

HOUSE OF REPRESENTATIVES*Friday, December 08, 1995*

The House met at 1.30 p.m.

PRAYERS[MR. SPEAKER *in the Chair*]**PAPERS LAID**

1. Report of the Auditor General on the accounts of the Agricultural Development Bank of Trinidad and Tobago for the year ended December 31, 1994 [*The Attorney General and Minister of Legal Affairs (Hon Kamla Persad-Bissessar)*]

To be referred to the Public Accounts Committee

2. Annual Report of the National Insurance Board for the period July 1, 1994 to June 30, 1995. [*The Minister of Social Development (Hon. Manohar Ramsaran)*]

**NATIONAL INSURANCE BOARD
(Ministerial Committee Examination)**

The Minister of Social Development (Hon. Manohar Ramsaran): Mr. Speaker, in accordance with section 13(2) of the National Insurance Act, Chapter 32:01, I present to this honourable House the Annual Report of the National Insurance Board for the period July, 1994 to June, 1995. Section 13(2) of the National Insurance Act, Chap. 32:01, requires the National Insurance Board to submit a report of its proceedings and of the operation of the Act within three months of the end of each financial year to the Minister who shall, within two months of the receipt of the report, lay it before Parliament. Section 25 of the National Insurance Act, Chap 32:01, stipulates that—

- “(2) The accounts of the Board shall be audited annually by auditors appointed by the Board or under the supervision of the Auditor General in accordance with the Exchequer and Audit Act.
- (3) As soon as the accounts of the Board have been audited the Board shall forward to the Minister a copy of the audited statements of accounts and any report thereon made by the auditors.

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- (4) The Minister shall cause a copy of every such statement and report to be laid before Parliament at the same time as the annual report referred to in section 13(2) is so laid."

The Financial Statements of the National Insurance Board are contained in pages 18—30 of the Report, while the Auditor's Report by Ernst & Young, Chartered Accountants, who were appointed auditors for the period under review, is at page 17.

Mr. Speaker, this Government is committed to ensuring that we effectively manage a social insurance system which serves the population. The present National Insurance System, which is compulsory, was introduced in April, 1972 and after existing for 23 years, old age pension, which is a non-contributory scheme, is higher than NIB retirement benefits.

Mr. Speaker, the National Insurance Board is subject to actuarial review every five years, section 70 (1) of the Act refers. I wish to point out that on page 21 of the Report, under caption: "Actuarial Review" reads:

"An actuarial review of the National Insurance System carried out as of June 1990 concluded that 'the system was not actuarially sound in that expenditures had already exceeded contribution income in the 1989/1990 fiscal year and the Board had to cover the shortfall with income from investments'."

Despite the findings of the Actuary in 1990, the necessary legislative amendments to effect improvements in the system have not yet been enacted. The next review which was due at June 30, 1995, in fact, did not take place. My information is that the review is now scheduled to start in February, 1996.

Mr. Speaker, this Government of national unity will seriously review the system. We will return to the corporate mission of the National Insurance Board as described in the Report. When we received this Report, Cabinet noted the neglect. The fact is that as a social security system the National Insurance Board is very important to the Social Safety Net. Accordingly, Cabinet has, at its last meeting, agreed that—

- a. a Ministerial Committee be appointed to examine the operations of the National Insurance Board, its patterns of lending and investment strategies, as well as the aforementioned observation arising out of a study of the Annual Report;

- b. the Committee submit its recommendations by March 31, 1996;
- c. the Ministerial Committee be comprised of Sen. The Hon. Brian Kuei Tung, Minister of Finance, as Chairman; hon. Kamla Persad-Bissessar, Attorney General; hon. A.N.R. Robinson, Minister Extraordinaire and Adviser to the Prime Minister; hon. Manohar Ramsaran, Minister of Social Development, hon. Trevor Sudama, Minister of Planning and Development and Sen. The Hon. Wade Mark, Minister of Public Administration and Information.

Thank you.

**WASA—PRIVATE SECTOR PARTICIPATION
(Inter-ministerial Committee)**

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, on the authority of Cabinet, I wish to apprise this honourable House and the wider community on the status of the private sector participation in the Water and Sewerage Authority.

This is in response to the calls from various sectors of the country for information regarding the Interim Operating Agreement signed with Severn Trent/Wimpey by the previous administration on November 1, 1995, a mere five days prior to being removed from office by the people of Trinidad and Tobago. [*Desk thumping*]

Since assuming duty on November 16, 1995, as Minister of Public Utilities in the Government of national unity, the opportunity has been taken to examine the voluminous data on this matter. In this examination we are guided by our commitment to transparency in the affairs of governance.

1.40 p.m.

Mr. Speaker, since inception, WASA has consistently incurred losses and faced technical problems manifested by an unreliable supply of water and its need to rely on Government subsidies. Not only has WASA accumulated a massive debt with the Central Government (approximately \$3.5 billion at the end of 1994), but it has in the past completely relied on the Government for all of its capital requirements. Essentially inadequate tariffs, weak billing procedures, a low collection ratio and the absence of internal controls have all contributed to WASA's poor financial position. It is clear that access to funds alone will not result

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in effective solutions to WASA's problems without a major change in management direction and practice.

As part of its overall thrust towards a viable water and waste-water treatment sector, the former administration decided to effect private sector participation in order to restructure, rehabilitate and improve the performance of the Authority. The model chosen for the first stage of the process was referred to as the Interim Operating Arrangement. By this arrangement, the preferred proposer will enter into a contract with WASA for a period of three years which included a preferential right, subject to performance, to negotiate a long-term arrangement which would constitute the second stage. It is now necessary, chronologically, to list the events as they unfolded giving rise to the call for proposals, tender assessment and the negotiating process.

Failure of Local Managers:

1. In 1992—1994 a team of local professionals under Mr. Emile Charles was contracted to manage WASA.
2. The failure of the local team to attain the desired objectives resulted in the appointment of a Water Task Force, chaired by Professor Kenneth Julien, on April 16, 1993 to initiate a new strategy. Their recommendation was for private sector participation in the Water and Waste-water Treatment Industry.

Appointment of Consultants:

3. The external consulting firms of Halcrow and Associates and Banque Paribas, together with local attorneys, Fitzwilliam, Stone, Furness-Smith & Morgan through a process of international selective tendering, with the assistance of the World Bank, were appointed to oversee the process as recommended by the Water Task Force. The consultancy contract commenced in May 1994 and completed the Request for proposals (RFP) by November, 1994, in which the areas and concerns to be addressed were clearly defined.
4. In June 1994, prospective operators were invited to submit expressions of interest through press advertisements that were placed both in domestic and the foreign press.

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5. Twenty-one expressions of interest were received which included seven water companies and 14 consulting firms. The short list of five companies was arrived at following the review of the credentials.
6. Request for proposal developed along the lines of the recommendations of the Water Task Force issued to the five selected firms on November 11, 1994.
7. Proposal received from all five short listed firms and evaluation commenced on February 13, 1995.
8. Recommendations of Evaluation Committee on technical proposals were accepted by WASA's Board on February 24, 1995.
9. Recommendations of the Evaluation Committee on financial proposals were accepted by WASA's board on April 7, 1995.
10. Recommendations of the Evaluation Committee on the supplementary proposals and the selection of a preferred proposer were accepted by the board of WASA on April 19, 1995 and agreed to by Cabinet on April 27, 1995.
11. Start up of negotiations, on May 17, 1995 with Severn Trent/Wimpey.
12. Memorandum of Understanding for negotiations agreed to by Cabinet on June 1, 1995 and signed by parties on June 7, 1995.
13. Report of a sub-committee of negotiation team's visit to the United Kingdom submitted to the then Minister of Public Utilities—my colleague today, hon. Ralph Maraj—on July 18, 1995.
14. The terms and conditions of the Draft Interim Operating Agreement with all its 15 annexes agreed to by Cabinet on September 14, 1995, subject to vetting by the Attorney General.
15. Approval by the Attorney General of the Interim Operating Agreement and its annexes received on October 30, 1995.
16. Participating in the negotiating process for the Government of Trinidad and Tobago were representatives from the WASA Board, the Ministry of Finance, the Ministry of Public Utilities, the Evaluation Committee and the Attorney General's Office.

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17. Signing of the Approved Interim Operating Agreement by the parties on November 1, 1995.

Mr. Speaker, the foregoing is an itemization of the process that crystallized in the signing of the Interim Operating Agreement on November 1, 1995.

Circumscribed as we are with respect to the confidentiality clause in this Agreement, we wish to indicate to this honourable House and to the people of Trinidad and Tobago, the principal features of this Agreement which places obligations on all three signatory parties, that is to say, the Government of Trinidad and Tobago, WASA and the Trinidad and Tobago Water Services Limited, the last name being a special purpose company established and incorporated in Trinidad and Tobago and jointly owned by Severn Trent and Wimpey to service the Interim Operating Agreement. The key elements of the Agreement are as follows:

- No increase in tariffs during the period of the Interim Operating Agreement.
No mandatory reduction in staffing during the period of the Interim Operating Agreement.
- Operational turnaround (that is, positive net operating cash flow) in year 3.
- 61.4 per cent of the total management fee of US \$9,083,210 is payable only on the achievement of specific performance targets which have been agreed upon and form an integral part of the Interim Operating Agreement.
- The Government assumption of responsibility of all liabilities and obligations of WASA, existing or accrued, due and payable at the effective date of the Interim Operating Agreement.
- Establishment of a Government-appointed consultative committee (comprising one Government representative as Chairman, two WASA representatives and two TTWA representatives) to monitor and facilitate continuous consultation on the implementation of the IOA.
- The contract is for a three-year Interim Operating Arrangement and it is not for sale of the assets.

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- The IOA is for three years and allows for termination of contract if the operator does not perform.
- The IOA does not guarantee Severn Trent/Wimpey any long-term concession.
- There is no Government guarantee required on the \$450 million loan by Severn Trent/Wimpey to WASA.
- The fees payable to Severn Trent/Wimpey will be funded from the revenues of WASA.

Mr. Speaker, since assuming office we have been inundated with cries for assistance from the poor and the downtrodden, the pensioners and the forgotten ones, for a solution in dealing with the manner in which their water supplies have been disconnected for non-payment. Having reviewed WASA's policy, it is clear that a more sensitive, humane and customer friendly policy is urgently required. In the immediate situation, the following will apply:

- No disconnection of domestic consumers from December 8, 1995 to March 31, 1996, inclusive. Water is essential; water is life. However, I implore all patriotic citizens to assist WASA by paying their bills on time.

1.50 p.m.

Disconnection crews during this peak period will become reconnection crews. The time has come to place the customer as the focal point in the utility sector. We care for all the people of Trinidad and Tobago.

During the first few months of 1996, a procedure will be put in place to ensure that domestic customers who cannot legitimately pay for services are given assistance so as to minimize the necessity for disconnection. This assistance could be in the form of easy payment schedules or other forms of support.

While we do everything within our power to meet the needs of our citizens, they must, at the same time, meet their payment obligations to WASA.

Finally, Mr. Speaker, I advise this honourable House, and the wider community, that consistent with our Government's policy of transparency, Cabinet, yesterday, agreed to the establishment of an inter-ministerial committee to consider private sector participation in the Water and Sewerage Authority and to report to Cabinet within two weeks.

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The inter-ministerial committee would comprise of:

Minister of Public Utilities;
Minister Extraordinaire;
Attorney General and Minister of Legal Affairs;
Minister of Finance and Minister of Tourism;
Minister of Planning and Development;
Minister of Energy and Energy Industries;
Minister of Foreign Affairs;
Minister of Public Administration and Information; and
Minister of Labour and Co-operatives.

Thank you, Mr. Speaker.

MUNICIPAL CORPORATIONS (AMDT.) BILL

Bill to amend the Municipal Corporations Act, 1990. [*The Minister of Local Government*]; read the first time.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, the term of office of the local government bodies expired on September 27, 1995; the term having commenced on September 28, 1992.

According to section 11(4) of the Municipal Corporations Act No. 21 of 1990-

“The term of office of the Councillors shall be three years, and they shall retire together on the last day of every triennial period, the first of which shall be deemed to have begun on the day on which the Councillors were elected to office.”

Additionally, section 11(4A), as amended by Act No. 8 of 1992, also states-

“An Election referred to in subsection (1) shall be held within 3 months of the expiry of the term of office of Councillors and Aldermen comprising the Council.”

The last government did not convene local government elections when the term of office of the local government bodies came to an end. Instead, the Prime Minister, now the Leader of the Opposition, called a general election for

November 6, 1995. Local Government elections are now constitutionally due by December 27, 1995.

Mr. Speaker, this Government wishes to state, unequivocally, that it subscribes to the law and the Constitution of the country and, therefore, recognizes the importance of holding local government elections when they are constitutionally due.

The Elections and Boundaries Commission, the authority given the responsibility under the Constitution of Trinidad and Tobago to administer elections, recently conducted general elections in our country. As a result, the Commission has informed us that it is not totally prepared to conduct another election at this time but will be able to do so in the not too distant future.

Mr. Speaker, in laying the Municipal Corporations (Amdt.) Bill, on behalf of the Government, I assure this honourable House and the national community, that local government elections would be held as soon as it is practically possible.

Mr. Speaker, I beg to move that the next stage of this Bill be taken on Friday, December 15, 1995.

Thank you, Mr. Speaker.

Question put and agreed to.

Mr. Manning: Mr. Speaker, just by way of clarification. I wonder if the hon. Member is aware that the Prime Minister to which reference has been made in his statement, had, after discussions with the Elections and Boundaries Commission, intended to hold local government elections on December 18, 1995?

OMBUDSMAN'S REPORT (SEVENTEENTH)

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move the following Motion:

Be it resolved,

That this honourable House take note of the 17th Annual Report of the Ombudsman for the period January 01, 1994 to December 31, 1994;

And be it further resolved,

That pursuant to Standing Order 79 this honourable House appoint six members to sit with Members of the Senate as a Joint

Select Committee for the purpose of considering the said report and the functions and duties of the office of the Ombudsman and to make recommendations for a more effective machinery for the office of the Ombudsman so that Part II of chap. 6 of the Constitution of the Republic of Trinidad and Tobago can be given effect.

Mr. Speaker, it is my respectful view that we need to consider what the roles and functions of the Ombudsman are and to define, as far as we can, what the office of the Ombudsman is in Trinidad and Tobago because if we are asking for a Joint Select Committee to be set up, in order to give this office more teeth, we must understand what are the difficulties we are facing and what has happened thus far.

If I may, Mr. Speaker, the office of the Ombudsman, or Parliamentary Commissioner, exists in over 40 countries throughout the democratic world. In fact, it also existed in one eastern European state whilst it was a socialist state. The title given to ombudsman varies from country to country, but the role and function of these individuals are very similar. That is to say, in simple language, the ombudsman is a person appointed by the Parliament to investigate complaints and to seek satisfaction and redress for individual citizens against bureaucratic unfairness or failure to fulfil obligations placed on the administration by Parliament.

In proposing this Motion, the Government is seeking by way of the appointment of a joint select committee of both Houses to establish whether the Ombudsman of Trinidad and Tobago is able to function effectively in the way envisaged in the Constitution and under the Ombudsman Act, and to achieve the laudable and constitutionally valuable functions of this office.

2.00 p.m.

The history of the Ombudsman worldwide is instructive to us. The first Ombudsman dates back to 1809 in Sweden. Thereafter, developments continued. In 1962, for the first time in the English-speaking world in New Zealand the office of Ombudsman was set up. In the Caribbean, the office of the Ombudsman exists in Guyana, Barbados, Jamaica and, of course, Trinidad and Tobago. The office of the Ombudsman in Trinidad and Tobago was included in our 1976 Constitution and the Ombudsman Act, Chap 2:52, was passed in 1977 to give effect to those constitutional provisions.

Before we look at the history of the Ombudsman's Office over the past 17 years—because we are looking at the Seventeenth Annual Report—I would like to point out the relevant provisions in the Constitution of Trinidad and Tobago relating to the role of the Ombudsman. Section 91 states:

- "(1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office."

This is an important provision because this goes towards ensuring the independence of the office of the Ombudsman.

- "(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.
- (3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for re-appointment."

Section 92 states:

- "(1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.
- (2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8)."

This section has been cause for great concern and a source of contention between the Ombudsman and the public service from time to time as to exactly what a staff adequate to discharge the functions of the Ombudsman efficiently should constitute.

Section 93 (1) provides:

"Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken

in exercise of the administrative functions of that department or authority."

Section 93 (2) provides the circumstances in which the Ombudsman may investigate. These are:

- "(a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;
- (b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;
- (c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice."

It is important to consider what are the authorities other than government which the Ombudsman can investigate. Section 93 (3) provides the authorities other than government departments to which the section would apply and, therefore, the Ombudsman can investigate:

- "(a) local authorities or other bodies established for purposes of the public service or of local Government;
- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;"

By section 95 the Ombudsman in determining whether to initiate, continue or discontinue an investigation, shall have a discretionary power to act. Section 95 provides examples of circumstances in which the Ombudsman may refuse to act. It states:

- "(a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
- (b) the subject matter of the complaint is trivial;
- (c) the complaint is frivolous or vexatious or is not made in good faith; or
- (d) the complainant has not a sufficient interest in the subject matter of the complaint."

Section 94 of the Constitution makes it clear that the Ombudsman can only investigate acts and not administrative policies. Those are, of course, the prerogative of the elected legislature.

In some way section 94 (2) is most important because it provides that the Ombudsman may investigate matters which raise questions relating to integrity or corruption of any department or office of the public service, and any conditions resulting from or calculated to facilitate or encourage corruption in the public service. He is not empowered to investigate charges of corruption against particular individuals since this is a matter for the police service.

However, by subsection (3) where he becomes aware of corrupt acts by public officers or by any person in connection with the public service, he shall report the matter to the appropriate authority with a recommendation for further investigation. Whilst he does not have the power to go into allegations of corruption, he can make recommendations to the relevant authority.

Section 94 specifies the circumstances in which the Ombudsman shall not investigate. Section 95 outlines the exceptional circumstances where the Ombudsman can investigate despite restrictions.

The Constitution continues in section 96 where it is provided that the Ombudsman inform the complainant of the result of his investigation or why he has discontinued it. Section 96 (2) requires the Ombudsman to inform the relevant department of his decision and recommendation therein.

I turn now to the annual report that is required to be laid in Parliament in the special report. These are brought to Parliament by Government on the recommendation of the Ombudsman and the relevant statutory provision.

Section 96 (4) and (5) deal with the Ombudsman's duty to lay a report, annually, in Parliament and his right to lay a special report in respect of a matter in which he has made recommendations which have not been followed, and where he considers them to be of sufficient public interest so to do.

In respect of subclause (5) it should be pointed out that it is perhaps unfortunate that the Constitution did not stipulate that the annual reports must be debated. If it did, we would not have had to bring this Motion to Parliament today. As it stands, the provision is for the report to be laid but there is no further provision for debate to take place, hence part of the reason we have to bring the Motion in order to have the report debated and follow up action taken on it.

Section 96 (4) warrants very serious consideration, in my respectful view. With your leave, Mr. Speaker, I would read section 96(4). It states:

"Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament."

If one looks at the number of special reports laid over the years, one would see that it has increased dramatically from one in 1985 to a peak of 14 in 1989, and reduced again to one in 1995. The actual number of special reports are as follows:

<u>Year</u>	<u>No. of Reports</u>
1985	1
1987	5
1988	3
1989	14
1990	10
1991	nil
1992	1
1993	nil
1994	1
1995	1

Bear in mind that the Ombudsman is expected to lay these reports when his recommendations have not been followed and where he sees, as a matter of urgent public importance, that this should be brought before Parliament in the hope that the Government would take action and initiate debate on it. This does not appear to have been done. In the first special report, if that is in any way representative of the circumstances which led the Ombudsman to bring special reports to the attention of Parliament, we would have expected a responsible government to debate and take action on every such special report.

The special report laid in 1995 concerned a case which had been investigated and a recommendation made in 1977 by the Ombudsman. Cabinet had voted that the money owed should be paid in 1980, and yet by 1985, the money was still outstanding.

2.10 p.m.

There had been many cases like this and the drop in the number of reports and the despair on the part of the Ombudsman, rather than that every one of his recommendations had been followed, is certainly something that the Special Select Committee which we are recommending would want to look at.

The one Special Report of 1995 was the subject of a follow-up Special Report by the Ombudsman, presumably because no action had been taken. The First Special Report was laid on March 2, 1995 and it concerned the failure of the Ministry of Health to issue a certificate of indebtedness to a former employee so that he could collect the gratuity due to him under contracts performed prior to his retirement. The complaint had been laid on February 5, 1993. Neither Parliament nor the Ministry has taken any action with respect to this special report. Consequently, the Ombudsman described this Ministry as having a subtle intention to deprive the complainant of moneys lawfully due to him and had made recommendations to the Permanent Secretary which required him to comply by May 28, 1995 but these have not been complied with. The recommendation not having been complied with, the Ombudsman made a second report in July 1995. It appears once again that no action in respect of the enforcement of the Ombudsman's recommendation has been taken.

This surely is a state of affairs which must be looked into. If the situation exists where the Ombudsman, created by the Parliament and reporting to it, is ignored by the Ministry which is under the command of the Executive, then this

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certainly needs to be looked into by a Joint Select Committee, with a view, to bring recommendations to this Parliament.

If one did not read a single word or statistic—and I say this with the greatest of respect—in this Seventeenth Annual Report prepared by the Ombudsman, the fate of the Special Reports laid in the 10-year period 1985 to 1995 must be enough to say that the role of the Ombudsman needs to be looked at again in terms of giving teeth to his effective functioning.

Whilst one does not want to lay blame anywhere, one really has to look at who had been responsible for complying with the directives so one cannot help but look at *[Interruption]* We will speak about 1991, Mr. Speaker, because when the Government took up office what had begun during the period 1986 to 1991 was not followed up by the hon. Members who were in Government.

In the Fourteenth Annual Report laid in the Parliament on March 5, 1993, the Ombudsman had written that a number of special reports had been laid before Parliament by his predecessor, all of which had been dealt with in a cursory manner. The result was that in a number of cases complainants did not get the relief or remedy which was recommended. The hon. Member for Diego Martin Central at that time, and I am referring to the *Hansard* report at 2.30 - 3.00 p.m. on that day, said:

"Madam Speaker, the fact that the Government is bringing this motion before the House today is, in fact, a statement that the Government is making to the effect that we will treat, not only the Ombudsman's report, including his special report, but other reports from the various commissions very seriously.

Quite simply, we have said in the manifesto by which we were elected that we take accountability very seriously. In spite of comments by our Friends on the other side from time to time, we maintain that we would be accountable, that we are here to improve the standard of living of the population as a whole and that the caring of the Government will come through at every turn.

We are aware that the impersonal bureaucracy, at times, could be very hard on the individual so it is extremely important that there are systems in place to ensure that the rights of the individuals are not trampled."

One wonders whether the retiree from the Ministry of Health, whose certificate of indebtedness was withheld for a number of years and whose case

was the subject of not one but two special reports during 1995—neither of which was acted upon by the Government who professed to care so much in 1993—decided to give himself a chance when no action had been taken. Despite the fine language of the hon. Member, despite the caring, up to 1995, nothing had been done with respect to those two special reports.

In that reference, towards the end of the Member's contribution in the House in March 1993, the hon. Member for Diego Martin Central referred to paragraph 27 of the Ombudsman's Fourteenth Report which the hon. Member was asking the House to take note of. In that paragraph the Ombudsman referred to the problem which existed since the office of Ombudsman, which is dependent on Government departments for funds, staffing and facilities had been set up. Whilst section 98(1) of the Constitution states:

"Subject to subsection (2), Parliament, may make provision—

- (b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and
- (c) generally for giving effect to the provisions of this Part."

Parliament remains responsible for making the Ombudsman the effective watchdog, but section 92(1) places in the hands of the Government department the right to decide how many and which staff are appointed to assist the Ombudsman.

In the Fourteenth Report of the Ombudsman reference is made to this and the Member for Diego Martin Central, in 1993, said:

"The Ombudsman makes the point that his predecessor had proposed to a Joint Select Committee of Parliament appointed to review legislation to strengthen the office of Ombudsman, that a bloc vote be provided for ..."

the services of the Ombudsman's office so that the dependency on Government departments would no longer exist.

That joint select committee of both Houses was appointed on December 1, 1989 during the administration led by our colleague, Mr. Robinson. That select committee held its meetings before and after July 19, 1990 and reported in 1991. Continuing in his contribution to the debate on the Fourteenth Report in March 1993, the hon. Member for Diego Martin Central noted the recommendations of

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that joint select committee, which, paraphrased, were that the Ombudsman's Office should continue to be serviced by Parliament in respect of financial matters; that the Standing Orders of both Houses should be amended to establish a Joint Parliamentary Committee to consider all reports sent to Parliament by the Ombudsman; and the Member concluded his contribution by saying:

"The report also points out other perceived shortcomings pertaining to staff ... that they need to look at accommodation, to have a more central location; and to consider the question of funding of the office. These are all matters which this Government will be looking at.

More particularly, the House should note that this report relates to the year 1991. ... We are putting on the table what the situation was when we came in and we are simply saying that we are making a commitment to improve this situation."

After the hon. Member for Diego Martin Central said those words in March, 1993, there were the Fifteenth and Sixteenth Reports from the Ombudsman, upon which no real action had been taken by the former Government. Whilst a recommendation had been made by a Joint Select Committee appointed in 1989 which reported in 1991, that Government went out of office and gave way to the former Government and in 1993 when we were being asked to take note of the Fifteenth and Sixteenth Reports, the Member again stated his commitment to improving the situation. However, up to the time they went out of office, nothing had been done.

2.20 p.m.

With the greatest respect to Members on the other side, it is our view that the joint select committee which we are now proposing would look into the previous reports. We feel that we would be given options that could be implemented to give teeth to the office of the Ombudsman. There is no doubt, in my respectful view, that there is a crying need for assistance for that office to be able to function as was envisaged under the Constitution. This Government wants transparency and accountability in all decision-making, not just in relation to Government departments but also in relation to those departments as they interface with individual citizens.

We recognize that the Ombudsman is a creature of the Constitution and he is empowered by an Act of Parliament to investigate and make recommendations for the redress of administrative injustice to individuals. The report of the

Ombudsman, the evidence of Parliament's disregard of special reports—as my colleagues have pointed out, and the PNM's disregard of special reports of the Ombudsman—show that the existing framework, as administered by the PNM for the functioning of the office of the Ombudsman, was not working as it should and could have been working.

Mr. Speaker, we feel that the time has come to look afresh at the functioning of this office. Therefore, in keeping with our belief with the concept of national unity, it is our respectful view that a joint select committee is the best way in which we can proceed to come up with positive proposals for change which would be accepted by the majority of the citizens of this country and which would be of benefit to all of us.

With that in mind, Mr. Speaker, I commend this Motion to this honourable House.

I thank you.

Question proposed.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, before I get to the heart of the Motion before us, and even at this very late stage, I join the very long line of persons, both natural and corporate, who would have congratulated you on your appointment as Speaker of this honourable House. In so doing, I sincerely pray that you would find the experience useful, rewarding and gratifying in the exercise of the duties thereto. I congratulate you warmly, Sir.

The Motion before this House is, to my mind, a very simple one, one with which we are all very familiar. As was indicated by the hon. Attorney General and Member for Siparia, the thoughts expressed today are certainly not new; it is a matter with which we have treated before. We are very familiar with the thoughts that go into this Motion and I would like to say, here and now that we on this side support the Motion fully. [*Desk thumping*]

We understand quite well the importance of the role and the office of the Ombudsman of Trinidad and Tobago. We understand quite well that it is an integral and rather important part of our democratic process. We understand, too, that in addition to the other methods of providing relief for citizens of this country, the Ombudsman does play a very crucial role. We understand that he provides an opportunity for redress which is cheap and much less awesome than

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the courts and other means of resolving disputes or grievances. However, there are a few comments that must be made in respect of this Motion from Members on this side.

Firstly, we on this side are of the view that over the years the Ombudsman of Trinidad and Tobago, to our mind, has performed quite creditably and has served the people of this nation particularly well. We suggest that the activities of the office of the Ombudsman cannot at all be seen as a replacement for the traditional means of resolving grievances, but it must merely be a complement to those other modes. When one hears about giving the Ombudsman more teeth, one becomes particularly concerned. To my mind, the Ombudsman does not really need more teeth, the problem is—and it is quite clear to Members on this side—how we treat with his reports when he completes his investigative work. The Ombudsman has precious little problem in terms of getting his information, the problem really is how we treat with the reports—whether special or annual—when laid before Parliament.

It is a fact that sometimes recommendations go unheeded, but I would like to point out, as was made clear by the hon. Attorney General, that special reports peaked between the years 1986—1989. The statistics we heard in this honourable House indicate quite clearly that between 1991 and 1995 the need for special reports fell dramatically. [*Desk thumping*] The need for a special report exists, when in the view of the Ombudsman, his recommendations went unheeded.

It follows, therefore, Mr. Speaker, that if in 1991 there was absolutely no need for a special report; in 1992, there was need for but one; in 1994, one; and 1995, one, it makes it quite clear to the Members of this House that the recommendations of the Ombudsman must have been dealt with. The reports did not go unheeded and there was no need for him to report further to Parliament. [*Desk thumping*]

I remind Members of this House, that the previous Government embarked upon a very effective programme of public sector reform. We decided, and quite properly so, that we would go to the heart of the matter rather than fish bodies out along the way on the stream. We thought we would go to the source of the problem. We recognized, quite clearly, and took action to deal with maladministration and problems within the public service that gave rise to the need for an investigation by the Ombudsman in the first place. This, I submit, Mr. Speaker, is the reason for the dramatic fall in the need for special reports between

the years of our governance, 1991—1995, so we have a record of which we are entirely proud.

2.30 p.m.

Mr. Speaker, we on this side will support any action which will strengthen that position. We have heard quite correctly that an office of the Ombudsman exists in some 40-plus countries around the world. Today, in Sweden, where the idea originated, the Ombudsman has the opportunity, and exercises it, to prosecute people when he or she thinks it fit. On the other hand, in the United Kingdom, the Ombudsman can summon persons, request, even demand documents and evidence—except, of course, documents that enjoy legal privilege and Cabinet documents—and this is all backed by his powers as a high court judge.

We on this side will support, as was previously stated, any action that will strengthen the activity, the functions and the operation of the office of the Ombudsman for Trinidad and Tobago, but we propose at such a forum, a joint select committee, to have a close look at all of the experiences of Ombudsmen around the world and elicit the good from those and put together a proper and appropriate package for Trinidad and Tobago. *[Applause]*

Mr. Speaker, the thoughts we heard from the other side certainly were not original, it is a question of the same horse but merely a different rider. I would like to take this opportunity to publicly congratulate the Ombudsman and the supporting staff for the wonderful job and service they have provided to the people of Trinidad and Tobago and to reaffirm our fullest support for this Motion and we look forward to making solid and sensible recommendations at the appropriate time.

Mr. Speaker, I thank you.

Mr. Valley: Mr. Speaker, on a point of order, please. Is it proper for the Minister of Public Administration and Public Information to be speaking on this matter? I thought the Ombudsman reported directly to the Parliament.

Mr. Maharaj: Mr. Speaker, it was directed to the Parliament but the Motion and the report involve matters of the public service and the last speaker spoke about public service reform and public administration deals with that.

Mr. Speaker: It would be appreciated if the Member for Diego Martin Central could point to the relevant Standing Order which is infringed—if indeed he is suggesting and advising on a point of order.

Mr. Valley: Mr. Speaker, it is really in the Constitution rather than the Standing Order but we would allow the Minister to speak. We on this side would withdraw the objection. [*Desk thumping*]

The Minister of Public Administration and Information (Sen. The Hon. Wade Mark): Mr. Speaker, I could well understand the nervousness sometimes on the other side. I think the hon. Member for Diego Martin Central is obviously concerned about my presence here.

I would like to commence by making reference to the Ombudsman's Report on page 4. It appears to me that some Members on the other side still seem to be in a dream world, not understanding that they have been defeated at the polls and that this hon. Minister has now replaced the one that was there before as the Head of Public Administration and Information. So I am speaking in my capacity here today as the Minister responsible for Public Administration. [*Desk thumping*]

Mr. Speaker, on page 4 of the Ombudsman Seventeenth Annual Report I wish to quote paragraph 3 in which he states:

"Good Government demands that legitimate complaints be dealt with, with a minimum of delay, with fairness and competence and without giving rise to recrimination."

This is a very serious statement made in this report and the Government of national unity of the United National Congress and the National Alliance for Reconstruction fully supports the statement and its implications of helplessness; fully support behaviour and integrity in the public service, particularly involving citizens who are seeking redress on a wide spectrum of situations that leave them feeling victims of injustice and discrimination.

It is true that not all complaints have legitimate grounds but, certainly, all citizens feeling aggrieved as a result of their interaction with either a private or public organization deserve a fair and speedy hearing and an initial prompt and objective investigation of their situations in order to determine further courses of action.

Over the years many reports of the Ombudsman have been tabled in this honourable House identifying the ongoing difficulties that the office faces. The

Government of national unity of the United National Congress and the National Alliance for Reconstruction is very concerned about the difficulties being experienced by that office, and given my present responsibility for public administration, every effort will be made by my Ministry and by the Government to enable and facilitate the office of the Ombudsman to be more efficient and productive.

Public Service Reform, as was mentioned by the hon. Member for Laventille East/Morvant, has not really gotten very far as the hon. Member for Port of Spain North/St. Ann's West would admit. We are hopeful during the term of the Government of national unity comprising the UNC/NAR that we would be able to advance and bring about greater efficacy of service, particularly as it relates to the population, in the delivery and access to services in the various agencies, departments and boards of our Government.

Mr. Speaker, it would appear to the Government that the legal framework and authority of the Ombudsman may be in need of review and upgrading. However, this will be a matter to be more competently handled by the joint select committee of Parliament which is being proposed in this Motion before this honourable House.

2.40 p.m

Mr. Speaker, there also seems to be the need for more collaborative and team effort between the Ombudsman and client agencies. I make specific reference to ministries—

Mr. Bereaux: Mr. Speaker, on a point of order. The Member is contravening Standing Order 33, he is reading—

Mr. Speaker: Please take your seat for a while.

Mr. Bereaux: I am sorry.

Mr. Speaker: What I want is for you to indicate the relevant section of the Standing Orders which you claim is being contravened.

Mr. Bereaux: The Standing Order being contravened is 33(6) which says:

"Except with the leave of the Speaker, a Member shall not read a speech; but he may read from extracts..."

Mr. Speaker: Would the Member proceed?

Hon. W. Mark: Thank you very much, Mr. Speaker. We know that the Member for La Brea is under pressure.

There also seems to be a need, as I said, for more collaborative and team effort between the Ombudsman and client agencies. I make reference to ministries, government departments and other statutory authorities, with which it must interact on behalf of aggrieved citizens. Objectivity must prevail and, therefore, the situation warrants some investigation into the root causes of the apparent lack of responsiveness on the part of the vast majority of organizations whose assistance and co-operation are sought in pursuing and resolving matters expeditiously.

This is a very serious matter, and committed efforts must be made to improve a much needed public service which the former Minister had started under a previous arrangement, left it; returned, left it again, and I understand he has now returned to his rightful place in the private sector, once more.

There is obviously a need for change in structure, systems, institutional arrangements, behaviour and attitudes, and approaches. Perhaps, there is also need for an objective reassessment, consistent with the current and future needs and values of our citizens and our changing public service.

The Government of national unity is committed to positive and meaningful change, and to any course of action that will make a positive difference in the lives of the vast majority of ordinary citizens in their quest for social justice and genuine equality in our beloved country.

In this regard, I lend my complete support to the Motion as proposed by the Attorney General for the purpose—as was stated very clearly—of considering the said report and the functions and duties of the office of the Ombudsman, and to make recommendations for a more effective machinery for the office of the Ombudsman so that Chapter 6, Part II of the Constitution of the Republic of Trinidad and Tobago can be given effect.

It is our hope that the next annual report of the Ombudsman will reflect a refreshing and energizing change in operation, a degree of success in executing its role and providing much needed relief to those citizens who have become victims of administrative bureaucracy in this country.

Mr. Speaker, I take this opportunity to urge and encourage this honourable House to support the Ombudsman's quest for more positive outcomes by joining the Government Benches, as has already been indicated by the hon. Member for

Laventille East/Morvant, in giving complete support to the establishment of the joint select committee. This institution, that is the Ombudsman, is a partner in governance and when it succeeds in its mission, we are assured that it is facilitating good and satisfying governance in the interest of all citizens and not just those who are aggrieved.

We feel gratified that hon. Members on the other side, who are still recovering from their devastating electoral ordeal, in their period of sober reflection, whilst in permanent exile, have found little difficulty and hesitation in completely supporting this very important Motion. We look forward to their continued support as this Government presses on to introduce measures, motions and bills that would increase, improve and advance the living and working conditions of the vast majority of citizens.

Mr. Speaker, this is a very simple, straightforward and reasonable request, and we feel certain that in the not too distant future, we shall continue to elicit the support of the other side as they begin to buckle down to the task of what development and progress is all about, and what development and people's needs are all about, because at the end of the day, the Government of national unity of the NAR and the UNC is committed to a society that is based on equality, justice and fair play for all the citizens of the Republic of Trinidad and Tobago. We feel certain that we can depend on the other side's support, particularly the Member for San Fernando East, who will give his unstinting support to this effort as he recovers from his ordeal in this period of reflection, and as we move towards the season of goodwill and prosperity.

Thank you very much, Mr. Speaker.

Mr. Gordon Draper (*Port of Spain North/St. Ann's West*): Mr. Speaker, permit me to join those who went before in lending my own words of congratulations to you on your election to the exalted office of Speaker of this House.

Notwithstanding the intervention of Sen. Wade Mark, it is left up to me to add to this House some sense of the relationship of public administration and the matter before us. One would have hoped that having risen to speak as the Minister of Public Administration, we would have heard something of the programme of this coalition Government—the coming together of the UNC, the DAC and three marauding persons—about public reform in Trinidad and Tobago. You see, Mr. Speaker, this Seventeenth Report does, in fact, provide an opportunity to focus, not only on the law and some of the issues which the Attorney General has

related, but to link the concerns of the Ombudsman with the concerns of public administration and public service reform.

2.50 p.m.

I, too, would like to quote and point to page 4 of this Report, but I point you to some different places than Sen. Wade Mark. I point you, instead, Mr. Speaker, to some of the common problems in reports to which the Ombudsman alluded. I would not go through all of them; there are twelve of them on that page. The Ombudsman here talks about legalism, the failure of parts of the public service to deal reasonably with administrative fairness; misinterpretation; intolerable delay; failure to use initiative; persisting faulty methods and systems. All of these, Mr. Speaker, can only be addressed if we deal with elements relating to public administration and public service reform.

We also need to recognize, and I trust that the hon. Minister recognizes, that public service reform is not an overnight thing. It will not be done by an inter-ministerial committee over three months. [*Interruption*]

Mr. Manning: Ha, ha, ha!

Mr. G. Draper: It will be done by hard work, by patient slogging over many years. [*Desk thumping*] But it can only be done if one has the vision of reforming a public service and nothing that I have heard from that Minister suggests to me that he has any notion of that vision. [*Interruption*]

Mr. Sudama: How many years—34?

Mr. G. Draper: The last administration, the PNM Government, in articulating its vision of public service reform, talked about a public service that was customer-driven. The Attorney General, in fact, in introducing this Motion, spoke about the importance of the customer in relating the Ombudsman's issues and the operations of the public service. That we recognize, Mr. Speaker, as central to reform in the public service, but that you get through a series of activities. You get that through some restructuring, through training; through putting at the right places in the public service persons with requisite management skills. That is a process that one has to go through. Therefore, to treat with these issues on page 4 of this Seventeenth Report, one has to treat first with a vision and then with the concrete programmes and processes to achieve that vision. Both the vision and the processes have, in fact, begun to be put in place by the last PNM Government in the public service of Trinidad and Tobago.

If one looks towards some of these issues in terms of delays, one of the elements we have to treat with is the issue of the requisite authority that is given to managers in the public service; and therefore part of our own plank in talking about reform was the plank of decentralization. But it also means that if you decentralize, you have to ensure that persons who are given that authority have the skills to carry out the authority they have been given. Therefore, management training and appropriate selection of people with the requisite skills become critical elements of this whole process. You cannot do one thing without the other.

Mr. Manning: Mark, take notes!

Mr. G. Draper. You have also to deal with the whole question of management systems because, in many respects, the delays which the Ombudsman speaks of, are delays which come about because—and it says quite clearly, and I will read item 12 on page 4:

"Persisting in faulty methods and systems which have outlived their usefulness."

Some of those faulty methods and systems relate to the fact that in most of our public service we continue to operate on manual systems, which is why our government saw as a central part of our reform the introduction of computerized information systems in the public service. These things are critical. If, also, we are going to hold persons to achieving certain standards, then we have to introduce, as we had started to introduce, new performance appraisal systems tied in to standards of performance.

I say these things, Mr. Speaker, because we need to understand, even as we go into a joint select committee, that the issues raised in this report must be treated in a holistic manner, but they must be treated recognizing the way in which administrative systems interlock and therefore the imperatives of changing all of those if we are to be able to address these things. All of those things were central parts of our government's approach to public service reform.

I am sure that, as we have been hearing from time to time, in the absence of vision and understanding, those on the other side intend to pursue PNM policies and that they, too, will continue public service reform PNM style. It is the only way that these issues can be addressed. [*Desk thumping*]

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Mr. Speaker, let me also—you see, one does not have to go very far back—point you to the Sixteenth Annual Report of the Ombudsman. If you look at this you would see that the Ombudsman's report itself contains large extracts relating specifically to public service reform and pointing very clearly to the work that this PNM Government was doing in public service reform recognizing, as this report did, that the work we have done would impact positively on the work of the Ombudsman.

So you see, Mr. Speaker, with that kind of background behind us, with our experience, with our track record on this side, with the programmes that we had put in—[*Interruption*]

Miss Nicholson: What record—NAR record?

Mr. G. Draper: —we understand that there is a clear link between reforming the public service and improving the operations of the Ombudsman. We also accept that certain rules and regulations would need to be changed, which is why we can endorse an approach which says we will go to a joint select committee, but we must understand that as we approach it in that committee, we approach it not only in the context of the law but in the context, as well, of managing a public service in a modern Trinidad and Tobago.

I wish to assure my Friend, Sen. Mark, that this is really the first of a series of lessons on public service reform that he will get from this side of the House.

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

Mr. Ramesh Lawrence Maharaj (Couva South): Mr. Speaker, may I offer my congratulations to the hon. Member for Laventille East/Morvant on his maiden contribution; and may I also congratulate the Member for Port of Spain North/St. Ann's West on his maiden contribution as an elected Member of this honourable House.

What we have seen here this afternoon is a situation where this PNM Opposition, when it was in government, knew that it failed to effect the necessary reforms and put the machinery in place in order to make the office of Ombudsman effective; and in spite of that fact, it gets up in this House and tries to give the impression that it did what it was supposed to do. But the history and the facts do not show that.

Mr. Speaker, when the PNM Government got into office in 1991, it had before it a report of a joint select committee of the Parliament which was appointed on December 1, 1989.

3.00 p.m.

That select committee was appointed to look at the office of the Ombudsman and to make recommendations to strengthen it. That select committee reported just before the elections in 1991. Therefore the NAR administration could not have effected any measures to reform. The PNM Government got into office and had before it—and the hon. Minister of Public Administration at the time would have known about this but he said nothing about it today. The recommendations were to the effect that the Standing Orders of both Houses of Parliament should be suitably amended to provide for the establishment of, and procedure for, a joint parliamentary committee to consider and report on all reports submitted to Parliament by the Ombudsman in accordance with the Constitution. This committee should have the power to send for persons, papers and records. What happened from 1991—1995, when there was this question of world class leadership that works? No parliamentary committee was appointed by that Government.

That government decided to effect public service reform and yet the hon. Member for Port of Spain North/St Ann's West got up today in this House and said that one has to look at this matter on a holistic basis. Yes, the government was trying to effect public service reform, but an important machinery in order to make the office more effective to deal with problems which government neglected, and therefore whatever public service reforms were being effected, it made the office of the Ombudsman more and more like a toothless tiger.

[Interruption]

Mr. Speaker, if you notice, I did not say Rottweiler; I did not want to offend the Member for Diego Martin West. I do not want to describe him as his leader has.

It is significant that in the Fourteenth Report of the Ombudsman which I presume that he read, studied and understood, the Ombudsman made mention of this parliamentary committee which was appointed. He said at page 15:

"That Parliament went out of office before the recommendations were implemented.

I have since taken up the matter with the President of the Senate with a view to having the recommendations implemented by the present Parliament.

Since the Ombudsman cannot enforce his recommendations, a failure on the part of an officer or a department to act upon them has often resulted in hardship to complainants and a compounding of the injustice.

It is hoped that the recommendations made to Parliament for the setting up of a joint select committee to handle special reports will bear fruit."

So here it is that this Opposition, when it was in government said, yes, parliamentary committees were good, but it rejected the concept of parliamentary committees monitoring every government department. One knows that the whole concept of parliamentary reform and public service reform must take into account the concept of making the Executive more accountable to the people of the country. How is that done? That is done by the Government subjecting itself to scrutiny by parliamentary committees.

Mr. Breaux: Mr. Speaker, on a point of clarification. Would the Minister indicate whether they would be introducing parliamentary committees in the coming term?

Mr. R. L. Maharaj: I would first like to correct him; I am not a minister. I am sure if the hon. Member for La Brea was reading the newspapers and seeing the publications being made by this side, he would have recognized that this side is committed to improving accountability and committed to parliamentary committees to monitor the actions of Government.

It is strange that when politicians move from one side to the other they seem to change their views. It is significant that on March 5, 1993, in this House, when the Fourteenth Report of the Ombudsman was being debated—and the debate started on the Government side by the hon. Minister of Local Government and Minister in the Ministry of Finance, the hon. Member for Diego Martin Central—the Opposition at the time had asked for certain matters to be put in place. Some of the matters which were to be put in place had to deal with the whole question of a machinery for the office of the Ombudsman to have the necessary staff in order for it to efficiently discharge its duties and also for the setting up of a joint parliamentary committee to consider and report on all matters submitted to Parliament by the Ombudsman. The committee was to have the necessary powers to effectively consider and report on all matters as recommended by the Ombudsman in an effort to strengthen the office of the Ombudsman.

Not only did this Opposition in Government know in 1991 when it took office what was needed and what was recommended to strengthen the office of the Ombudsman, but in 1993, when the Ombudsman's Report was being debated, and the hon. Member for San Fernando East was sitting on this side, on this chair—he probably was not paying attention at the time—we were telling him that there was need for a joint parliamentary committee to monitor the office of the Ombudsman, in effect, to consider the report in order to strengthen that office.

One would have thought that he would have instructed—I do not know who is the leader on that side now; I understand that the Member for Diego Martin West is the leader; I understand the Member for Diego Martin Central is the leader; I understand there is a fight for leadership. Be that as it may, I would have thought that the hon. Member—

Mr. Valley: Mr. Speaker, for the avoidance of doubt, there is one leader in the People's National Movement and that is the Member for San Fernando East.

3.10 p.m.

Mr. R. L. Maharaj: Mr. Speaker, I accept that for the time being, but I want the hon. Member for Diego Martin Central to know that, from reading the newspapers on Sunday, the hon. Member for San Fernando East said one can challenge anything, but one should not challenge his authority as a leader. So, I wonder whether at caucus meetings, Members are able to challenge anything.

Mr. Speaker, when I look on the other side I see how unfairly they have treated my hon. Friend, the Member for Arima, by putting him on the Back Bench, I feel very sorry since he has been a Member of longstanding in this House. *[Desk thumping]*.

Dr. Griffith: Mr. Speaker, may I advise my good Friend, the hon. Member for Couva South, that I have absolutely no problem sitting in this seat.

Mr. R. L. Maharaj: Mr. Speaker, I could understand my Friend saying that because he cannot challenge the authority of his leader. *[Interruption]*

The Motion before this House is a very simple one, but it has very important consequences. It brings into focus the whole question of having a parliamentary committee to consider the report, and the role and functions of parliamentary committees. It is very heartening to know that the Opposition is now supporting this concept. Actually, I feel very gratified and happy this afternoon to witness

that the "Government" in Opposition [*Laughter and desk thumping*] is able to support the concept of parliamentary committees.

Mr. Speaker, I think it is important— [*Interruption*] If the Member wishes to talk, I would talk after. Is he finished?

Mr. Speaker: Hon. Members, I think that the joke is being carried a little too far, please.

Mr. R. L. Maharaj: Thank you, Mr. Speaker.

It brings into focus the whole question of the importance of parliamentary committees, but before I deal with that concept, I would like to put into perspective, the whole concept of the office of the Ombudsman.

It is recognized that the behaviour, attitude and performance of duties of the administrative bodies in Government could have adverse effects on the quality of lives of our citizens; whether they are duties of the police service, WASA, T&TEC—health, education, shelter or social welfare—because those are matters involving security of the individual. These are some of the matters in which the performance of the administrative agency, or arm of the Government could have effect on the quality of life of the individual.

Employees in the public sector are entrusted with wide discretionary powers, and the way in which they exercise, or do not exercise, those powers can result in great injustice to people. It is because of this recognition—that officers can misuse or abuse these powers and that the individual is faced with little or no means of redress that it was found necessary to have some machinery, as an independent office, to investigate these complaints on behalf of the citizen.

The office of the Ombudsman in Trinidad and Tobago was created to be the vehicle whereby the ordinary citizen could make representation, or have representations made on his behalf—or the Ombudsman himself could decide to have a particular complaint investigated.

When a complaint is investigated, the Ombudsman does not have the power to command the public officer to do what he should, but he, in effect, tries to persuade him, by his report and by a conciliatory process, to have the injustice corrected. The Ombudsman's office, therefore, it must be remembered is an independent office; he has to receive, investigate and try to resolve these complaints.

His task, therefore, is to attempt to ensure that the persons who are employed in the public service, state companies—whatever position they hold—execute the policies of the Government and fulfil their duties under the relevant laws and statutes.

Mr. Speaker, I am saying this in order to show that when one looks at the report, one sees that the task of the Ombudsman is not only to ensure that the established policies are followed, but his mission also is to ensure that the duties of the officers were not executed unfairly, unreasonably or discriminatively.

The office of the Ombudsman, really, has been regarded as an instrument of accountability between the individual citizen and the administrative Government. That office is the means whereby the administrative Government accounts to the citizens. It is the machinery whereby the ordinary citizen can get some redress. It is even referred to as a non-judicial machinery because all the legalism and procedures associated with a court are taken out. Therefore, the Ombudsman stands as the guardian of the public interest in order to get redress for the ordinary citizens.

In that context, it is very important for a government which is committed to ensuring that there is equity and equality, and that the poor, down-trodden, ordinary citizens also have means of redress, to ensure that the office of the Ombudsman is not in any way hampered in the performance of its duties.

Therefore, it does not only involve the fact that the Ombudsman would be able to investigate a report, but if in investigating a report it is taking a long time for him to get response, and if, as the hon. Member for Port of Spain North/St. Ann's West said, it involves public service reform, then one sees that it is necessary to ensure that all machinery should be put in place so that he can get his response quickly, to ensure that the office of the Ombudsman functions. If responses take a very long time it could frustrate the object of the office.

What the hon. Member for Port of Spain North/St. Ann's West stated contradicted what his colleague, the Member for Laventille East/Morvant, said because one sees that it is important not only for the office to exist, but that it must have teeth.

3.20 p.m.

Mr. Draper: Mr. Speaker, may I be permitted to correct that impression? Nothing I have contradicted what my colleague said. I think it is incorrect for that statement to be made.

Mr. R. L. Maharaj: As I pointed out, one sees the importance of this office in effecting administrative justice to people. Therefore, it showed quite clearly that the PNM Government was unable to effect the necessary reforms in order to make the office effective. One merely has to look at the current report and one would see what has happened. If the PNM Government had accepted the report of the parliamentary committee, and dealt with the question of parliamentary reform in order to consider these reports, one would not have had some of these problems which the Ombudsman said still exist.

When one looks at the report—if I may refer to the report itself—one would see what the Ombudsman said in paragraph 1. Page 3 states:

"Many of the sustainable complaints relate to matters in which it is necessary for a department of Government or statutory authority to apply the law as enacted in Acts of Parliament or as often as is the case, as is enacted in subsidiary rules and regulations."

One would see that one of the important problems identified by the Ombudsman is the refusal and/or omission of public officers to apply the law.

The next paragraph also states:

"But more importantly, it is his concern to ensure that actions and decisions taken in accordance with such established criteria conform to standards of fairness and reasonableness . . ."

He talked about ensuring that the established rules are followed fairly.

Another problem identified is that the officers of the state, on occasions, do not make fair and reasonable decisions. In the second column on page 3 he spoke about the need for many of the laws to be amended. In particular, he said:

"Strict adherence to legislation and to rules and regulations passed at a time when social and economic conditions were quite different from circumstances and conditions as they exist today, result too in unfair treatment and injustice to many. But this attitude and the application of such legislation continue without regard to the injustice which is caused. Of course, what is

needed is an amendment or change of such laws, rules and regulations in the light of the change in circumstances and conditions. It is incumbent, therefore, that the appropriate authority be approached so that steps could be taken to bring about a change in the light of prevailing circumstances instead of perpetuating practices which result in injustice."

If we had a parliamentary committee many of these matters would not have occurred, because the parliamentary committee would have been able to monitor the reports of the Ombudsman and recommend to Parliament what to do.

In the report, column 1, page 4 states:

"The same attitude exists when the Ombudsman seeks to investigate a complaint. Much time and energy are expended in seeking to justify a decision or an act without in any way giving consideration to the justice or fairness of a situation. Even where the legal consequences or the detrimental effect of such action or decision are drawn to the attention of the department or authority concerned, it continues to persist in the wrongful action or adhere to its spurious decision. The delay engendered in protracted correspondence and adherence to questionable tactics further compounds the injustice. Matters which should be settled within a short space of time drag on for years."

This Ombudsman has been crying out for help year after year. At the end of his report on page 7, it states:

"Perhaps the time has come for the establishment of a Parliamentary Committee to consider and report on Reports of the Ombudsman, whether special or general."

This PNM party which is now in opposition is guilty of not taking appropriate measures to ensure that the citizens of this land who had complaints and were entitled to have them investigated get speedy results. They prevented those citizens from getting redress. Because of their omission for the last four-year period during which they formed the government, they had committed much injustice to ordinary citizens in Trinidad and Tobago.

I thought that they would have come here today less arrogant but penitent, and admit that. That is what world class is about and what leadership that works is about; they should have come to this Parliament and admit that they have erred and that they are going to make up for it. [*Interruption*] Mr. Speaker, I want to assure the hon. Member for Diego Martin West that on this side of the House

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Members always have things to say; what they say matter and their leader does not call them dogs.

This Opposition when it was in government knew—I want to show how they treated Parliament and the people with contempt—that since 1974, the Wooding Constitution Commission had recommended that the committee system was one to look at and that is why the NAR administration was looking at that system. [Laughter] The records would show that a parliamentary committee was appointed to look at the Ombudsman's Report. This Opposition when in government did not even want to look at it.

I would like to put on record that the Wooding Constitution Commission Report on pages 91, 92 and 93 dealt with the appropriateness of having parliamentary committees in order to look at reports and to monitor the activities of Parliament.

3.30 p.m.

I had promised to deal with the whole concept and importance of parliamentary committees. I want to show that the trend has been that parliamentary committees are the machinery whereby governments and government bodies are made to account. I refer to *The Changing Constitution* edited by one Mr. Jeffrey Jowel and Miss Dawn Oliver, a second edition publication, which deals with the committee system of the British Parliament. At page 150, it says:

"In June 1976 the House of Commons set up a sixteen-member Select Committee on Procedure 'to consider the practice and procedure of the House in relation to public business and to make recommendations for the more effective performance of its functions'."

At page 152, under "The Committee System Since 1979", it says:

"Opening the debate on procedure in June 1979, the new Leader of the House, Mr. Norman St. John-Stevas, spoke of 'the most important parliamentary reform of the century', intended 'to redress the balance power to enable the House of Commons to do more effectively the job it has been elected to do'."

So, Mr. Speaker, the PNM in government knew that the committee system was the only machinery which could have been used to make the Parliament and Government more effective. We had no explanation from the other side, while in

Government, why it did not attempt to introduce the committee system. I thought that the Minister who was responsible for public administration at the time—since he thought it fit to respond—would have told this House why the PNM Government did not effect parliamentary committee reform.

Mr. Valley: Mr. Speaker, the hon. Member does not have to ask the—

Mr. Speaker: Are you rising on a point of order? Are you asking the Member to give way?

Mr. Valley: He has given way, Mr. Speaker.

Mr. Speaker: Gentlemen, for the avoidance of doubt, when a Member rises, that does not give him permission to speak. When the Member catches the Speaker's eye, he will ask: Are you rising on a point of order, or are you asking the Member to give way? I was simply trying to get this from you.

Mr. Valley: Thank you, Mr. Speaker. I am very gracious to the hon. Member for giving way. I was making the point that the Member does not have to look to the Member for Port of Spain North/St. Ann's East. We met on a number of occasions, the Government agreed to the setting up of four parliamentary committees, and the Member is aware that we were awaiting his input for the formation of those committees. He was negligent with respect to that.

Mr. R. L. Maharaj: Mr. Speaker, I would like to put on record that we have the minutes of the meeting and we will lay those minutes at an appropriate time. In the minutes the previous Government stated that it wanted the committees. The Attorney General was supposed to draft the necessary measures. It took four years and the measures have not been drafted. *[Interruption]*

The point I am making is that the PNM Government agreed, but it did not do it—it was not prepared to implement it.

This book showed that in 1979 the Government in the United Kingdom created several parliamentary committees and those committees monitored every government department. Page 153 of this book shows what the parliamentary committees were. We wonder whether BWIA would have been sold as it was, if we had those parliamentary committees. Perhaps the hon. Member for San Fernando East would not have spent \$200 million to put down an LNG plant in La Brea, if we had those parliamentary committees—does the Member wish me to give way?

Mr. Manning: On a point of order, Mr. Speaker. *[Interruption]*

Mr. Speaker: Gentlemen, hon. Gentlemen! The Standing Orders do provide that whenever one is rising on a point of order one indicates the relevant section of the Standing Orders that one is claiming is contravened. If we do that we will get along so nicely. It makes it so simple. If one is rising on a point of information or correction or one is asking a Member to give way, that is another question. That Member is within his rights if he does give way. I simply need to get which procedure we are following.

Mr. R. L. Maharaj: Mr. Speaker, as I was saying before the hon. Member for San Fernando East improperly interrupted me, the parliamentary committees are recognized and probably if we had those committees, many of the problems which are causing great concern now to the population may not have arisen.

We had today in the House a statement on the Severn Trent transaction. We heard in the statement that the previous Government entered a transaction a few days before the election. If there were parliamentary committees, maybe it would not have been able to do that.

What we are doing here today is all part and parcel of the new thrust to ensure transparency in government. This Motion today, for which we have the support of the Opposition, is, in effect, the use of the parliamentary committee to effect the job of investigating and reporting to this House what should be done in order to make the office of the Ombudsman effective.

It is interesting to note that at page 8 of the Seventeenth Annual Report of the Ombudsman, he referred to a Mr. Clarke, who visited Canada between September 12 and 16, on behalf of the office of the Ombudsman. He mentioned that Mr. Clarke visited the office of the Information and Privacy Commissioner, Ontario, and held discussions with the Commissioner, Mr. Tom Wright, and senior officials of that organization on the crucial role which the Ombudsman's office plays under the Municipal Freedom of Information Act. These two Acts guarantees public access to government information, with limited exceptions.

This country will in a short space of time have freedom of information legislation. Therefore, if the office of Ombudsman is made more effective, it will be able to assist in implementing, to a great extent, the policy of freedom of information legislation.

3.40 p.m

Mr. Speaker, the Ombudsman in his Report at page 4 says:

“I have, in the course of my duties as Ombudsman, met with officers of various departments and agencies together with complainants in an effort to settle disputes. I have applied aspects of Alternative Dispute Resolution procedure in coming to a settlement of issues which have arisen and would commend that public officers be inducted into such methods so that disputes, many of which are of a minor nature, can be easily settled without the complainants having to resort to a court of law with the consequent loss of time and expenses which such formal procedures entail.”

Again, Mr. Speaker, alternative dispute resolution is a matter which is being actively considered on this side. We have no doubt that this country would have some mechanism with respect to an alternative dispute resolution. One sees, therefore, that this Motion is all part and parcel of the policy of this side in order to ensure that the Government is accountable to the Parliament, and the people through the Opposition, can in effect have better machinery in order to make the Government accountable to the people of Trinidad and Tobago.

A Government holds power in trust for the people. The people are the beneficiaries. The Government is the trustee and the power is exercised on behalf of the beneficiaries and they are entitled to know how Government operates; how power is exercised on their behalf. That is the policy of this new administration.

Thank you very much, Mr. Speaker.

The Attorney General and Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, my reply should not take very long. We on this side thank the Member for Laventille East/Morvant for the support he has indicated he would give to this Motion and we are very happy that our call for national unity has not fallen on deaf ears. With the greatest of respect to my Friend from Laventille East/Morvant, the problem is not simply, as he has said, how we treat with the reports from the Ombudsman. We had indicated that we wanted to give more teeth to the office of the Ombudsman and the Member felt that the problem was how to deal with the reports.

From listening to the hon. Member for Port of Spain North/St Ann's West, it appears that he also believes that the problem has to do with the whole question of public sector reform as well. So that the problem is not simply how we deal

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with the reports. If one looks at the 17 reports over the years, the thread that runs through them is the inefficiencies and difficulties that the office has in getting the complaints. It is not simply to say that we need to give it teeth and how we deal with the reports. There are problems in getting the complaints. There are problems in managing the complaints and I would respectfully ask that we look at the past reports, including the Seventeenth Report which is before this House.

Mr. Speaker, I beg to move that this House accepts the Motion standing in my name on the Order Paper.

Thank you.

Question put and agreed to.

Resolved:

That this honourable House take note of the 17th Annual Report of the Ombudsman for the period January 01, 1994 to December 31, 1994 (hereinafter referred to as "the said Report"):

That pursuant to Standing Order 79 this honourable House appoint six Members to sit with Members of the Senate as a Joint Select Committee for the purpose of considering the said Report and the functions and duties of the office of the Ombudsman and to make recommendations for a more effective machinery for the office of the Ombudsman so that Part II of Chapter 6 of the Constitution of the Republic of Trinidad and Tobago can be given effect.

Motion made and question proposed, That the House do now adjourn to Friday, December 15, 1995 at 1.30 p.m. [Hon. K. Persad-Bissessar]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 3.47 p.m.