was told by an emissary of the Prime Minister to demit office as Speaker or face the pressure that the Government can bring on her.

We go from the Attorney General, when he was introducing this motion, that newspaper reports formed part of the evidence. We got from the Member for

*President's Statement (State of Emergency)*  
[MR. HUMPHREY]

*Friday, August 11, 1995*

Diego Martin East that newspaper editorials formed part of the evidence that guided the Acting President in declaring the state of emergency. It has been pointed out to me that the following was published in the *Express* of August 5, 1995:

“In a telephone conversation on July 3, Occah Seapaul was warned by Attorney General Keith Sobion that the ‘going would be very rough and things could get nasty.’ She told him she was standing her ground and was prepared for the consequences of her decision.”

Now, we have also heard that the emissary of the Prime Minister who visited the Speaker advised the Speaker that the Prime Minister wanted her to demit office, but not for any reasons of the law—they were political reasons. *[Interruption]* It is a story that has been bandied about in the media. The national community is aware of her story and we have heard no refutation of that story from others of the Government spokesmen today. In fact, her story is that the Attorney General visited her as an emissary of the Prime Minister—not on a legal matter.

The Attorney General under the Constitution is not a messenger; he is a legal officer with certain independent powers. Once appointed as Attorney General, he is Attorney General, guardian of the law on behalf of all the citizens of Trinidad and Tobago, and he should not permit his Prime Minister to breach the law. But he was prepared to go as his emissary with a political message.

Let the Attorney General stand up and deny that. Let him say that he never spoke to the Speaker about the Prime Minister's wishes that she demit office and that the decision had nothing to do with the law; it had to do with politics. Preferable let the Prime Minister explain to the national community what those politics are all about. Why do they want Ralph Maraj and Occah Seapaul hounded out? What are the politics? Mr. Deputy Speaker, I am very concerned, indeed. *[Interruption]*

**8.35 p.m.**

**Mr. Deputy Speaker:** Hon. Members, please have some order. I am having difficulty in following the Member's contribution.

**Mr. J. Humphrey:** Mr. Deputy Speaker, from the inception of this Parliament after the election in December 1991, we have seen consistent moves to subvert the Constitution of the Republic of Trinidad and Tobago by the majority. Anything in the Constitution that obstructed the Government from doing what it



wanted should be removed from the Constitution, to the extent where the Attorney General went in public and said that we will have to revise the whole Constitution. This is when I really got alarmed. They do not only want to change it piece by piece, they want to now change the whole thing.

I want to know what aspects of the Constitution are not suitable to this Government, and I want to remind Members opposite that this Constitution is Act No. 4 of 1976. It is a Constitution that was brought into being by the majority in the House of Representatives and in the other House at that time. It is, therefore, a PNM Constitution.

The Wooding Commission did an exercise of enquiring of the citizenry what we wanted in our Constitution. Having conducted that exercise, they submitted a report with recommendations. I recall the then Prime Minister describing the report and recommendations of the Wooding Constitution Commission as a dagger aimed at the heart of the PNM, and the present Constitution was brought into being because this was suitable to the PNM. It is, therefore, a PNM Constitution.

How come all of a sudden we have another PNM Government and the Constitution is no longer suitable? Why? What provisions of this Constitution the Prime Minister and his Cabinet colleagues do not want? I want to ask a few questions about that. You see, Mr. Deputy Speaker, this is a democratic Constitution. In many areas of this Constitution—Act No. 4 of 1976—one will see, deeply enshrined, the principles of democracy. It starts with the Preamble and is written on behalf of the people of Trinidad and Tobago. It says:

“Whereas the people of Trinidad and Tobago—

- (c) have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of the national life and thus develop and maintain due respect for lawfully constituted authority;”

That is the essence of democracy—where every single one of our citizens can play some part in the institutions of national life. It is by playing that part that we assume that respect for duly constituted authority will emerge. You cannot dictate to people and think that they are going to respect the institutions. Therefore, dictatorship is not to be found as a principle of this Constitution. And it does not stop there; there are other provisions, for example, clause 2 which says:

“This Constitution is the supreme law of Trinidad and Tobago. And any other law that is inconsistent with this Constitution is void to the extent of the inconsistency.”

*President's Statement (State of Emergency)*  
[MR. HUMPHREY]

*Friday, August 11, 1995*

Automatically, if this Parliament with its majority that feels that it owns it and can control it, passes legislation that is inconsistent with the spirit and the letter of the Constitution, it is automatically void to the extent that it is inconsistent. *[Interruption]* That is not all—he wants to know the point I am making. Do you know that King Charles I understood the point that was being made by Oliver Cromwell when his head was separated from his body? That is the point I am making. The point I am making is that Westminster has a history; it was not always a people's Parliament; the King was in charge at one time; in fact, the King owned everything.

**Mr. Panday:** Now it is the Emperor.

**Mr. J. Humphrey:** It belonged to him, everything was his. There was a long historical struggle to take the power from one man and vest it in the people. What is happening here is an attempt to reverse that. That is exactly what is happening here.

Mr. Deputy Speaker, let us go to other parts of this Constitution that enshrine the principle of democracy. I want to start with the oath of office of all the Members of this House, and that is to found in the Schedule: Oath (or Affirmation)...of office.

**8.44 p.m.:** *Sitting suspended.*

**9.17 p.m.:** *Sitting resumed.*

**Mr. J. Humphrey:** Mr. Deputy Speaker, before we took the dinner break, I was trying to find the section of the Constitution that provides for the oath of office of a Member of Parliament; I think all of us are familiar with it. We have sworn to uphold the Constitution and the law.

In my view, the state of emergency which the country has recently experienced was declared outside the Constitution and the law. There is a provision in the Constitution to enable both Houses of Parliament to remedy a serious fault that has been committed by the President of the Republic; in my view, the declaration of a state of emergency was a serious fault. Allow me to refer to section 35 which is the removal from office of the President:

“35. The President may be removed from office under section 36 where—

- (a) he wilfully violates any provision of the Constitution;
- (b) he behaves in such a way as to bring his office into hatred, ridicule or contempt;

- (c) he behaves in a way that endangers the security of the State; or
- (d) because of physical or mental incapacity, he is unable to perform the functions of his office.”

And the procedure prescribed by the Constitution is to be found at section 36 and it reads as follows:

- “(1) The President shall be removed from office where—
- (a) a motion that his removal from office should be investigated by a tribunal is proposed in the House of Representatives;
  - (b) the motion states with full particulars the grounds on which his removal from office is proposed, and is signed by not less than one-third of the total membership of the House of representatives;
  - (c) the motion is adopted by the vote of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together;
  - (d) a tribunal consisting of the Chief Justice and four other Judges appointed by him, being as far as practicable the most senior Judges, investigate the complaint and report on the facts to the House of Representatives;
  - (e) the Senate and the House of Representatives assemble together on the summons of the Speaker consider the report and by resolution supported by the votes of not less than two-thirds of the total membership of the Senate and the House of Representatives assembled together declare that he shall be removed from office.”
- (2) Where a motion is adopted as is provided for in subsection (1)(a), (b) and (c) the President shall cease to perform any of his functions as President and the President of the Senate shall act temporarily as President.
- (3) The procedure of the tribunal shall be such as is prescribed, but, subject to such procedure, the tribunal may regulate its own procedure.”
- (4) Upon the adoption of the resolution in accordance with subsection (1)(e) the office shall become vacant.”

In this case, it was not the substantive President who declared the state of emergency, it was the Acting President. He was performing the office of President and therefore, impeachment proceedings, as prescribed for the President, will

*President's Statement (State of Emergency)*  
[MR. HUMPHREY]

*Friday, August 11, 1995*

apply to the Acting President. If he was not Acting President, he would not have had the power to declare a state of emergency.

The executive of the United National Congress met in emergency session last evening.

**Mr. Robinson:** Mr. Deputy Speaker, I must rise on a point of order. This is now moving into the area of impeaching the conduct of the President as distinct from dealing with the statement issued to the House and this cannot be done except on a substantive motion.

**Mr. Humphrey:** All I have done, Mr. Deputy speaker, is read the provisions of the constitution. I have done nothing more than that.

**Mr. Deputy Speaker:** I was waiting to see what is the nexus in all that you have been reading with respect to the removal of the President, and if it is indeed that—

**Mr. Humphrey:** I will end my contribution on that note.

**Mr. Deputy Speaker:** All right, proceed.

**Mr. Humphrey:** I was just advising this honourable House that the executive of the United National Congress met in emergency session last evening and voted unanimously to call upon the Members of the House of Representatives of the United National Congress to initiate proceedings of impeachment against the Acting President, Joseph Emmanuel Carter. That is a historical fact which I bring to this House and, Mr. Deputy Speaker, with that, I end my contribution.

Thank you.

**9.25 p.m.**

**Mr. Trevor Sudama (Oropouche):** Mr. Deputy Speaker, I understand the trepidation on the other side when I get up to speak in this House. I want to start off—*[Interruption]* The friend of Occah Seapaul is making noises? The comrade of Occah Seapaul—*et tu, Bruté?* Pathetic! I shall have to make a point later on about the independence of members of Cabinet—the capacity for independent thought—but I shall come to that later.

I intend to start my contribution with a quotation from Shakespeare. Unfortunately my friend the Member for San Fernando West is not here for him to have corrected me if that quotation was incorrect. When I look at the Members of the other side who have taken this momentous decision to recommend to the President that a state of emergency should be declared in Trinidad and Tobago, I

can only say, "O judgment! Thou art fled to brutish beasts, And men have lost their reason." That is the only conclusion I could come to on this shame that has been brought upon the body politic of Trinidad and Tobago.

The question here is not whether the Government has the power to declare a state of emergency—the Constitution grants that it is whether in the circumstances a state of emergency was justified in a society that has a proper respect for fundamental rights and freedoms. That is the question. When I listened here to the view and saw the attitude of the Member for San Fernando East, that a state of emergency is going to be used as a toy, I wanted to tell him that if he wanted a toy to play with, that he not look to declare a state of emergency on the people of Trinidad and Tobago.

I want to sum up all the reasons that have been advanced there throughout the evening, and in doing so, I would refer to three documents which sought to justify the state of emergency, in addition to what was said on the other side. I have come to the conclusion that what I have heard and what I have read were merely puerile rationalizations. They were a transparent pretext based on rather unfounded speculation and blatant fabrication, and of course, grossly illogical.

Let me start with the statement of the Attorney General on August 4, 1995. In that statement he said that the Speaker was threatening to usurp the rights of the elected Members and to frustrate the will of the majority, and therefore, by doing so, she was attempting to destroy parliamentary democracy in Trinidad and Tobago. Where was the evidence that she was threatening—not that she did usurp. He indicated that she was threatening to usurp the rights of elected members and frustrate the will of the majority.

What she did—and that is the matter for adjudication by the court—was to exercise discipline in the House by suspending a Member from this House. Was that an attempt, really, to usurp the rights of an elected member, when on our side we have had the one Member suspended for no valid reason at all? We cannot move from that assertion, to usurping the rights of the majority and, therefore, to destroy parliamentary democracy in Trinidad and Tobago. The charge does not stick.

He also indicated that the Government was upholding the dignity of Parliament—imagine that—when we know the behaviour of members of this Government sitting here in the Parliament and elsewhere.

What I am arguing is, on the basis of these three statements, no case at all has been made out that parliamentary democracy, or the stability of the society, or peace and order was threatened.

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

The Attorney General also told us that they came here to ensure that “established parliamentary procedures and conventions would prevail.” Did those conventions extend to the conduct of Ministers of Government? We should like to know because I want to say a few things about that. What conventions is he talking about? Conventions of behaviour with regard to people who hold high office?

The final act of usurpation, according to the Government, was the suspension of the Member of Parliament for Diego Martin Central. What I want to argue here, first of all, is that the Attorney General said that there were clear indications that the order of the court would not be accepted by the Speaker. What are those indications? On the last occasion I asked him, I said, “What were those indications?”

There was some report in the newspapers where the separation of powers was upheld as a principle on which our parliamentary democracy is built, and therefore the court’s jurisdiction over the internal processes of this Parliament is restrictive. That is a point that we have made here in this House. The point I am trying to make is that all these statements made do not add up at all to a reasonable assumption that the Speaker would have acted in a certain way in order to defy the order of the court. There was no evidence of this.

He indicated, as indeed the statement of the President, that she was going to pursue a path of the reckless suspension of other Members. We have already indicated—and the Member for Couva North quoted—that it appears that the Government does not want to accept facts. The suspension of the Member for Diego Martin Central was based on certain statements which he made in this House.

### **9.35 p.m.**

It has been argued that a Member of this House can only be suspended under Standing Order 43(5), by a Minister rising in this House:

“The Speaker shall then call upon a Minister to move ‘That Mr.....be suspended from the service of the House’ and the Speaker shall forthwith put the question, no seconder being required and no amendment, adjourned or debate being allowed.”

The reality of the situation is that if a Minister of Government contravenes the procedures of this House, or behaves in a manner which is contemptuous of this House and its rules and procedures, which other Minister could a Speaker call

upon to have a colleague suspended? Therefore, the Standing Orders do not provide for a situation in which a minister of Government has misbehaved and ought to be disciplined.

This is the reality of the situation. If the Standing Orders state that the Speaker can call upon any Member of the House to move, that is a different situation. The Standing Orders, if, indeed, a Minister needs to be disciplined, do not provide for such an event.

With respect to whether there was a reasonable expectation that the Speaker—when she presided over the House—would have pursued the matter of the suspension of the Members for St. Joseph and Ortoire/Mayaro, the Member for Couva North said it—I passed this to him—but in their contributions, the members on the Government side ignored it.

On July 12, 1995, Madam Speaker said that—

“The events of the past week, outside of the Parliament, have caused the Chair to consider whether or not both the Attorney General and the hon. Minister of Education have been in contempt, not only of the Chair, but also of the honourable House and ought to be referred to the Committee of Privileges of this House.”

She was merely making a statement that she was giving consideration.

In any case, if that matter was referred to a Committee of Privileges of the House, the Government has a majority on that committee. How on earth—given that so-called intention that the Speaker was considering charges of contempt to be brought before the Committee of Privileges—could that be construed as a determination on the part of the Speaker to suspend other Members of the Government in order to reduce the Government's majority? That is why we question the basis on which the recommendation was given to the President that a state of emergency should be declared.

The Government did it to prevent the systematic overthrow of a duly elected Government, they say. This is an extremely serious charge to be levelled against, not only the person holding the office of Speaker, but the Government also said that there was a diabolical conspiracy with Members of the Opposition. That is a very serious charge to be levelled by an Attorney General who is supposed to be an upholder of the law in his country. He made allegations and accusations of this sort which border on treason and sedition.

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

I am amazed at what this Parliament has been reduced to. If there has been any contempt of this House, it is contempt on the basis of statements made in this House by the hon. Attorney General; contempt by statements made by the Prime Minister, and, indeed, when I look at the statement of the President, I have serious cause for concern.

We have a problem where there seems to be no distinction made by the Government with respect to government, state and society. The argument has been made that there was an attempt to overthrow the Government in Parliament, but one does not equate that situation with an attempt to overthrow the State. If even such is alleged—the overthrow of the State, and the overthrow of society and peace, order and stability in the society—there is a *non sequitur*. For even if there is a crisis in Government, for one reason or the other, that does not necessarily mean there is a crisis of the State, nor a crisis in the society.

There is the statement by the Attorney General that an emergency was preferable to a constitutional crisis. He has determined that there is a constitutional crisis existing in the society—but on very dubious grounds. He has not at all made out the case that, in fact, there was a constitutional crisis existing, therefore the Government was forced to declare a state of emergency in order to preserve the democracy of Trinidad and Tobago.

One does not preserve democracy by doing anti-democratic things. One does not throw out the baby with the bath water. How one does things is important. The means must justify the ends and *vice versa*. How one does something to achieve a certain end is just as important as the end one is trying to achieve.

This is a vital principle. From time to time we on this side hear that the Government has come to rule and it has the mandate to rule. The Member for Arouca South said that it has the mandate to manage and it has been restricted in its management of things.

What I want to tell that Member, and the other Members of the Government, is that in a parliamentary democracy, it is not only that the Government must have the freedom to manage; the important thing is how it manages. Following the rules, procedures, conventions and traditions of parliamentary and democratic life, as well as observing the fundamental rights and freedoms, is critical to the end result it is trying to achieve.

This is not a commercial business the Government is running here. Parliament and the Government of Trinidad and Tobago ought not to be considered a commercial business and cannot be judged by commercial standards of



management in the execution of things. It has to be done in a certain way with a certain understanding, a degree of restraint and respect for rules and procedures.

The Attorney General went on to say that—

“There is no part of our tradition that any group of persons whether elected or not should seek to control or overturn our Parliament.”

While the Government says so in one breath, it comes here and says that it has the majority in Parliament, therefore, the majority must control the Parliament.

**9.45 p.m.**

The Member for Diego Martin West said in no uncertain terms, that the PNM took over the Parliament in December 1991—which would then be the handmaiden of the Executive.

Yet, the Member for Ortoire/Mayaro said that it was not part of the tradition that any group of persons—which would imply the majority in the House—whether elected or not, should seek to control our Parliament. He went on to say—and this is the ‘Bad John’ talk:

“The Government will not succumb to threats and subversion in whatever form.”

Threats and subversion surely do not fall from the sky. They must be perpetrated by somebody. Apart from making certain allegations against the speaker, I have not heard in this Parliament from what other source there were threats and subversion.

Much has been said about the use of discretion by the President. I am not going to elaborate on that. I endorse the point that in the fundamental matter of taking away people’s rights and freedoms, the President has a certain discretion. We on this side are saying that that discretion has not been utilized.

There is a large point I wish to make with respect to the system under which we operate and the danger it poses. Anyone who is inclined to act in a certain way and with the authority of the Prime Minister, who is inclined—to so act, through the system which is in place can become a virtual dictator and is protected by the constitutional provisions and, indeed, by the process of the Westminster system which is employed.

The Member for Tobago East talked about checks and balances. I want to elaborate on that simply because what we have here is merely the symbol of a much deeper disease that has much to do with the manner in which our

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

parliamentary process is structured, and the type of Government, the Westminster model, that we are trying to implement. It is a much deeper problem. It is not merely a question of the Prime Minister seeking to declare a state of emergency offhandedly.

We are told that the Speaker flouted the Standing Orders between July 5 and July 31, 1995. The charge of flouting the Standing Orders is a matter of opinion. What gives the Government the right to indicate, on a matter of opinion, that the allegations against the Speaker must stand? This House ought to have the authority as a separate and distinct institution to deal with infractions of its Presiding Officer.

If one is saying that matter resides in the Executive, then one is flouting one of the fundamental principles of the powers of this House and the way it should operate. There are two distinctions which cannot be made. That is, when the Government comes to implement its programmes and its policies with respect to the passage of a Free Zones Bill, an anti-dumping Bill or whatever it is, then the principle of majority rule applies. It is the Government; when it comes to the internal procedures of the House, then it is a matter for every Member of the House.

**Mr. Valley:** In accordance with the Standing Orders!

**Mr. T. Sudama:** Mr. Deputy Speaker, if the Standing Orders do not provide and there is a problem, then this House should be consulted. We should get together in order to resolve the problem. This is a distinction which they do not seem to make. In what instances will the Parliament be independent and be able to exercise an independent authority? In what instances ought the Executive to prevail? Simply, it is their duty to govern and pass laws. I spoke about this on the last occasion. I did not get an answer. I do not seem to be able to get through to them on the basis of this very critical distinction—and that is part of the problem we face.

If the legislature treated in a different fashion and was given its due authority to try to deal with this problem, we would not have reached this pass that we have found ourselves in. The problem is that the Government cannot understand that distinction. This is one of the reasons that the Acting President gave—based on the advice of the Prime Minister. I am trying to deal with that on the question of flouting the Standing Orders. I am not arguing the question whether they were flouted or not. I am arguing, who gave the Government the right to determine authoritatively that the Standing Orders of this House have been flouted?

Another ground is that on July 28, 1995 the Speaker suspended the Member of Parliament for Diego Martin Central for six months. I find it very difficult, ironic—and I have told him this that every time we on this side get up to speak the Member for Diego Martin Central wants to curtail debate. He does not want the Members on this side to speak. He wants to go home.

On one occasion in this House the member told me that he had someone to go home to. The Speaker sent him home for six months and he ran to a court in order to come back here. Go home and stay home for six months! She gave him that option. The last person to object to going home for six months should be the Member for Diego Martin Central.

This sounds like repetition. The Member for Ortoire/Mayaro got up and made a statement on the declaration of the state of emergency. The same arguments made in this House are repeated in the statement by the President—that the Speaker intimated her intention to similarly apply contempt charges against other Government Ministers.

I have made the point that even if she was considering contempt charges, in the statement by the President, the implication was that she was going to suspend the Members for St. Joseph and Ortoire/Mayaro how could one, on the basis of the evidence, come to that conclusion?

Mr. Deputy Speaker, the other point made that I will briefly go over was that the Speaker indicated her intention to disregard an order of the High Court at the next sitting of the House of Representatives. This is speculation on the part of the Government as to what the Speaker may or may not have done at the next sitting of the Parliament. How could one, on the basis of speculation, recommend a state of emergency?

**9.55 p.m.**

A state of emergency is used only in certain extreme cases. How could the President make such a statement without any verification? I quote this because we have asked for it. This is part of the advice given to the President by the Prime Minister. It states:

“From reliable information the honourable Speaker intended to continue this course of action against other Members of the Government thereby rendering it impossible for the Government through Parliament to provide for peace, order and good government and to protect the public safety.”

How was this reliable information obtained? Did the Prime Minister have the telephone of the Speaker or other persons tapped in order to get this reliable

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

information on the course of action, according to them, to suspend Members of the House and reduce the parliamentary majority of the Government? We would like to know the nature of this reliable information.

**Mr. Sobion:** I will tell you.

**Mr. T. Sudama:** He should have told us at the beginning of the debate so that we would have been able to query what he was telling us. He will come at the end of the debate to make a statement to which we cannot respond and the validity of which we cannot challenge. This is information known to the Prime Minister and which is relayed presumably to the President, but not available to the House of Representatives which has to make a decision either to extend or to ratify this state of emergency. I find this is very unusual and dictatorial. This is the kind of behaviour that one associates with dictatorial regimes. They act on the basis of secret information or no information at all, in order to suspend the rights, freedoms and liberties of individuals in the society.

Again, the point is, let us assume as the Member for Couva South argued, that the Speaker wanted to suspend on what basis was that? The Member for Diego Martin Central was suspended on the basis of derogatory contemptuous statements he made in this House. They say she wants to suspend the Member for St. Joseph. What ground would she have used?

In fact, they are implying that the occupant of that chair, Madam Occah Seapaul, probably went mad—just to sit there in that chair and suspend Members will-nilly. This is what they are asking us to believe. This is incredible, that a Government could advise the President on the basis that the Speaker, without any due cause or justification, would suspend Members of this House, merely because she wanted to reduce the majority of the Government.

This is getting more and more ludicrous. Parliament is said to be the most critical institution. Critical among which institutions? Is Parliament more critical than the Judiciary? Or the most critical institution which really provides for laws and governments of the State? What is the reality of our parliamentary democracy? It is really a small clique of people who control the Executive, dominate and control the Parliament of Trinidad and Tobago. This is the reality. To give Parliament this aura of omnipotence, which it does not have, is not fooling anybody. It is merely trying to build up a case.

That is what the system permits. I want to come to that. If there is a threat to the stability of the majority of Parliament, how does, that become a threat to the stability of the parliamentary process? And even if that is so, how does that

become a threat to the stability of the society? It does not follow; they have not made a case for that. We are talking about a statement from the President on the state of emergency, which we feel is not justified on the basis of reasonable expectation and arguments of the citizenry.

What is the perception of this society as to whether its institutions are functioning or not? Do you know the view outside as to what is done in this Parliament? The view of the citizens at large is that this Parliament is not functioning. What happens here is that we “kicks” and the “ayes have it.” Therefore, to come here and talk about the view of the citizenry—

Did they take a poll to find out what the citizens think about Parliament and how it has been made to function under the PNM? Have they taken a poll on what the citizens think of other governmental institutions; how the Executive works, and the influences by which the Executive performs its functions on whether the governmental institutions are functioning?

We on this side are as qualified to talk about the perception of the people as, indeed, the Members on the other side are. Our perception of what the people think is that institutions of this parliamentary democracy are not functioning effectively. Regardless of the impasse with the Speaker, the institutions of our parliamentary democracy are not functioning to the benefit of the citizens of this country. Again, that is no reason or justification.

I am going to talk about one of the basic flaws of our system and one of the reasons why a prime minister could get away with what he has done by declaring a state of emergency. There are few checks and balances in our system against arbitrary exercise of power by the Prime Minister and the Executive. Let us see what happens. This is part of the Westminster system.

I quote from a book titled *Parliament* by Griffith and Ryle and this is what has been said about the Mother Parliament and the parliamentary democracy. This was stated in the House of Commons. It is a long-standing Member of Parliament who had this to say. On page 522 we see:

‘in the past decade or more we have seen a situation in which increasingly the power of the Prime Minister dominates the Cabinet and the Executive dominates the House. The traditional means whereby this House has sought to balance the Executive by debates and the normal forms of processing legislation are becoming less and less effective.’

That is the system we have adopted. In that country the system has a judiciary that makes independent decisions and is long standing; a very vibrant and vigilant

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

press independent of Executive control and a situation where there are plural centres of power, so that there is no concentration of power such as there is in a society such as ours, residing in the political directorate. And they are complaining about the lack of checks and balances on the Executive and the Prime Minister, how much more so in a society like ours.

**10.05 p.m.**

That in my view is at the root of the problem which confronts us. How do we introduce into the system, constraints, restraints, checks and balances, so that we do not have the unrestrained, unrestricted authoritarian tendency of any prime minister to utilize the power?

In this situation, the Cabinet is the first check. The Prime Minister goes to the Cabinet with a proposal that a state of emergency should be declared and, make no mistake, we have said it time and time again, this whole situation with which we are confronted is at the instance of one man—the Prime Minister of Trinidad and Tobago. This matter started between June 28 and July 3, 1995, as the Speaker said, when she had three telephone conversations with the Attorney General who asked her to resign, and said that the Prime Minister wanted her to resign. So it started with the Prime Minister.

The Prime Minister wanted to get at the Speaker, and the timing of this is very important because he would have known that the Speaker was involved in trading activities since 1992. Do not tell me that this Prime Minister only discovered, in 1995, that the Speaker was engaged in business transactions which were likely to bring disrepute to the office of the Speaker.

Why is it only at the end of June, 1995, that the Prime Minister decided to take action against the Speaker and ask her to resign? This was after he had demoted the Member for San Fernando West. There was a furore—which the Prime Minister did not forget—and he was reinstated. It had nothing to do with the dignity of Parliament, with integrity and the propriety of the office of Speaker, but everything to do with a political agenda—to get at people who are defiant of the Prime Minister. That is the genesis of this.

So he goes to Cabinet. When one looks at the chronology: the state of emergency was declared on August 3, the detention order issued on August 3, 1995, but the Cabinet of this country was meeting in the wee hours of August 4, 1995. In other words, the Cabinet was used as a rubber stamp for a decision of the Prime Minister made long before that.

**Mr. Deputy Speaker:** The hon. Member's speaking time has expired.

*Motion made,* That the hon. Member's speaking time be extended by 30 minutes. [*Mr. R. Palackdharrysingh*]

*Question put and agreed to.*

**Mr. T. Sudama:** Mr. Deputy Speaker, if this system has checks and balances, they are not working. First of all, Cabinet ought to have exercised some independent discretion in this matter. Do not forget, Mr. Deputy Speaker, that the Prime Minister is deemed to be *primus inter pares*—first among equals—that is the Westminster system. It means that the others in the Cabinet ought to be exercising some kind of independent judgment and not be going along will-nilly with what the Prime Minister tells them. The Cabinet is not an institution that can exercise any checks and constraints.

The second stop in this exercise of checks and restraints is the President's discretion. The whole argument being made by Members on this side is that the President has to exercise discretion, but merely acted on the advice of the Prime Minister. So the President's discretion in our situation is not a check.

Then we come to the House of Representatives. They insist on majority rule and "the ayes have it," so the House is not a check on indiscriminate action by the Prime Minister.

Public opinion is another check—although it is the last thing they want to hear. If we are going by the press, that is Government opinion. There is no independent public opinion to be gleaned from what is written in the press. I also want, at this point, to put on record that I was looking at the *Trinidad Guardian* of Saturday, August 5, and the question asked was this: "Do you think the Government was justified in declaring the state of emergency and placing the Speaker, Occah Seapaul, under house arrest?" That was the critical question being asked.

Of the 21 persons interviewed—their names and photographs are here and they are not from Opposition constituencies from what I can gather from their addresses—of all ages, and coming from different parts of the country 15 of the 21 indicated categorically the declaration of the state of emergency and the detention of the Speaker to be not justified in the circumstances. So that if there is a check via the expression of public opinion, that check is not available in our circumstances.

The final check is the Judiciary and, of course, the matters have not been fully heard at that level. Before we come to the Judiciary, when we look at the

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

situation, we will see that in the system in which we operate, there are very few checks and balances and those who are there are not functional.

So, unless we want to have a repeat of that situation—of the Prime Minister exercising these dictatorial powers—we seriously have to look at the system we operate and include in that system some measure of structural restraint on this exercise of power by the Prime Minister and, indeed, by the Executive. If we are not prepared to look at the whole issue of parliamentary reform with that objective, I am afraid that situations like this will arise again and we will go through the motions of debate and so forth and still remain with that problem. I am seriously suggesting that.

**10.15 p.m.**

I want also to indicate that the Prime Minister went on television and radio and made certain allegations. He also went there to mislead the population. I want to quote what he said and indicate the Standing Order to which he referred. He said, among other things:

“Had this situation been allowed to go unchecked, you would have experienced today not a limited state of emergency but the dangerous spectacle of three elected Government Ministers being evicted from the House. One of those Ministers would have been holding a court order to prevent such an action being enforced but information in the Government’s session confirmed that he would have been evicted anyway.

You were also likely to see an orchestrated commotion. Where certain elements in opposition to the Government would have facilitated an intervention by the Speaker under Standing Order 14. This would have seen the Speaker adjourning the Parliament indefinitely on her own accord with a date of recall which only she could have set. What this means, ladies and gentlemen, is that you would have seen an unprecedented prorogation of the Parliament of Trinidad and Tobago by the Speaker.”

Mr. Deputy Speaker, I refer you to Standing Order 14, and I ask you whether, in your own independent judgment, the Speaker could have acted under that Standing Order to indefinitely prorogue the Parliament of Trinidad and Tobago. Standing Order 14 has to do with petitions; it has nothing to do with the prorogation of Parliament; I want to quote it in full for the benefit of the media and the other side. Standing Order 14 says:

“(1) Every Petition intended to be presented to the House must conclude with a prayer setting forth the general object of the Petition.



(2) A Petition shall not be presented to the House unless it shall have been endorsed by the Clerk as being in accordance with the rules in regard to Petitions.

(3) The Member presenting a Petition..."

**Mr. Valley:** On a point of order, Mr. Deputy Speaker. I do not know if it is a typographical error, either in the newspapers, or in the Prime Minister's address. I do not have a copy of the Prime Minister's address available, but the reference should be Standing Order 43 (12).

**Mr. R. L. Maharaj:** You are amending the Prime Minister's speech.

**Mr. Valley:** No, no.

**Mr. A.N.R. Robinson:** On a point of order, Mr. Deputy Speaker. I asked that Members be afforded the courtesy of a copy of a speech of such fundamental importance in this country, but up to now we have not got. That shows disrespect and contempt for the Parliament where Members of the Parliament are charged with being in some kind of diabolical plot etc. The Government side is asked to present to Members of this House a copy of that address, but it is not furnished.

**Mr. Deputy Speaker:** It is a typographical error; I think the reference is really to Standing Order 43. I do not know if any Member has a copy of that speech so that we could verify that for the benefit of the debate. Does the Member have a copy of the speech from the newspaper? What does it say?

**Mr. R. L. Maharaj:** The newspaper has Standing Order 14.

**Mr. Deputy Speaker:** Well, that has to be an error, I think it is 43 he was making reference to. I will see if we could correct that.

**Mr. T. Sudama:** Mr. Deputy Speaker, what I am saying is that this was over television and radio as to the Speaker ostensibly acting or attempting to act under Standing Order 14. That is a misrepresentation to the country. This is what is in the newspaper report, and this is, I understand, what he actually said on the television—great disorder—but Standing Order 14 speaks about petitions. You see they are in such a hurry to build a case for the removal of the Speaker from office and justify that to the people of Trinidad and Tobago, that they do not have time even to check the Standing Orders to which they are making reference.

He went on to talk about the Government having, "to act to save the country from the massive instability and social disruption which most certainly would have followed if the schemers had been allowed to carry out their plan of overthrowing the Government inside of Parliament."

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

Mr. Deputy Speaker, whether you overthrow the Government inside or outside Parliament, it is still an act of sedition or whatever you may wish to call it. It is certainly a violation of the law to be accusing schemers—he did not say “schemer,” he said “schemers”—and here he is trying to build a case and create hysteria among the population that there are schemers afoot who are trying to overthrow the Government of Trinidad and Tobago by manipulation and subterfuge.

This is the accusation that the Prime Minister of this country goes and makes on public television and radio without giving this country the information and details as to who the schemers are, and in what manner they were plotting to overthrow the Government of Trinidad and Tobago. He went on to say:

“Make no mistake about it, contrary to the self-serving indignation expressed by a few of my colleagues in the Parliament, this action which we have now taken is entirely within the ambit of the laws of Trinidad and Tobago which provide for interventions under emergency powers to protect the stability and security of the state if it is ever threatened from whatever source.”

What we are arguing on this side is that given the provisions of the Constitution, what this Prime Minister has been saying to the public at large is a blatant falsehood. While the emergency powers are there under the laws and in the Constitution, they have not been exercised in the way in which they are supposed to be exercised. Therefore, the declaration of the state of emergency, in our view, is an unlawful and illegal act. Based on false premise, misrepresentation, distortion, fabrication, this state of emergency is really illegal and unlawful. Therefore, I would like to move an amendment to the motion and add to the resolution before us.

“And be it Further Resolved:

That this House is of the view that the said declaration of a state of public emergency was illegal.”

And that to the Motion that is before us, Mr. Deputy Speaker.

We have heard a comparison of the need to declare a state of emergency in 1990 with the need to declare a state of emergency in 1995. In 1990, there were armed insurgents invading the Parliament and having Members of Government and parliamentarian under immediate threat. How could the Government in this situation be comparing a state of emergency then, with a situation where they are acting on the basis of the flimsiest speculation as to what the Speaker of the House of Representatives may or may not do?

Mr. Deputy Speaker, it is only a government with a fascist attitude towards governance which would suspend rights and freedoms at the drop of a hat which would ever make a comparison with the gravity of the situation which we faced in 1990 as against what obtains in 1995.

**10.25 p.m.**

I want this House to note that on that occasion the Acting President was none other than the President of the Senate. We are told that after the events occurred in this House and elsewhere in Trinidad and Tobago, 16 hours had elapsed before a state of emergency was actually declared. Why was the President in that situation not so keen to declare an immediate state of emergency, when in this situation he is declaring a pre-emptive state of emergency?

It is amazing that the same person was there in both instances. How is it in one case one allowed 16 hours to elapse after the start of events in which there was a direct attempt to overthrow the duly elected Government of Trinidad and Tobago, and then comes in 1995 and takes pre-emptive action on the basis of the wildest of speculations?

We have been told that if standards and conventions in the Mother of Parliaments, the parliamentary democracy of the United Kingdom, were observed here, the Speaker would have voluntarily resigned from office. Under what conditions would that have happened? The Government is saying she brought disrepute and shame to her office by her reputed actions or statements in a court of law, which gave rise to this situation.

If we want to apply standards of behaviour in high office, then let us apply them across the board. Why is one selective in dealing only with the Speaker of the House of Representatives? If we are getting our examples of political and parliamentary processes from the United Kingdom, then I would certainly advise Members on the other side to look at what happened in the United Kingdom under the present Government and the voluntary resignations of Ministers of Government there.

I have a report printed in the *Independent*, which is a newspaper in the United Kingdom, dated Monday, April 10. I am going to give you just the gist of the reasons Ministers in the United Kingdom resigned. They did not wait until a motion of censure was brought to the House.

The Member for Diego Martin West argued that if one has a problem with a Minister's behaviour, one must bring a motion of censure to this House—sure,

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

one would bring a motion of censure to this House and the Government would vote against it with their majority. What happens next? We are told that if one had evidence, one must go to the police. We are saying that where there are serious allegations, set up a commission of enquiry of the Parliament to get to the root of the problem. But the Government does not want that. A motion of censure which can be defeated readily and which the media would not carry in their reports, it wants that; it does not want a commission of enquiry. When we talk about standards of behaviour and conventions in the United Kingdom which should apply here, we are told that this is a completely different society. *[Interruption]*

**Mr. T. Sudama:** No. The commission of enquiry will then elicit information which will be brought to the attention of the House.

**Mr. Valley:** We would have the majority of Members.

**Mr. T. Sudama:** You see, they cannot get out of this mind-set that the Government must dominate, have the majority, do everything.

The Government must dictate every aspect of the life of this Parliament. Is that their position?

Let me just inform the other side that in the United Kingdom one Member resigned because he went on a holiday which was not declared; another Member resigned because he had financial relations with a fugitive businessman; another resigned because he had an extramarital affair and a daughter out of wedlock. He voluntarily resigned; there was no motion of censure.

In Trinidad and Tobago one could have any kind of extramarital relations. One could have a concubine and throw her out, one could do anything as a Minister, and face no censure: one has no censure and no obligation to resign. There is one standard for Government Ministers and another standard for the Speaker of the House.

In the United Kingdom another Minister quit after his wife committed suicide because she was depressed in her relationship with him. He resigned voluntarily. Another was found in a bed romp—three of them together in a bed romp—and was exposed by the media. You know it was resignation for him. They were Ministers of Government.

What are they applying here in Trinidad? Whom are they trying to fool by attempting to make out a case against the Speaker? What exactly are they trying to do, except something emanating from spite and vindictiveness?

Then, there are three others. I see a note here with the Speaker's relationship between the Government's action and the statement by the Speaker. She said:

"I do not want two drunkards in the PNM to determine my future."

**Mr. Deputy Speaker:** You were telling us of some Ministers who resigned and why they resigned. I take it you are leading up to that—the resignation of the Speaker?

**Mr. T. Sudama:** Mr. Deputy Speaker, I am talking about standards of behaviour which ought to apply to people holding high government office.

**Mr. Deputy Speaker:** I am asking if you are aware of any such relationships with speakers.

**Mr. T. Sudama:** No Speaker has resigned in the United Kingdom system. No Speaker has resigned on the basis of misbehavior in office and has his character impugned in office. What I am saying is that with respect to holding high ministerial office, and observing the conventions which go with it with respect to one's continuation in office, there is one standard for one and another standard for another.

In the United Kingdom three Government Ministers resigned because they accepted some kind of remuneration for tabling a question in Parliament. One resigned because he was lobbying for the release of a man charged with importing cocaine.

There are serious allegations here in Trinidad and Tobago that drug lords were financing the campaign of people in the Government, and if that allegation has not been refuted, either we have a commission of inquiry or the person against whom the allegation was made, resign voluntarily. But the government choose one person in order to carry out a vendetta. I am not here arguing the merits or demerits. I am not here to defend Occah Seapaul; I am her to talk about inequality of treatment.

### **10.35 p.m.**

I just want to conclude this here. Another Minister in the United Kingdom resigned because he lent money to a neighbour to buy a house from a local council at a discount and then turned around and bought back the house from the neighbour to whom he had lent the money.

In Trinidad and Tobago you have a situation where a senior Government Minister has used his influence to have his debt reduced—a serious financial

*President's Statement (State of Emergency)*  
[MR. SUDAMA]

*Friday, August 11, 1995*

impropriety—and he is not being asked to resign, but the speaker of the House is asked to resign. Here are the standards existing in the United Kingdom and here are the standards we are trying to employ in Trinidad and Tobago.

There is another case where a Minister shared a hotel bed with a man in France. Now maybe there was a shortage of hotel beds and they had to sleep together, but merely the discovery of that—there was no other allegation of impropriety—forced him to resign. In Trinidad and Tobago what happens? Any kind of allegations are made and fellows go on as if nothing has happened.

There is another case where a Minister resigned because there was a disclosure of a relationship with a young woman working in the House of Commons.

**Hon. Member:** Which country is that?

**Mr. T. Sudama:** The United Kingdom, the Mother of Parliaments, the Mother of the democratic process that we are adopting here. I am trying to show what the standards and the conventions are, and the Government is trying to employ them here but it only wants to direct it at the Speaker of the House.

**Dr. Rowley:** Would the Member give way? Would the Member acknowledge that insofar as those allegations are backed up by facts, resignations are in order, but spurious allegations which are made here every Friday, with not a shred of evidence, are not the same thing?

**Mr. T. Sudama:** Mr. Deputy Speaker, these allegations were never proved. All that happened was that a report appeared in the newspapers and this led to their resignation. Because, you see, there are different standards there. The party in power said, “look here, this is embarrassing to the Government. You know, wherever there is smoke there must be fire. I am talking about voluntary resignations, accepting certain conventions and standards. Why can this not be applied to Members of the Government here? Why are they trying to pillory the Speaker when they themselves do not want to operate on those standards?”

There is another case where a Minister just took hospitality from a businessman, and he had to resign. Today you have Ministers of Government in the pockets of business people—more than their hospitality is involved—but do you see any of them resigning? I see the Member for Diego Martin Central smiling at that—none of them resigning.

**Mr. Valley:** Mr. Deputy Speaker, I am the Member for Diego Martin Central.

**Mr. T. Sudama:** I mean the Member for Diego Martin East. There are other allegations against the Member for Diego Martin Central which I do not want to go into as yet.

Listen to this. There is another Minister in the United Kingdom who had an affair with a constituent who came to him for representation. She had a problem; instead of giving her representation he had an affair with her. That fellow was forced to resign.

I am merely making a plea that if we are going to have standards, let us elevate standards in this House and let all Members adhere to them. If we had that in this Parliament from day one, I do not think the situation with the Speaker would have arisen in the first place. Because over the years Members on the other side holding high ministerial and other office would have resigned on the basis of their impropriety. But we have no standards, the Government Members have denigrated all the standards of public life in this country for a very long time. How is it they want to come now in 1995—

**Mr. Deputy Speaker:** Could you wind up, please.

**Mr. T. Sudama:** Just one minute to conclude, Mr. Deputy Speaker. How is it the Government wants to come only in 1995 to apply a standard of behaviour which was never applied for 30-odd years? The only conclusion we could come to is that this was really not a case of applying standards of behaviour in public life; this was a case of being vindictive and using the powers of the State—the Prime Minister, having access to the coercive powers of the State—in order to go after one person to settle a political score.

This is the basis of this declaration of a state of emergency and I would like the public to understand this and to say in no uncertain terms that we will never support excesses, extravagance and dictatorship in the politics of Trinidad and Tobago. And we stand here as guardians of democracy and the rights and freedoms of all citizens of Trinidad and Tobago.

Thank you very much, Mr. Deputy Speaker.

**Mr. Deputy Speaker:** I would like a seconder to the amendment.

*Seconded by Mr. Basdeo Panday.*

*Question proposed.*

**The Attorney General and Minister of Legal Affairs (Hon. Keith Sobion):** Mr. Deputy Speaker, I want to thank my colleagues on this side who have spoken

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

in support of the motion that we take note of the statement of the President of the Republic with respect to the reasons whereby he was satisfied and declared a state of emergency. They have been very thorough in their presentation and it leaves me very little to say.

There is, perhaps, one matter which was raised by the last speaker and it is in the form of an amendment to the motion. I may say that I have some concerns about the amendment. We have had, I think, in the course of this debate as well, some reference to the doctrine of the separation of powers by Members opposite. I think we must be very careful when we consider the propriety of this amendment which seeks to pronounce on the legality of the action taken by the President.

It is my view that it is really for the courts of the land to pronounce on the legality of any action taken by the Executive and it is not for this House to interfere with the province of the courts of Trinidad and Tobago. Having said that, I am certain that Members present will be guided accordingly when they consider the amendment proposed by the Member for Oropouche.

Just to reinforce perhaps one or two points which have been raised on this side. There has been much criticism with respect to the act of the President and whether he acted in his own discretion. There has been the suggestion—and, in fact, I was also a little concerned to read, I believe in the newspapers today, that a certain course of action was being proposed in relation to the President, even prior to this debate taking place. The Member for St. Augustine has said that at an emergency meeting of the party opposite, a decision was taken—as I said, it was prior to this debate, without having had the benefit of a debate in the Parliament—to impeach the President of the Republic in accordance with the provisions of the Constitution.

**Mr. Humphrey:** Mr. Deputy Speaker, what I said was that the Executive of the United National Congress took a decision to call upon the Members of the UNC in this House to initiate impeachment proceedings, and I read the provision of the Constitution that enables such a thing to happen.

**Mr. Deputy Speaker:** So therefore we take it that you were merely saying it was a decision taken.

**Mr. Humphrey:** Yes.

**Hon. K. Sobion:** I fully understand that. The point I was making is that there was a motion on the President's Statement fixed for this House today.



To pre-empt the debate in this House and make a decision of that nature, without having the benefit of Members' views on the President's Statement, seems to be precipitate.

**10.45 p.m.**

It is quite clear that the President, under the provisions of the Constitution, has a discretion which must be based on certain facts which are made available to him. I am to remind the Member for St. Augustine that the Prime Minister is also Chairman of the National Security Committee, and that there is certain information which the Prime Minister would be privy to, and which he would be in a position to pass on to the President.

Quite clearly, the President, in his statement listed several facts and events upon which he exercised his discretion, which ends with that categorical statement that—

‘...I am satisfied...’.

The President, quite clearly, was satisfied on a review of the facts and events as they were presented to him.

There is another point arising from a statement made by the Member for Couva South. The Member suggested that there were several other options available to the Government, and that a state of emergency is a self-defence device, and should not be used when other options are. I do not necessarily share that view, but one of the suggestions the Member made was that the Government could have approached the courts. The Member for Diego Martin Central challenged his suspension in the courts, and the argument made by the lawyers who represented the Presiding Officer was that this matter was not a proper one for the courts, that involved the internal management of the Parliament, therefore, the courts had no jurisdiction in the matter.

Quite apart from that, there was a clear indication, based on statements made by the Presiding Officer, which suggested that the order of the court would not be entertained by the Chair.

We had reached the point where one Member was suspended—and I explained earlier that it appeared to be an inordinate sanction applied unilaterally by the Speaker. There was a clear threat with respect to other Members, and there was a clear indication that orders of the court may not have been accepted by the Chair; therefore, what other options may have been available, the route of the courts clearly not available to the Government in that unfolding scenario.

*President's Statement (State of Emergency)*  
[HON. K. SOBION]

*Friday, August 11, 1995*

It is quite clear, as we have advanced on this side, that there was a real possibility—and that is all that section 8 of the Constitution required of the President; that if he is satisfied that action is being threatened by any person; that there is a pre-emptive opportunity for a declaration of a state of emergency.

In that scenario where the avenues to the courts have been cut off; where there were threats hanging over the heads of other Members of the Parliament, and where the Presiding Officer had systematically not followed the known procedures of Parliament and the Standing Orders, it was incumbent upon the Government to take such action as was necessary in order to ensure that the public safety would not be at risk.

All we are asked to do by this motion is to note the actions of the President as outlined in the statement. Over the last nine hours we have examined the statement of the President; we have examined all kinds of other relevant statements—

**Hon. Member:** And irrelevant.

**Hon. K. Sobion:**—and some irrelevant ones as well. We have looked at the course of events which traumatized this country from July 4 to August 4, and I think it is quite clear that there was sufficient material upon which the President could have acted. It is quite clear that he thought it necessary so to act.

Mr. Deputy Speaker, thank you. I beg to move.

**Mr. Deputy Speaker:** Hon. Members, I would first put the amended motion, which reads:

“Be it further resolved that this House is of the view that the said declaration of the state of public emergency was illegal.”

*Question put.*

*The House divided:*   Ayes 12           Noes 16

**AYES**

Maharaj, R.

Panday, B.

Humphrey, J.

Sudama. T.

*President's Statement (State of Emergency)*

*Friday, August 11, 1995*

Palackdharrysingh, R.

Singh, Dr. C.

Hanoomansingh, G.

Panday, S.

Jurai, K.

Haniff, M.

Hosein, S.

Sharma, C.

**NOES**

Valley, Hon. K.

Sobion, Hon. K.

Mottley, Hon. W.

Ramrekersingh, Hon. A.

Rowley, Dr. The Hon. K.

Eckstein, Hon. J.

Baboolal, Dr. The Hon.

Collis, Hon. K.

Imbert, Hon. C.

Lasse, Dr. The Hon. V.

Pierre, Hon. J.

Casimire, A.

Narine, J.

Hart, E.

James. Mrs. E.

Bereaux, H.

*Amendment negatived.*

*Question put and agreed to.*

*Resolved:*

That this House take note of the statement of the President under section 9(1) of the Constitution setting out the specific grounds on which the decision to declare the existence of a state of public emergency in the city of Port of Spain was based.

**ADJOURNMENT**

**The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley):** Mr. Deputy Speaker, I had planned to come to this position since July 27, 1995, but it is really a good moment for me to inform the House that the Government plans to take a short recess at this time.

Therefore, I beg to move that this House do now adjourn to a date to be fixed.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 10.55 p.m.*