

*Leave of Absence**Friday, March 27, 1998***HOUSE OF REPRESENTATIVES***Friday, March 27, 1998*

The House met at 1.30 p.m.

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

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from Members of the House who have asked to be excused from today's sitting. They are the Member for Arima, the Member for Diego Martin West, the Member for Port of Spain North/St. Ann's West, the Member for St. Joseph and the Member for Couva North. They are out of the jurisdiction and have asked to be excused. Leave of absence is granted to them.

CONDOLENCES

Mr. Speaker: Hon. Members, I also wish the House to take note of the fact that the Member for San Fernando East, the Leader of the Opposition, has suffered a bereavement in that his mother-in-law has passed away. I am sure that all Members would want me to express condolences to him on her passing.

PAPERS LAID

1. Auditor's Report on the Annual Financial Statements of Trinidad and Tobago Mortgage Company Limited (TTMF) for the year ended December 31, 1995. [*The Attorney General (Hon. R. L. Maharaj)*]
2. Auditor's Report on the Annual Financial Statements of Trinidad and Tobago Mortgage Company Limited (TTMF) for the year ended December 31, 1996. [*Hon. R. L. Maharaj*]

Papers 1 and 2 to be referred to the Public Accounts (Enterprises) Committee.

3. Report of the Auditor General on the Accounts and Financial Statements of the Programme of Institutional and Policy Development in the Housing and Urban Sectors for the period January 1, 1997 to May 31, 1997 as required by the Non-Reimbursable Technical Co-operation Agreement ATN/SF-3412-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*Hon. R. L. Maharaj*]

To be referred to the Public Accounts Committee.

ORAL ANSWERS TO QUESTIONS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I wish to inform the honourable House that we would not be able to answer question No. 30 today. I beg to move that we ask for a deferral of one week for that answer to be given.

**Ammonia Plant
(La Brea/Brighton)**

The following question stood on the Order Paper in the name of Mr. Patrick Manning (San Fernando East):

- 30.** (a) Would the Minister of Energy and Energy Industries indicate whether the concessionary terms and conditions accorded to Farmland for constructing an ammonia plant at La Brea/Brighton were modified when the plant was redirected to Point Lisas?
- (b) If so, would the Minister give details of the modifications?
- (c) Could the Minister advise whether other gas users at the Point Lisas Industrial Estate have sought and been granted similar terms and conditions as Farmland?
- (d) If so, could the Minister provide details of these including any reductions in gas price, and state the basis upon which these concessions were granted?
- (e) Could the Minister indicate the extent of the reduction in revenue resulting from such concessions, to:
- i. the National Gas Company; and
 - ii. the Republic of Trinidad and Tobago? [*Mr. Patrick Manning*]

Question, by leave, deferred.

IADB Investment Sector Loan

25. Mr. Kenneth Valley (*Diego Martin Central*) asked the hon. Minister of Planning and Development:

- (a) With respect to the IADB Investment Sector Loan, could the Minister indicate:
- i. the date this loan was signed, and what was the amount involved?
 - ii. what are the main conditionalities and obligations of this loan?

- iii. what was the date of the last drawdown on this loan?
- (b) Could the Minister state the details of the drawdowns on this loan up to the present time?
- (c) Has the Government of Trinidad and Tobago met the conditionalities and deadlines required for the drawdowns of this loan?
- (d) If the answer to (c) is in the negative, could the Minister explain what conditionalities have not been met, and why?

The Minister of Planning and Development (Hon. Trevor Sudama): Mr. Speaker, in August of 1993, the agreement for the Investment Sector Loan totalling US \$18 million, was signed between the Government of Trinidad and Tobago and the Inter-American Development Bank. The loan comprises two sub-components: US \$65 million for quick disbursing balance of payments support and US \$15 million for the implementation of the Social Impact Litigation Programme.

The loan is being disbursed in three tranches of US \$30 million, US \$25 million and US \$25 million respectively, with disbursements linked to the implementation of an Investment Reform Programme directed at improving the investment climate in Trinidad and Tobago. This loan was subject to a variety of conditionalities, wide in scope. I am not sure whether the then Government realized what they were getting into in accepting the terms to which this loan was subjected.

On assumption of office in December 1995, the current administration undertook a comprehensive review of the reform programme to ensure, among other things, that it was in accord with the policy stance of the new administration. This review revealed that in some areas the proposed reforms were somewhat at variance to the Government's policy agenda and that not much progress had been made in implementing the conditionalities associated with the second and third tranches.

Mr. Speaker, I mention at this point that the first disbursement was made when the loan was signed in August 1993. Two years and four months later, in November 1995, the then administration was not in a position to implement conditionalities in order to secure a drawdown on the second tranche. Moreover, some of the reforms entailed far-reaching changes to the legislative policy and institutional framework and could not have been realistically completed within the time-frame initially envisaged, which was February 5, 1996. This shows the manner in which they rushed and entered into agreements. The Government has been engaged in on-going dialogue with the bank to address these concerns.

Following from these discussions, the period of the loan disbursement has been extended by two and a half years and modifications have been made to some of the initial conditions for loan disbursement. The first tranche on loan signing was disbursed in August 1993. The second tranche was disbursed in August, 1997. The current date for final disbursement is March 5, 1998. The bank has agreed in principle to extend this deadline to December 1998, pending agreement on critical milestones for the third tranche compliance.

Mr. Speaker, when I go through the outstanding conditionalities, one would understand and appreciate and the House will wonder why the comprehensive nature of the reforms to which the previous Government had agreed.

Divestment: For meeting the third tranche conditionality, there is need to develop a strategic plan for Petrotrin to ensure long-term viability and international competitiveness. The status today is that a draft plan has been prepared and is being revised. The target date for completion is June 1998, which would then be submitted to the Inter-American Development Bank.

The Agricultural Development Bank: One of the conditionalities was the maintenance of and capital adequacy ratio at or above the agreed level of 30 per cent. The ratio is currently above the agreed level. The Investments Division of the Ministry of Finance has put in place a supervisory mechanism to ensure continued compliance.

Maintenance of fees and lending rates at levels that reflect full-cost prices: This was in the original agreement. The status of that is that lending rates and fees have been adjusted to reflect full-cost pricing. Monitoring of the Agricultural Development Bank's compliance has been undertaken by the Investment Division of the Ministry of Finance.

Capital market development: Implementation of an operating plant for the Securities Exchange Commission. The status of that is that the Securities and Exchange Commission has been established. However, it's full operationalization has been delayed by difficulties in attracting experienced professionals. It is expected that the commission would become fully operational by August 1998.

Land tenure rationalization: Cabinet approved Bills relating to land registration, land adjudication and land tribunal—forest resources, national parks and a land subdivision code. The status is that a consultant has been contracted to draft the Land Registration, Land Adjudication and Land Tribunal Bills. The draft of these Bills are expected to be submitted to Cabinet by July, 1998. The Forest

Resources Bill has been drafted and will be presented to Cabinet by May, 1998, following a series of public consultations. The National Parks Bill is being redrafted to incorporate public comments and is scheduled to be presented to Cabinet shortly.

The tabling in Parliament of the Planning and Development of Land Bill: The Planning and Development of Land Bill has been revised on the basis of earlier public consultation and, indeed, has been tabled in Parliament. The drafting of the Land Subdivision Code has to await finalization of the Planning and Development of Land Bill and is to be submitted to Cabinet shortly.

Establishment of a digital mapping facility at the Lands and Surveys Division: Mapping of three pilot areas and award of a contract for mapping of the country. The status is that the establishment of the digital mapping facility at Lands and Surveys Division is at a fairly advanced stage and is expected to be completed by May 1998. The mapping of the pilot areas is expected to be completed by August 1998, at which time a contract would be awarded for mapping the rest of the country.

1.45 p.m.

The implementation of the first phase needs assessment of a project for the modernization of the Land Registry including development of graphical and textural databases, reorganization of RPO records, computerization of information on registered lands and the strengthening of manpower resources.

The contract is soon to be awarded for a land information specialist who will assist in developing a needs assessment for the Land Registry.

Under the rubric of Investment Facilitation: There is a need to table in the Parliament the Investment Promotions Bill which is currently being drafted. It is expected to be laid in the Parliament by April, 1998.

Review of the procedures and criteria for granting licence for land to foreign investors to enhance efficiency and effectiveness: The Ministry of Finance is currently reviewing the criterion for granting licences for land to foreign investors. The revisions will be incorporated in the proposed Investments Promotions Bill.

The removal of restrictions against foreign investors holding shares in excess of 30 per cent in local companies: The Ministry of Finance is currently reviewing this requirement which will be addressed in the Investments Promotions Bill.

Comprehensive review of incentives to investors: Cabinet has appointed a committee to undertake a comprehensive review of fiscal incentives to investors and the committee's report is due shortly.

Preparation of a policy brief clarifying TIDCO's role as regulator, promoter and investor. The Ministry of Trade and Industry in conjunction with the Ministry of Tourism is preparing a detailed policy brief on TIDCO's roles and potential conflict of interest. This policy brief will be submitted to Cabinet very shortly.

The Companies Registry—Implementation of the recommendation of a Needs Assessment Report on staffing and equipment requirement for a modernized Companies Registry: The up-to-date position is that a Needs Assessment Report has been prepared by the Ministry of Legal Affairs and will be submitted to Cabinet shortly. Implementation of the report is targeted for August 1998.

Environment management: Implementation of the environmental impact assessment procedures. The procedures for environmental impact assessment will form a part of the Planning and Development of Land Bill which has been tabled in the Parliament. Thank you very much.

**World Bank Loan
(WASA)**

Mr. Kenneth Valley (*Diego Martin Central*) on behalf of Mr. Patrick Manning (*San Fernando East*) asked the hon. Prime Minister:

27. (a) With respect to the World Bank Loan for WASA, could the Prime Minister indicate:
- i. the date this loan was signed, and what was the amount involved?
 - ii. what are the main conditionalities and obligations of this loan?
 - iii. what was the date of the last drawdown on this loan?
- (b) Could the Prime Minister state the details of the drawdowns on this loan up to the present time?
- (c) Has the Government of Trinidad and Tobago met the conditionalities and deadlines required for the drawdowns of this loan?
- (d) If the answer to (c) is in the negative, could the Prime Minister explain what conditionalities have not been met, and why?

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, on August 23, 1994 an agreement was signed between the Government of the Republic of Trinidad and Tobago and the International Bank for Reconstruction

and Development for a loan of US \$25 million for the financing of the Water Sector Institutional Strengthening Project. The closing date for drawdowns of the loan is June 30, 1998.

The objective of the project is to strengthen the institutional framework of the water sector through actions aimed at:

1. Integrating different aspects of water resource management.
2. Improving environmental planning and management.
3. Introducing private sector operators in the provision of water services.
4. Separating operating responsibilities from regulatory and planning responsibilities.

The project consists of three parts:

Part A: Reorganization of the Water Sector Management involving the following:

1. Strengthening of the Public Utilities Commission to oversee the public utilities sector including the participation of the private sector.
2. Strengthening of the Project Implementation Unit at the Ministry of Public Utilities to oversee the portfolio of public utilities companies being restructured through the participation of the private sector.
3. Development of a water resources management strategy including the basic framework for future programmes in land use planning, water supply and waste water, drainage and flood control and watershed management.
4. Strengthening of the water resource agency with responsibility for water resources management and strategic planning including tele-metering activities of hydraulic information and/or of any other agency designated for such purpose.

Part B: Private sector participation in the water services entailing the reorganization of the water sector to facilitate the introduction of private operators in the provision of water supply and waste water services through:-

- 1: Design and implementation of strategic plan for private sector participation in the Water and Sewerage Authority.
2. Provision of interim management support for WASA.

3. Preparation of a rehabilitation programme for WASA's water supply and distribution system and facilities and of environmental mitigation measures as needed.
4. Establishment and operation of a WASA's rehabilitation emergency operational fund for the provision of critical equipment, spare parts and operating supplies through the period of transition to private sector operation.

Part C: Drainage and Flood Control Institutional Support focussing on:

1. Strengthening of the Project Implementation Unit of the Ministry of Works and Transport to supervise the preparation and implementation of the Drainage and Flood Control Programme.
2. Preparation of a drainage and flood control programme which will include enhanced maintenance and rehabilitation.
3. There were no special conditions for effectiveness and disbursement of the loan. However, in preparation for the proposed Medium-term Water Rehabilitation Programme, the Government agreed to meet a number of commitments during the execution of the loan.

They include:

1. Signing of a subsidiary agreement with WASA for the reorganization of the water sector management, obligating WASA to enter into a contract with a private sector operator acceptable to the bank. Such contract is to be in full force until the completion of the project, or the conclusion of the rehabilitation and divestment process of WASA.

To bestow upon the private sector operator the full technical and financial responsibility for the management of WASA's supply and waste water services.
2. Maintenance of project implementation units within the Ministries of Works and Transport and Public Utilities to review and evaluate consultants' reports; arrange the implementation of approved recommendations and co-ordinate the procurement of goods and the selection of consultants.
3. Procurement of consultants to assist WASA in introducing private operators in the provision of water supply and waste-water services.

4. Drafting of a regulatory framework for the reorganization of the water sector management and submission of a legislative proposal concerning the components of the framework that require enactment of legislation.
5. Bringing of WASA to the point of divestment in accordance with approved action plans developed for the introduction of private sector participation in water services.
6. Conducting of environmental impact assessment for the purpose of undertaking watershed management and preservation of coastal wetlands and other eco-habitats in Trinidad and Tobago through the Ministry of Works and Transport and WASA.
7. Submission of an action plan by WASA to the bank aimed at establishing prices for water services to achieve conditions of efficient operations, cover operating costs and to meet financial obligation.
8. Maintenance of an operating ratio, operating expenses divided by operating revenue by WASA not higher than 100 per cent for 1994; 85 per cent for 1995 and 75 per cent for 1996; and
9. Ensuring that WASA does not incur any debt unless its debt service coverage is greater than 1.25 per cent.

1.55 p.m.

All the commitments in preparation for the water rehabilitation programme have been met except for the achievement of the targeted operating ratios for WASA; the drafting of the regulatory framework for the reorganization of water sector management, and the conduct of an environmental impact assessment related to watershed management and preservation of coastal wetlands and other eco-habitats. The environmental impact assessment and the drafting of the regulatory framework are in progress and expected to be completed by loan closing day.

The achievement of the targeted operating ratios has been hampered by conditions set out in the interim operating agreement between the Government and the private sector operator which prohibit mandatory reductions in staff and increases in water and sewerage tariffs during the period of the agreement. In an effort to reduce operating expenses the Government has offered Voluntary Separation of Employment Packages to employees of the Water and Sewerage Authority.

The date of the last drawdown on the loan was December 5, 1997. A total of US \$16.1 million has been disbursed primarily for the procurement of goods and consultancy services and the training of staff of the Ministry of Public Utilities, the Ministry of Works and Transport and the Water and Sewerage Authority.

It should be emphasized however, that the activities being pursued under the water sector institutional strengthening project are merely one element of a comprehensive strategy which the Government has embarked upon in addressing the critical situation with respect to water and sewerage which it confronted on assumption of office.

The strategy entails the strengthening of the institutional and regulatory framework for water resource management, thus ensuring the optimization of investment expenditures and the implementation of short-term emergency rehabilitation programme of repairs and needs replacement, directed at reducing system loss through leakages and undertaking of a medium-term programme of investment to cater for expansion of domestic, commercial and industrial users.

As part of the overall strategy the Government has begun the implementation of a short and medium-term plan of action to alleviate the acute water supply deficit in the southern areas of Trinidad. The plan of action encompasses the salt water project which targets improvements in eight main water supply schemes. They are Granville, Chatham, Point Fortin, Fyzabad, Caura, Penal, Avocat and Mayaro/Guayaguayare.

The scope of work includes increasing the supply through increase of abstraction; rehabilitation of bore holes and drilling of new bore holes; rehabilitation and installation of transmission and distribution lines; new service connections and rehabilitation of treatment facilities. The project is expected to be completed within 12 months and would increase the level of service from less than 48 hours per week to between 120 to 168 hours per week. It is estimated that about 62 persons would benefit.

The Point Lisas water project targets improvements in the Caroni/South transmission system would benefit approximately 264,000 persons, increasing their level of service to 120 to 168 hours per week. It will also cater for the projected increase in demand of the Point Lisas Industrial Estate to the year 2000.

The elements of the water supply and sewerage rehabilitation project which impact directly on salt water supplies would bring relief to 150,000 persons, by improving the service to 84 to 120 hours per week over a period of 12 months.

Mr. Valley: Mr. Speaker, I wonder whether the Minister could inform the House of the interim management arrangement which has been put in place for WASA. Could he tell us what this was?

Hon. G. Singh: One of the conditionalities of the loan was the putting into place of the private sector operator which was reflected in an interim operating agreement entered into by the previous government.

Mr. Valley: Could the Minister inform the House whether his Government is satisfied with the performance of that interim management in place at WASA?

Hon. G. Singh: That performance is being conducted in accordance with the agreement by a company called Halcrow International. When that report is submitted on an empirical basis, I would inform the hon. Member.

Mr. Valley: Is the Minister satisfied with the performance of that interim manager?

Hon. G. Singh: This Minister is informed by empirical data and when that report is submitted he will make the necessary conclusions.

Mr. Valley: Mr. Speaker, could the Minister inform us whether he is satisfied with his Permanent Secretary or does he have to wait for empirical data to say that?

Mr. Speaker: That is not permitted.

Mr. Valley: Before I ask question No. 28, I think it might be appropriate if we waive the normal requirement that question time ends at 2.15 p.m. in view of the fact that most of the questions on this Order Paper had been deferred previously.

Mr. Speaker: I do not think it is proper for you to do that now. Just proceed with it. We would deal with time when we come to it.

Mr. Valley: Thank you, Mr. Speaker.

World Bank Loan (Schools)

28. Mr. Kenneth Valley (*Diego Martin Central*) on behalf of the hon. Member for San Fernando East (**Mr. Patrick Manning**) asked the Minister of Finance:

- (a) With respect to the World Bank Loan for schools, could the Minister of Finance and Minister of Tourism indicate:
 - i. the date this loan was signed and what was the amount involved?

- ii. what are the main conditionalities and obligations of this loan?
- iii. what was the date of the last drawdown on this loan?
- (b) Could the Minister state the details of the drawdowns on this loan up to the present time?
- (c) Has the Government of Trinidad and Tobago met the conditionalities and deadlines required for the drawdowns of this loan?
- (d) If the answer to (c) is in the negative, could the Minister explain what conditionalities have not been met, and why?

The Minister of Education (Dr. The Hon. Adesh Nanan) on behalf of the Minister of Finance and Minister of Tourism: Mr. Speaker, the Government of Trinidad and Tobago entered into agreement with the World Bank on March 16, 1996, for funding the implementation of the Fourth Basic Education Project. The total cost of the project is US \$121.7 million comprising a World Bank Loan of US \$51 million and Government's counterpart contribution of US \$70.7 million. The loan has a disbursement period of six years ending in the year 2003.

The overall objective of the programme is to rehabilitate existing physical infrastructure as well as to improve educational equality and efficiency, especially at the primary level.

These are the components of the programme:

- (1) Improving early childhood care and education through the construction of 50 new early childhood care and education centres;
- (2) the rehabilitation of 50 existing centres;
- (3) the strengthening of teacher training through on-going in-service and pre service training;
- (4) upgrading teaching learning and quality to enhance classroom instruction by improving the quality of textbooks and instructional materials;
- (5) implementing school-based training for principals and teachers;
- (6) introducing a pilot programme for the teaching of Spanish in primary schools;
- (7) physical structure improvement to increase the number of places available and reduce the problem of overcrowding, through the construction of 15 new primary schools and 15 replacement primary schools;
- (8) the upgrading of 16 primary schools and the construction of four secondary schools in Mason Hall Tobago, Cunupia, Guaico and Diego Martin;

- (9) management and institutional strengthening directed at improving the central and regional services to schools through the reform and decentralization of the Ministry of Education and the establishment of school-based management.

2.05 p.m.

The conditionalities attached to the loan are as follows:

Prior to Loan Effectiveness

- (1) Adoption by the Ministry of Education of a project implementation manual including operational manuals for:
 - (i) early childhood care and education;
 - (ii) decentralization and institutional strengthening of the Ministry of Education;
 - (iii) school-based management.
- (2) Establishment of a dedicated Project Co-ordinating Unit in the Ministry of Education for the overall management of the programme.
- (3) Establishment of proper systems within the Project Co-ordinating Unit for accounting, filing and monitoring; and
- (4) Engagement of a qualified human resource and organisational specialist, to assist the Ministry of Education with the design and implementation of its decentralisation and reform strategy.

Prior to Loan Disbursement

- (1) Acceptance by Government of community proposals for early childhood care and education and parental outreach activities.
- (2) Preparation of decentralization plans by the Ministry of Education, central and regional divisions, as well as evidence that:
 - (i) the decentralization analysis had been completed;
 - (ii) the recommendations of the analysis were feasible; and
 - (iii) a master implementation schedule had been prepared.
- (3) Preparation of school improvement plans that conform with the school-based management manual.

All conditions for loan effectiveness and disbursement were met by November 27, 1996 and December 6, 1996, respectively. As a result, four drawdowns totalling TT \$16.5 million or US \$2.6 million were made in 1997, as follows:

Oral Answers to Questions
[DR. THE HON. A. NANAN]

Friday, March 27, 1998

<u>Date of Application</u>	<u>Amount</u>
January 29, 1997	TT \$1,786,310.51
July 2, 1997	TT \$4,235,070.36
September 17, 1997	TT \$3,416,636.44
October 24, 1997	TT \$7,160,246.78

The last drawdown was made on November 7, 1997. A fifth request for drawdown, amounting to TT \$6.918 million, was made on January 29, 1998, and is currently being processed by the World Bank.

Mr. Speaker, this Government is utilising the loan prudently to drive the educational reform process, which is a prerequisite for the delivery of relevant and quality education to prepare our students for the 21st Century. To date, there has been the construction of eight new Early Childhood Care and Education Centres and work is continuing on nine to accommodate a total of 850 children of socio-economically depressed areas, at a cost of \$3.6 million.

There has also been upgrading of 12 existing Early Childhood Care and Education Centres and work continues on eight more at a cost of \$1.3 million. Coupled with this important infrastructural upliftment is an Early Childhood Care and Education Centre Teacher Training Programme. Annually, 65 teachers are being trained, at a cost of \$1.6 million, to deliver a modified curriculum.

At the primary level, there is construction of two new and two replacement schools, with two more scheduled to begin this year, providing access to 3,420 students. Designs have been completed on 16 primary schools and continue on two new secondary schools.

This loan has an additional component that hinges on the curriculum. Strengthening of the teaching of language arts is completed and a similar exercise for mathematics has started, at a cost of \$277,000.

For the first time, the role of the principal as a manager is receiving priority. A Bachelor of Education programme with emphasis on management is being conducted at the University of the West Indies for senior teachers, vice principals and principals of primary schools. There are 98 participants at a cost of \$1.6 million.

Soon, all government and government-assisted primary schools will be supplied with a quota of library books.

**Paris Club
(Representation)**

- 29. Mr. Kenneth Valley** (*Diego Martin Central*) on behalf of the hon. Member for San Fernando East (Mr. Patrick Manning) asked the Minister of Finance and Minister of Tourism:
- (a) Would the Minister please indicate whether Trinidad and Tobago was represented at the November meeting of the Paris Club?
 - (b) If the answer is in the affirmative, could the Minister state the names and designations of the representatives?
 - (c) Could the Minister advise whether Cabinet's approval was required for any or all of the representatives to attend the meeting, and if so, was such approval granted?
 - (d) Could the Minister give details of any instructions given to the representatives as regards a further write-off of Guyana's debts, including interest payments, to Trinidad and Tobago?

The Minister of Finance and Minister of Tourism (Sen. The Hon. Brian Kuei Tung): Mr. Speaker, the answer to part (a) is no. Trinidad and Tobago was not represented at any meeting of the Paris Club in November 1997.

The Paris Club was scheduled to meet on November 18, 1997 to discuss the Guyana debt relief under the HIPIC, which is the Heavily Indebted Poor Countries Initiative, following an exploratory meeting on October 22, 1997 in Paris, France, between Paris Club creditors and representatives of Trinidad and Tobago. Trinidad and Tobago was required to notify the Paris Club by November 17, 1997 of its position on further debt relief to Guyana within the framework of the HIPIC. It was not in a position to do so, therefore the meeting was not convened.

The Trinidad and Tobago position communicated to the Paris Club on December 15, 1997 was that Trinidad and Tobago was prepared to support the debt relief programme being proposed for Guyana, within the framework of the HIPIC.

Foreign Trips

- 33. Mr. Kenneth Valley** (*Diego Martin Central*) on behalf of the hon. Member for San Fernando East (Mr. Patrick Manning) asked the Minister of Foreign Affairs:
- (a) Could the Minister state how many foreign trips were made by him in his ministerial capacity since November 27, 1995 to the present time?

- (b) Could the Minister state the destination, purpose, duration and cost of each such foreign trip?

The Minister of Foreign Affairs (Hon. Ralph Maraj): Mr. Speaker, during the period November 27, 1995 to the present time, as Foreign Minister of Trinidad and Tobago, I undertook 37 overseas trips on official business, on behalf of the Government and people of Trinidad and Tobago. It has always been necessary for a foreign minister to undertake official overseas travel. It is the nature of the job.

In today's global environment, with fierce competition for economic, political and diplomatic space, overseas travel is not merely necessary, but absolutely essential for the successful conduct of a country's foreign policy. It is shortsighted and irresponsible for anyone to think that in today's fast-moving and fast-changing world, a Foreign Minister of Trinidad and Tobago should sit at his desk in Port of Spain and push paper.

This country's Foreign Minister has to go out into the regional and international arena, represent and protect the interest of this country, express its views, profile its position and achievements, generate economic benefits and opportunities, gain political advantages, forge new alliances, renew and deepen old ties. He must be proactive and activist; and this has been the approach of this Foreign Minister of Trinidad and Tobago over the last two years, with unprecedented success at both the bilateral and multilateral level.

A look at our position in the hemisphere today can only judge it to be multifaceted, dynamic and very strong. Trinidad and Tobago is today a leader in its neighbourhood and its hemisphere, and a significant player in the wider international environment.

The opening of new embassies in Port of Spain as well as the offices of regional and international organizations are all signs of the emergence of Trinidad and Tobago as a major diplomatic centre of the region. High level visits continue to flow to Port of Spain as a result of our growing importance and dynamism, and I am pleased to announce that from April 4—6, 1998, we will have the honour and pleasure of a visit by the Secretary of State of the United States of America, Mme. Madeleine Albright. This is part of the follow-up to the First Caribbean/United States Summit, which I engineered on one of the 37 trips which I mentioned.

2.15 p.m.

My Caribbean colleagues were here earlier this week for a CARIFORUM meeting as Trinidad and Tobago continues to play a leading role in the preparation

for ACP European Union negotiation. My colleagues would be here again in a few days' time for the meeting with the Secretary of State of the United States of America which I would chair, having been a major instrument of this new Caribbean/United States of America partnership. Such status and stature could not have been achieved, like I said, by pushing paper in Port of Spain.

Look at the international position of Trinidad and Tobago today and one would see the success of this country's foreign policy and foreign ministry and the value of the overseas travel by this Minister with responsibility for foreign affairs. Examine each trip made since November 27, 1995, subject them to dispassionate analysis, and it would be revealed that they have advanced the political, economic, and diplomatic objectives of Trinidad and Tobago.

Mr. Speaker, the trips under question, their purpose and costs after the retirement of advances are as follows:

DESTINATION	PURPOSE	DURATION	COST
Barbados	To attend the funeral of Dame Nita Barrow.	December 29, 1995.	2,341.91
Georgetown, Guyana	To attend the Fifth Meeting of the Prime Ministerial Sub-Committee on External Economic Negotiations; Seventh Inter-Sessional Meeting of the Conference of Heads of Government of CARICOM.	February 28 to March 01, 1996.	14,547.74
St. George's Grenada	To attend the Canada/ Caribbean Heads of Government Summit.	March 4 and 5, 1996.	
Caracas	To attend the Specialized Conference on the Inter-American Convention against Corruption.	March 27 to 29, 1996.	7,688.37
Mexico City	To attend the Consultative Meeting on the 6 th Cycle of the UNDP.	March 29, 1996.	
Bolivia	To attend the 6th Institutionalized Meeting of Ministers of Foreign Affairs of the Rio Group and the European Union.	April 15 to 16, 1996.	31,023.90
San José, Costa Rica	To attend the 26 th Session of the United Nations Economic Commission for Latin America and the Caribbean.	April 19 to 20, 1996.	12,045.49

DESTINATION	PURPOSE	DURATION	COST
Kingston, Jamaica	To attend the 22nd Meeting of the SCMFA; A meeting of Foreign Ministers of the European Troika/CARIFORUM Countries and a Preparatory Meeting of CARIFORUM Ministers.	May 13 to 16, 1996.	14,727.42
Curacao	To lead a Trade Mission of the Trinidad and Tobago Manufacturers' Association.	May 20 to 21, 1996.	5,498.10
Western Samoa	To attend the 63 rd Session of the ACP Council of Ministers and the 21 st ACP/EU Council of Ministers.	June 24 to 28, 1996.	86,232.34
Barbados	To attend the 17 th Meeting of the Conference of Heads of Government of CARICOM.	July 3 to 6, 1996.	11,203.74
Puerto Rico	To accompany the Honourable Prime Minister to the Annual Meeting of the National Governors' Association.	July 13 to 16, 1996.	12,157.76
Venezuela	To accompany the Prime Minister on his official visit to Venezuela.	July 28 to August 01, 1996.	14,476.50
New York	To attend an Investment Exposition and address the business community.	August 28 to 30, 1996.	56,549.10
Bolivia	To attend the Tenth Summit of the Rio Group.		
Suriname	To attend the Inauguration of the President-elect of Suriname.	September 13 to 15, 1996.	5,745.90
United States	Member of Prime Minister's delegation on official visit to the United States.	September 22 to October 10, 1996.	31,374.84
Costa Rica	To attend the CARICOM/Central America Ministerial Conference.	November 26 to 29, 1996.	21,242.40
India	Member of Prime Minister's delegation on his State visit to India.	January 20 to February 6, 1997.	90,004.66
Antigua	To attend the 8 th Inter-Sessional Meeting of the Conference of Heads of Government of CARICOM.	February 20 and 21, 1997.	10,681.38

DESTINATION	PURPOSE	DURATION	COST
Washington, D.C.	To participate in an Amcham Lobbying Mission to Washington.	March 10 to 13, 1997.	21,022.93
Jamaica	To attend the funeral of the late Mr. Michael Manley, former Prime Minister of Jamaica.	March 15, 1997.	313.91
Barbados	To attend the Preparatory Meeting for the CARICOM/United States Summit.	March 25 to 27, 1997.	7,512.19
(Tobago and) Saint Lucia	To attend the Ministerial Meetings Preparatory to the Caribbean/United States Summit.	April 11 to 13 and April 20 to 22, 1997.	17,446.57
Barbados	To participate in the Ministerial Meeting Preparatory to the Caribbean/US Summit and the Meeting of the Caribbean Side.	April 24 to 25, 1997.	7,823.81
Venezuela	Member of Prime Minister's delegation to discuss matters relating to TT/Venezuela Maritime relations.	May 6, 1997.	313.91
Barbados	To participate in the Preparatory Meeting of the Caribbean heads of State and Government and the Caribbean/US Summit.	May 8 to 10, 1997.	9,153.62
Peru	To attend the XXVII Regular Session of the General Assembly of the OAS.	June 1 to 6, 1997.	38,784.26
Guyana	To attend the 23 rd Meeting of the Standing Committee of Ministers of Foreign Affairs (SCMFA).	June 12 to 17, 1997.	11,234.48
Jamaica	To attend the 18 th Meeting of the CARICOM Heads of Government Conference.	June 30 to July 4, 1997.	23,337.44
Canada	To attend the Parliamentary Conference of the Americas.	September 18 to 22, 1997.	28,519.45
Miami	To participate in the First Meeting of the CARICOM/United States Trade and Investment Council and the First Meeting of the CARICOM/United States Joint Committee on Development Finance and Environmental Issues.	September 22 to 24, 1997.	12,670.05

DESTINATION	PURPOSE	DURATION	COST
New York	To deliver a foreign policy Statement at the 52 nd Session of the General Assembly of the United Nations.	September 28 to October 2, 1997.	16,022.62
Gabon	To attend the Summit of African Caribbean and Pacific Heads of State and Government and Special Session of ACP Council of Ministers of Foreign Affairs and Ministers in Charge of ACP—European Union Relations.	November 4 to 7, 1997.	96,871.77
Colombia	To participate in the III Meeting of the ACS Ministerial Council.	November 25 to 28, 1997.	19,071.00
Venezuela	To participate in Meeting to conclude the TT/Venezuela Fishing Agreement.	December 18, 1997.	1,686.25
Mexico	Member of Prime Minister's delegation on the occasion of the State visit by the Honourable Prime Minister of Trinidad and Tobago.	January 20 to 25, 1998.	25,187.40
The Bahamas	To attend the Inaugural Meeting of the CARICOM Community Council of Ministers and the Caribbean Forum.	February 9 to 13, 1998.	22,771.87
Washington, D.C.	To represent Trinidad and Tobago in the discussions concerning the Implementation of the Death Penalty in Trinidad and Tobago.	February 19 to 22, 1998.	16,710.86
Grenada	To attend the 9 th Inter-Sessional of the Conference of Heads of Government of CARICOM.	March 1 to 4, 1998.	9,694.30

Mr. Speaker, I thank you.

Mr. Speaker: Hon. Members I wish to indicate that in accordance with Standing Order 19(7), question time is supposed to end at 2.15 p.m and it is now 2.27 p.m. I have allowed it to go beyond 2.15 p.m simply because the Minister was, in fact, in the process of answering a question and I did not want to stop him at 2.15 p.m.

Hon. R. L. Maharaj: Mr. Speaker, from the Government's point of view we do not have any objection if the Speaker consents. It can be done under Standing Order 90(1) which states:

"Any one or more of these Standing Orders may, after notice or with the leave of the Speaker, be suspended on a motion made by a Member at any sitting."

According to Standing Order 19(7) when the questions are not answered by 2.15 p.m., and there is no motion by a Member to signify a desire to postpone the question it can go for the next occasion.

From the Government's point of view, we are quite prepared to answer the questions if the Speaker is minded to grant leave. There was a request from the Opposition Chief Whip, but it is entirely up to you, Mr. Speaker.

Mr. Speaker: Hon. Members, I am directing that all the questions would be answered. Those which were not answered today will be answered in writing, and I so direct.

I simply point out that quite clearly, when one asks a question which has five parts and calls for much detail, obviously it would go beyond 2.15 p.m, and quite clearly, there are several questions which are being asked in the House which could quite conveniently be dealt with in writing. If Members feel that they want it to be oral, there is no problem at all, they could do it, but there is a 2.15 p.m deadline.

I direct that all the questions which have not been answered should be answered, and they should be answered in writing.

2.30 p.m.

Mr. Imbert: Mr. Speaker, may I ask one question, please?

Mr. Speaker: Is the question on something else or on this matter?

Mr. Imbert: It is in relation to that, it is not on your ruling. It is just for clarification on the time-frame, Mr. Speaker.

Mr. Speaker: On the time-frame for what?

Mr. Imbert: On a time-frame for the answer?

Mr. Speaker: I will read Standing Order 19(7) which says:

"Questions which have not received an oral answer by 2.15 o'clock in the afternoon shall be answered in writing by the Minister to whom the question was addressed, and copies of the answer shall be sent immediately after that

hour to the Clerk of the House, who shall send a copy to the Member in whose name the question stood upon the Order Paper and cause the answer to be circulated with the Minutes of Proceedings, unless at any time before 2.15 o'clock in the afternoon a Member having a question on the Order Paper but whose name has not yet been called by the Speaker signifies to the Clerk at the Table his desire to postpone the question to a later sitting or to withdraw it."

There was no question of postponing anything to a later sitting, except the one done by the Attorney General earlier and there was no question of withdrawing it. I have just indicated that the questions will be answered at the earliest possible date. I take it that the Ministers came prepared to do it. They would do it at the earliest possible date and I would imagine, certainly, before the next sitting.

**Piarco Airport Development Project
(Birk Hillman—Contract)**

34. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (i) In view of the recommendations of the report of the Justice Deyalsingh Committee which recommended termination of contracts for the Piarco Airport Development Project, could the Minister state why Government has not terminated the Birk-Hillman contract for design and project management service for the project?
- (ii) In addition to the \$43 million already paid to Birk-Hillman, how much more money is expected to be paid to Birk-Hillman for work on the project?

**Piarco Airport Development Project
(Northern/Yorke/Coosals—Contract)**

35. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) Has the Northern/Yorke/Coosals (NYC) contract for construction of the terminal building and related aspects of the Piarco Airport Development Project been terminated?
- (b) If the answer is in the negative, could the Minister of Works and Transport state:
 - (i) the reasons why the NYC contract has not been terminated;
 - (ii) the nature of the work involved; and

- (iii) how much money is expected to be paid to NYC for work on the project?

**Piarco Airport Development Project
(Termination of)**

36. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) With the exception of the Seereeram Brothers Limited contract for earthfills, have all other contracts on the Piarco Airport Development Project been terminated?
- (b) If the answer is in the negative, could he say:
 - (i) the reasons these contracts have not been terminated;
 - (ii) the names of the contractors involved;
 - (iii) the nature of the work involved; and
 - (iv) the sums of money which are expected to be paid in 1998 for work done on the project by these contractors?

**Piarco Airport Development Project
(Estimated Cost)**

37. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) In view of the recommendations of the report of the Justice Deyalsingh Committee on the Piarco Airport Development Project, which recommended construction of a smaller airport, could the Minister of Works and Transport state what is the present estimated cost of the project, including all consultants' fees?
- (b) If the estimated cost exceeds the 1995 all-inclusive ceiling cost of \$400 million, could the Minister indicate why the Government has not followed the recommendations of the 1992 report of the International Civil Aviation Organisation with regard to the sizing of the new airport facility?

**Piarco Airport Development Project
(Feasibility Study)**

38. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) Has any new feasibility study and/or cost benefit analysis been done to justify an increase in cost of the Piarco Airport Development Project from the 1995 estimate?
- (b) If the answer is in the affirmative, could the Minister of Works and Transport identify when this new feasibility study and/or cost benefit analysis was done, the authors of the feasibility study and/or cost benefit analysis and their qualifications and track record in the field, and the scientific and/or economic basis of their income and expenditure projections for the project?
- (c) Could the Minister advise whether Birk Hillman's fees are tied to the size of the project?
- (d) If the answer to (c) is in the affirmative, could the Minister indicate what precautions have been taken to ensure that Birk-Hillman is not making unjust profits by unnecessarily increasing the cost of the project in order to increase its own fees on the project?

**Usine Ste. Madeleine Sugar Factory
(Refurbishing Costs)**

41. Mr. Patrick Manning (*San Fernando East*) asked the Minister of Agriculture, Land and Marine Resources:

Could the Minister kindly indicate:

- (a) the total cost of refurbishing the Usine Ste. Madeleine Sugar Factory for the 1988 crop;
- (b) the cost of the new sugar mill installed and whether it is at present operating at full capacity;
- (c) whether there have been instances of breakdowns of the newly installed mill, and if so:
 - (i) how many breakdowns have occurred to date; and
 - (ii) what was the cost to the company of these breakdowns?

**Speaker's Official Residence
(Restoration costs)**

44. Mr. Jarette Narine (*Arouca North*) asked the Minister of Works and Transport:

Could the Minister indicate:

- (a) the overall cost of the restoration works being undertaken at the official residence of the Speaker of the House of Representatives?

Could the Minister indicate:

- (b) whether local or foreign contractors other than the Ministry of Works and Transport are involved in this restoration, and if so, by what process were they selected?
- (c) If there are foreign contractors retained in the restoration, could the Minister name the foreign firms, indicate their specific functions and the cost at which they were retained?

Could the Minister give:

- (d) a breakdown of the cost for:
- (i) furniture and fixtures;
- (ii) office equipment;
- (iii) landscaping; and
- (iv) interior decorations?

Question time having expired, the above questions were answered in writing.

Vide end of sitting for replies.

**DEFINITE URGENT MATTER
Parrylands Government School**

Mr. Hedwige Breaux (*La Brea*): Mr. Speaker, in accordance with the provisions of Standing Order 12(1) and (2), I hereby seek leave to move the adjournment of the House in order to discuss a definite matter of urgent public importance to wit; the danger posed to the health and welfare of the teachers and children attending the Parrylands Government School by noxious fumes emanating from Petrotrin's operations at Parrylands, Guapo.

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The matter is definite because it refers to a specific and identifiable failure of the Government and its agent, Petrotrin, to ensure that the lives and health of the citizens are not endangered by industrial operations.

The matter is urgent because over the past months the children and teachers of Parrylands Government School have been experiencing numerous ill-health symptoms, for example, vomiting, nausea and skin and bowel disorders, as a result of the exposure to these noxious fumes.

Quite recently, the symptoms have become more acute and serious necessitating hospitalization of scores of children.

The matter is of public importance, because if it continues it could cause the death or permanent disablement of the entire school population of the Parrylands Government School and other residents of Parrylands and Lot 10 villagers.

Moreover, the activity from which the noxious fumes emanate forms part of a development project funded by the Inter-American Development Bank through the auspices of the state. Continued breach of the environmental provisions of the loan agreement would result in disastrous economic consequences for the country.

Mr. Speaker: Hon. Members, I wish to advise that leave is not granted in this case. However, because there is likely to be misunderstanding to this ruling, I will opt to explain the procedure under the relevant Standing Order which the Member for La Brea has utilized.

I must point out, first of all, that on May 12, 1997, I received communications from the hon. Member for La Brea, which read as follows:

“In accordance with the provisions of Standing Order 11(2) and (3), I hereby give notice to you that I wish to raise the undermentioned matter on the Motion for the Adjournment of the next sitting of the House of Representatives for which it qualifies.

The danger posed to the health and welfare of the teachers and children attending the Parrylands Government School by noxious fumes emanating from Petrotrin’s operations at Parrylands Guapo.”

The exact wording of what has been brought today.

It is very clear from the Standing Orders and the learning on this subject, that one can only access the procedure of Definite Matters of Urgent Public Importance, insofar as it is an emergency which has only just arisen, and one does not have time to come in the normal way to file a motion or to raise a matter.

I wish to point out that there may be confusion in some Members' minds as to the distinction between the procedure under Standing Orders 11 and 12. If anybody cares to be assisted with respect to this, the Speaker's Chambers are open for guidance and assistance.

I simply point out, however, that having regard to the fact that this is a continuing matter which has been raised since last year, that it cannot possibly qualify as a Definite Matter of Urgent Public Importance, which calls for an emergency debate under this particular item.

TEXTBOOKS TASK FORCE

The Minister of Education (Dr. The Hon. Adesh Nanan): Mr. Speaker, you will recall that on February 6, 1998 the Prime Minister of the Republic of Trinidad and Tobago, the hon. Basdeo Panday, made a statement in this House when he laid the Final Report of the Task Force on Textbooks.

In his statement he mandated the Minister of Education to call a meeting, and I quote:

“The Minister of Education is to convene an early meeting with the President of the Trinidad and Tobago Unified Teachers Association, the National Parent/Teacher Association, the Primary School Principals' Association, and representatives of the other stakeholder organizations in the national education system.

I will be present at the meeting, as will the Minister of National Security and the Minister of Legal Affairs; both of whom will be concerned with safety in our schools, as well as with bringing the book bandits to book. The purpose of that meeting will be to collate reaction to the Report compiled by the Special Task Force, and to evaluate recommendations from the various organizations which will be represented at the meeting.”

Mr. Speaker, I would like to report to Parliament that a meeting took place at 2.30 p.m. on Wednesday, March 18, 1998, in the conference room of the Prime Minister's office.

Following the statement made by the hon. Prime Minister on the textbook fiasco in this honourable House on February 6, 1998, a number of lines of action have been pursued in accordance with the statement by the Ministry of Legal Affairs, the Ministry of National Security and the Ministry of Education.

The Prime Minister convened a meeting between the Ministers and some key stakeholders in the education system to review progress and to examine the

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outstanding issues in relation to the recommendations of the Special Task Force on Textbooks.

2.40 p.m.

The persons present included Mr. Glenville Taitt, President of the National Parents Teachers' Association; Mr. Anthony Garcia, President of the Trinidad and Tobago Unified Teachers' Association; Mr. Ivor Niles, President of the Association of Principals of Primary Schools; Mrs. Lydia Choate, Secretary of the Association of Principals of Public Secondary Schools, and Bro. Michael Samuel of the Association of Principals of Assisted Secondary Schools. The meeting reviewed the entire body of recommendations made by the Special Task Force on the Primary School Textbook Issue.

Among the notable features to emerge from the meeting was the reiteration by the stakeholders of their full and wholehearted support for the measures recommended by the Pantin Task Force. The stakeholders were pleased to note that in relation to these matters where legal action had been recommended, the matters were being pursued expeditiously by the ministers involved. Thus, for instance where the Task Force indicated that evidence that has come to light suggests that a thorough investigation should be carried out by the Fraud Squad into the book publishing and book selling activities of a certain publisher, the matter has already been referred to the Fraud Squad which is investigating the matter.

Mr. Speaker, recommendation (k) of the Task Force was that sanctions be implemented for breach of those legal provisions to which that publisher has admitted, and that all publications under Textbook Productions and Primary Educational Publisher be withheld pending further investigations. In that respect, none of the publications by that publishing company has been included in the list of approved textbooks. Legal sanctions are being considered, and investigations in these matters are being pursued.

Recommendation (l) was that the names of all authors, publishers and booksellers involved in this multimillion dollar textbook industry be supplied to the VAT office and the Board of Inland Revenue to audit for compliance with the revenue laws of the country. Action has been taken to provide this information to the VAT office and the Board of Inland Revenue respectively, and they are to pursue the matters.

Mr. Speaker, steps are also being taken to implement the recommendation relating to the scrutiny of the publishers to determine whether they have complied

with certain key aspects of the law, namely, section 105 of the Summary Offences Act, Chap. 11:02 which requires the names and addresses of the printers and publishers to be placed on all publications; section 16(a) of the Sale of Goods Act, Chap. 83:30 concerning implied warranties; the Companies Act 1995; and the Registration of Business Names Act, Chap. 82:85 requiring the registration of all business names. An order is due to be made designating the Legal Depository for the purposes of the Publications (Legal Deposit) Act, 1985. A publisher will then be required to deposit with such legal depository one copy of every literary work which he or she publishes in Trinidad and Tobago within one month of its publication.

Mr. Speaker, the Task Force also recommended that the possibility of collusion between all interested parties—booksellers, publishers, authors, Ministry of Education officers, principals and teachers should be officially investigated. This matter is being pursued by the Minister of National Security via the police and a report will shortly be made to Cabinet. Similarly, consideration is being given to conducting official investigations into the action of some members of the Textbook Committee. The Minister of National Security will shortly report to Cabinet on this matter.

The Ministry of Education in January, and again in February, issued to all schools the list of approved textbooks. Errata sheets have been distributed to the schools via the education districts and are to be used by the teachers in conjunction with the textbooks. School supervisors have been instructed to check on the textbooks in use whenever they visit schools, so as to ensure that only the textbooks approved by the Task Force are used in schools. Principals have been notified by circular that disciplinary action will be taken against those who deviate from the authorized list. This list remains in force until July 31, 1999. I am advised that there have been no reports of non-compliance to date. Nonetheless, steps are being taken to ensure that the lists are available to all the teachers within the primary school system.

Mr. Speaker, the Standing Committee for the Selection and Standardization of Textbooks has been disbanded effective February 28, 1998 and its members have been written to and thanked for their services. The stakeholder group, in noting this information, drew to the attention of the Ministers present that it is important that a new committee be appointed, since the Task Force has recommended that a new list of approved textbooks be prepared for the period 1999—2002, and that this new list should be made available to schools by December 31st preceding the new academic year.

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As Minister of Education, I have undertaken to appoint a new committee expeditiously, and my recommendations will shortly be sent to Cabinet. However, the meeting of stakeholders noted that there are several relevant steps to be pursued in relation to textbooks selection and production alongside the work of a new Textbook Committee, and that a second committee for the Promotion and Assistance of the Development of Textbooks would also need to be appointed.

The supplementary initiatives are: There should be established a Publications Unit responsible for the commissioning, design and creation of teaching and learning materials for primary schools, in the first instance. Bearing in mind the changing role and physical make up of textbooks, the proven usefulness of television, radio and the computer in education, the Unit should be equipped to combine the conventional book with other learning and teaching materials. The unit should be based at the Rudranath Capildeo Learning Resource Centre and should involve teams of teachers drawn from all parts of the country and from the Faculty of Education of the University of the West Indies.

The unit would consult with, and sub-contract work to booksellers, publishers and printers in the country. Their proven skills and willingness to invest capital in the production and distribution of textbooks would be crucial. The unit would be encouraged to seek funding and advisory participation from the usual international agencies, for example, UNESCO. The Publications Unit of the Ministry of Education, Curriculum Officers and School Supervisors be specifically directed to what is required of them in the new dispensation. Their terms of reference must be clear.

Moreover, in terms of the Textbook Selection Committee, a number of support measures have to be put in place in order to enable it to do its work expeditiously and effectively. A comprehensive plan for composition, terms of reference, and operations of future textbook committees should be drawn up immediately. A new instrument for the guidance of reviewers should be created after wide consultation with the major stakeholders. Procedures for the appointment, remuneration and dismissal of reviewers should be devised. Reviewers should be experienced professionals and must be well paid for their services. The review process, from the advertisement inviting applications from would-be reviewers to the final ratification of the reviews by the full Textbooks Committee should be set out in full. A new textbook committee should be appointed upon adoption of the comprehensive plan suggested above. Work will commence immediately on the comprehensive plan for submission to Cabinet before the end of April.

This area of activity is a significant one requiring a considerable investment of time, money and facilities. Among the ancillary activities required are: legislation be enacted for tightening up existing measures and putting in place comprehensive stipulations to control the registration of publishers, printers and booksellers; to regulate practices in authorship, production and publication of textbooks and to impose stiffer penalties for breaches of such legislation. Steps to be taken to establish standards in the manufacture of textbooks and to supervise the textbook industry. Assistance will be sought from the United Nations Educational, Scientific and Cultural Organization (UNESCO), and advice considered from the Bureau of Standards and other competent bodies. At a time of increasing budgetary stringency therefore, we will have to find funds and technical assistance to implement a strong, competent and efficient book production industry in support of our education thrust.

Mr. Speaker, of particular and urgent importance are the arrangements proposed for the textbooks for the 1998/1999 academic year. The meeting agreed that the textbooks to be sold for the 1998/1999 academic year should be corrected ones that would not require the use of errata sheets. The decision was taken therefore, that publishers be instructed to correct the errors identified in the approved text and to issue these revised versions for the 1998/1999 school year. A notice will be sent to all publishers in the coming week informing them that if they fail to comply and the revised books are not available from July 1998, their books will not be included in the new list for the academic year beginning in September 1999.

The recommendation of and arrangements for a compensation to parents who had purchased books that were withdrawn or which had to be replaced pervaded the discussion. The meeting recognized that a transaction in relation to the books had taken place between the purchasers and the booksellers, but recognized also that the publishers had a clear and significant responsibility to meet. It was also recognized that on this matter of compensation, the state was not in a position to compel the bookseller to reimburse the purchasers of withdrawn textbooks, but that there were two possibilities of action.

The first was the possibility of a class action suit by purchasers of withdrawn textbooks. This would be a private action and may be undertaken by any group of parents as private citizens. The second was for the state to seek to persuade the publishers to replace the withdrawn books and those which were being used with errata sheets on a voluntary basis. In the latter case, some arrangements such as the following can be feasible:

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- (a) Books withdrawn: different from manuscript - publisher to replace with appropriate approved textbooks.
- (b) Books withdrawn: too many errors - publisher to replace with appropriate approved textbooks.
- (c) Books withheld pending further investigation: the Task Force is to report to the Cabinet on the outcome of this investigation.

Mr. Speaker, if the Publishers and the Association of Booksellers comply with these arrangements, it may be possible to arrive at an amicable resolution of the difficulties with which parents are faced. It may also be feasible for the publishers, as a gesture of goodwill, to replace some of these books now being used with errata sheets, with the updated version of such books, which should be error free.

2.55 p.m.

Generally, however, the meeting was told that the publishers had indicated that the correction of the errors via reprinting, reinsertion and rebinding of their book stock would not be an excessively difficult exercise.

Mr. Speaker, the Task Force had recommended that until the new system is in place in September 1999, curriculum officers, facilitators and teachers must be encouraged and trained to play a greater part in the development of supplementary material to improve text and to create teaching materials where there are no approved textbooks. In particular, this recommendation had been pinpointed to apply to the case of Social Studies, Infant One to Standard III, with the further recommendation that the first module for each of these levels would be ready for use by January 31, 1998.

Mr. Speaker, the development of these materials was rather more difficult and time-consuming than had been anticipated by the Task Force. However, I am pleased to announce that the teaching materials from Infant One to Standard I, have already been completed and distributed to schools. On Tuesday the material for Standard II would be distributed to the districts for the schools and by the end of next week the material for Standard III should be in the schools.

Mr. Speaker, the larger task in relation to the instructional materials is an important one which I consider fundamental to the health and well-being of the system. However, a preliminary review of the steps necessary to produce the textbook and teaching materials on the basis of the arrangement outlined above (include training and encouragement of curriculum officers, facilitators and

teachers) indicates that it would not be feasible to provide these supplementary materials for the 1998/1999 or 1999/2000 academic years unless these officers were taken off all their other urgent tasks and be devoted entirely to the production of supplementary materials.

I do, however, consider such an initiative for the development of text and supplementary materials to be both necessary and important and will institute action in this regard for the planned, consistent and sustained longer-term provision of supplementary materials. The indications are that if there are materials ready, the ministry would be able to reproduce same.

However, Mr. Speaker, the planning and development of textbooks and supplementary material requires that an appropriate infrastructure of staff, funding and supplementary equipment be put in place. Nonetheless, steps are being taken to plan and implement the necessary training for curriculum officers, facilitators and teachers and the next step will be a process of consultation between the headquarters of the Ministry of Education, the Principals' Association and the Trinidad and Tobago Unified Teachers Association.

Mr. Speaker, there was an expressed concern about the executive management of the administrative personnel of the Ministry of Education by the Task Force, which referred to evidence of lack of co-ordination between the departments, lack of proper supervision, accountability and control and evidence of poor implementation practices. The discussion on this matter revealed that in crucial areas, the senior officers of the Ministry of Education were few in number and overburdened with a range of urgent and heavy responsibilities. It was noted as well, that typically such officers would have come up through the ranks from the teaching profession and were unlikely to have received formal management training of the kind that is now seen as necessary for accession to the higher level of the public service administration. It was also noted that there was an inadequate number of positions of schools supervisors and curriculum officers and many are vacant.

Arising from these discussions, it had been agreed that short-term training in the areas of supervision, decision-making and planning and control would be put in place for senior officers of the ministry and that steps would be taken to address the shortage of schools supervisors and curriculum officers as well as their training.

Mr. Speaker, the meeting recognized that the Government's interest is to ensure that poor availability of textbooks does not serve to prevent parents and their children from properly accessing education at a time when the equipping of a primary school child with books could cost upwards of \$400—\$1000.

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The emphasis on standardization was intended to limit the range of textbooks used for a given subject in a given class, to limit the turnover of books, to permit parents to borrow or rent books or buy second-hand books and to be able to hand down books from one child to another.

Mr. Speaker, it was recognized however, that issues of quality needed to be kept under review and that steps needed to be taken to ensure that monopolies did not develop which would restrict the supply and increase the cost of books.

Mr. Speaker, ideally, class teachers would have a prescribed text for a subject. In a country as small as Trinidad and Tobago, there was no reason for a range of prescribed texts at a given level in the primary system. Supplementary material would be used as necessary. The Government intends to encourage teachers to produce such supplementary material and have them printed and disseminated from the Learning Resource Centre.

Mr. Speaker, I wish to underline how strong and consistent was and is the support for this policy thrust on the part of my Government. Education is the key to the future development of this nation and to the eradication of poverty. Our thrust in this area and for the improvement of educational access will not be frustrated. That is where we stand. The struggle continues until we can have these policies fully implemented.

Mr. Speaker, I thank you.

NATIONAL WATER SUPPLY

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, hon. Members will recall that during my presentation regarding the Waterworks and Water Conservation (Amdt.) Bill, 1998 last Friday, I identified several serious issues which were facing the water sector in Trinidad and Tobago:

1. the serious water deficiency in Trinidad and Tobago;
2. the state of disrepair of the water supply and distribution system;
3. the inequitable distribution of available water in the country; and
4. the financial status of the Water and Sewerage Authority.

Mr. Speaker, under normal conditions, there is a daily water deficit of 28 million gallons islandwide. This has been exacerbated by a drier than normal dry season which has resulted from the weather phenomenon called El Niño. Hon. Members are all privy to this weather phenomenon.

In Brazil the rain forests are under threat because of the burning of the forests. In Guyana, which is closer home, the Rupunini Valley is on the verge of famine with a serious water shortage and the burning water forest, partially resulted in yesterday's announcement by the President of Guyana, of a state of emergency with the associated governmental emergency response.

Conversely, Mr. Speaker, the south-western coast of America has been experiencing considerable flooding, so that whereas to one area the El Niño effect brings about drought, to another it brings considerable precipitation. Our local experience of this El Niño phenomenon, as mentioned earlier, is a drier than normal dry season similar to the Guyana and Brazil experiences. So far, there has been 326 bush fires and the drying up of our raw water sources.

Mr. Speaker, it is common knowledge that most of our surface water sources are found in the Northern Range and because of the unusual weather pattern, most of these sources are drying up. The effect of this has been to reduce production from an average daily production of 176 million gallons as at December 1997, to 169 million gallons in February, and to 159 million gallons in March, to date.

For instance, the following have been the declines in production at some of WASA's facilities:

- North Oropouche, a reduction from 20 million to 13 mgd
- Hollis Dam, a reduction from 8.2 million to 6 mgd
- Rural intakes and other minor surface resources, reduction from 14.8 to 9.5 mgd

Mr. Speaker, this situation has impacted severely on WASA's ability to provide adequately, the water needs of certain areas of the country, particularly in the southern extremities of WASA's distribution network. However, this does not mean that areas in north, central and southern Trinidad have been spared the effects, as is evident by customers giving public expression to their anxieties. Hon. Members would be aware of recent protests of sections of the population whose demonstrations have brought the situation into national focus. What this has revealed, is that the initiatives undertaken by WASA to date, in respect of greater efficiency of the production facilities and the arrangements for normal dry season water trucking have not been able to effectively respond to the current demand.

Mr. Speaker, it is the view of this Government that this situation requires the introduction of emergency measures. The Government proposes, therefore, to

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implement a major water trucking exercise, utilizing all the state resources that can be brought into this effort as part of our El Niño response. These would include:

1. The Ministry of Local Government via its regional corporations through their Water Trucking Programme.
2. The Ministry of National Security through the use of its fire water tenders.
3. The Ministry of Works and Transport has allocated its water tenders and trucking facilities to this exercise.
4. The Ministry of Agriculture, Lands and Marine Resources through the resources available at Caroni (1975) Limited.
5. Petrotrin has undertaken to make available water tenders to assist in the delivery of water.

Mr. Speaker, together with WASA's 70 water trucks, the Ministry of Local Government will be bringing into the Water Delivery Programme, some 176 trucks in 10 areas, beginning tomorrow, Saturday March 28, 1998.

Sangre Grande	27 trucks for delivery to 44 areas
Diego Martin	12 trucks for delivery to 7 areas
Mayaro/Rio Claro	4 trucks which are already delivering water to various villages
Penal/Debe	29 trucks for delivery to 29 areas
Tunapuna/Piarco	4 trucks serving 4 areas
Princes town	16 trucks which are now delivering to 16 areas
Chaguanas	12 trucks to 12 areas
Siparia	24 trucks to 24 areas
Couva/Tabaquite/Talparo	48 trucks to 48 areas
San Juan/Laventille	delivery in this area is expected to commence shortly as this corporation is now putting its house in order.

Mr. Speaker, in order for the population to feel comfortable with the arrangements that were put in place and to have access to these emergency

resources, WASA's hotline, 662-9272, will be assigned additional operators and will be dedicated to receiving calls from members of the public.

3.10 p.m.

Customers experiencing problems can also contact the regional corporations in their respective areas and arrangements have been put in place via a telecommunication network where calls will be dealt with speedily. These phone lines will be manned seven days per week and will be advertised in the print and electronic media.

Mr. Speaker, hon. Members, the drought induced by El Niño must evoke the civic conscience of the national population and requires the commitment and conviction of every citizen to ensure that we manage the current situation effectively and in the interest of all. Water is vital and essential to life. This is a situation which mandates every citizen to become "his brother's keeper". Every citizen must become conscious of the need to conserve in order to ensure that all benefit from the limited available water resources with a general understanding that the supplies that we waste are critically needed by others. Whilst we understand the need to have lush greenery surrounding our homes and clean cars on the roads and in the garages, these must now become of considerably less importance than the protection of water as a vital and scarce resource. Further, WASA will be enforcing its hose/pipe ban which it initiated on March 21, 1998.

Finally, in light of the negative impact of bush fires, not only on the vegetation and natural beauty of our hills, but also on WASA's ability to procure water, I plead with citizens not to set fires in the prevailing dry conditions. Whilst we implement these immediate short-term measures aimed at alleviating and minimizing the suffering of the population due to the lack of water which is in part due to the extremely dry season which we are currently experiencing, the Government will continue to focus on the medium and long-term plans to provide the water needs of the country in keeping with its millennium vision of water for all by the year 2000. As I have mentioned, these medium to long-term measures involve the following projects:

- (1) the Pt. Lisas Water Supply Project;
- (2) the South Water Project;
- (3) the Water Supply and Sewage Rehabilitation Project;
- (4) Richmond Water Supply Project in Tobago;

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- (5) La Filette Water Project;
- (6) Priority Pipeline Projects; and
- (7) the consideration of a desalination facility at the Pt. Lisas Industrial Estate.

I thank you, Mr. Speaker,.

Mr. Speaker: Hon. Members, there is one other statement by a Minister which is to be made by the Attorney General but it will be made at a later stage.

PHARMACY BOARD (AMDT.) BILL

Bill to amend the Pharmacy Board Act, Chap. 29:52. [*The Minister of Health*]; read the first time.

DENTAL PROFESSION (AMDT.) BILL

Bill to amend the Denatal Profession Act, Chap. 29:53, to make better provisions for the composition of the Dental Council of Trinidad and Tobago and for the registration to practise dentistry in Trinidad and Tobago. [*The Minister of Health*]; read the first time.

FREEDOM OF INFORMATION BILL

Bill to give members of the public a general right (with exceptions) of access to official documents of public authorities and for matters related thereto. [*The Attorney General*]; read the first time.

The Attorney General (Hon. Ramesh L. Maharaj): Mr. Speaker, the Freedom of Information Bill, 1998 has been laid on the table of this honourable House. This measure was promised by this administration to enhance democracy and promote transparency and accountability in government affairs and to encourage the public participation in the formulation of national policy.

As a preliminary step towards achieving this goal, the Government in May, 1996 had a draft Freedom of Information Bill published and later that year held consultations throughout the country for the purpose of soliciting the views and ideas of the public on this proposed new law. The response of the public to the draft legislation was overwhelming and several appropriate and very relevant recommendations were made by the various sectors of the community. The views and opinions expressed by the public greatly assisted the government in formulating its final policy and has informed the provisions of the Bill which is now before this House.

Mr. Speaker, freedom of information legislation has long been enacted in several jurisdictions including the United States, Canada, Australia and several major European countries. It is interesting to note that freedom of information

legislation is also being considered in countries like Hong Kong and Japan. If the last government had acceded to our request, Trinidad and Tobago would have had this freedom of information legislation five years ago. We produced the Freedom of Information Bill and moved a Motion in this House for such laws to be introduced but the then government refused to agree to our proposal.

Mr. Speaker, the Bill which was laid in this honourable House today, when enacted into law, will give every individual a statutory right to know about the information and records which government holds. The provisions of the Bill will apply right across the public sector. It will provide access to documents, not just information. This right of access will be broad-based and will apply to the official records and information held by all bodies specified under clause 5. The Bill, in keeping with the recommendations of the members of the public, will provide for a right of access directly from a public authority so as to avoid any delays. The Bill also encourages public authorities to take a positive approach to openness by requiring them to publish information as a matter of course whether the information is requested or not. This is a significant feature of the Bill as it requires all public authorities to publish information regarding the functions performed by those authorities, the information available to the public, the documents available for inspection and the periodic publication of statements regarding the possession of certain documents and reports.

As the legislation is to be used by members of the public and administered by lay persons, Part III of the Bill clearly specifies the mode of access and the duty of the public authority to assist applicants in obtaining information.

It must be borne in mind that although access to information is desirable, it must, like other freedoms, be limited and can in no way be absolute. The proposed legislation has taken cognizance of this fact and protects certain specified interests. Prudence demands that a balance must be struck between competing interest so that while the legislation will give members of the public a right of access to information on the one hand, there will be limited exceptions on the other for the purpose of preventing any prejudicial effect to the public interest. This striking of a balance between the competing interest of disclosure and non-disclosure of information is indispensable to the effective functioning of government.

Part IV of the Bill, therefore, specifies recognized exemptions from public access. For example, documents relating to defence and security matters or any document containing information, disclosure of which will be likely to prejudice the defence of Trinidad and Tobago or any of the lawful activities of the security or intelligence service.

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Mr. Speaker, one of the major recommendations arising out of the public consultations held in respect of this legislation was that there should be some mechanism for appeals where a public authority does not respond to an application for information in a favourable manner. It was felt that there was no need to constitute a separate appeals tribunal for freedom of information matters but instead appeals should be dealt with by a judge in Chambers of the High Court.

Clause 39 of the Bill has followed this approach and allows a person aggrieved by a decision of a public authority to appeal to the High Court.

Ever since there was the development of the system of democratic government, there has been tension existing between the elected and electorate as to how much the elected should tell the electorate. This Bill, when made law, will bring about a fundamental change in the law of Trinidad and Tobago relating to the access by the people to government-held information. It will challenge the boundaries of government secrecy. Trinidad and Tobago is the first country in the Caribbean and one of the few in the Commonwealth and in the world to introduce such a piece of legislation which will remove secrecy in government and which will give to the people the right to know. The Bill provides a right of access to information in the possession of government departments and state agencies. The fundamental reason for providing this right is to ensure open and accountable government. The objectives of the Bill include the increase of public scrutiny and accountability of government; to increase the level of public participation in the process of policy making and government; and to provide access to personal information.

This law will obviously improve the quality of decision-making by government and state agencies; enable citizens to be kept informed of the functioning of the decision-making process as it affects them; to know the criteria that will be applied in making these decisions; and develop the quality of political democracy by giving all in Trinidad and Tobago the opportunity to participate fully in the political process. It cannot be doubted that access to government-held information is closely related to the notion of a healthy democracy.

The media needs information to engage in investigative journalism and to discharge its duties properly to the members of the public by keeping them informed. The people need official information to assess government.

Trinidad and Tobago is a representative democracy. The Constitution of Trinidad and Tobago gives the people ultimate control over the government, exercised through the election of the Members of Parliament. The effective operation of representative democracy depends on the people being able to scrutinize, discuss and contribute to the government decision-making. To do this they need information.

While under the present system much government-held information is voluntarily given or published, this new law will enhance the proper working of our representative democracy by giving the individual and the media the right to demand specific information and documents be disclosed. Such access to information permits the government to be assessed and enables the people to participate more effectively in the policy and decision-making process of government.

Public power does not belong to the persons who hold public office; it belongs to the people. Public officers hold power in trust for the benefit of the people. Without information people cannot adequately exercise their rights and responsibilities as citizens or make informed choices. Government information is a national resource; its availability and dissemination are important for economic and social well being and national development. Information enhances the accountability of government and ensures that Members of Parliament are aware of the activities of the Executive. Information can be a vital tool to expose official corruption but it can also be an important defence against corruption.

Under this law, persons will be entitled, as of right, to get their medical records from the hospital. Their loved ones and relatives will also be entitled to obtain their medical records. They will be able to determine from the information obtained whether hospital authorities are negligent in the performance of medical operations or attention. Members of the public service will be entitled to see their employment records. They will be entitled to know the reasons for decisions which are made and adversely affect them and they would have the right to know why decisions were not made in their interest and in the interest of the public.

Mr. Speaker, this law will really redress the imbalance in governance in that it will make real the principle that the people are the power in government. Information is the vehicle that people require to participate in the life and governance of society. The greater the access they have to information, the greater would be the responsiveness of government to the needs of communities; their wants, ideas and creativity. Alternatively, the greater the restriction placed on access to information, the greater will be the feeling of powerlessness and alienation in a society.

Thank you, Mr. Speaker.

3.25 p.m.

WATERWORKS AND WATER CONSERVATION (AMDT.) BILL
[SECOND DAY]

Order read for resuming adjourned debate on question [March 20, 1998]:

Question again proposed.

Mr. Speaker: Hon. Members, I call on the Minister of Public Utilities who was speaking at the time when the adjournment was taken. He may continue his reply. He had spoken for five minutes and he therefore has a maximum of 40 minutes more.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Speaker, as I was saying last week, very broadly, the main purpose of this Bill is to provide for the undertaking of waterworks in industrial or commercial sites or estates and to strengthen the provision as to the collection of water improvement rates.

In its current form, the Waterworks and Water Conservation Act, Chap. 54:41 does not provide for the undertaking of waterworks to facilitate the supply of water to industrial or commercial sites or estates, therefore, the Act has to be amended.

Mr. Speaker, we listened very deliberately to the recommendations made by the Members on the opposite side and we took those recommendations into consideration and the necessary amendments are being made which will be tabled at the committee stage, dealing with the question of notice, dealing with the question of the preclusion of the Act from impacting upon residential and domestic users. So, I congratulate the Members opposite for the non-partisan nature of debate. They recognized that water is not a political issue, that water whilst volatile is not political.

But what was the approach, Mr. Speaker? It will be remiss of me, however, if I do not respond to some of the points made by Members opposite with respect to the other notations they made. I want to indicate that having read their contributions—I read all the contributions—it is clear that they recognized, in a sense, they are seeking absolution for their acts of omission made during their tenure in office.

Mr. Imbert: He “gone off” now.

Hon. G. Singh: You see, Mr. Speaker, I want to read into the record a letter directed to the hon. Member for San Fernando East dated November 22, 1993:

“The Honourable Patrick Manning, M.P.
 Prime Minister
 Office of the Prime Minister
 Central Bank Tower
 Eric Williams Plaza
 Independence Square
PORT OF SPAIN”

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My Dear Prime Minister,...:

And it goes on. On page 2, it says:

“As it relates to the wider...”

Mr. Valley: Mr. Speaker, if the hon. Member would give way. I just want to know whether he has the approval of the former Prime Minister to be reading that letter in the Parliament.

Hon. G. Singh: Mr. Speaker, this is a matter of public record.

Mr. Maharaj: Freedom of information.

Hon. G. Singh: This is where the former Minister of Public Utilities, Morris Marshall, is responding to the then Prime Minister, who had given him 48 hours to come up with a plan to deal with the water situation in Port of Spain and its environs and in the national community. This is a matter that ought to be placed on the public record. I do not see the necessity for seeking permission for that. But that is part of the culture of the PNM—push it under the carpet and hide it. This is a matter of public record.

I would read the germane part of the letter, Mr. Speaker. On page 2, it says:

“As it relates...”

Mr. Valley: If the Minister is reading the letter, he ought not to read part of the letter. He should have the letter laid on the table of the House.

Hon. G. Singh: I will read the whole letter. I have no problems reading the whole letter, Mr. Speaker.

“My Dear Prime Minister,

Further to my letter of acknowledgement of November 18, 1993 and our subsequent discussions during which you clarified your request, I wish now to provide you with the required information.

As it relates to the deficiencies affecting the Capital City and its environs, I attach as an Appendix a report from the Water and Sewerage Authority (WASA) which outlines in some detail, the factors leading to the current difficulties and relevant corrective actions.

In summary, the specific problems and corrective actions in respect of the Capital City and its environs, are as follows:—

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- (1) Shortage of alum because of lack of funds which will be corrected by the arrival of stock to year end on 26th November, 1993.”

Miss Nicholson: Repeat that; lack of alum!

Hon. G. Singh: I continue:

- “(1) Shortage of Alum because of lack of funds which will be corrected by the arrival of stock (to year end) on 26th November, 1993.”

Mr. Speaker, in his contribution, the hon. Member for Diego Martin East pointed to the shortage of alum and chlorine. Obviously, he knew of the contents of this letter.

Secondly, reverting back to the letter:

Mr. Valley: Reverting, not reverting back.

Hon. G. Singh: I continue:

- “(2) Malfunctioning of three motors for the pumps at the El Socorro Booster Station which are now being repaired and are due for completion by early December.

NB: Repairs to two of the three pumps will be completed by 26th November, 1993 and will allow for a return to full pumping supply.

- (3) The effect of the flooding on the Maraval and St. Ann's reservoirs which have now been corrected.”

This is Morris Marshall's letter.

“As it relates to the wider national system, the WASA report identifies the following:—

- (i) Rehabilitation of twelve wells in South and Central Trinidad. (Funds required approximately \$600,000)
- (ii) Repairs and maintenance of the equipment at Caroni Arena Water Treatment Plant. (Funds required approximately \$150,000 per month if and until the long-term World Bank Funds are available)
- (iii) Preventive maintenance to the trunk main system. (Funds required \$400,000 per week for the next six months)
- (iv) Maintenance of the distribution system. (Funds required \$5 million per month)
- (v) Purchase of chemicals for the entire country. (Funds required \$1.4 million per month)

- (vi) Payment to some critical creditors, particularly water trucking contractors.

Given the above and based on the present improved collection level, WASA would therefore require approximately \$12 million per month to provide an acceptable level of service to the nation, until other fundamental policy initiatives are taken and implemented by Government.

I am certain that you acknowledge, therefore, that one of the overriding problems affecting WASA centres around its inability to access funds to address its capital requirements and even more urgently, funds to meet its recurrent needs.

Over the last twenty-two months of our stewardship, a series of Notes were submitted to the Cabinet by the Ministry of Public Utilities outlining, in a comprehensive manner, the situation facing the Authority and the Ministry's attempts to address these problems. I do not think it is necessary to restate these details but I am quite prepared to provide this information, if you so desire.

However, Mr. Prime Minister, I think it is necessary to re-emphasize that while WASA requested a minimum of \$63.3 million in 1993 to maintain its level of service, unfortunately, because of the scarce financial resources, WASA received only \$34,426,580. In addition, the Government was unable to meet its full commitment of \$38 million for the payment of State Services.”

[Crosstalk]

“The Authority is not only financially insolvent, but at this point...”

Mr. Speaker: Order please. Order please.

Hon. G. Singh: I continue:

“The Authority is not only financially insolvent, but at this point, the physical plant is in a severe state of deterioration.

Most of the subsystems in the two major production facilities, Navet and Caroni Arena, are on their ‘last legs’ and a significant portion of its mains are undersized and encrusted, reducing their carrying capacity and increasing the pumping and electricity costs attendant with their use.

Further, you may wish to recall that arising out of a submission by the Ministry earlier this year, Cabinet appointed a Water Task Force which is currently addressing the future role of WASA.”

[Crosstalk]

Mr. Speaker: Order please!

Hon. G. Singh: I continue:

“I have been advised by the Chairman of the Task Force that a comprehensive report on the production, supply and deliverability of water to the national community will be submitted before December 31, 1993.”

Miss Nicholson: Thirty-five years the PNM had.

Hon. G. Singh: Mr. Speaker, I continue:

“On receipt of this report and along with other initiatives taken by the Ministry, I will then be in a position to submit a comprehensive plan to address the problem in this important sector for your consideration.

It is my hope that the foregoing meets with your approval. Please be assured that I am available to clarify or provide any additional information which you may require.

With kind regards.

Yours sincerely,

MORRIS E. MARSHALL, M.P.”

Hon. Member: And he died a month later.

Miss Nicholson: Kill Morris! I am still grieving for him!

Hon. G. Singh: Mr. Speaker, this is the marked distinction—

Mr. Maharaj: How much time they gave him?

Hon. G. Singh: Forty-eight hours.

Mr. Maharaj: And he was a sick man.

Hon. G. Singh: This is the marked distinction between those on the opposite side and across here in Government. Because you see, Mr. Speaker, under that regime when they were in power, the Ministry of Public Utilities became a political gulag; *[Laughter]* *[Desk thumping]* it became a political gulag in which those who sought to question the then Prime Minister were then placed in the Ministry of Public Utilities and, being the kind of vindictive, malicious and spiteful—

Miss Nicholson: Use Valley's word!

Hon. G. Singh: —leader that he was—

Hon. Member: And he still is.

Hon. G. Singh: We know that emanated from the source of the hon. Member for Diego Martin Central. [*Crosstalk*] Make the Ministry of Public Utilities a political gulag, in which they sought to incarcerate the incumbent Minister and kept the pressure on, denied him the necessary funding in order to make the capital investments so that he could deal with the water sector.

Hon. Member: Yes.

Mrs. Robinson-Regis: So what are your Prime Minister's reason for doing that to you? You had two years and you have not come up with a plan as yet.

Hon. G. Singh: He went to the public and said, "I am giving the Minister of Public Utilities 48 hours in which to come up with a plan." No money! [*Interruption*]

Mr. Speaker: Hon. Members, it cannot be, in any parliament, when one person is making a contribution that four, five or six people are shouting things at him in disagreement with what he is saying. I ask you to think of it.

Mr. Valley: I have seen it in the English Parliament.

Mr. Speaker: The fact that the Member for Diego Martin Central may have seen that in the English parliament is absolutely no reason why it should happen here. [*Desk thumping*] I am saying it is not right. [*Desk thumping*] I am disappointed that the Member for Diego Martin Central would try to justify that.

But the point that I am making is, whether it happens in Timbuktu or in London, I advise that I cannot preside over any House that behaves like that. I ask please that we observe certain norms and we hold our fire until we have an opportunity to speak. Continue, Sir.

3.40 p.m.

Hon. G. Singh: Thank you, Mr. Speaker.

As I was indicating, under the previous regime, the Ministry of Public Utilities became the ministry in which the tone and tenor of the leadership on that side were reflected. Whenever one crossed the leader, he was sent to the Public Utilities Ministry. There were five ministers of Public Utilities over three years and eight months.

Mr. Valley: Could the hon. Minister name the five ministers to prove his point, that that ministry was the home of recalcitrant ministers? Could he name the five ministers who were there?

Hon. G. Singh: I did not use the word "recalcitrant". It was a word used by the PNM in the 1960s and now used by the hon. Member for Diego Martin in the

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1990s. I will name them at the convenient time. They changed public utilities ministers more often than some of those Members changed their socks.

First, there was Morris Marshall, and because of this kind of pressure, it took him to his untimely demise. You see, their concern is that the legacy and the work which Morris Marshall started is being carried out by this regime. The legacy of Morris Marshall lay on this side, not on that side.

Prime Minister Manning was the next Minister of Public Utilities. He put himself there because he wanted to be anointed with the legacy of Morris Marshall. Unfortunately he sought to anoint himself with a previous legacy, "Father of the Nation", but that, too, did not work. Then there was Minister Barnes, Minister Baboolal, John Eckstein, Minister Ralph Maraj, then a reversion to Minister Barnes.

It was a political gulag. During the days of communism in Russia when one went against the regime, one was sent to the gulag in Siberia or elsewhere. The Ministry of Public Utilities under the previous regime was their political gulag.

The point I want to make is that because of the focus of that regime you did not have the kind of capital investment required in order to deal with the attendant problems in the sector, of which they are quite aware. The Member for Diego Martin East spoke about it so eloquently. I quote him from the *Hansard*.

"...that public utility has been notoriously inefficient for many years. I know this did not happen today, I would be the first to say, this did not happen now, the inefficiency did not happen under the UNC, it did not happen under the last PNM, it did not happen under the NAR. WASA has been a problem for many years."

So this hon. Member of the new PNM sought to separate himself from the PNM administration of the past years. No wonder they were not invited to the commemoration of the collection of Dr. Williams.

The legacy was that the public utilities ministry was viewed as a political tool. It was an area of incarceration. But we have changed that approach. We are engaged in the delivery of services to the country. It is the mantra of the Ministry of Public Utilities that the quality of our democracy is not measured by the contentment of the affluent, but rather how the less fortunate in our society have access to the basic amenities. That is the approach we take and that is why I say that the legacy of Morris Marshall resides on this side. Morris Marshall was universal in his approach and we also take that approach.

The leadership of the new PNM, spiteful, malicious and vindictive, brought the untimely demise of Morris Marshall. That is why the water sector did not move

one iota under the last regime. That is why they support this Waterworks and Water Conservation (Amdt) Bill. They are now seeking absolution for their acts of omission. You see, they recognize the leadership we are bringing to the utility.

Our objective is water for all by the year 2000 and we are making the necessary capital investment in order to achieve that objective. During the period 1991—1995 that side averaged capital investment of about \$15 million per year in the Public Sector Investment Programme for water—unbelievable! In 1996, this Government provided \$64 million for development. In 1997 it was \$189 million and in 1998 it is \$181 million. This is in addition to the various loans accessed through the interim operating agreement. So in addition to the Public Sector Investment Programme there is a loan programme parallel to that, which has brought about significant development of the water sector.

They have abdicated their responsibility to the country. They have recognized that through their inaction we are in this situation. It takes at least seven years to achieve any significant capital investment. Those on the other side can build a dam in record time, but I have been advised that in order to bring the Matura, Moruga and North Oropouche River intakes into areas of significant surface water development, it would take a minimum of seven years.

We are now starting that process. They were sleeping. If they were not sleeping, they were only concerned with incarcerating Morris Marshall and putting him in prison in public utilities. They brought his untimely demise and the memory of it lingers.

3.50 p.m.

Mr. Speaker, in many ways the Waterworks and Water Conservation Bill seeks to place a dedicated supply of water for the Point Lisas area into focus. *[Interruption]* Those Members on the other side are accustomed saying that they brought in this and that business such as Farmlands, LNG and so forth; every sexy project, in the economic sense—

Mr. Valley: Where is Mr. Sharma?

Hon. G. Singh: The hon. Member does not know modern economic terms. That is his problem.

Mr. Speaker, these very projects deprived the domestic users of water. That was their plan; to cause continuous deprivation. They perpetuated the industrialization, but continued to deprive the domestic users which was their legacy and that is the way they intended to continue.

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We, on the other hand, intend to engage in sustainable development—and I am not talking about Stratis in NP owned by Ernest Williams—to ensure that there is a balance between the water and the industrial, commercial, domestic and agricultural sectors, and we are arriving at that through a series of measures as I outlined earlier.

Mr. Speaker, we have taken the recommendations of Members opposite and incorporated them and they are reflected in the amendments to be circulated at the committee stage. However, we want the hon. Members opposite to know that we have not forgotten their acts of omission during the period that they held the reins of power. When we produce water for all by the year 2000, we would be providing a universal supply through innovation, technology and capital development. We will be able to ensure that all people of Trinidad and Tobago have a universal potable supply of water by the year 2000.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: There is a circulated list of amendments to be moved and for the avoidance of doubt, could we just clarify that the one we would be looking at on the first page has in the first column clause 3 followed by clause 5 as opposed to the other which is superceded which just has clause 6 on it. So, that the one we would be looking at is one which on the first page has in the first column on the left, clause 3 and then clause 5. Does everybody have it?

Hon. Members: Yes.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

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

Mr. Singh: Mr. Chairman, I beg to move that clause 3 be amended as follows:

“Delete and substitute the following clause:

‘Section 4 amended	3. The Act is amended in section 4(a) by inserting before the word ‘conveying’, the word ‘supplying’.”
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Question put and agreed to.

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

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Singh: Mr. Chairman, I beg to move that clause 5 be amended as follows:

“Renumber clause 5 as clause 6 and insert after clause 4, the following clause:

‘Section 11
amended

5. The Act is amended in section 11 -

- (a) by renumbering section 11 as section 11(1);
- (b) in subsection (1)(a) as renumbered, by inserting after the words ‘Water Improvement Area’, the words ‘as agricultural lands or industrial or commercial sites or states;’
- (c) by inserting after section 11(1) as renumbered, the following subsection:
 - ‘(2) For the avoidance of doubt , it is hereby declared that—
 - (a) the Public Utilities Chap. 54:01 Commission Act shall not apply to Water Improvement Rates imposed by the Minister under section 11(1)(b) in respect of Water Improvement Areas declared by him as such under section 10(1)(a) where such areas are classified as agricultural lands or industrial or commercial sites or estates;
 - (b) a Water Improvement Rate imposed under this section shall

not apply to any residence situated within a Water Improvement Area.

- (3) Notwithstanding section 10, nothing in this Act shall be construed as conferring any power on the Minister to declare any residential area to be a Water Improvement Area.”

Mr. Valley: Mr. Chairman, I just have one minor question. I am still concerned that it appears that a firm operating in the industrial area of Point Lisas seems to have no recourse if that firm feels that the rate charged in this water improvement area is excessive. What is the recourse that is available to the firm?

Mr. Maharaj: Mr. Chairman, we went through this for some time, but we would state it again. In any event, the rate has to be approved by the Parliament under section 10 of the Act. Secondly, there is the provision as is in the Water and Sewerage Authority Act that the matter can be challenged in the court. There was the preposition about arbitration and when the technical people looked at it they felt it could not work. In any event, this Act does not exclude arbitration. Under the Arbitration Ordinance there would have to be an agreement in writing.

Mr. Valley: Mr. Chairman, I am aware that one has to have an order passed in the Parliament, but the Government has the majority in the Parliament. If we want to encourage investors to Trinidad and Tobago, ought we not to ensure that we put some thing in place to allow a firm to have some type of redress other than the Government Members voting “aye” for rates proposed by WASA? The Attorney General is aware that the court procedure may take quite some time. What I am saying is that unless we are careful, it appears to me that this may really curtail investment in Trinidad and Tobago and I think we need to look at this.

Mr. Maharaj: Mr. Chairman, I do not think it is correct to say there are no safeguards. There are safeguards which are the courts. The argument is that the Member does not only want the courts nor the Parliament, but some other body which would probably give a speedier justice.

4:00 p.m.

Apart from the courts you still have arbitration if the parties can go under the Arbitration Act.

Mr. Valley: But they cannot.

Mr. Maharaj: If you put a matter like this in which you have this kind of development and you have the Public Utilities Commission or some other similar body, it is going to have counter-productive measures in respect of this kind of matter.

Mr. Valley: Could we not then in the legislation, set out some kind of guideline? The point is that an investor would want some type of rates of return over some period. It seems to me that could be guided by certain guidelines. In other words, the rate is set such that the investor will earn “x” per cent per annum at a rate of return of “y”, or what have you. Set it out so that, at least, the investor would know exactly what is being contemplated.

Mr. Maharaj: Mr. Chairman, this matter has been considered. There was consultation on this matter with the business community, investors who operate in Trinidad and Tobago. They are quite in agreement with the measure and it is what we will undertake.

Mr. Valley: It is just a cut-out. You know that.

Mr. Maharaj: Although the Government intends to go ahead with the legislation, we obviously would have given consideration to the matter. We can always come back to Parliament if it is not working or if it is said that there is a change of heart by investors. Having regard to the nature of these matters and there is consensus by the business community and investors and they want this kind of measure and do not think there is any violation of any safeguard, I think—

Mr. Valley: Mr. Chairman, we heard last week that there has been agreement. While on the face of it one has to take the word of the Attorney General, it would have been so much more comforting to see that there is some form of agreement; that yes, these 22 firms operating in the Point Lisas area believe this is in their best interest. Without that the question still remains. I am not so much concerned really about the existing investors. If there was something in writing, that would have gone a long way. I am saying that we are on a quest to encourage investors and unless there is something that is clear, we would really be—

Mr. G. Singh: Mr. Chairman, I want to respond to two points made by the Member for Diego Martin Central. One, the current investors want a guaranteed, secure and reliable supply. They recognize from this measure they are going to get that. The second point with respect to clear criteria, we must recognize that we, legally, are in a state of transition. We moved from the PUC into the Regulator Industries Commission (RIC). The RIC legislation will be more embracing and

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could incorporate a situation like this, but at that stage it cannot be incorporated into that. We can see emerging in the short-term, the Regulator Industries Commission (RIC) impacting on this.

Mr. Valley: That is very comforting to me. What are we going to do then? Are we going to bring legislation at that time to bring this under the RIC?

Mr. Maharaj: We will consider that.

Mr. Sinanan: Mr. Chairman, is the Minister contemplating a water supply contract with users on the industrial estate which can then be referred to arbitration? I cannot see how it can be referred to arbitration if there is not some form of written contract, nor can it be referred to the court.

Mr. G. Singh: There are currently water supply contracts with the large industrialists on the estate.

Mr. Sinanan: Do those contracts have arbitration clauses as far as you are aware?

Mr. G. Singh: They have arbitration clauses.

Mr. Sinanan: I am not sure if they have arbitration clauses in those or if there are water contracts at all.

Mr. G. Singh: That can be incorporated at that level. What we are seeking to do is an imposition of a capital cost for developmental works. If you put all kinds of delay mechanisms in there, all you need—to use your phrase, Member for Diego Martin Central—is one recalcitrant developer and you can keep back the whole developmental works. You have a two-tier system really. What we need to do is, have the industrial rate established by the PUC and for the developmental works, you have the water improvement rate which is a separate rate, so they are altogether.

Mr. Sinanan: The legislation provides where the rate has to be paid and then it can be settled. It is here in the legislation.

Mr. G. Singh: No, no, but it has to be paid.

Mr. Sinanan: Yes, what we are asking for is some mechanism to be put in place whereby if there is a dispute it could be settled. I know you have to pay it, but is there some mechanism to settle a dispute? There is none.

Mr. Valley: *[Inaudible]*

Mr. G. Singh: Mr. Chairman, at this stage we are not contemplating that. There is the court and if there is any capricious or whimsical act, you can revert to the court. But at this stage we are not contemplating that.

Mr. Hinds: Mr. Chairman, I find the explanation given by both the Attorney General and Member for Caroni East unpersuasive. This very fleeting suggestion that one can have access to the courts if the decision is whimsical or capricious does not apply. That is the language of judicial review and that will not apply in these circumstances. I do not know how an industrial consumer will establish that they arrived at some rate in a whimsical or arbitrary fashion when the legislation says that the rates will be applied and there is no mechanism for challenging it anyway. It just does not hold. They were not able to tell us whether there are arbitration clauses in the contracts that now exist with those who are already on the estate. That is an important bit of information to this Parliament if we are deciding on this.

There is absolutely no redress and when you listen to the Member for Couva South, who is talking a lot in every other setting about redress, this is a clear case of consumers not having any redress. The Attorney General tells us that we can have recourse to the courts. If the Member is speaking about the question of judicial review, I have just spoken about that. If the Member is speaking on any other basis, when the court interprets or tries to interpret whether someone has been wronged, they look to the legislation. What does the legislation say about recourse? It says nothing, so I find the argument unpersuasive.

Mr. Maharaj: Mr. Chairman, policy decision on this measure is that there is the recourse to court, there is no recourse to the Public Utilities Commission. This is not unlike legislation of this nature which has been passed in other countries by other administrations. There are safeguards and that is the policy of this measure.

We had gone through this up to 10 o'clock the other night. We have considered it, the Opposition has not filed any amendment and they have come here talking out of their hats. They have to file amendments if they want amendments.

Mr. Valley: Mr. Chairman, the last day the Minister and the Attorney General said they took our points and they would have amendments which we have just seen. I thought they would have taken what I consider to be the most significant point. The Attorney General has just spoken about safeguards and if he can inform

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us about safeguards for the industrial user in this piece of legislation, I would be happy because that is my only concern. All I need to know is what are the safeguards.

Mr. Hinds: If I may, Mr. Chairman, one other point. Those who are there at the moment may have accepted and agreed as the Attorney General is pointing out, but what about those who are yet to come? What about potential investors? More than that, what if those who are there now agree with us in 1998, what happens in 1999 if a rate with which they do not agree is imposed? [*Interruption*] Those who are there I am talking about.

Mr. Maharaj: They would; the best safeguard is the court. Do you not have any confidence in the courts?

Mr. Chairman: Is there anything further to be added to this?

Mr. Valley: Mr. Chairman, let me just say one other thing. I want to suggest, because my understanding is that before one goes ahead and develops an area, for example, Point Lisas, an order is required under section 10. When that order is being prepared, it seems to me that we would at least need the guidelines in that order. If you are developing a water improvement area in the Point Lisas area, then you would need to spell out the guidelines clearly when the order comes.

Mr. G. Singh: Mr. Chairman, I have been advised that there are arbitration clauses in the existing water supply contracts.

Mr. Valley: You got that scientific evidence for that?

Mr. G. Singh: WASA—

Mr. Chairman: Hon. Members, I think that we have exhausted the discussion in terms of this so we will now just put the question.

Mr. G. Singh: Mr. Chairman, I beg to move that clause 5 be amended as circulated.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6 as renumbered.

Question proposed, that clause 6 as renumbered stand part of the Bill.

Mr. G. Singh: Mr. Chairman, I beg to move that clause 6 as renumbered be amended as follows:

“6 (as renumbered)

- A. In paragraph (a), delete the words “the deleting” and substitute the words “by deleting”.
- B. In paragraph (b), delete the words “seven days” wherever they occur and substitute the words “fourteen days”.

Mr. Imbert: Mr. Chairman, in the new clause 6 which is the old clause 5 in this Bill, if one goes to the old 5(b)(c),(d) and so forth, where the issue of the authority demanding a rate and then being able to disconnect the supply unless the person pays the amount and then enters into dispute, could the Minister tell me what happens with those funds? Suppose an industrial user has a dispute which he eventually wins and then approaches the authority for compensation and the authority says, “Well, I bought chlorine and alum with it.” Are you going to establish an escrow account? What is going to happen?

Mr. G. Singh: That is the normal practice.

Mr. Imbert: Which one is the normal practice?

Mr. G. Singh: Establish an escrow account so the funds are secured.

Mr. Imbert: So that the funds are put into an escrow account?

Mr. G. Singh: So it would not form part of the revenue.

Mr. Imbert: Could that be part of the legislation?

Mr. G. Singh: That is an administrative matter.

Mr. Imbert: Administrative? Mr. Chairman, I am just suggesting that the new clause 6(c), should state: “amount due in respect of the Water Improvement Rate which funds shall be placed in escrow, without prejudice to the dispute.” Insert the words, “which funds shall be placed in escrow” after the comma and before “without”.

Mr. Maharaj: Mr. Chairman, the court would determine.

Mr. Imbert: So it is not going into escrow?

Hon. Member: Only if it is a dispute we take it there.

Mr. Imbert: That is not the issue. The Minister said, yes, the practice is that it will go into escrow. I am simply, for the avoidance of doubt, asking it be placed in the legislation that it goes into escrow.

Hon. Member: Why?

Mr. Imbert: So that the authority cannot take the funds and spend it on something else and when the dispute is settled in favour of the consumer there are no funds available to pay the consumer. It must happen with this authority. *[Interruption]* They cannot even buy chlorine. We are talking about a real situation. The Minister just said the company is bankrupt.

4.15 p.m.

Mr. R. L. Maharaj: Mr. Chairman, that is an administrative matter and where a public authority knows that there are debtors and there are large sums of money; as long as a rate is fixed it becomes a charge on certain properties. There are procedures to protect it, but to put in legislation that you should deposit the money in an escrow account, is really not on.

Question put and agreed.

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

Question put and agreed to, That the Bill as amended, be reported to the House.

House resumed

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

The House divided: Ayes 18 Noes 11

AYES:

Maharaj, Hon. R.L.

Humphrey, Hon. J.

Persad-Bissessar, Hon. P.

Lasse, Dr. The Hon. V.

Sudama, Hon. T..

Maraj, Hon. R.

Nicholson, Hon. P.

Khan, Dr. F.

Rafeeq, Dr. The Hon. H.

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Job, Dr. The Hon. M.
Singh, Hon. G.
Nanan, Dr. The Hon. A.
Partap, Hon. H.
Mohammed, Dr. The Hon. R.
Singh, Hon. D.,
Ramsaran, Hon. M.
Sharma, C.
Ali, R.,
NOES:
Valley, K.
Imbert, C.
Robinson-Regis, Mrs. C.
Narine, J.
Hart, E.
James, Mrs. E.
Bereaux, H.
Joseph, M.
Sinanan, B.
Hinds, F.
Williams, E.

Question agreed to.

Bill accordingly read the third time and passed.

STATE LIABILITY AND PROCEEDINGS (AMDT.) BILL

Order for second reading read.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move

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That a Bill to amend the law relating to civil proceedings against the State arising out of the exercise of powers and the performance of functions and duties by constitutional bodies, and for other related purposes be now read a second time.

Mr. Speaker, the purpose of this Bill is to produce some uniformity in the procedure for suing the state in respect of actions in which persons who are appointed on service commissions perform duties which they are given.

As we all know, under the ordinary laws of Trinidad and Tobago, when there is a thought or a breach of contract insofar as a thought which is committed by an officer of the state, under the State Liability and Proceedings Act, the state is sued in the name of the Attorney General.

One also knows that if there is a constitutional motion to be filed against the state in respect of a wrong committed by an officer of the state, the constitutional motion according to section 14 of the Constitution is filed against the Attorney General. One, however, recognizes that in recent times that there has been the development of judicial review in which the courts can review the actions of public authorities, the actions of persons who are on public authorities. For example, if the Judicial and Legal Service Commission or any of the service commissions decides on a particular matter and whether that decision violates the rules of natural justice, or is so unreasonable to amount to a perversion of the rules of natural justice, or perversion of justice or there is some procedural error, the courts can review the action of the Commission.

Mr. Speaker, in recent times judicial review applications have been filed against members of service commissions and when these matters are filed against members of service commissions, the names of the members of the Service Commissions are parties to the action and, where the courts find judgment against the commission and the members of the commission, judgments are entered against the members of the commission. What also happens is that where judgments are entered, attempts have been made to enforce the judgment against the members of the commission. For example, attempts have been made to levy on the personal belongings of members of commissions who perform official duties.

This Bill attempts to provide that such actions would be actions as against the state and, therefore, like in all other cases, it would be actions against the Attorney General who represents the state in proceedings and the judgments therefore, will be as against the state. So, it will in effect, protect members of commissions from having to face the situation where they can sit and make decisions in respect of

official matters and then they can be sued and then they are at liberty to lose their homes or to have their motor vehicles taken away as part of the enforcement of the judgment.

Mr. Speaker, I want to make it clear that this Bill in no way creates any immunity as far as the action which has been taken by the commission. For example, if a commission has committed a wrong and it is held to be in breach of the rules of natural justice, this Bill does not prevent the court from inquiring into the matter. What it does, is that the court will have before it the parties to the action. No longer the parties would be the members of the commission. The parties would be the individuals who are aggrieved and the state, and any judgment given would be a judgment against the state. Really, it is to protect persons who decide to make this sacrifice to sit on these commissions to protect them from being individually liable for official acts.

4.25 p.m.

The question may be asked: Why the Attorney General? I deal with this because in another place that question seemed to be important. If one looks historically at matters like these, one would see that before the Crown Proceedings Act was introduced in the United Kingdom, one could not automatically sue the Crown in respect of tort or contract. One had to petition the King or Queen as the case may be. As time went on the courts decided that in respect of certain matters, the Crown could be sued, but not in the person who is the Crown, whether it is the King or Queen. In this case, under our Constitution, it is the equivalent of the President of Trinidad and Tobago.

In the years gone by, the courts ruled that as a matter of common law, in cases where the Crown had to be sued, it had to be through Her Majesty's Attorney General. As time and the principles of equity developed, it was also held that in some cases, although there was no statute, one could sue the Crown, but only as against the Attorney General, because the Attorney General represents the Crown.

Mr. Speaker, as you would know, there has been the famous case of *Dison and the Attorney General*, 1911, in *King's Bench*, at page 410. That case was one of the landmark cases in which it was held that in representing the Crown, the Attorney General is the person to be sued.

One recognized that when we had to get our Constitution in Trinidad and Tobago, both in 1962 and 1976, the people had to determine who would represent the state in civil proceedings. It is expressly stated in the Constitution of Trinidad

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and Tobago, section 76(2), that in claims against the state, the Attorney General is the person to be sued. It is also expressly stated in section 14 of the Constitution, that the State Liability and Proceedings Act should have effect for the purpose of any proceedings under that section which gives the right to file constitutional motions.

As I was saying, in England, as the law developed, any law student would know that when the Crown Proceedings Act was passed in the United Kingdom, it gave a statutory right to sue the state and the Crown through the Attorney General. When we passed our State Liability and Proceedings Act in this country, section 19 specifically stated that the state would be sued through the Attorney General.

It has nothing to do with the holder of the office, but the question of the office of Attorney General. If there is a situation where a vehicle owned by the state and driven by an employee of the state, knocks down someone, and the driver is negligent, the action would be filed against the Attorney General representing the state. Similarly, if there is a constitutional motion to be filed in respect of a judicial violation as in the case of *Maharaj v the Attorney General*, where a judge allegedly violated the Constitution and the court later found that the judge violated the Constitution, the action had to be filed against the Attorney General. One sees that even in respect of the judiciary, the Constitution recognizes that action should not be filed against members of the judiciary because they represent the state. They are the judicial arm of the state and therefore, the Attorney General is the proper party.

I am going at lengths to explain this to demonstrate that this is a very simple Bill in which one would think that any responsible Opposition, as the Opposition in the Senate, would support. One would recognize that members of the service commissions who have to perform these functions must not have hanging over their heads, the threat that if they make a decision, their houses can be sold or cars can be taken away from them. The public interest demands that these persons must be so protected.

Mr. Speaker: Hon. Members, the sitting is suspended for half an hour.

4.30 p.m.: *Sitting suspended.*

5.02 p.m.: *Sitting resumed.*

Hon. R. L. Maharaj: Mr. Speaker, when the tea break was taken, I was showing how, based on the existing law—historically, from a common law

perspective, from an equity perspective and from the constitutional and statute law—it is recognized that in respect of actions which are regarded as wrong and which can be subject to a fine by the court, if an official of the state is liable, the state is represented by the Attorney General.

In order to remove any doubt, I should say that this Bill had its origin in a recommendation by the Judicial and Legal Service Commission, which consulted with the Law Commission. I say that because, so far, from the statistics in respect of enforcement of judgment, it would appear that it is only in respect of the Judicial and Legal Service Commission that there have been attempts to enforce judgments against members of the commission.

Mr. Speaker, as you know, it is the practice at the present time, if the Judiciary is party to any action in respect of any matter, that the Attorney General is made party to the proceedings. In practice, the Solicitor General, who is responsible for the Civil Department and the officers who are under the jurisdiction of the Judicial and Legal Service Commission, in collaboration with the magistrates, would arrange legal representation.

The original bill attempted to deal, not only with members of the Judicial and Legal Service Commission, but all commissions. It would be noted that “authority” was given a very wide meaning: “Service Commission or other commission, a tribunal, a committee or other body comprising one or more persons.” That is in relation to the earlier proposed subsection which reads:

“Proceedings against an authority established by the Constitution or a member thereof arising out of or in connection with the exercise of the powers of the authority or the performance of its functions or duties is deemed to be proceedings against the State.”

So, Mr. Speaker, the original bill tried to make it the position that in respect of any action against any authority as defined in the Bill, which would have had a wider meaning than “service commission” the action would be against the state through the Attorney General.

In the other place, based on some of the comments that were made, the Government decided to limit this matter to only the service commission.

5.10 p.m.

Mr. Speaker, as it stands now in Trinidad and Tobago and, as I said, constitutional motions, civil proceedings, and ordinary private law actions are filed

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against the Attorney General. There have been many judicial review applications and, as you know, these applications are normally filed against the members of the commission, and there has been authority to the effect that the Attorney General is not a proper party to judicial review proceedings. This Bill would ensure that the Attorney General would be the proper party to the proceedings.

There has been an attempt in one of the matters—even without having this amendment for a judicial review proceeding—to be filed against the Attorney General and it was decided that the Attorney General was not the party one should actually sue. This amendment would make it quite clear that it is against the Attorney General.

Mr. Speaker, for the record, the State Liability and Proceedings Act, section 19(1) states:

"Subject to this Act and to any other written law, proceedings by the State may be instituted by the Attorney General."

Section 19(2) states:

"Subject to this Act and to any other written law, proceedings against the State shall be instituted against the Attorney General."

Section 76(2) of the Constitution states:

"The Attorney General shall, subject to section 79, be responsible for the administration of legal affairs in Trinidad and Tobago and legal proceedings for and against the State shall be taken—

- (a) in the case of civil proceedings, in the name of the Attorney General;
- (b) in the case of criminal proceedings, in the name of the State."

It clearly states that for legal proceedings for and against the state, the civil proceedings shall be against the Attorney General.

Mr. Speaker, this Bill is really to try to regularize and make that situation uniform, and also to give protection to members of the commission for the exercise of duty in their official capacity or function.

I, therefore, want to make it clear that the Bill does not in any way have the effect of making the service commissions immuned from suits for cases of litigation. It deals with the procedural law not with the substantive law and it certainly does not take away the right of any person to sue the service commissions, or their members for acts done in the performance of their functions.

The Bill does not in any way, and cannot affect the existing law with respect to ouster clauses and, as you know, although there is in the Constitution of Trinidad and Tobago a provision which says that the decisions or actions of the Commission should not be questioned in any court of law, this has been struck down for sometime as far as ordinary legislation is concerned. And where an ouster clause at the court's jurisdiction is contained in ordinary legislation, the courts have ruled in the famous Anisminic case that it cannot prevent the jurisdiction of the court. It has been held recently that where these clauses are in the Constitution, it also does not oust the jurisdiction of the court. So the Anisminic principle has been extended to even where the ouster clause is mentioned in the Constitution.

Mr. Speaker, the Bill does not in any way affect, or take away the rights of any individual, or the entitlement of persons to challenge decisions of service commissions. It does not take away any safeguard anyone has for the enjoyment of one's fundamental rights, it does not in any way undermine the separation of powers. As a matter of fact, the Judicial and Legal Service Commission was consulted and is in agreement with the proposed measures.

In concluding, this Bill is to promote governance, and the security of persons who are appointed to service commissions to enable them to discharge their function, to protect them from being sued for matters in their personal capacity whilst they perform official functions; it is a measure to give justice to the service commissions and, therefore, it is a measure to promote respect for the Constitution of Trinidad and Tobago and to enhance the protection and promotion of the spirit of the Constitution. The service commissions should be able to function in such a way that they would be protected against any such intrusions in their private lives, or enjoyment of their property. It is therefore, a provision to give justice to the people of Trinidad and Tobago and we would expect that the Opposition would support such a measure.

Mr. Speaker, I beg to move.

Question proposed.

Mrs. Camille Robinson-Regis (*Arouca South*): Mr. Speaker, in 1971 the People's National Movement held all 36 seats in the Parliament of Trinidad and if the People's National Movement were a party which sought power just to hold power and not to seek after the interest of the people of Trinidad and Tobago and to seek after democracy in Trinidad and Tobago, that was the ideal opportunity for the government to operate in a nefarious and power-hungry manner to the detriment of the citizens of Trinidad and Tobago. But democracy has always been

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the hallmark of the PNM and important to them. Indeed, it is continuously the abiding desire for democracy which is so important to the people of Trinidad and Tobago which has been the legacy of the People's National Movement.

Mr. Speaker, the Bill before this House, which the Member for Couva South just presented, and which he termed a simple piece of legislation, seeks in a very surreptitious manner to undermine the independence of the independent service commissions.

The Member for Couva South, the Attorney General, indicated that the intent behind this Bill is essentially to indemnify or protect members of service commissions against whom legal actions may be brought. This Bill might perhaps more aptly be called the "Back Scratching Bill" in that, you scratch my back, I scratch your back and you do as I say in order to get my protection.

Indeed, this might even moreso be seen as another of the Attorney General's attempts to confer more and more power unto himself and his office, despite his assurances, and to have more and more institutions and offices of the Government beholden to him. We have seen several examples of the Attorney General arrogating unto himself and his office more and more power. [*Desk thumping*]

Mr. Speaker, what the 1976 Constitution did was to divest power held by the executive and the Attorney General to commissions, the DPP and the like, but this Bill, and others brought previously of a similar ilk, seeks to return us to a pre-republican, perhaps pre-independent state. Therefore, the Government's actions via its legislative agenda justify and confirm our worse fears that this UNC Government is really an anti-democracy Government, a power-seeking Government; a Government which consists of persons who enjoy the trappings of office, moreso than working in the interests of the people of Trinidad and Tobago.

Given their history, we on this side would not be surprised if we soon hear of a Bill to protect ministers who drive on the shoulder of the road; ministers who use obscene language in public and in Parliament; ministers who brandish guns to intimidate workers, and ministers who violate women. No doubt the Attorney General, and it seems even the Minister of Legal Affairs, would accept responsibility when these bills are brought to Parliament.

Mr. Speaker, the Bill which is before us has its genesis in the 1966 Crown Proceedings Act. At that time, there were two prevailing doctrines as they related to proceedings against the state. These were, that the Queen could do no wrong and the other, that the Queen cannot be sued in her own courts. Consequently, a

functionary of the Queen could not be sued for an act perpetrated against a citizen. However, by the Crown Proceedings Act and the later State Liability Act, ordinary citizens were given the right to take action against the state in certain situations.

5.25 p.m.

Mr. Speaker, several functionaries are listed in the Act as persons against whom an ordinary citizen could take action and that includes Ministers of Government and members of the public service. However, functionaries like judges and the like were excluded in an attempt to insulate them, and indeed, to ensure the independence of those functionaries. [*Desk thumping*]

As I mention the term independence, immediately, we must look at the objectives in the 1976 Constitution of creating independent service commissions. The report on the Constitution held by Sir Hugh Wooding, and the later report done by the Hyatali Commission, clearly indicate that service commissions should consistently be allowed to function independently of any of the other arms of the state.

We, because of the history of this particular Attorney General, have concerns when we see service commissions being brought under his purview. We take no comfort in the statement made—when this Bill was being introduced—that it has nothing to do with the office holder or with this particular Government. The history of the legislation before us in this Parliament shows, quite clearly, that it has everything to do with this office holder.

In the Hyatali Commission Report on page 162, Chap. 13, paragraph 303 said, and I quote:

“The fear existed at that time that political independence for the colonies might undermine the integrity of the public service. It was felt that the public needed to be assured of public service neutrality by entrusting its composition, control and discipline to a body that was insulated against political interference and influence.

The original rationale for the establishment of the Commissions and the circumstances which gave rise to their peculiar membership continue to be of much relevance today. The Commissions enjoy a status similar to that of the Judiciary and are independent of the Legislature. For this reason public officers feel assured of protection against discrimination of all kinds and have a reasonable guarantee that political patronage and preferment would not undermine the integrity of the Service.”

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Mr. Speaker, that is why when I opened my contribution I said: “We, on this side are concerned about the legislation before us, because fear, political patronage and preferment would undermine the integrity of the service. Having said this, I would like to justify the fears which I expressed in this Government, surreptitiously, taking power onto itself, through this seemingly innocuous piece of legislation. To justify this, Mr. Speaker, I invite you to take a cursory examination with me of how it has operated in various situations.

The Minister of Finance has demonstrated on three separate occasions that despite the law and practice as they relate to state enterprises, boards are essentially to operate independently, if they are operating in accordance with the law and practice, but adhering to the policy of the government of the day. The country has witnessed, the Minister of Finance, the Corporation Sole, neglecting laws and established conventions, putting pressure on chairmen; The First Citizens Bank chairman, to be more precise, was forced to resign because he could not tolerate the undue political interference of the Minister.

Mr. Speaker, could you imagine with this type of legislation, the kind of pressure that might be brought to bear on the chairman of the Teaching Service Commission, or any other commission, to ensure particular persons whom the commission had authority over would be allowed political preferment? Recall if you will, Mr. Speaker, how teachers—without this legislation—were intimidated because of their legitimate marches. They were even denied scholarships at a particular time.

Again, recall if you will, Mr. Speaker, the fiasco at the National Flour Mills, when attempts were made to dismiss the entire board because the Government was against their firing of the National Flour Mills’ Chief Executive Officer. [*Desk thumping*] Could you imagine, Mr. Speaker, if an instruction was given to a police officer to arrest someone and it was not done, then pressure would, undoubtedly, be put on the Police Service Commission not to promote that officer? Mr. Speaker, this is not far-fetched. Look at the situation where, despite legislation existing to extend the tenure of police officers over their retirement age, Assistant Commissioner of Police, Norton Registe was told to pack his bags and go.

The Water and Sewerage Authority, under the Public Service Commission, was operating without a board and was forced by the Government to function without a clear policy direction. Now the Government is attacking and blaming the management for its deficiencies; behaving “*brave´ danger*”, when they failed, as a Government, to ensure that water trucking contracts were put in place at the

earliest time to ensure that water was provided for the citizens of Trinidad and Tobago.

5.35 p.m.

I say *bravé danger* because the Prime Minister and the Minister of Public Utilities are throwing their hands up in despair, a grand design to give their cohorts water trucking contracts; maybe to start utilizing the 103 trucks owned by UNC ministers and financiers who are now at Point Lisas awaiting the start of the water trucking. It is clearly easy to intimidate public servants who act in the interest of the country when their ministers are acting in their own personal interest.

Mr. Speaker, recall if you will the statement made by the Minister of Public Utilities, the Member for Caroni East, when he said, that for the Penal/Debe Corporation there will be 29 water trucks allocated to that area. An area with a population of just about 90,000 people. When, in an area with a population of almost 150,000 people, the Tunapuna/Piarco Corporation, four trucks are allocated to that area. Four trucks as against 29 trucks in Penal/Debe. Mr. Speaker, I repeat, 29 trucks in Penal/Debe, where there is a smaller population than the Tunapuna/Piarco region and only four trucks are allocated.

When WASA was contacted to enquire why areas like La Horqueta, Maloney, Malabar, Kandahar and Wharf Trace were not getting water, WASA informed us that the water was now being sent to the central and south regions. *[Interruption]* It is clear prejudice being operated by the UNC Government against PNM areas. I am glad that the Minister admitted to it. *[Crosstalk]*

Mr. Speaker: Order, please.

Mrs. C. Robinson-Regis: Mr. Speaker, the importance of the independence and the maintaining and preserving of the independence of service commissions was stated quite clearly in the case of *Thomas v. the Attorney General*. A Privy Council decision reported at 32 *WIR (West Indian Reports) (1981)* page 375. At page 381, Lord Diplock said, and I quote:—

Hon. Member: Endell Thomas:

Mrs. C. Robinson-Regis: Udell Thomas is his name. Yes.

“The whole purpose of Chap. VIII of the Constitution which bears the rubric ‘The Public Service’ is to insulate members of the Civil Service, the Teaching Service, and the Police Service in Trinidad and Tobago from political influence exercised directly upon them by the Government of the day. The

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means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and power to remove and exercise disciplinary control over members of the service.”

Mr. Speaker, among other things, the judgment went on to say:

“...but the right to delegate, although its exercise requires the approval of the Prime Minister, is theirs alone,...”

Any power so delegated is exercised under the control of the commission and on its behalf and not on behalf of the crown or of any other person or authority.

Mr. Speaker, this is a case which clearly outlines the mechanism for ensuring the independence of service commissions, a mechanism which is clearly stated in the Constitution and which the courts clearly recognized in this particular judgment, which still stands the test of time. We see the courts clearly and unambiguously stressing the need for the independence of service commissions.

Mr. Speaker, notwithstanding this judgment, and section 129(3) of the Constitution of Trinidad and Tobago, which states:

“The question whether—

- (a) a Service Commission has validly performed any function vested in it by this Constitution.
- (b) a member of a Service Commission or any other person has validly performed any function delegated to that member or person under section 127.
- (c) a member of a Service Commission or any other person or authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in paragraph (b),

may not be enquired into in any court.”

Mr. Speaker, the powers and procedures of service commissions are protected in the Constitution by section 129. We have had instances where there have been cases of judicial review of the activities of service commissions and the Udell Thomas v. Attorney General case is a clear—*[Interruption]*

Mr. Speaker, just as an aside, I would like to indicate that Udell Thomas is a friend of my family and the name is Udell Thomas. It has been reported incorrectly

in the West Indian Reports and if my colleagues would prefer that I say Endell Thomas for ease of reference, I will do that.

Mr. Speaker, the particular case clearly showed that judicial review could, in fact, be brought against a service commission. As I talk about the issue of judicial review, it is clear that in instances of judicial review, the practice has been that if an action for judicial review is brought against a service commission, the service commission and its commissioners have, in fact, been indemnified by the state. That has been the practice.

We are seeing before us, not only an attempt by the Attorney General to somehow remove part of the independence of service commissions because of this apparently innocuous piece of legislation, but we are also seeing an unfortunate move to take the kind of legislation that is before our Parliament backward. I am saying backward because the legislation which relates to directors, commissioners, councillors, and other functionaries of that nature, almost worldwide, and including Trinidad and Tobago, has shown a clear movement to ensure that persons who serve at that particular level must operate in a way which indicates that they are very careful about the kind of actions they take in the commissions or companies of which they find themselves at the helm.

I say this because our Companies Act states quite clearly under the rubric "liabilities of directors", and I will just give one example. Section 87 states:

"Directors of a company who vote for or consent to a resolution authorizing the issue of a share under section 33 for a consideration other than money are jointly and severally liable to the company to make good any amount by which the consideration received is less than the fair equivalent of the money that the company would have received if the share had been issued for money on the date of the resolution."

Mr. Speaker, throughout the section dealing with liabilities of directors, we see that the legislation clearly puts a personal liability on directors to ensure that once they have been given the responsibility of operating a company, they must be careful about the manner in which they exercise their authority and ensure that they do so in the best interest of the company, failing which they could be held personally liable.

5.50 p.m.

Mr. Speaker, that is the direction most legislation dealing with persons who are entrusted with a particular responsibility and who must operate that responsibility

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fairly and in the interest of others, are taking; the legislation is moving worldwide. As I said, in Trinidad and Tobago also, to ensure that persons are held personally liable. That is clearly because of the fact that persons must not hide behind the cloak of the state or the corporate veil and operate in a willy-nilly manner. Once they have been given the opportunity to serve at that particular level, they must operate in a manner which should be beyond question. They must not say that they will be protected by the state and, consequently, they will do as they please. If judicial review is instituted against a service commission, the persons who hold that office must know that they can, in fact, be held personally liable.

Mr. Speaker, the companies legislation is not the only piece of legislation which has that general thinking as it relates to persons who hold office at that level. The Municipal Corporations Act at section 113 subsection (4) states— before I read subsection (4) I would just like to read subsection (2):

“(2) The accounts of every Corporation shall be subject to audit by the Auditor General in all respects as if the Corporation were a department of the Public Service.”

Subsection (4)(b):

“(4) At every audit, the Auditor General shall:

- (b) surcharge the amount of any expenditure disallowed upon any officer or member responsible for incurring or authorising the expenditure; and, in the case of members, where it does not appear from the resolutions of the Council or Committee which particular members of the Council concurred in authorising any expenditure, every member present at the meeting at which such expenditure was authorised shall be deemed to have so concurred until he proves the contrary;”

Subsection (d) goes on to say:

“(4) At every audit the Auditor General shall:

- (d) surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;”

Mr. Speaker, two pieces of legislation which are law in Trinidad and Tobago clearly saying that those persons who hold that kind of power and responsibility must see their responsibility as important and, consequently, if they act in a manner

which is to the detriment of the corporation, commission or the company they shall not be allowed to hide behind the state or the corporate veil; they shall be held personally liable. This is of great significance because persons who are given that onerous responsibility must exercise it in such a way as to allow persons on the outside who may have to face those commissions or those corporations to have confidence in the practices that they institute and in the operation of those commissions. Not only as a general or whole body but that the individuals who make up those bodies are operating in the best way possible.

Mr. Speaker, surely, this legislation which seeks to make the Attorney General a party to all proceedings involving these commissions can severely undermine the integrity of the commissions. It is indeed curious that when, during the previous PNM administration, attempts were made to examine the roles and functions of service commissions with particular reference to the Police Service Commission, an intense debate, both inside and outside Parliament was provoked. Indeed, Mr. Speaker, it was then *Express* columnist, Harry Partap, now a Government Minister and Member for Nariva who stated loudly, and I quote from the *Express* of March 9, 1993 where he stated:

“The service commissions are once more the focus of national attention as the demand for change grows increasingly vocal. Indeed, Prime Minister Patrick Manning told journalists last week that the Government will be presenting proposals to review these commissions in due course. Whatever is being proposed or whatever pressure is applied to force the authorities to review or restructure these commissions,...”

the then *Express* reporter Harry Partap wrote:

“Government must seek to preserve their original rationale. That will be a challenge, because...”

and I repeat:

“That will be a challenge, because I sense a kind of crusade to water down the powers of the commissions making them more pliable to the whims and fancies of ‘tin-god’ bureaucrats and politicians.”

I repeat:

“...the whims and fancies of ‘tin-god’ bureaucrats and politicians.”

Indeed, Mr. Speaker, I wonder if the Member for Nariva will be allowed and I repeat, allowed to tell us his views now. Surely, they will be different as members

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of this Government are accustomed to talking from both sides of their mouth. Who are the tin-gods or three legged wind up toys now, Mr. Speaker? Who are the tin-gods in this Government? The Attorney General is clearly, from all indications, making himself into a tin-god.

Mr. Maharaj: [*Inaudible*]

Mrs. Robinson-Regis: Once you do not put your hands in any of my pockets.

Has there been any consultation on this piece of legislation? Has there been any real consultation on this piece of legislation? We heard that there was consultation with the Judicial and Legal Service Commission but what was this consultation in effect? Was it consultation which we have heard about previously which was, in fact, just a Bill being sent to a particular body to say that the Bill was sent? There is no history of this Government really having consultation with those persons with whom they say they have had consultation. We are of the view that without proper consultation, legislation of this nature cannot truly be said to be legislation that is approved of by all the service commissions.

Mr. Speaker, we are of the view that this legislation, if we are, in fact, to move to agree with it, must also indicate that once civil proceedings have been instituted or once there is the need for counsel to be brought into the protection or to give advice to these service commissions, the commissions must be allowed to use counsel of their own choice. If even we are to agree with this legislation, we are requesting and advising that we are desirous of having an amendment considered by the Government which amendment has been circulated. I would like to indicate that there is a typographical error. It should read”

“First column new clause 3:

Notwithstanding that proceedings are in the name of the Attorney General, a service commission shall retain the right to appoint legal counsel of its choice.”

Mr. Speaker, we are requesting that this amendment be seriously considered by the Government. We are making this request clear in the knowledge that once this type of legislation is made into law the service commission should still retain the ability to have counsel of its own choice, direct and proceed with any suit that is instituted against it and ensure that its interest is properly and carefully looked after.

6.05 p.m.

Mr. Speaker: Hon. Members, the speaking time of the Member for Arouca South has expired.

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

Question put and agreed to.

Mrs. Robinson-Regis: Thank you, Mr. Speaker, and I thank hon. Members for their indulgence.

Mr. Speaker, also in keeping with our consistent belief that service commissions must be allowed to maintain their independence, we are asking the Government to consider, instead of legislation of this nature, which seeks to bring the proceedings within the Attorney General's purview, whether any consideration was given to the possibility of legislation which clearly states that service commissions would be indemnified in instances where the commission and/or its members severally and jointly have been sued. We are asking whether this possibility was in fact examined by the Government, and if it was in fact examined, what was its thinking on this type of legislation?

We are of the view, and I repeat this for emphasis, that the independence of service commissions must in no way be compromised. In no way! And if members of a service commission feel that in any way they may be beholden to the Attorney General, to the state, would there be the possibility that they may operate in such a way as to, at all times, please the wishes of the political directorate?

[MR. DEPUTY SPEAKER *in the Chair*]

We are asking the Government to examine the possibility of bringing legislation which might, in fact, talk about the state indemnifying members of service commissions who have had action brought against them—I mean legal action brought against them. Because, it is customary that where action is brought against various arms of the state, or various other bodies of the state, the state does, in fact, indemnify those whom action has been brought against. So I am asking the Government to examine that possibility.

Mr. Deputy Speaker, we are requesting that an assurance be given—and I know this may be a vain request—that the independence of these service commissions would not, in fact, be tampered with.

Mr. Humphrey: That is in the Constitution.

Mrs. C. Robinson-Regis: Despite the words of the Constitution, it does not mean, given the history of how this Government operates, that tampering or political interference would not be the order of the day.

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We are also requesting that the amendment be given careful consideration, for in the light of our concerns, we hold to the view that if the legislation is to be passed in the form in which it is brought to the House today, that service commissions must be allowed the opportunity to retain counsel of their own choice.

Additionally, Mr. Deputy Speaker, we are requesting that an examination be made of the possibility of legislation which indemnifies service commissions in instances of a suit being brought against them. We are also reminding those on the other side that legislation in Trinidad and Tobago and in several other countries of the world has been moving swiftly to ensure that persons who are given the opportunity to serve at a particular level are not allowed to hide behind the corporate veil, or the state, and proceed to operate in such a way that they do not rightly and properly act responsibly.

Mr. Deputy Speaker, we are seeking answers from the Members of the Government. I thank you.

The Minister in the Office of the Prime Minister (Dr. The Hon. Vincent Lasse): Mr. Deputy Speaker, I rise to make a modest contribution and to support fully the Bill to amend the laws relating to civil proceedings against the state arising out of the exercise of powers and the performance of functions and duties by constitutional bodies and for other related purposes.

Mr. Deputy Speaker, I want to make it very clear that the law is not cast in concrete, since law is based on customs and usages and the fact that law follows society, there must, of necessity, be amendments to law, codification of law and, of course, the progressive development of law.

Mr. Hinds: Like section 46(e) of the Constitution.

Dr. The Hon. V. Lasse: The Attorney General should be complimented for his foresight in bringing this amendment which is designed to protect individuals performing certain duties on behalf of the state and, of course, who should be given a certain amount of protection should they be sued in this exercise.

Mr. Deputy Speaker, is it that Members opposite are against the protection of persons who have decided to serve the state, to render their services to the state? Should such individuals be required to pay damages when someone is aggrieved due to an incident in the performance of that member's duties on behalf of the state?

Mr. Maharaj: Damages and costs.

Dr. The Hon. V. Lasse: That is what I would like to know.

Let me turn to the Explanatory Note which states and I quote:

“Authorities which have been established by the Constitution and their members have from time to time been sued in circumstances arising from the exercise of powers and the performance of duties and functions as public bodies serving the state. It is the policy of the State Liability and Proceedings Act, Chap. 8:02 that proceedings against the State shall be brought against the Attorney General. The purpose of this Bill is to provide by way of amendment to that Act that civil proceedings against constitutional bodies and their members in relation to acts done in their official capacity shall be deemed to be proceedings against the State which can be brought only against the Attorney General.”

This is clear; very, very clear. Now, while the authorities have been established pursuant to the Constitution of the Republic of Trinidad and Tobago, we are not dealing here with the question of constitutional law. We are dealing with state liability—that is the question—and, of course, we are dealing here with private law.

I would, later in my contribution, refer to other common law jurisdictions on the question of state liabilities. I shall refer to developments, case law in the United States of America and also the European case laws. But, Mr. Deputy Speaker, let me deal briefly with the contribution made by the Member for Arouca South, who has no option but to follow the leader whether he is here or outside. What contribution did the Member for Arouca South make to this debate?

Mr. Hinds: You are shameless.

Dr. The Hon. V. Lasse: The Member spoke about the independence—

Mr. Deputy Speaker: Order. Order.

Dr. The Hon. V. Lasse: Mr. Deputy Speaker, while I cherish your protection, I can deal adequately with the Members on the other side.

The Member said that the independence of service commissions could be undermined by the provisions of this Bill. There is no logic in that position. What is the rationale? The Member spoke of the hon. Attorney General arrogating certain powers to himself. Is accepting liability for individuals who are sued in their personal capacity while acting on behalf of the state, arrogating to himself certain powers?

Mr. Hinds: Are you independent or UNC?

Dr. The Hon. V. Lasse: What was the relevance in the matter? The Member referred to the Minister of Finance and certain boards. What is the relevance? You

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see, Mr. Deputy Speaker, there are certain Members who would come to this honourable House and would spend most of their time interrupting, but I can make a reference, for example. If it is that law follows society and the fact that smoking certain substances is accepted by society, would certain Members not agree with that?

Miss Nicholson: Blows! Good blows!

6.20 p.m.

Dr. The Hon. V. Lasse: Let me turn to where I came from. The Member seemed to be seeing shadows only, nothing concrete. *[Interruption]*

Mr. Deputy Speaker: Order, please.

Dr. The Hon. V. Lasse: As I was saying, the Member for Arouca South also spent quite some time rehashing arguments raised in the other place and because I do my homework, I was fortunate to pick up that the Member for Arouca South was referring to a contribution made in the Upper House on October 10, 1998 between 2.55 and 3.10 p.m. If those Members opposite did not vote against the measure, I am wondering why the Member for Arouca South should come here and rehash that stale argument.

I now turn to what I mentioned before, the fact that I would quote from other Commonwealth jurisdictions on the question of state liability. When I speak of constitutional bodies, I am simply referring to the authorities which have been established by the Constitution of Trinidad and Tobago and, of course, the members of these constitutionally established authorities.

I was belabouring the point to make it abundantly clear that this Bill is not intended in any way to give any type of comfort or any type of relief or protection to any individual, any political leader against whom the state has a judgment. If an individual is blinded by hate, spite and vindictiveness and goes on a frolic and a fishing expedition of his own, he, of course, must pay for his stupidity and his self-seeking ventures. It is clear, therefore, that the Member of this honourable House, sitting on the opposite side, cannot shelter under this piece of legislation and escape paying the state the million-plus dollar judgment against him. With specific reference to the constitutional bodies and their members in relation to acts done in their official capacity, this has been the subject of litigation in other jurisdictions and, of course, Commonwealth jurisdictions.

I refer to a body of law called *Administrative Law, Cases - Text - Problems, American Casebook Series*, by Kenneth Culp Davis and, of course, I would quote certain decisions in case law. At page 484, I quote:

“The law of privilege as a defense by officers of government to civil damage suits for defamation and kindred torts has in large part been of judicial making.”

The decision went on to state:

“The reasons for the recognition of the privilege have been often stated. It has been thought important that officials of government should be free to exercise their duties unembarrassed by the fear of damage suits in respect of acts done in the course of those duties—suits which would consume time and energies which would otherwise be devoted to governmental service and the threat of which might appreciably inhibit the fearless, vigorous, and effective administration of policies of government. The matter has been admirably expressed by Judge Learned Hand.”

In this decision, it states, and I quote:

“It does indeed go without saying that an official, who is in fact guilty of using his powers to vent his spleen upon others or for any other personal motive not connected with the public good, should not escape liability for the injuries he may so cause; and, if it were possible in practice to confine such complaints to the guilty, it would be monstrous to deny recovery. The justification for doing so is that it is impossible to know whether the claim is well founded until the case has been tried.”

The decision ends by stating:

“The decisions have, indeed, always imposed as a limitation upon the immunity that the official’s act must have been within the scope of his powers.”

I made the case that in case law in other jurisdictions, it is fairly accepted. The case about which I spoke dealt with a libel suit which had been brought in the district court of Columbia, Washington DC. The alleged libel was contained in a press release issued by the Rent Stabilization Office and it was signed by the acting director who, after he had issued letters to the persons involved, had it published in the press. That, of course, was the reason for the libel suit being brought.

Under our private law, if an officer of the state commits a tort, action can be brought against the Attorney General pursuant to the State Liability and Proceedings Act. The Bill before us would simply transfer that burden of trial in civil proceedings against a member of a commission to, of course, the Attorney General.

6.30 p.m.

Furthermore, no one except, of course, the Opposition can deny that any judgment brought against a member of any commission acting in an official capacity is really a liability to the person concerned and not a liability to the state. And as such, the amendment that is before us is to have that liability transferred under the State Liability Proceedings Act, Chap. 8:02 as amended.

Mr. Deputy Speaker, I now turn to the issues of state liability under European Community case law. I am referring here to Brussels Brief, Issue 20—24 May, 1997, dealing with “Issues of State Liability. Here it was clearly stated that:

“A State is liable to make good the damage caused to individuals if three conditions are met:

- the contested measure must confer rights on individuals;
- the infringement must be of a sufficiently serious nature;
- there must be a direct causal link between the breach of the State’s obligation under EC law and the loss and damage suffered.”

Mr. Deputy Speaker, the point I am trying to make here is that liability would be transferred from the individual to the state pursuant to the amendment that is being brought by the hon. Attorney General. Further, under the heading of “Cases Pending” it has been said that:

“The Court has been asked for a ruling on whether a State is liable to compensate an undertaking in damages for losses resulting from:

- the wrongful implication of a Directive.”

Of course, this is a directive which may have come from a member of a commission in the course of his duties. So, here again I tried to introduce case law in two common law jurisdictions to establish the fact of liability *viz-a-viz* the state.

Mr. Deputy Speaker, as I said, I intended to make a very modest contribution, therefore, I would like to sum up. Firstly, it is clear that there is a lacuna in the law which the Attorney General is now correcting by way of this amendment. Secondly, state liability is a question of private law and not a question of constitutional law *per se*. Thirdly, in the course of my intervention, I gave examples of case law in common law jurisdictions—the United States of America and European Community—to support the contention of the hon. Attorney General.

Having said this, I trust that prudent, reasonable and responsible Members of this honourable House would support this piece of legislation.

Thank you, Mr. Deputy Speaker.

Mr. Hedwidge Breaux (*La Brea*): Mr. Deputy Speaker, I wish to join this debate on a Bill to amend the law relating to civil proceedings against the state arising out of the exercise of powers and the performance of functions and duties by constitutional bodies and for other related purposes.

The learned Attorney General has indicated that, as a result of comments made in the other place, the ambit of this Bill was to some extent restricted to deal purely with constitutional bodies; commissions and not other authorities.

Mr. Deputy Speaker, constitutional bodies or service commissions—and by that, those referred to in the Constitution of the Republic of Trinidad and Tobago—such as the Public Service Commission, the Police Service Commission, the Teaching Service Commission and the Judicial and Legal Service Commission. These commissions have a particular significance in the Trinidad and Tobago constitutional law. I recall that they were put there even in respect of the 1962 Constitution which has since been changed, when we became a Republic in 1976. Even in the 1962 Constitution, in respect of the discussions which were held before Trinidad and Tobago became independent, I had reason to read the newspapers on what happened at Marlboro House—I was a young man in those days—and to be particularly proud of the decision which was made by both the then Chief Minister of Trinidad and Tobago and the Leader of the Opposition when there was some difficulty in their coming to some agreement in respect of independence. They were able to discuss with each other, in particular, the area which managed to break that deadlock, the question of the service commissions and the particular independent role which those commissions would have. [*Interruption*]

Mr. Deputy Speaker, can you assist me, please?

Mr. Deputy Speaker: Member for Point Fortin, the Member for La Brea has asked that you kindly listen to his contribution.

Mr. H. Breaux: Mr. Deputy Speaker, I was saying that the point on which the disagreement turned and where they were able to reach agreement was when it was decided that we would have these independent commissions dealing with particular areas of employment in the public service, and the judicial service, because these commissions were intended to be independent as far as it is possible

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in our situation. That is why we see, in respect of the appointment of these commissions the Constitution states at section 120(2) that:

“The members of the Public Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.”

Also, there is a similar statement in respect of the Police Service Commission and the Teaching Service Commission, but it is stated a little differently for the Judicial and Legal Service Commission.

6.40 p.m.

Basically, in the Judicial and Legal Service Commission the Chief Justice's name is there, but there is a particular way in which a Chief Justice can be appointed. He has been appointed specially and, therefore, those commissions are intended even in the appointment, that is, in the case of the commissions that the President has a certain discretion. “President” in this case is not “President” meaning the Cabinet. It is the President in his own discretion. To date, the Independent Constitution and their peculiar arrangements were retained in the Republican Constitution dated 1976.

We must also look at the State Liabilities and Proceedings Act, and the learned Attorney General did not get the date correct; it is September 28, 1968. I particularly wanted to deal with it in that context. Those persons who framed the Constitution, both the Independent Constitution, which was first framed and then the State Liabilities and Proceedings Act coming in 1968 after it. They did not seek then to bring the commissions under that and even when the Republican Constitution was formulated, they did not then seek to cause the Attorney General to be able to be sued on behalf of the commission. It is quite clear why they did not want to do it. The reason is, that although in our Constitution we keep talking about separation of powers it is a desired end but it is not a fact. It is not a fact because in our constitutional system there is more of a fusion of powers in some cases whereby the Attorney General sits in the legislature; he is part of the Executive, and so power is concentrated both on the Executive and on the legislative benches.

The intention to have the Judicial and Legal Service Commission independent was that one would not put more power into the hands of any one branch.

I want to go further. I know that the Attorney General, even while he was in Opposition, had this peculiar desire to want to oversee the work of commissions,

these very commissions that have been set up by the founding fathers of the Constitution to protect the liberty and the freedom of the subject. He has had the desire that he feels that the Parliament should oversee those commissions for some reason or another. One of them is the Integrity Commission, although it is formed a little differently, and is intended to keep Parliamentarians and other persons who hold executive authority on the straight and narrow path.

Mr. Deputy Speaker, when I see the hon. Member coming to this Parliament with this Bill, I am not surprised because I know that he wants to garner onto the legislative and the executive authority, some measure of—maybe not only of control—but oversight. Let us look at what is happening. I am not imputing any improper motives to any Attorney General or to any Member of this honourable House and I do not want what I am going to say to be so construed but, for instance, there is a situation where for some reason a service commission acts in a particular way which a Government does not like, the Public Service Commission for instance. I cannot help but comment on it.

There are two situations that I can point to directly. One is the case of an advisor to the Minister of Agriculture, Land and Marine Resources who was allegedly placed sixth in the interview and eventually given the job. It so happened that was not a position which had to go before the Public Service Commission. Maybe, for good reason or otherwise—I am just stating the facts—the hon. Minister or those responsible, the Cabinet, felt that was the proper appointment to make and they did. Then there was another situation with a statutory body where the brother of the chairman of the party in Government was appointed to an executive position at WASA.

The point I am making is that the person was appointed to a position to head the water agency and he was not even short-listed although I know that he was most competent to function in another certain area. I am not questioning his competence in those areas, but I am just using these as examples.

Let us assume that in such a situation there was a public service commission that had by-passed those very persons and those persons sought to sue the particular service commission. That suit was taken out and they had to sue the Attorney General but remember, the Attorney General is a member of the Cabinet. In both instances, it would appear that the Cabinet in its wisdom felt that those were proper persons, what would be the end result of such a suit? The end result of such a suit would be that—and if the Attorney General, having been properly advised by the Cabinet or believe it himself that there was no merit in the case, I

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would expect he would concede. And even if he properly conceded, there would still be some cloud on the operation on what went on there because the service commission would believe that their position was not properly articulated and not properly defended.

I tend to believe, and I support my colleague the Member for Arouca South, in saying that whereas there is a definite merit in seeking to indemnify persons who act on behalf of the state or act in a constitutional manner—and I mean properly so, not misbehave in office—when some people act in that position and in fact they are sued, there is merit that they be indemnified by the state.

6.50 p.m.

There is no need for the Attorney General in his position to be sued. If the framers of the Constitution had intended it, they would have definitely made arrangements since the Constitution came into effect in 1962, or in 1968 in the Act, or the 1976 Constitution under which we now operate. They would have done what we are doing today, when this Constitution would have been passed. They did not seek to do it. They sought as best as possible to keep some separation between those service commissions and the Executive. There is no reason why we have to put them at one.

I know the Constitution (Amdt.) Bill is coming and that would seek to address the relationship between the Executive, the Legislative and those service commissions. I think a bill of that nature is something we have to discuss and seek consultation from the wider community, and when that is done we would then decide. I do not want us to come through the back door bowling any Chinaman or googly and seek under the guise of indemnifying persons who are sued on behalf of the state, and put the thin edge of the wedge into reducing the independence of the service commissions.

I have the most unfortunate position to speak after the Member for Point Fortin. I am disappointed in him and I keep getting disappointed more often than I want to. We are here discussing a Bill. It does not matter how the learned Attorney General says this is a simple Bill, I learnt—maybe it is because I was taught in a different school—there is no simple piece of law. The more simple a bill looks, the more wide-ranging and devious its ramifications. We are trying to deal with the Constitution of Trinidad and Tobago and an important matter as service commissions, and what do we hear? The Member for Point Fortin, whatever his reasons for doing what he did, I would not comment on it. I would say that I have great respect for the Member for Naparima. The Member for Point Fortin seeks to

deal with a matter in which he was involved. Normally, as most lawyers and persons who are of that ilk, when they are involved in a particular situation, they try to keep away from commenting on it and allow others to deal with it. He seeks to bring approbrium down on the Member for San Fernando East for doing what he had to do.

If the Member for Point Fortin—contrary to what he professed on the election campaign—crossed the floor, he can claim his right. He may even claim that his constituents wanted him to do it. I do not know. If he did that and there is a lacuna as he said, in terms of the Constitution and Standing Orders of this House, then, it is the duty of the Leader of the Opposition who is the only person who could do it, to try to have it cleared up. If in the process of clearing it up, he has incurred legal liability and costs, and he is a person who seeks to say that persons who operate under the Constitution need to be indemnified, then whether he agreed with what he tried to do or not, the legal and constitutional significance of what he was doing should not be lost on him if he has done any law. Even if he does not like him, that is irrelevant. I displace that comment to the position at the bottom of the class where it deserves to be.

Mr. Deputy Speaker, I get back to the question of the service commissions and their peculiar relationship in respect of suit. The Attorney General was very concerned about the fact that these persons were being sued in their personal capacity and they would have problems with their houses and cars. I support the position taken by the Member for Arouca South, when she said that we have to determine those persons who may be tempted to utilize the veil or cloud of their position on commissions to misuse people or abuse their power. I know that the learned Attorney General is a champion against misuse and abuse of power. They should not be shielded in any way.

Those who have genuinely incurred liability whilst in the course of performing their civic duty should be fully indemnified. I could see us passing a bill to indemnify those persons although I know that on previous occasions, in each case, each one of them should have been indemnified. I think it is good law and principle to enshrine such indemnification in law. I definitely do not believe that we should seek to bring them under the purview of the Attorney General. This has nothing to do with whether the Attorney General is who he is, or any Attorney General for that matter.

7.00 p.m.

It has to do with the principle that we are moving away from that separation which was enshrined in the Constitution. Section 53 of the Constitution states:

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“Parliament may make laws for the peace, order and good government...(in so far as it forms part of the law of Trinidad and Tobago) the Trinidad and Tobago Independence Act, 1962 of the United Kingdom may not be altered except in accordance with the provisions of section 54.”

Section 54 states:

- “(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act 1962.
- (2) In so far as it alters—
 - (a) sections 4 to 14...113, 116 to 125 and 133 to 137.”

The service commissions are in section 120.

Let me read this portion:

“...a Bill for an Act under this section shall not be passed by Parliament unless at the final vote thereon in each House it is supported by the votes of not less than two-thirds of all the members of each House.”

I will not say that this particular Bill requires a special majority. However, if we pass this Bill in the way they are seeking to pass it, although it is seen expressly to provide a benefit for the members of that commission, he who pays the piper calls the tune; where the cow is tied, there it must graze. If the persons in those service commissions are in any way, even the most minuscule manner, seen to be beholden to a government—and by government I mean the government in the person of the Attorney General—it is undesirable. It is not that we may not as a nation, after proper consultation, be ready to take certain steps, but we should get ready and do it in the fullness of time.

We have a bill which seeks to give Parliament some oversight of the service commissions and there have already been certain concerns expressed about it. Let us not tinker on the fringes with the position of service commissions. Let us examine the entire situation and come to some position after mature and reasoned thought.

There are those of us who do not necessarily disagree, in principle, with the position the learned Attorney General may be espousing, but it is not proper to slip it in on the side. It does not matter how it is done. Once you add or take away from a service commission, you are doing something to it, whether to its detriment or benefit. They are accustomed to being indemnified; if one wants to put it in

legislative form, arrange to indemnify them. My considered opinion is that the Government should not in any way seek to interfere or bring them under any executive position or have them beholden in some way to the Executive.

[MR. SPEAKER *in the Chair*]

Mr. Speaker, I am particularly concerned about the Police Service and the Judicial and Legal Service Commissions. I will give an example of something. I left home some time ago for Parliament. It was early in the morning and all these policemen stopped my car. They had me out of my car and I was really frightened. I do not get frightened for many things. It was the way they looked. Mind you, they treated me kindly.

When I saw a policeman looking at the Member of Parliament identification on my car, I was even more frightened. I said that the Attorney General had sent them to kill me. [*Interruption*] I take that back. I apologize to the Attorney General. I was really scared. There I was, a law-abiding citizen who supported everything. Normally, the police would recognize me, but the way in which they came at me, I was really concerned.

I tell you, if I, who believe and support the police in what they are doing, could get so concerned, then other persons who from time to time may not be on the side of the state can be worried about positions they may take. I do not mean illegal positions, but genuine disagreement with the position held by the police. [*Interruption*] I have confidence in the police, but the Government does not always reinforce my confidence in the police when they seek to extend the term of the Commissioner of Police while there are other seemingly competent people. The minute that is done, I have questions to ask.

7.10 p.m.

Firstly, I ask what happened? Maybe, the other persons who are immediately below the Commissioner, or junior to him, are seen as not being competent, honest, or willing to obey his oath of office. That is one, and then I am worried. When I see it happen, I say maybe there is some arrangement between the Government and the Commissioner—I am not saying that there is, I am just telling you what questions went through my mind—but I return to the point and I gain solace in the fact that I know there is an independent commission which appoints the senior persons in the police service and no matter what a Government may seek to do, that commission with its independence, its honesty and willingness to do its duty is the rock upon which I am prepared to rest my safety.

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Additionally, in respect to the Judicial and Legal Service Commission, our judges pronounced on the Constitution—and I have no reason to question the integrity, competence, or otherwise of these judicial persons and the Attorney General has no reason to question them either because the first thing he said when he came here was that the Judicial and Legal Service Commission supports this move, and I am concerned. I know that a sitting judge had cause to take the Chief Justice to court and, as evidence of the independence of the Judiciary, there was judgment given in favour of that judge. I do not want a situation to exist whereby judges are led to believe that there is some good or bad which the Attorney General, the Government, or the executive could do for them. That is the reason why the salaries of judges are charged on the Consolidated Fund, so they do not have to depend on the passage of the Finance Act to be paid.

Here we are today, apparently quite innocently trying to pass a Bill, the passage of which could have ripples in respect of the independence of the service commissions and I believe, has a certain effect in limiting the liberty of the subject.

I always remember the comments which were made by the Member for Oropouche when, on another occasion, we were charging the Government with being partisan and discriminating and so forth. He was quite clear when he said a government wants people whom they believe would carry out their policies honestly, with efficiency, and energetically. Therefore, if there are persons in office whom that government believes would not be so inclined, then the government should remove them and put other persons. He said it. I believe it was an honest statement he was making, but, behind that kind of thinking also tells me that we have to watch out, not that he may be wrong in what he is saying, but if we are going to do that, and if those are the ground rules now, we must look at the rules we are setting and in a total and comprehensive manner look at what we are doing. Just handling this Constitution the way it is and changing a few things, playing with it here, and tinkering with it is insufficient and I ask the learned Attorney General to pursue the question of indemnification for persons in service commissions. Issue it by all means, but do it via an indemnification provision, rather than having all persons sue the state because there are going to be questions asked.

We had an example in this very House where a High Court judge was appointed to conduct an investigation into allegations of impropriety at Piarco Airport and the former Court of Appeal judge, Justice Deyalsingh, came out with certain findings and when they were made known, the person who felt he was aggrieved threatened to take the matter to court and did eventually take it. We

heard statements where they wanted to make it possible to make use of the report as it was laid in Parliament.

Regardless of what the Government would like to say, the perception was, that the Government was moving in a particular way because it saw that particular person as being one of its major activists and supporters of finances. One wondered how could such a contradiction occur because, in one case, the Government would appoint a committee, and the Prime Minister would say let the chips lie where they fall and yet this matter is going on.

We are not babes in the woods, we know the vagaries of the activities of persons and what pitfalls exist. By all means, I repeat that we should provide by necessary legislative means, for the indemnification of persons who sit on commissions if they are sued while carrying out their duties. Definitely, we should not seek to do it by making the persons in each case, sue the Attorney General once the position of Attorney General is, as it is today, a Member of the Government.

Thank you.

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, I rise to make a small intervention on the matter before this House, a Bill to amend the law relating to civil proceedings against the State arising out of the exercise of powers and the performance of functions and duties by constitutional bodies and for other related purposes.

This Bill is a simple one and the Explanatory Note clearly outlines the purpose of the Bill which is designed to give protection to persons who have been appointed to commissions against civil proceedings. Those who are versed in law would know that this Bill gives effect to what is already stated in the Constitution of Trinidad and Tobago, and all the debate coming from the other side and those who profess to be learned in the faculty of law should know this.

My contribution would be centred around the presentations made by the Member for Arouca South and the Member for La Brea. The Member for La Brea sees some hidden agenda in all the bills being brought by the Government. He sees something sinister in this Bill, he mentioned it, and I would summarize what he said. There is a sinister motive in the Bill, in that the commissions would be sympathetic towards the Government for making this amendment in the Bill. That is not true. The intention of this Bill is clearly to protect these commissioners from civil proceedings so people would come forward to make a contribution towards

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the development of this country and not be afraid to do so. I wish to inform the Member for La Brea that I am in total support of this Bill.

In the contribution of the Member for Arouca South, she spoke about water and the pattern of distribution by trucks in the delivery of water. The Member is grossly misinformed, but she used every opportunity to mislead the House and to bring in racial matters into the debate. She said that there are more trucks delivering water in those regions that support the Government. That is not true, Mr. Speaker.

The pattern of the distribution of truck-borne water as carried out by the Ministry of Local Government is determined by the respective councils, this is an important fact. The rural councils have a greater responsibility in the delivery of truck-borne water because in the rural areas there are no pipes. The mandate given to the Ministry of Local Government is that it should deliver truck-borne water in those areas where there are no pipes. Clearly, my responsibility therefore, is even greater in those rural areas where this phenomena occurs. In rural communities, constituencies, and corporations, there would be more trucks delivering water and I want to clear that up with the Member for Arouca South.

7.25 p.m.

Mr. Speaker, the constituency of the Member for Arouca South is serviced by the Tunapuna/Piarco Regional Corporation. In 1997, that corporation was given a sum of money for the delivery of truck-borne water. I must inform Members that the Tunapuna/Piarco Regional Corporation is a PNM-controlled corporation and it did not deliver any truck-borne water in 1997. One could guess the reason is that they either have water in the pipes or they do not like the Members of Parliament. Rumour has it that the chairman does not like the Members of Parliament for Tunapuna and Arouca North. I understand that the Member for Arouca South is now in that bracket. This PNM-controlled corporation had a budget to deliver water but did not deliver that water. Who is to blame for this, Mr. Speaker?

In 1998, I have already called in that corporation and insisted that water—which has been allocated for—will be delivered despite the on-going battle with the respective Members of Parliament. [*Desk thumping*]

The Water and Sewerage Authority, which is the responsibility of the Minister of Public Utilities, delivers 60 million gallons of water on a daily basis. Fifty per cent of that water is supplied to the East/West Corridor and 50 per cent goes towards Pt. Lisas and the areas south of Caroni. There is no racial colour in the

delivery of water. Water is colour blind, Mr. Speaker. The Member for Arouca South, in her contribution, tried to bring that issue into the debate.

Mrs. Robinson-Regis: Mr. Speaker, I did not try to bring race or racial overtones, undertones or otherwise into this debate. All I did was to repeat what was said by the Member for Caroni East in his statement to the Parliament this afternoon. If the Member for Pointe-a-Pierre saw it as a racial statement, then the problem lies with him and those on that side, not with me or those of us on this side.

Hon. D. Singh: Mr. Speaker, if I offended, or I said something that was inappropriate, I apologize to the Member for Arouca South. However, water shortage is a problem with which all of us are faced on a daily basis. As a Member of Parliament my constituents suffer for water from time to time. However, I work with them and the respective agencies to alleviate that problem.

Mrs. Robinson-Regis: That is what you all have been doing, giving water to Central and South.

Mr. Speaker: Order, order.

Hon. D. Singh: Mr. Speaker, as I said, I also work with the corporations to help me to alleviate the problems in my constituency. I recommend that the Member for Arouca South, Arouca North and Tunapuna do likewise and work with the corporations to assist them with their problems.

Mr. Speaker, I strongly support this Bill and commend the learned Attorney General for bringing this Bill to the House.

Thank you, Mr. Speaker.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, while we on this side of the House support the need to provide immunity to members of our service commissions from lawsuit and so forth, we have a real difficulty agreeing with the legislation in its present form, because it seems to be taking away an important element of decision-making from the members of the service commission, under the guise of providing an indemnification: the right to legal representation of choice, what is to be sacrosanct to any individual, and especially to members of the service commissions. I think, Mr. Speaker, if we were to look at the Constitution we would see that concept of freedom of choice permeating our rights as enshrined in sections 4 and 5. It does not speak, specifically, about the right of choice to legal representation. The rights mentioned at 5(2) of the Constitution states:

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“Without prejudice to subsection (1), but subject to the Chapter and to section 54, Parliament may not—

- (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.”

It speaks of a number of rights, for example, it says at:

- (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of its rights and obligations;

Mr. Speaker, it has been established that there is no difficulty with respect to civil proceedings or constitutional proceedings. In that case it is the Attorney General who is sued. One understands that because one is talking about law or fact and so forth, the issue is one relating to judicial review. I am a layman, Mr. Speaker. My understanding of the judicial review is, for example, let us take the Judicial and Legal Service Commission where judge “X” is promoted ahead of judge “Y”. Judge “Y” is aggrieved, so he files for judicial review and under this legislation he has to sue the Attorney General. Now, as you know, Mr. Speaker, the level of legal representation given to an individual can determine the case—I even saw that this year. If judge “Y” is somehow favoured by the Government or what have you, and the Judicial and Legal Service Commission is provided with inadequate legal representation, then the case could be lost.

There is a real difference between the practice, as it stands today, where the Judicial and Legal Service Commission would choose its own lawyer and the state would provide indemnity—that is done today. However, under this legislation it seems to me that the Judicial and Legal Service Commission is now completely out of it. It does not even appear that the commission would have the right to select a lawyer in whom it has much more confidence.

It seems also that they cannot even determine whether the matter ought to be appealed and one has to consider that its credibility is on the line. I think, Mr. Speaker, that it is critical that we maintain the independence of the service commissions. That is our simple argument.

7.35 p.m.

We have circulated an amendment to a new clause 3 to the effect:

“Notwithstanding that proceedings are in the name of the Attorney General a Service Commission shall retain the right to appoint legal counsel of its choice.”

I think that is fundamental to what we are doing. If we are talking about service commissions, then they must be able to say, “I want to be represented by lawyer X or Y”, rather than the Attorney General or the Government providing some lawyer in whom they may have little confidence. That is the only difficulty we have with this legislation, really.

I think it is agreed that yes, we want to provide indemnification for the service commissions, but we do not want to compromise their independence in whatever way. I think if we do what we propose to do here, we would be doing that and an important element of decision-making having to do with the proper legal representation would then be compromised in the legislation in its current form.

In effect therefore, in some cases if this legislation is passed, this would be like giving the right to choose one’s legal representation to the other side. Mr. Speaker, could you imagine if you have a disagreement with an individual and you have ceded your right to legal representation to the other side? Obviously, you lose before you start. The independence of the Judiciary and our service commissions would then be compromised via the fact that the Attorney General can now determine the level of legal representation given to any service commission in a situation of judicial reviews. I believe that given this legislation we will see an increase in judicial reviews.

Take the Teaching Service Commission, for example. Somebody is appointed over someone else, you have judicial review, the level of representation is low, the Teaching Service Commission loses, cannot even appeal, cannot even have its own legal representative. That is our fear. We are saying simply, as legislators—although I am sure given the current Attorney General, that would never happen under his watch, but we are not making laws only for the tenure of this Attorney General—we have to exercise some care.

I thank you, Mr. Speaker.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Thank you kindly, Mr. Speaker and hon. Members for allowing me an opportunity to make a rather short contribution to this important debate on the State Liability and Proceedings (Amdt.) Bill.

Mr. Speaker, when I saw this Bill earlier this week, as we caucused on it, I decided then that I would make a contribution. I never imagined that so many varied issues would have arisen in this debate, but as a well-trained PNM parliamentarian, one always rises to the occasion, and one is always able to adapt

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one's presentation to deal with any new unexpected issues as they arise. I listened with great interest to the contribution of the Member for Point Fortin and he had some interesting points to make, some of them I propose to address as I proceed.

Mr. Speaker, the purpose of this Bill in essence, according to the Attorney General, the Member for Couva South—I want to get him right—is to permit a situation where no personal liability will attach to the individuals who form the commission subject to the litigation, and if this Bill is passed before this honourable House, the liability must now fall with the state and, that the action should go through the Attorney General. If it were as simple and as beautiful as that, we would not have had any difficulty, but one would have garnered by now that we have to look very carefully at anything that comes from the other side, particularly when it has to do with any element of the Constitution of Trinidad and Tobago.

The Member for Arouca South was very correct when she reminded us that in 1971 we had 36 seats in this Chamber. She did not tell us, but we know well that in 1986 another Government had 33 seats to its claim. During both those periods in Government, nothing was done to the Constitution of Trinidad and Tobago to cause alarm to the Members of the Chamber as it was then constituted, nor indeed, in Trinidad and Tobago. This Government has been in office two years and a few months without such a significant majority to affect the Constitution, but the things that they have demonstrated they are capable of, give us on this side and, by extension, the national community, much cause for concern. The constitution of any country, indeed ours, one of the things it does is to regulate the conduct or the relationship between, for example, the Executive and the Parliament; the Parliament and the Judiciary; the Judiciary and what have you.

We have seen this Government, and all of the debate that is taking place here today may very well fall on deaf ears, you know. We have seen, one could speak until one's throat goes dry, one could represent one's constituents' views in this Parliament, like we do week after week, it simply does not matter to the Government. This Government bullishly decides it is going on with something and it is going on with it, and the national community is very much aware of that. They are becoming more and more agitated week by week. Because we give them feedback, we come here and we represent their views, you saw it earlier today in another debate.

We expressed a view about a scrutiny mechanism in the Waterworks and Water Conservation (Amdt.) Bill, and the Government's attitude, through the Attorney General, was simply, "You could say what you want, we decide as a

matter of policy, no scrutiny for the rates to be imposed on industrial consumers and we are going ahead with that". So when it comes to matters of the Constitution, we have to be very concerned. The people of my constituency, Laventille East/Morvant, 80,000 or 90,000 of them tell me that they are concerned. So I must express these views.

Mr. Speaker, who is the Attorney General? What is the office of the Attorney General? What is his role? What is his function? Because this Bill is really about that. This Bill is about giving the Attorney General the standing to be the recipient of any legal action against any of the commissions or bodies of which we speak and, by similar token, if litigation has to be launched from those commissions, it will be coming from the Attorney General's office as well. So, the Attorney General, in the context of the polity that is Trinidad and Tobago, wears, one can say, two hats. He is a Minister of Government, and he reminded us that, not the Attorney General's Office, but the Ministry of the Attorney General, he insisted on it. I saw the sign only today. He is a Minister of Government and therefore he wears the hat of the Executive. He is also the legal advisor to the Cabinet, he functions in the Cabinet. He is a parliamentarian, of course, so he has a voice here in the Legislature, in this legislative Chamber.

Now, I said sometime ago and perhaps it was not taken seriously, I have come to the conclusion that this Attorney General wants to have powers akin to the Lord Chancellor in the United Kingdom.

Hon. Member: What is wrong with that?

Mr. F. Hinds: Nothing is wrong, except that the Constitution of Trinidad and Tobago simply does not permit it! But you asked flippantly, "What is wrong?" You do not even know! So when you line up behind the Attorney General, the Member for Couva South, you do not know. So let me tell you what is wrong.

In the United Kingdom, the Lord Chancellor wears not two, but three hats. He sits in the Cabinet, as does this Attorney General; he sits in the legislative Chamber in the House of Lords, as this Attorney General; but this Attorney General is not part of the Judiciary, the Lord Chancellor is the head of the Judiciary in the United Kingdom. So that is a hat that the Lord Chancellor wears that the Attorney General, in the context of Trinidad and Tobago, does not and cannot wear. But he wants to wear that hat too! If he does not do it directly, he does it surreptitiously and hear how. Hear how!

Mr. Speaker, now that we understand better the role, function and the perspective of the Attorney General in the context of Trinidad and Tobago, and to

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compare it sensibly in the context of the Lord Chancellor in the United Kingdom, he, the Attorney General, as he piloted this legislation, took us through some of the history. He told us about the Crown. The Member for Arouca South told us that the Attorney General might very well be taking us into the days of the Crown. And I agree with her. The jurisprudence, the approach to the Constitution at that time was that the Queen could do no wrong; the Queen could not be sued; no action could be brought against the Queen in her own courts. So she was outside of the law, as it were. In fact, it still is the case that the Queen is not legally obliged to pay taxes in the United Kingdom. She is not even to pay taxes and she is one of the richest women in the world. But, in a negotiated settlement about four years ago, she agreed to pay taxes. That is the record. That, I want to point out, is the difference between that culture and ours. They find a way to negotiate themselves out of sticky waters without a confrontation or conflagration as we are wont to do in Trinidad and Tobago. But at any rate, that is to put a greater perspective on the history as the Attorney General sought to do.

Most actions, I want to submit, against any commission, be it the Integrity Commission, the Judicial and Legal Service Commission, the Public Service Commission, the Teaching Service Commission or the Elections and Boundaries Commission, are likely to be with some political flavour.

PROCEDURAL MOTION

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I am indebted to the hon. Member for Laventille East/Morvant for giving way in order for me to move a procedural motion.

Mr. Speaker, I beg to move that this honourable House continue to sit, notwithstanding the time and the requirements of the Standing Orders, to complete the business which was allocated for today, which is, Bills Nos. 2, 3, 4, and 5.

Question put and agreed to.

7.50 p.m.

Mr. F. Hinds: Mr. Speaker, that Motion and the outcome of the vote upon it energized the Member for Laventille East/Morvant. Like their leader, I will take a drink for that. [*Member drinks water*]

As I speak, I am hearing a comment over the floor about some other thing. I merely want to say that I can boastfully say I am a sane, sober, law-abiding citizen.

I have never approached the courts of Trinidad and Tobago other than as an advocate or witness. I have never been a defendant in any matter and not very many people on that side will be able to say so. I can boast of my sanity; not all can boast so. I can boast of my sobriety; not all can so boast. I can say I have never abused or battered any woman; not many on that side can say so.

Mr. Speaker: One of things that the hon. Member must also be able to boast of is a thorough knowledge of the Standing Orders which does not permit the making of imputations that are not kind with respect to Members of the House. I am afraid that a lot of what you just said does, in fact, infringe against the Standing Orders and, accordingly, would not find itself in the Standing Orders. Please continue.

Mr. F. Hinds: Mr. Speaker, I am grateful to you and I shall be guided.

I plead with you to use your good office to ask Members on the other side to desist from casting imputations on this side equally and any time I hear it I shall bring it to your attention.

Mr. Speaker: We need to get this quite clear. Very often there are asides which do not really form part of the record in that, as you know, Members ought to be speaking to me and Members themselves encourage other Members to speak to them and not through me. I am not a bad sort, people can speak to me. When a Member responds to something that he heard which has not come through me, he is really responding to something that is quite unofficial. To start a debate on something that is unofficial I do not think should be. One has to walk with a hearing aid or pretend one is walking with a hearing aid and allow some of them to pass. I think that responding to it just opens it up. This is just the advice of a dispassionate observer.

Mr. F. Hinds: I am, again, grateful to you, Mr. Speaker. I must, at this point, indicate that given your proud and long track record as a Parliamentarian of certain genus, I can respectfully submit that you are quite right.

Mr. Speaker, as we heard earlier from the Members for Arouca South, La Brea and Diego Martin Central and as you will surely hear in this debate from the Member for Diego Martin East, the philosophy that went into the construction, preservation and entrenchment of the commissions of which we speak was to make sure that they remained wholly independent from political interference. We heard a quotation from Lord Diplock in the case of *Thomas v Attorney General*. We heard a quotation from page 136 of the Hugh Wooding Report of 1974 that formed, in

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large part, the basis for our Republican Constitution of 1976. I need not rehearse them, merely to underscore the point both made by Lord Diplock and Sir Hugh Wooding, as he then was and may he rest in peace, that independence of these institutions was first and foremost in the minds of the founding fathers of this nation as the Constitution of the Republic of Trinidad and Tobago was drafted.

Section 54 of the very Constitution entrenches or attempts to entrench those commissions. That is to say, *inter alia*, section 54 says sections 116 to 125 of our Constitution require not a simple vote but a two-thirds majority if they have to be interfered with. What we are seeing today is an interference of sort with the very commissions but by way of a piece of legislation that requires no such special majority. This Government has always demonstrated that so long as it is not there in black and white they are prepared to do it. If there was no law that says thou shall—let me not say that. Their attitude in this legislation and in other matters that have come before this House and their conduct of governmental affairs outside of this Chamber is that so long as no law says do not do it, they do it. They have no concerns for people's sentiments and for the fact that sometimes the ethos or morality of the society at a point in time lags behind the law. Sometimes, the shared ethics or morality of the society runs ahead of the law. As far as this Government is concerned, once the law says it, fine. If the law does not say it, no big thing, they can do it.

The Constitution of which we now speak does not, as it now stands in conjunction with the Standing Orders of this honourable Chamber, interfere with the right of a Member to move from one side of the floor to the next. As we discuss this constitutional amendment, as I want to call it, nothing is wrong with that. We on this side have some serious concern.

Mr. Speaker, the Attorney General, in his address in piloting this legislation spoke about the case of *Anisminic* and the question of an ouster clause. I, like the Attorney General, had the benefit of some reading in this area of law. As far as I remember, the case of *Anisminic Limited* dealt with the question of errors of law within jurisdiction. But I do not think it is necessary to take us through the tedious analysis of that case and the law that came before it and the law that followed it. *Ex parte Ostler* and such cases. Suffice it to say, I suspect his interpretation of that case was, as usual, inaccurate.

The Attorney General also told us that this proposed legislation has nothing to do with the office holder. Why does he say that? He knows full well that every Member on this side has some concern with the office holder. He knows full well the national community has grave concerns—not to disparage him in anyway—but concerns

nonetheless and we are entitled to have concerns. He tells us in advance it has nothing to do with the office holder, it has to do with the office. But the experience in the United Kingdom was this: Margaret Thatcher, when she became Prime Minister of that country in 1979 became the first Prime Minister of the United Kingdom to use the very legislation, the very Constitution—though partly unwritten—the very conventions that they had known for years in Britain and she did things that no other Prime Minister in that country ever did. She could have been described as an activist Prime Minister. Notwithstanding the fact that others did not do what she did, she did what they never sought to do and she did things that startled political analysts, academics and observers in that country.

When the Attorney General tells us it has nothing to do with the office holder but it has to do with the office, we know from our experience so long as there is no law telling us in black and white do not do it they are likely to do it. That is why we have some concerns. Therefore, we are very concerned and as the Member for Diego Martin Central pointed out, while he might be confident or some persons might be confident that the Member for Couva South as the office holder in the office of Attorney General which this legislation adds to insofar as his power-base is concerned, he may not have any concerns but some people do have concerns. What about other attorney generals operating with the same power? I have concerns myself.

Mr. Speaker, on that point it must be noted that some of the conduct we have seen from people operating on the other side of this Chamber, right in this Parliament and otherwise, we have not seen it from this side. It is perhaps a question of PNM values and traditions. I do not know what the explanation really is. I am trying to come to it and the moment I come to a conclusion I shall inform this honourable House.

Let us, for example, consider an action brought by someone against the state through the police service. I used to be a police officer and one of the things that was common to policing activity is that civilians, members of the public when you encounter them in the course of your duty, can bring you before the magistrate on what we call cross charges. You may lock a person up for assault and battery and obscene language, he may have been driving down the shoulder and a police officer operating in his legitimate duty accosts the person.

Mr. Sudama: Or for smoking marijuana.

Mr. F. Hinds: Mr. Speaker, you are hearing in this honourable Chamber. This is the point, and then I am told that I am not supposed to respond because it is unofficial. A Member is imputing certain things.

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Mr. Speaker, he may be driving wantonly and recklessly down the shoulder of the road and he is accosted by a police officer, there is a cross charge. What normally happens is that if the person succeeds against the police officer and damages are awarded or compensation, if it is in the Magistrate's Court or if it went to the High Court, damages because there might be serious damage to the person of the individual, what normally happens is that the action is brought by the individual against the police officer and in particular, against the Commissioner of Police and also against the Attorney General.

8.05 p.m.

When the matter is determined, assuming it is determined in favour of the civilian, then the Attorney General advises the Police Commissioner to make good the award of the damages and that is paid out of the police vote.

Hon. Member: You mean Registe get away?

Mr. F. Hinds: So that, if the Attorney General told us that the reason for this legislation is to avoid individual members of the commission being sued, we would have thought, based on that rationale, that he was talking about indemnification and we would have been debating perhaps, a state indemnification bill. In other words, rather than expose the individual member of the commission to the suit and to have him go into his pocket, how are his expenses in cost and damages to be met? I would have thought that with that rationale, we would have been discussing indemnification of the commissions.

So, he told us that is what he wants to achieve, but when we look at it, it is far from that. If that is really his purpose he should have come with an indemnification bill with a mechanism to make sure that the individual did not lose his personal effects, but that the commission carried the loss. So there is always, as usual, a sting in the tail with this Government; in particular, the Member for Couva South.

When, as a practising attorney, you give a man legal advice, if for example—

Mr. Maharaj: Which law report ever looked for that?

Mr. F. Hinds: Well, I am being asked by the Attorney General which law report I appeared in. I am in private practice for a very short period of time. Time will tell, but I have not been an advocate nor a defendant or accused.

Mr. Maharaj: Well, you are not privileged then.

Mr. F. Hinds: Mr. Speaker, I want to continue, undisturbed and undeterred. The Attorney General can say a lot because he speaks with two faces. I speak with one and I shall address my speech to you, Mr. Speaker, undisturbed.

Hon. Member: You have one.

Mr. Sudama: Some people do not think you have a face at all. They say you are faceless.

Mr. F. Hinds: Mr. Speaker, as I was saying, when you give a man legal advice—in fact, let me take it from another angle. When the courts of law of this country attempt to adjudicate on matters, the matters comprise facts and legal issues. It is sometimes virtually impossible to separate law from fact, and every lawyer understands that.

So that if I have to give a client advice on law, oftentimes I am giving him advice on fact. I may tell him, for example, based on my instructions, “Do not go into the neighbour’s yard again, because that will be an act of trespassing.” I am telling him about the law of trespass, but at the same time, I am telling him about the fact of going there. Why am I making this point? The Attorney General well understands that one of the difficulties in administrative law is that when the courts claim to be dealing with procedure, legal issues in procedure and not getting involved in policy matters, the courts do not want to interfere with what the executive does because of the concept of the separation of powers. So the court says it is not looking at the policy decisions, it is looking at the procedure. Was the right procedure for tendering, for example, adopted? Was the right procedure for the hiring, for example, of a member of staff at the Ministry of Agriculture, for example, properly carried out? In an action for judicial review, that is the sort of thing they will probably want to look at, but because of the difficulty, as I indicated, of divorcing law from fact, oftentimes, it finds itself telling the Government what it should not do, what the Government considers is a policy decision and then there is a clash of the Executive and the Judiciary. There have been many such clashes; the law books are replete with them.

When the Attorney General, according to this proposed legislation, takes upon himself the responsibility of dealing with the action, whether he initiates the action or he defends the action coming from someone as against the commission, *vis-à-vis* the commission, it will mean that he will have to give that commission legal advice and if he has to give legal advice, and you accept my view that it is sometimes impossible to separate fact from law, the Attorney General will invariably find himself giving advice about facts or matters surrounding the legal issues to the very commission.

As I pointed out earlier, the Attorney General is a politician; he is a Member of Parliament; he sits here in the Parliament as a part of the Legislature; he sits in the

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Cabinet so he is part of the Executive; and now he's dealing with legal issues for what is supposed to be an independent, entrenched body within the terms of the Constitution of Trinidad and Tobago. That is a very serious thing and I propose to raise an example.

Mr. Speaker, this legislation did not specify which of the commissions, it speaks of. It means that, the Elections and Boundaries Commission (EBC); it means that the Integrity Commission—

Mr. Maharaj: Mr. Speaker, I must thank the hon. Member for giving way. As I mentioned in my contribution, the Bill was amended in the other place and it is limited to the service commissions and “service commission” has a definition under the Constitution of Trinidad and Tobago.

Mr. F. Hinds: Well, there we are, Mr. Speaker. This is news to me. I was not in the Chamber when the Attorney General made the point.

Hon. Member: You leave to do what you have to do.

Mr. F. Hinds: Mr. Speaker, you will recall I attended this sitting a bit late and I take this opportunity to apologize for that, but I have not seen the amendment anyway.

Mr. Maharaj: It was circulated. You have not read your Bill.

Mr. F. Hinds: When? Where is it? Well, at any rate it is good news that the Elections and Boundaries Commission and the Integrity Commission are to be excluded.

Now, it begs the question, why did the Attorney General seek to accept the amendment coming from the Senate to exclude those? I would like him to tell me why and I would give way for that purpose, so we could advance the debate. It will help me in my further contribution. Why did the Attorney General decide to accept the amendment coming from the Senate to exclude the Elections and Boundaries Commission and the Integrity Commission? I would like to know.

Mr. Maharaj: You should have been in the Chamber when I was making my contribution.

Mr. F. Hinds: He refuses to answer that, but the answer to that question would have been very helpful, because, the reason for that, would have assisted me in my further discussion about the others. Because I may have wanted to argue that there is no real difference in terms of the constitutional establishment and the

purpose of section 54 which was to entrench, not only the Elections and Boundaries Commission and the Integrity Commission, but the service commissions as well. What really is the difference?

The rationale in 1962, was the same in 1976 and remains the same in 1998, that these institutions should remain immune to, distinct from and protected from the hands and the minds of politicians. We are transient; we come and go. Some, like the Member for Oropouche—*[Laughter]*

Mr. Sudama: I am not a transient.

Mr. F. Hinds: He has been here for so many years, he is starting to look like the Chamber in some ways, you know, Mr. Speaker. When I say so, I mean no offence to the gentleman.

Hon. Member: As long as the Chamber does not look like you.

Hon. Member: Trevor is not like you.

Mr. F. Hinds: But we come and we go.

Mr. Sudama: You will be premature.

Mr. Speaker: Order! Order!

Mr. F. Hinds: The point I am making is this, now that I have heard that the Elections and Boundaries Commission and the Integrity Commission are not within the purview of this legislation, I might simply go past that merely to say that recently, right next door to us, in Guyana, we saw a serious constitutional crisis involving their Elections and Boundaries Commission, if it is so called—I do not remember—where it was a negotiated settlement that resolved it. I do not know if the matter will wind its way through the constitutional courts of that country. But it is quite possible. It would be a sad day indeed, in Trinidad and Tobago, if that were to become a reality and, secondly, if the legislation had to go through the Attorney General. I am relieved that that is not the case.

The Member for Diego Martin Central made a very interesting and useful point. When any of the commissions is involved in litigation, whether it initiates the litigation, or is the target of litigation, then the Attorney General will, by virtue be the one in whose name the action comes or goes, by virtue of that, he will now be exercising a judgment, a discretion as to what level of legal support the particular action should carry. That is an administrative question depending on his judgment, depending on the importance of the matter, depending on the implications for the

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matter and, of course, he would have political considerations because he is a politician.

What if someone who is averse to this Government's policies in the area of teaching, a well-known teacher protester who is objecting to what the Government has done, who took strong umbrage to the Prime Minister's comments however guarded—that teachers are criminals. This man is well-known to the Government because he makes no secret of his opposition to that wicked government, assuming that that is his language, and he brings an action against the Teaching Service Commission. He is well-known for his views to the Attorney General; the Attorney General is a politician *par excellence*—

Hon. Member: Ah!

Mr. F. Hinds: In the other meaning of that term—

Hon. Member: What is the other meaning?

Mr. F. Hinds: I am speaking to you, Mr. Speaker. I will not be disturbed. The Attorney General then decides in this particular case that he will bring a Queen's Counsel from England, as he did in another case recently, or maybe two, simply to ensure that the best legal representation goes in against this little man, because you and I know that the availability of resources often influences, if not in totality, the outcome of legal proceedings. That is a sociological fact. So that this little man finds himself up against the Attorney General who brought two Queen's Counsels in order to ensure that this little man—because costs and all that would be a concern.

Mr. Maharaj: Who is he? Who is this little man?

Mr. F. Hinds: Whoever he is, or may be. A politically influenced judgment affecting in some way the outcome of this. Should the Attorney General, really, as a politician have that kind of exercise of discretion in the circumstances. We on this side submit no. Absolutely no!

Hon. Member: Why?

Mr. F. Hinds: That is one example of the way this apparently innocuous legislation, can be brought to bear upon an unsuspecting Trinidad and Tobago, but we have eyes and we see; we have ears and we hear; we have mouths and we speak, and we will continue.

Hon. Member: We have mouths and we smoke.

Mr. F. Hinds: We heard in this debate the Member for Arouca South telling us that many years ago, in 1993, one pretender who claimed and pretended to be a neutral journalist, wrote an article when the PNM government brought measures before this House to deal with certain issues in respect of, in particular the Police Service Commission, and there was a hue and cry across this Parliament, hue and cry across the country, no doubt led by that Member for Couva South; no doubt criticizing everything that we said, everything that we sought to do; and there, this supposedly independent, neutral journalist, behind the mask of the *Express*, with a wicked UNC talon in his hand, writing what she quoted was an obviously biased and wicked letter, telling the national community that the Government was trying of interfere with the powers of the service commission and it must beware.

8.20 p.m.

It was not long after that when the election bells were tolling, that he appeared for what he truly was. Like a little animated, wooden object, he stands in this House and speaks now for the UNC. The people at the *Express*, in this Chamber and in the national community know that he is an impostor. They know that he was a make-belief; they know that he pretended to be a journalist when, in fact, he was not a professional journalist; he was a pen for someone else.

I shall divorce myself from that and continue with this very useful debate. We heard from the Member for Arouca South, the Member for La Brea, the Member for Diego Martin Central and we will hear shortly from the Member for Diego Martin East who, I am told, has a full contribution to make to this debate—
[Interruption]

We are fully aware that, notwithstanding our protestations, notwithstanding the amendment that we have proposed—and that is to say that this Government should seriously consider putting in a provision in this Bill which permits the service commissions to approach any legal counsel it wishes; to permit the service commissions, if they wanted to, like most other government departments; indeed, perhaps all other government departments, to have in-house legal expertise at hand. If someone initiates an action against the Teaching Service Commission, what is wrong with that independent body having its own legal advice to deal with its own legal problem? Why is it necessary to have a politician, a Member of the Government, the Attorney General, act for it? That is not necessary.

We have proposed this amendment, but I do not expect that it will go anywhere. This Government's track record, as the old people used to say, "like stick break in their ears." They do not listen. Their attitude is simply, "is we time

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now.” They have come to government with a predisposition, believing that the PNM had a political hegemony and that we controlled and monitored things in Trinidad and Tobago for 35-plus years and that we used our political offices; that we discriminated against certain areas and certain sections of the community. As I said that, I am surprised I have not started to hear allegations from that side, as I address you, Mr. Speaker—

Mr. Speaker: Quite apart from that, the speaking time of the hon. Member has expired.

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [*Mr. C. Imbert*]

Question put and agreed to.

Mr. F. Hinds: Mr. Speaker, notwithstanding the uncharitable posture adopted by some Members on that side, I am grateful to you and Members otherwise, for permitting me to continue. I am accustomed to their uncharitable and less than parliamentary behaviour.

As I rose to my feet in this debate I remembered a quotation which reads as follows: “Never create by law what can be accomplished by morality.” It is very relevant, when one faces that Government. Mr. Speaker, while you were serving Trinidad and Tobago, making us proud elsewhere, across the Atlantic in England, it was a gentleman called Mr. Weatherhall, the Speaker of the Parliament of the United Kingdom at that time and the Member of Parliament for East Croyden—you know him well, I have no doubt, Mr. Speaker—who said—and I shall never forget it—“nothing that is morally wrong can be politically correct”. What did he mean by that? He simply meant that it was not a question of what the law says, you do and if it did not say that, you do not do it. There is an element of morality which must be borne permanently in mind. In fact, there must be a marriage of law and morality, otherwise we will legislate that people kill all babies, if we feel there are too many people in the society.

When I read on the newspaper a few days ago, the question of morality, I had a dollar in my pocket today—my Friend from Port of Spain South would not believe it—I had my dollar right here. I just checked and it is not here. I remember I walked to the bathroom and I passed this way out of the Chamber by the Members for Fyzabad and Ortoire/Mayaro. Maybe I might have dropped it, because the Member for Fyzabad is my very dear friend and I have great respect for him and I am not at all imputing, as the Member for Tobago West, that he may

have picked my pocket—not at all. All I know is that, that Member—I read the front page of the newspaper—

Hon. Member: What are you saying, that the man “tief” the dollar?

Mr. F. Hinds: No. In fact, now that I checked well, my dollar is here. What I am saying is that he put his hand in my pocket and he did it jokingly to me, his friend, and I took no objection, but some persons will take objection. That is the point. On the point of morality I need say no more. I think the message is well known: Nothing that is morally improper can be politically proper.

I shall continue. What was I saying before I was disturbed? The Judicial and Legal Service Commission remains within the purview of this legislation. The Attorney General told us that the Elections and Boundaries Commission and the Integrity Commission are out; the service commissions remain, including the Judicial and Legal Service Commission. When you give legal advice to a client or to an institution, whether it is the Judicial and Legal Service Commission, a private company or an individual, over a period of time, a natural relationship develops. If you accept that, do we, in Trinidad and Tobago want any relationship so developing between the Attorney General, whoever he or she, however briefly, may be? Do we want a working communicable relationship developing between the Attorney General and the Judicial and Legal Service Commission in this country?

The independence of the judiciary is to remain sacrosanct. Justice must not only be done, but it must manifestly appear to be done.

8.30 p.m.

Mr. Speaker, do we want a judge, feeling that he was wronged by the Judicial and Legal Service Commission, as we saw recently in this country, suing the Attorney General who must relate to the Judicial and Legal Services Commission, to answer the charges or allegations made? Is that what we want for Trinidad and Tobago. I call on the Attorney General and Members of the Government to think clearly about where we are going. Think soberly about what we are doing. As the calyposian said “think it over; think it again”. Oftentimes, in human history things appear very harmless and innocuous at the time of their origin and then they grow in significance later.

So, I am placing my plea on the record. If we are talking as I have indicated earlier, with respect to individual members of these service commissions not losing their cars and houses—to paraphrase the Attorney General—then measures other

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than these can be taken in order to ensure that. I gave the example of the police service where the moneys are not, in fact, paid by the individual police officer or the Police Service Commission, but by the police service out of its subvention.

Mr. Speaker, other arrangements are being made and can continue to be made. If the Attorney General wants to consider an indemnification mechanism he can come with that. He does not have to approach it in the manner in which he is doing it, with all of the pitfalls that we have so painfully and painstakingly pointed out. If the Attorney General feels that these service commissions are without proper legal advice and/or representation, two things can be done. They can purchase legal services whenever they need it; no problem. The economy of Trinidad and Tobago, up until two years ago, was strong and vibrant. Sadly, it is not so today. If on the other hand they feel that it will not be efficient to purchase legal services when they need it—I myself used to be a legal advisor in one of the government departments. In that small legal department we did an excellent job. We were inspired by the then Minister of Trade and Industry [*Interruption*] proudly I say, the Member for Diego Martin Central. Much was achieved and accomplished. We had to negotiate. The Member for Naparima will know quite well that the Ministry of Trade and Industry in conjunction with the Ministry of Foreign Affairs was involved with negotiating bilateral treaties with various countries. I had the pleasure of meeting the Member for Naparima for the first time at one of those negotiations.

Our little unit at the Ministry of Trade and Industry along with the lawyers from the Ministry of Foreign Affairs came together and negotiated under the guiding hand of two PNM ministers, a successful arrangement with a country not far from here. The Member smiles in agreement, Mr. Speaker. We did the same with the United States of America, France and Mexico. I say that, not boastfully, merely to demonstrate that inside of these service commissions there can be legal units of one or two legally trained officers and they can deal with this.

So, in conclusion, if the Attorney General is sincere in that he is concerned, and that this is about making sure that individuals do not suffer pain and loss, I would tell him that that has not been the practice. Individuals in the public service are never made to pay unless they are personally liable and criminally responsible for an action and falls, by virtue of that criminality and illegal conduct, entirely outside of the ambit of the protection of the service, then that individual bears his own costs. Other than that, it is the institution that carries them so the Attorney General's argument is a non-starter. There has to be more in his mind and I want

him to tell us what really is the driving force. Is this another small piece in the jigsaw puzzle that he is putting in place hoping that when we wake up one morning—

Before I close, I must relate a story I heard about a frog that is placed in a container of cold water which is then placed over a slow fire; the water becomes tepid then it becomes lukewarm, warm, hot and then it boils; then the frog perishes. But, the trouble is during that process, the frog does not recognize the change in temperature as it goes higher and it remains foolishly in place and it dies foolishly. Is that what we want for Trinidad and Tobago? On the other hand, if you take a frog and drop it into a container of boiling water it leaps out because there is a sudden change in temperature.

The point I am making is that this Attorney General has been trying to treat this Parliament and this country like a frog. He is turning on the fire and the water is changing temperature bit by bit and while we remain in a silent stupour one morning we would get up and find that the water is boiling around us and by then it may be too late to jump out; even Members of the Government will say, “Oh my gosh, the Member for Laventille East warned me five years ago and I did not take heed; the Member for Diego Martin East warned me and I did not take heed”. They will then see the real face of the Attorney General as he appears smiling before us one morning; our constitutional freedom gone; our constitutionally entrenched rights gone; service commissions under his control. He has information on this one and that one so he knows who to tell to say what and who not to tell anything. He is in total control.

Mr. Speaker, I am now visioning the year 2010; what a horrible day that would be.

Mr. Speaker, in order to preempt that, every single member of the People’s National Movement, up and down Trinidad and Tobago, and those who are not PNM but who are feeling the burdens, weight and yoke which is this Government; everyone of us is lining up; man to man, woman to woman; number by number for when the next general election is called in this country. We are committed to voting this Government quickly and safely back from where it came and relieving this country of the burden and trials and tribulations that face us.

Mr. Speaker, I thank you.

8.40 p.m.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, I would try to make the point very simple so that Members of the other side who, as the Member for Siparia has rightly pointed out, may very well have simple minds, will understand.

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This Bill before the Parliament seeks to give members of service commissions immunity from prosecution or the effects of prosecution. This is quite a complex issue because on the one hand there is the problem which the Attorney General has pointed out that members of service commissions are subject to exposure to risks in the legitimate performance of their duties and so forth. Members of a commission might very well commit some act or take a decision and then find themselves subject to prosecution in their personal name.

The point has been made, and it has happened. I am not aware, however, if such a matter has occurred that any member of any service commission has been successfully subject to a levy on their personal possessions or any such punitive actions. It is really a moot point even though members of the commission are, in fact, subject to prosecution.

I am not sure that it has ever been taken to the point where they have suffered loss and, perhaps, the Attorney General can enlighten me if this has ever happened.

Mr. Speaker, the other issue that arises here is that by giving members of service commissions immunity, as it were, from the effects of prosecution for acts they may have committed, one also gives them a licence to misbehave because, if I am a member of a service commission and I know that whatever I do I will never be sued or charged in my personal name, that I am immune, and that the Attorney General will have to deal with the problem, then an irresponsible member—and they are all human beings like us, they are men and women like all of us—could take the position that the Attorney General will have to deal with this matter and I could do whatever I want. I can act inequitably, I can do things in an unjust manner and that is the Attorney General's problem. I can deny people promotions, I can prevent persons from attaining positions such as the position of Police Commissioner, for example, where the person who, as of right, should have been appointed as the Commissioner of Police was denied that opportunity because the sitting commissioner's term was extended. So, there is a situation where the person who believed that he should have been Commissioner of Police could have sued the Police Service Commission.

The Police Commissioner would have been immuned from the process because if this Bill was in effect, the Attorney General would have jumped in front and dealt with the situation. It is a double edge situation and, therefore, I completely agree with the amendments proposed by this side where the Commission should, in fact, chose its own representation and be allowed some input into the arguing of its own case, for a different reason to the one advanced by the Member for Diego

Martin Central which is totally legitimate, that there may be an unscrupulous Attorney General who might seek to embarrass or humiliate a member of a service commission by providing a very weak defence on a matter where it is a case where the service commission has a strong case where, in fact, they were right in what they did but the Attorney General decides to embarrass or penalize the commission, by choosing an inexperienced counsel, and deliberately providing a weak defence; there could be some element of political interference.

Mr. Speaker: Hon. Members the sitting is suspended for 45 minutes

8.45 p.m.: *Sitting suspended.*

9.30 p.m.: *Sitting resumed.*

Mr. C. Imbert: Mr. Speaker, before we took the break, the point I was making is that we consider it absolutely essential that the service commissions be given the power to retain counsel of their choice, when matters are brought against them. I gave several reasons, including the fact that an unscrupulous Attorney General could deliberately cause a weak defence to be made and thereby humiliate a member of a commission.

There are other quite plausible scenarios which could occur as has occurred, I am told, recently. There could be a situation where an Attorney General decides that he would select as defence counsel, a law firm owned by a relative, since he is the person who would have the authority to decide who represents whom. An unscrupulous Attorney General could select a law firm owned by his wife. *[Interruption]* These are serious matters.

Members on the other side continuously fail to see what is in front of their faces, where ministers such as the Minister of Finance and Minister of Tourism come to Parliament with budget addresses, enacting taxation measures which benefit his friends and awarding huge sums of money to his friends and associates. There could be an unscrupulous Attorney General deciding that he would give the contract to his wife. Let us take the scenario further. An unscrupulous Attorney General decides that in the matter of the service commission versus another person, a company such as Daltons or Visiers would be retained by the state as defence counsel. Further, an unscrupulous Attorney General could then decide that he would pay that firm \$10 million to handle this matter, then settle it out of court. What would happen? His wife would receive \$10 million in a contrived arrangement, quite improperly, all because this Bill gives such an unscrupulous Attorney General the opportunity to do so.

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For this reason, I do not understand why the Attorney General is resisting our amendment which says that the service commission should be allowed to chose their defence counsel. That would remove all opportunity from an Attorney General, perhaps, in another administration, from interfering with this process. Why do they want to give the Attorney General this power, to select the law firm of his choice and to decide whether a matter goes to appeal?

There can be a situation where an unscrupulous Attorney General decides—
[*Interruption*] Mr. Speaker, I am being distracted. Could I ask for your protection, please?

Mr. Speaker: It is not so serious that you cannot proceed.

Mr. C. Imbert: Thank you. There is a situation where this unscrupulous Attorney General decides that he has lost a matter at the puisne level and he is not going to appeal; there can be a situation where a member of a service commission believes that they have acted properly; they are sued by a public servant or someone else; goes to the High Court and the Attorney General puts up a weak defence, all the while paying his wife \$10 million for this weak defence. After losing the case at the High Court because of the deliberate weak defence, they are not appealing. A sum of \$10 million would be in his wife's pocket. What about the injustice to the member of the commission? He could not choose his lawyer and then cannot decide if this matter goes to appeal.

I am sure we would hear all sorts of convoluted arguments from the Attorney General, but this is a real scenario. I do not want to hear about previous positions allegedly taken. No PNM Cabinet ever made any decision to do this. This is the problem that Members on the other side do not understand. All sorts of extraneous and absurd matters come before Cabinet. It is only when there is a strong and perceptive Cabinet that matters which should not go through are stopped. Even if Attorneys General in other administrations were of the view that this should be done, this matter was never approved by any PNM Cabinet.

I am asking the Attorney General not to use that as a reason to excuse what he is doing. This matter has gone to Cabinet. That Cabinet over there has allowed the Attorney General to do this. I am telling them that they do not understand what they are doing. They are opening themselves up to serious danger. The Cabinet I am referring to is the one of which I was a part. If the Attorney General can produce documentation to show that legislation was prepared, brought back to the Cabinet and went through the Legislative Review Committee for tabling in this Parliament, that gives effect to the provisions which are on the table today, I will stand corrected.

9.40 p.m.

That is quite irrelevant, Mr. Speaker. One must guard against persons who are willing to abuse the public trust.

The point was made by Members on this side about the credibility of the Government in power. Look at the situation which occurred in the Parliament today in answering the questions. When the time ran out and it was directed that written answers be provided, I said that I would get the answers. When I see the arrant nonsense contained in those answers, in a case where a Minister was asked very serious questions about a contract which caused much confusion in Trinidad and Tobago, where a report was laid in this Parliament, where persons were accused of unethical conduct; where the Prime Minister stood right there and said that the chips can fall where they may and the government would be resolute and take action, it begs the question of credibility.

How can one in all conscience accept an answer such as this? I will illustrate. I had asked the question whether certain contracts on the Piarco project had been terminated. If the answer was in the negative, I asked that the Minister say why. The answer to part (a) was no—one word. The answer to part (b) was: “We handed that over to NIPDEC, so we do not know”. The answers to all the other questions are of similar ilk.

When we asked this Government why they have not dealt with matters of public trust in a certain way, they told us they do not know anything about it because NIPDEC is handling it. That is scandalous! It is an example.

In her presentation, the Member for Arouca South made the point that we cannot trust the Attorney General. We cannot [*Words expunged*] This is what we on this side are saying.

Mr. Speaker: I think that the hon. Member is going beyond the bounds of propriety. To stand there, as a Member of the House, and say that you and your side cannot do certain things is a very clear imputation. You know that you cannot make imputations. If you want to come on a substantive motion and make certain suggestions, you can do that, but your statement goes beyond an imputation. It is not right and should be expunged.

I would prefer if you get on to a different leg.

Mr. C. Imbert: Mr. Speaker, as another example, we heard a contribution from the Member for Pointe-a-Pierre that we on this side cannot trust Members of

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the Government to do the right thing and, therefore, we do not want any legislation on the books which gives members of that Government power to interfere with the public trust. The Member for Arouca South made the point of the distribution of water trucking contracts announced in this Parliament by the Minister of Public Utilities. The Member for Pointe-a-Pierre, for 90 per cent of his contribution sought to defend what he termed the equitable distribution of water against the charge that we do not trust Members on the other side to be fair and equitable in their dealings.

This strikes at the root of what we are challenging here, Mr. Speaker. We believe that members of service commissions should be given the right, as enshrined in law, to choose their own legal counsel in matters where members of the public or persons subject to service commissions are aggrieved and have brought actions against them. We say so because we have seen numerous instances where, in our opinion, members of that administration are prepared to betray the public trust.

An example of this is water trucking. We hear all sorts of responses, such as mischievous. What are the facts? The Minister of Public Utilities announced in this Parliament today that because of a crisis in the water sector, because of a phenomenon called *El Niño*, there would be a water trucking programme as of tomorrow.

What is the reality? The Minister of Local Government, in his incompetence and ineptitude and whatever other reason, has delayed the commencement of the normal process of water trucking for 1998. Where for a number of years it is normal in Trinidad and Tobago to start water trucking in February, we now have a situation where it is April, there are only two months left in the dry season and the Minister of Public Utilities, taking basket from the Member for Pointe-a-Pierre, comes here to announce the normal water trucking situation.

Listen to what he said in that announcement, that is why we cannot trust them. He listed 10 corporations. He said that these 10 corporations would have some 176 trucks in service beginning tomorrow. I have done some calculations because Members on the other side do not want to hear. Out of the 176 trucks, 160 would be serving UNC corporations and 16 would be serving PNM corporations. Is that equity?

I hear muttering that they do not have water. They are telling me that 10 per cent of the allocation for water trucking goes to PNM corporations and 90 per cent to UNC corporations. They are trying to make us believe that this is based on

scientific principles and that these 90 per cent of areas do not have water and only 10 per cent *[Interruption]*

Mr. Speaker: Order, please!

Mr. C. Imbert: Mr. Speaker, it is the inequity and the betrayal of public trust that causes us to insist on this amendment. We cannot trust this Government. They come here and announce with a big gambade and carry on for the media, a national water trucking programme of which 90 per cent goes to the UNC and 10 per cent to the PNM. I ask this Government: What is the point of this WASA hotline?

9.50 p.m.

Mr. G. Singh: Would you indicate how many trucks WASA is servicing for the dry season? It is 70 trucks, and they serve the areas where there is pipe-borne water which are not getting a regular supply, and those areas are primarily the Opposition areas.

Hon. D. Singh: Tell him. He knows that.

Mr. C. Imbert: Mr. Speaker, I would expect the Minister to come with some sort of flimsy defence to the cold, hard facts, but I will dissect that piece of nonsense.

There is a situation where there are 176 trucks; 160 for the UNC, 16 for the PNM, 70 trucks and nothing in this address by the Minister tells us how those trucks are to be allocated and I challenge the Minister to tell me that the majority of those 70 trucks would be utilized in PNM areas. I do not believe it. I am certain if one does an actual count of those 246 trucks, 176 plus the 70, one would see that the vast majority would be allocated to the UNC areas. The Minister could say what he wants.

Mr. G. Singh: Would the hon. Member for Diego Martin East acknowledge that the majority of the PNM constituencies have pipe-borne water as against the other areas?

Mr. Speaker: Can we return to the Bill which is before us?

Mr. C. Imbert: Mr. Speaker, I would try to return to the actual clauses in the Bill as quickly as possible. It is a point I am making. I agree with you that because of the Member for Caroni East's flimsy response that we are entering into a situation that may not lead to any productive conclusion, and I expect that kind of foolishness from him. The fact of the matter is that this is a clear demonstration, a

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declaration of inequity, just like the road improvement fund where over 90 per cent of the allocation has been spent in UNC areas in 1997. That is why we cannot trust them.

Hon. Member: What did you do?

Mr. C. Imbert: We spent 50/50. All the reports which we laid in this Parliament are testimony—it is in the *Hansard*—that we spent 50 per cent in UNC's constituencies and 50 per cent in PNM's constituencies. It is on the record. I would bring it for you.

Mr. Speaker, there is a pattern of behaviour why the Attorney General is resisting this simple amendment. Why does he want to deny the members of service commissions the right to choose counsel? Look at the situation of the chief justice where all sorts of scandalous allegations were made regarding threats on the person of a judge, and that matter went to the Privy Council. There were all sorts of serious allegations made about the conduct of the former Chief Justice. If he did not have the opportunity to select counsel of his choice and take the matter to the Appeal Court and to the Privy Council; and if the Attorney General had a problem with that Chief Justice and decided to be malicious; and made sure that the Chief Justice loses the case at the High Court and embarrassed and humiliated him; and denied him the right of appeal; this would have been a travesty. And this is the situation which we can have.

It is a clear example where the head of the Judicial and Legal Service Commission, the highest judicial officer in the land, is accused of improper conduct, but at least he had the opportunity to choose his own lawyer and the opportunity to argue the case all the way to the Privy Council. With this new legislation, what would a Chief Justice do? What would happen now if the sitting Chief Justice is accused of improper conduct by a sitting judge and the Attorney General decides he does not like the present Chief Justice and decides he wants to spite him and will not allow him counsel of his choice as head of the Judicial and Legal Service Commission thereby embarrassing the present Chief Justice? It could happen, because the Attorney General is refusing to accede to our simple amendment.

I want him to tell me why. Why would he not allow a member of a service commission to choose his own counsel as of right? Why does he not put it in the legislation? This is why we have to raise these concepts and say that there are suspicions that the Attorney General wants to give his friends and his family contracts. He wants to victimize persons in service commissions, he wants to humiliate persons in service commissions, and he wants to protect persons in service commissions.

As the Member for Laventille East/Morvant pointed out, there could be a decision where the Attorney General would decide to take a matter to the Privy Council when it was not required simply to embarrass and penalize a member of a service commission with whom he had a personal grouse.

Mr. Speaker, I would like to hear the Attorney General's arguments. I want him to satisfy me. The Attorney General is free to do whatever he wants. He could say what he wants, he could do what he wants, but I would like him to satisfy me as to his reasons for denying service commissions the right to choose legal counsel enshrined in the legislation.

All sorts of statements have been made tonight, but that Attorney General was being accused of conspiracy to commit murder. It is a fact. *[Interruption]* It is true.

Miss Nicholson: He should be sent home.

Mr. Speaker: Where the hon. Member is going is very much below the belt; honestly it is. In this House we try to give hon. Members a certain amount of latitude. For one, you are simply repeating things which have been said by others. But to try to introduce into this House things against a Minister and put into the record that a Member was accused of something—not suggesting that he was ever convicted or anything of the sort—is quite absolutely unnecessary. I really wish that we would consider what we are saying. That is not right. I am sure you can do better than that.

Mr. C. Imbert: Thank you Mr. Speaker. If you will permit me, the example was used merely to illustrate a situation where certain members of the community could have reservations about the sitting Attorney General. That is all.

Mr. Speaker: The point I am making is, the several points which you have made during your contribution have all been made either by the Member for Laventille East, or by the Member for Arouca South and, strictly speaking, it is a repetition of arguments which have been used, and the Standing Orders really do not permit it. We do not want people to come here and their constituency say they have not spoken, but when one uses this forum to denigrate persons, I do not think it is right.

Mr. C. Imbert: Thank you, Mr. Speaker. The point I wish to make is that I see this piece of legislation as a thinly disguised attempt on the part of the incumbent Attorney General to control the service commissions. If he is making the point that the purpose of this legislation is to preserve the independence of service commissions, I would like him in his response to satisfy us on this side that

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this is not the case. This is simply the point I am seeking to make. I would like the Attorney General to satisfy us.

Mr. Speaker, I would summarize now. I would like the Attorney General to satisfy us that he is not seeking to control the service commissions, and that he intends to allow them the freedom to choose legal counsel; the freedom to let a matter go to appeal and the Privy Council. This is not the thin edge of a wedge because there are other matters which are laid on the table of this Parliament which deal with service commissions, and there is a situation of parliamentary oversight of service commissions which would come up and already we are hearing noises from the service commissions and the legal profession that they are not in agreement with this and they see a pattern of legislation.

It is out of recognition of concerns expressed in the community as to exactly where this Attorney General is leading us. Where is he going? I am asking him to satisfy us on this side that he has no devious intention with this legislation.

Thank you.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, in responding to this matter, I think it is important for us to examine what is the role and function of the Attorney General. Unfortunately, the Opposition, although it has enjoyed government, does not seem to have appreciated under what constitutional principles the Government operated.

Mr. Speaker, under the present set-up as exists now, the Attorney General provides legal advice and representation to members of service commissions including the Judicial and Legal Service Commission.

10.05 p.m.

The functions of the Judicial and Legal Service Commission—as all service commissions—are not to decide cases. Its functions are limited and involves discipline, appointments and transfers. Any action against the commission relates to actions in relation to any conduct that it would have done as part of those functions, not in relation to cases. Under the existing set up, when the proceedings are filed—constitutional or judicial review—the Attorney General provides legal representation. That has been the position since time immemorial. That has happened under the PNM administration and under the NAR administration.

As a matter of fact, the very case that has been referred to, was the case of a judge against the Judicial and Legal Service Commission. When that case was

filed, it was the then Attorney General who had to provide legal representation to the Judicial and Legal Service Commission. Therefore, Mr. Speaker, the Judiciary and the commission are all part of the state. There is no existing right of any commission to say which lawyer it wants or which it does not want.

Let us assume that a minister of works in this country was corrupt; he was involved in smuggling gold from Guyana. Assume that minister broke up the contracts and gave to his friend. Assume he used his wife to smuggle gold into Trinidad and Tobago. Assume that a member of the public filed a constitutional motion against the state for the action of that minister. That minister cannot dictate to the state or to the Attorney General which lawyer he wants. Under the Constitution of Trinidad and Tobago, the state, through the Attorney General, decides which lawyer he gets. If he makes a mistake, if he is corrupt, if he has misused or abused his power, then he is accountable to Cabinet and to Parliament. A Member of Parliament could file a motion for misconduct against the Attorney General. This is how the system operates.

If a commission or any arm of the state is entitled to have legal representation of its choice, then the Treasury may not have sufficient money to pay for that. That is why under the present set-up the judicial arm of the state—there was a case in Trinidad and Tobago in which a lawyer filed proceedings against the state for the contravention of his rights by a judge. When that case was filed, the Government of the day, through the Attorney General, communicated with the Judiciary and provided legal representation. The Attorney General decides the legal representation, it is not the choice of the Judiciary. This is so because the Attorney General, under the Constitution of Trinidad and Tobago, performs a dual role. He has his duty to the Cabinet and the Government, but he is also the protector of the public's interest. Whether it was Mr. Russell Martineau, Mr. Keith Sobion, Mr. Anthony Smart or Mr. Karl Hudson-Phillips, whoever the holders of the office was, that was the function and the duty they performed.

The existing rules are to the effect that the executive arm of the state provides representation to the judicial arm of the state and to the executive commissions, including the independent commissions. That is why the suggestion from the Opposition is quite odd. Under the present set-up, which would not be affected by this Bill, if Mr. "A" files a constitutional motion for the violation by a judge, the Judiciary would not be entitled to have its legal representation; which particular lawyer it wants. It is very strange that the Opposition has said that it wants this amendment.

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When the vote was taken on this Bill in the other place, the Senate agreed. Mr. Speaker, I would like, with you leave, to refer to parts of the contribution of Sen. Martin Daly on this Bill. I am doing this in the context that the Opposition does not understand how Government operates. Under the Constitution of Trinidad and Tobago, the Attorney General is responsible for legal affairs and for legal representation in respect of the state. The state consists of three arms: the Judiciary, the Executive and the Legislative arm. No arm of the state is entitled to say that it wants any particular legal representation. It can say that, but the state is not bound to give particular legal representation.

Mr. Speaker, it makes sense because if it were otherwise, there would not be a Solicitor General's Department. The Solicitor General, under the laws of Trinidad and Tobago, is head of the civil department and, in effect, he determines these issues. He makes these representations and has these consultations. He is not employed by the Cabinet, he is employed by the state, but accountable to the Judicial and Legal Service Commission. All the legal officers of the Solicitor General's Department are, in effect, accountable in that form.

When one says the Attorney General, under a constitution like ours, it is that department because it is recognized that there must be some functionary to deal with these matters. That is why the Attorney General is the spokesperson for the Judiciary in the Cabinet. If the Judiciary is sued, it is sued in the name of the Attorney General. Are the Members on the other side saying that there was interference with the Judiciary by that Government? Is it the contention, because proceedings are filed against the state in respect of violations by the judicial arm of the state, and the Attorney General is representing the state and the judicial arm in those proceedings, that the Executive arm interfered with the independence of the Judiciary?

Mr. Speaker, what this shows is that they are admitting that they know of things which we do not know about. Because, this has been happening all the years in Trinidad and Tobago.

10.15 p.m.

Mr. Speaker, I have given an instance of the judicial arm of the state. A case had been cited of Endell Thomas and the Attorney General. That case itself demonstrates what has happened. Endell Thomas had a complaint against the Police Service Commission. He did not sue the Police Service Commission, he sued the Attorney General. And it had to do with alleged contraventions by the Police Service Commission against him and the matter was in the name of the

Attorney General as representing the state. Is the Opposition saying that because the Attorney General had to discuss legal representation with the Police Service Commission, that the executive arm interfered with the functioning of the Police Service Commission? Mr. Speaker, it is really unthinkable that the Opposition would come here and make these submissions.

Mr. Valley: Mr. Speaker, if the hon. Attorney General would give way?

Hon. R. L. Maharaj: No.

Mr. Valley: I can understand why the Member would not give way.

Hon. R. L. Maharaj: Mr. Speaker, the Opposition spent several hours repeating itself and these were some of the same things that we heard in the other place. With your leave, I read Sen. Martin Daly's contribution on March 10, 1998, because he is an experienced lawyer and a distinguished Senator: He said:

“The thing is, in a sense we are discussing a phantom problem because we are using lofty ideals of independence and so forth. The fact is that the members of a public body are sued, they go to the Solicitor General to get, obtain and pay for the lawyers to represent them. Any idea that they have this kind of lofty independence, is immediately destroyed by the fact that they are completely dependent on the Attorney General's Department and on the Attorney General's vote—I can tell you from personal experience the significance of the Attorney General's vote—for the funds to pay those lawyers. From the day they are sued, they are completely dependent on the Attorney General. Whatever constitutional independence they have in the performance of their functions, in a very practical way they are completely dependent on the Attorney General. Therefore, we have to be careful when we say a measure like this will destroy their independence, and so forth.

The fact is that proceedings are conducted by lawyers, either in full-time employment of the state or outside lawyers are sometimes retained if the case is one of difficulty or public importance, to work together with the lawyers employed by the state, assigned by the Solicitor General. I think it is also important to know, as a practical matter, that the Attorney General does not, in my experience—and it is long—handle civil litigation himself on a day-to-day basis. I have never, in my experience, received instructions directly from an Attorney General and I have done cases for the state—and I regard it as a great honour—under three different governments. All of my dealings are with the Solicitor General and the Solicitor General's officers. Depending on the

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type of matter, you may or may not have a conference with the Attorney General in the course of carrying out your instruction, but the litigation is run by the Solicitor General. The Solicitor General, albeit in consultation with the Attorney General, chooses the lawyers. We have a very good track record in Trinidad. I would take this opportunity to pay tribute to the various holders of the office of the Solicitor General, who have somehow managed to persuade successive Attorneys General, to appoint counsel without particular regard to political affiliation.”

He, in effect, went on and he supported the Bill. He said, in principle, that is how it works.

Mr. Valley: Mr. Speaker, Sen. Daly is from the other place, and if he is quoting Sen. Daly, he should quote him. If the Member would give way, just for the record.

Hon. R. L. Maharaj: Mr. Speaker, I will not.

Mr. Valley: If he is not giving way because—

Mr. Speaker: What the Member for Diego Martin Central is doing cannot really be done. Because one could get up, even on a point of order or one could get up and ask the Member to give way. What you are really doing is asking him to give way. As you know, he is not entitled to give way. He does not have to give way. So that, once he does not give way, you are not entitled to make the contribution that you wanted to make.

Mr. Valley: I am asking for—*[Inaudible]*

Mr. Speaker: But he said, no.

Mr. Valley: Would you give way?

Hon. R. L. Maharaj: No, Mr. Speaker. The Opposition had enough time to make their contribution. They were heard and in these circumstances, I am not going to give way. When the vote was taken in the other place, “*Question put and agreed to.*”. There was no dissent. I am reading from the *Hansard* of March 10, 1998, “*Question put and agreed to.*”. Well, Mr. Speaker, if there was no division that speaks for itself.

Mr. Speaker, it seems to me that the Opposition does not know what it wants to do. What has happened is that they have not read this Bill, they do not understand it, they came here and talked about all sorts of things which they do not understand.

Imagine the Member for Arouca South quoted what Lord Diplock said about insulating the independent commissions from political interference. Under the present set up, how does the Attorney General provide legal representation for the Judiciary? Here it is, the state is being sued in the name of the Attorney General and all this Bill does is that it says that they would not be personally liable. How does that interfere with the independence of the service commissions? What was going to interfere with the independence of service commissions is when a leader or one of the leaders in Government—it seems to me that the real leader of the PNM is Sen. Nafeesa Mohammed. Because she took the right position in the Senate. She took the position which ought to be taken by any responsible opposition.

The Member for Arouca South, who is fighting for leadership, came here, and it was very significant, when her time expired, the Member for Diego Martin East did not get up to move any extension. He turned to Laventille East/Morvant. It is because both of them are fighting for leadership that they do not have time to read the Bill.

Mr. Sudama: Where is Valley?

Hon. R. L. Maharaj: He is in the valley of death. It is only a matter of time.

Mr. Speaker, she quoted what Lord Diplock said. What relevance does that have to this debate? It has none whatsoever! What Lord Diplock said had relevance to what the Leader of the Opposition was doing when he was in Government. As a matter of fact, it was the policy of that administration, of which the hon. Members for Diego Martin East and Diego Martin Central were members, to abolish the Police Service Commission. The PNM administration wanted to abolish the Police Service Commission and create a Cabinet-appointed committee to deal with the police service. As a matter of fact, the Leader of the Opposition said that both the Police Service Commission and the service commissions had outlived their usefulness in Trinidad and Tobago. They come here now to talk about independence of the service commissions.

Mr. Speaker, this Bill is to promote the independence of the service commissions. As a matter of fact, they would not understand, for other people, how it can intimidate and harass you, if you have judgments for cost and damages hanging over your head. It seems to me that the Members of the Opposition live in another world. As a matter of fact, I would have thought that they would have known that in the matter of *Justice Crane v. the Members of the Judicial and Legal Service Commission*, approximately over \$5 million in costs are outstanding, according to the taxation of costs. On October 8, 1997 attempts were made to levy

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those costs against the individual members of the commission. For them to say that this has not happened, they do not know it has happened. As far as they are concerned, that is all right. That is all right! Allow that to be levied, but what they would support is an indemnity.

Mr. Speaker, an indemnity Bill is one where they have to go through all that and then claim indemnity from the state. If there is an indemnity bill, the members of the commission will have to subject themselves to prosecution and then they would have to claim indemnity. But when their leader filed a case and he had to pay costs—and the cost was not \$6 million, the cost he had to pay was about \$800,000—they went to the country and said that is a violation of democracy. Today in this Parliament, they are saying that it is a violation of democracy for the state to take steps to protect independent members of a commission from having to pay costs. They went about the country in a matter in which the Leader of the Opposition and his lawyers consented to judgment. They did not oppose the taxation of the costs, agreed to it, did not appeal, and then went to the country and said that was a violation of democracy. Now they are saying it is also a violation of democracy for the state to take steps to protect people who would be like their leader and have to pay costs if steps are not taken to protect them. Mr. Speaker, the leader wants forgiveness, he wants amnesty, he wants it waived, but they would not vote and support a measure which would give protection and security to members of independent service commissions.

Mr. Speaker, this measure did not come from the Government. This measure was requested by the service commissions. The service commissions requested, in May, 1997, that the Government take steps to introduce legislation to amend the Constitution to provide relief for this nation. This matter was studied by the Law Commission and the Law Commission had the necessary consultations. The chairman of the Law Commission, who is also a member of the Judicial and Legal Service Commission, held consultation with the commissions, including the Judicial and Legal Service Commission. This Bill was submitted to them and they are in total agreement with the Bill.

Mr. Speaker, to give the impression that this is not safeguarding the rights of the commission and undermining and subverting the independence of the service commissions, is all part and parcel of a ploy by the Opposition to come and criticize everything to try to give the impression that they are working. As a matter of fact, it was very astonishing that the Member for Laventille East/Morvant did not even know that there were amendments in the Senate. He did not even read the amendments he got. He did not even read the Bill, but it just goes to show that—

Mr. Hinds: Mr. Speaker, point of order.

Mr. Speaker: Which Standing Order is being infringed?

Mr. Hinds: Point of order. Standing Order 36(5).

Mr. Speaker: Standing Order 36(5) says, "No Member shall impute improper motives to any other Member of either Chamber." I do not think that is the case. Please continue.

Mr. Hinds: [*Inaudible*]*—*to read the Bill and the amendment.

Mr. Speaker: That Standing Order has not been infringed. Please continue.

Hon. R. L. Maharaj: Thank you very much, Mr. Speaker. I would like to appeal to distinguished and honourable Members of the Opposition, that they must read and study their Bills. I notice, and I congratulate the hon. Member for San Fernando West, he really could not have joined this debate. As a lawyer, he knew he could not have joined this debate. Because, after listening to contributions made by the Opposition, he could not even get up and say I support these contributions. I congratulate the Member for San Fernando West, for, in effect, recognizing that he could not support these contributions.

10.30 p.m.

Mr. Speaker, another point that was raised, I do not think that they understand this ouster clause. They are saying in one breath that the commissions are independent and therefore they cannot be interfered with and they are quoting ouster clause that the courts do not have jurisdiction and they are also saying that the courts can now interfere with decisions of service commissions. The fact that the law is, that notwithstanding ouster clauses, the courts can enquire into decisions made by service commissions, demonstrates that what service commissions do is amenable for review in the courts. If they are amenable for review in the courts then obviously they are likely to be sued. If they are likely to be sued and the existing practice is that the Attorney General can present them with legal representation, then it is no change of the law. It is merely giving effect to what already exists.

What they are trying to do is get an amendment to the Constitution of Trinidad and Tobago which cannot be done in this indirect way. What they want us to do is amend the provision of the Constitution which says that the Attorney General is responsible for, in effect, legal representation on behalf of the state. The state involves the judicial, executive and legislative arms. That section cannot be

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amended except it is passed with a specified majority. If one amends a law to say that the state—if another provision is made in order to undermine that section, that amounts to an alteration of that section. This amendment cannot, in any event, be entertained because it would amount to altering the Constitution. This Bill before us is not a Bill to alter any provisions of the Constitution. It is a Bill to amend the State Liability and Proceedings Act.

They have talked about morality. Morality is important. Yes, we agree with that. I would not respond to what the hon. Member for Diego Martin East has said because he said nothing. He made no contribution in this Bill as far as we are concerned and his contribution really has no content. Mr. Speaker, morality is important and I would have thought that what they would be concerned with is the morality in supporting a measure which would, in effect, ensure that the independent service commissions work in accordance with all the constitutional principles that have existed in Trinidad and Tobago.

On the question of trust, whether they like this Attorney General or not, the Bill has nothing to do with that. This Bill has to do with the office of the Attorney General. One does not support a measure or refuse to support a measure because one likes an Attorney General. As a matter of fact, I want to say that I was so happy to know I am held in such high esteem by the Opposition because they could not stop talking about the role and functions of this Attorney General and they kept on mentioning what the Attorney General does. I would like to pay tribute to them for thinking of me so much. I know they love me tremendously and I wish to assure them that the feelings are reciprocal.

Mr. Speaker, I do not think I can add much to what I have to say because there was really not much said on the other side as far as content is concerned. What was said was really a lot of talk but no content.

Thank you, Mr. Speaker. I beg to move.

Question put.

The House divided: Ayes 17 Noes 8

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V

Sudama, Hon. T

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Nicholson, Hon. P.

Maraj, Hon. R.

Khan, Dr. The Hon. F.

Rafeeq, Dr. The Hon. H.

Job, Dr. The Hon. M.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Ramsaran, Hon. M.

Singh, Hon. D.

Sharma, Hon. C.

Ali, Hon. R.

NOES

Valley, K.

Imbert, C.

Robinson-Regis, C.

James, E.

Joseph, M.

Sinanan, B.

Hinds, F.

Williams, E.

Question agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Mr. Chairman: Hon. Members, we have amendments which have already been made in the Senate and we have some proposed amendments which have been filed by the Member for Arouca South.

Clauses 1 and 2 ordered to stand part of the Bill.

New clause 3:

New clause 3 read the first time.

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

Mrs. Robinson-Regis: Mr. Chairman, we are of the view that the service commissions, in an effort to assist them in maintaining their independence, given the argument that we have made throughout this debate, that an amendment should be made in the manner in which it has been circulated. It states:

“Notwithstanding that proceedings are in the name of the Attorney General, a service commission shall retain the right to appoint legal counsel of its choice.”

We feel, Mr. Chairman, that the service commissions should, in fact, be allowed the opportunity to choose legal counsel to represent their interests. Despite the fact that service commissions have been sued in the name of the state or would be suing in the name of the state, it is clear from the Constitution that the service commissions are intended to be independent and if this legislation is to be made law we feel, in an effort to give some protection to the service commissions, they should at least have the ability to retain their own counsel.

Mr. Maharaj: Mr. Chairman, there is no right given to service commissions to appoint legal counsel of their choice. The right given to appoint legal counsel is a right given to the state. As I mentioned, the way it operates is there cannot be a right otherwise it would undermine the provisions of the Constitution which deal with the responsibilities of the state for legal representation on behalf of the state.

In that context, it will have severe consequences in respect of budgeting and other matters. As it is now, it is operated where the vote comes from the Attorney General. We cannot support this amendment because it is, in effect, trying to indirectly alter the Constitution. It is inaccurate because there is no right to retain and appoint legal counsel and it will be given a right which does not exist. The Government commits itself to the principles and practices which have obtained in the past and the Solicitor General's Department will, in effect, see about these matters.

Mr. Valley: Mr. Chairman, [*Inaudible*] We have heard the Attorney General; that is our point of view and we will make that case. We believe that what is being done requires a special majority and quite simply, they are altering the Constitution and there must be ulterior reasons if one is not accepting that recommendation, especially since the practice, at present, allows the service commissions to have their own counsel.

Mr. Chairman: Hon. Members, the question therefore is, that the proposed new clause be read a second time.

Question put and negatived.

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

House resumed.

Bill reported, without amendment.

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

10.45 p.m.

The House divided: Ayes 17 Noes 8

AYES

Maharaj, Hon. R. L.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon., V.

Sudama, Hon. T.

Nicholson, Hon. P.

Maraj, Hon. R.

Khan, Dr. F.

Rafeeq, Dr. The Hon. H.

Job, Dr. The Hon. M.

Singh, Hon. G.

Nanan, Dr. The Hon. A.

Partap, Hon. H.

Mohammed, Dr. The Hon. R.

Ramsaran, Hon. M.

Singh, Hon. D.

Sharma, C.

Ali, R.

NOES

Valley, K.

Robinson-Regis, Mrs. C.

Imbert, C.

James, Mrs. E.

Joseph, M.

Sinanan, B.

Hinds, F.

Williams, E.

Question agreed to.

Bill accordingly read the third time and passed.

INTERPRETATION (AMDT.) BILL

Order for second reading read.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Speaker, I beg to move,

That a bill to amend the Interpretation Act be now read a second time.

The amendment to the Interpretation Act that we are seeking is a simple but important one which will allow medical officers employed by the Regional Health Authorities to be able to perform their medico legal functions properly. As Members of this honourable House are aware, the Government of Trinidad and Tobago adopted a national policy to decentralize the health sector. The Government commenced implementation of this policy by passing the Regional Health Authorities Act, No. 5 of 1994, which by section 4, created five Regional Health Authorities as bodies corporate, each managed by a board of directors. The decentralization process included also the devolution of the management functions

of the regions for the delivery of health care, as well as the devolution of the health care facilities themselves.

Prior to 1994, employees in the health sector were public officers employed by the Public Service Commission, however, with the coming into being of the Regional Health Authorities Act, it is intended that all public officers will eventually move to the regions by way of either direct transfer or secondment. Further, section 26 empowers the authorities to appoint such employees as they consider necessary for the due performance of their functions. Accordingly, they have employed and continue to employ medical officers, who are required as part of their functions to perform medico legal duties under a number of statutes of Trinidad and Tobago.

For example, Mr. Speaker, under the Coroners Act, Chap. 6:04, medical officers are required upon notice of an unnatural death to view the corpse and, in cases where there are no circumstances of suspicion and where they are unable to view the body within a reasonable time, order the removal of the body to such place as may be named by them. Further, the Coroners Act empowers the medical officer with the responsibility to view a dead body and if he considers it necessary in the following instances to:

“...make an anatomical examination of the unburied body of any deceased person within his district—

- (a) where he has grounds for believing that the person died an unnatural death;
- (b) where such person died while confined as a prisoner in any prison;
- (c) where he is directed by the Coroner, within whose district the body is, to view the body; or
- (d) where an inquest is prescribed in respect of such death.”

Further, Mr. Speaker, section 8 of the said Act provides that:

“A coroner may, if he thinks fit, and whether an inquest is pending or not, order that the body of any deceased person be exhumed, and direct that it be viewed, and if necessary anatomically examined by the District Medical Officer of the district in which the body is buried.”

Mr. Speaker, section 2 of the Coroners Act defines “District Medical Officer” to mean:

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“...the Medical Officer assigned to the district for the purposes of this Act.”

However, the Act itself is silent on the manner whereby such officers are appointed or assigned. Accordingly, one is guided by the provisions of the Interpretation Act. “Medical officer” is designed under the Schedule of this Act to mean:

“a medical practitioner in the service of the Government.”

By virtue of meaning assigned to “medical officer” in the Interpretation Act, it is interpreted that “district medical officer” under the Coroners Act must be medical officers employed by the Government.

Mr. Speaker, at the present time, in order to legitimize the aforesaid medico legal functions of the medical officers employed by the Regional Health Authorities, section 13 of the Coroners Act must be invoked. It provides that:

“...a Coroner may appoint any member of the Medical Board...”

—of Trinidad and Tobago as—

“...a substitute for such District Medical Officer, but the appointment shall have no operation beyond the limits of the district for which the Coroner is acting.”

As you can imagine, this limitation is posing a serious problem, since these medical officers are required to perform functions within a number of magisterial districts. As such, a number of appointments by various magistrates have to be made. This process can be rather inconvenient for both the Magistracy and the regions.

Medical officers employed directly by the Regional Health Authorities are also severely limited by section 19(2) of the Evidence Act, Chap. 7:02. This section provides, *inter alia*, that:

“In any criminal proceeding any document purporting to be a certificate or report under the hand of a Government expert on any matter or thing which has been submitted to him for examination, analysis or report is admissible as evidence of the facts stated in it without proof of the signature or appointment of the Government expert, unless the Court, acting *ex proprio motu* or at the request of a party to the proceeding requires the expert to be called as a witness.”

Further:

“(2A) Where medical evidence is contained in a report signed by—

(a) a District Medical Officer and the evidence—

- (i) relates to a fatality; and
 - (ii) is being led in criminal proceedings or in an inquest; or
- (b) a registered medical practitioner and the evidence does not relate to a fatality,

the report shall be admitted as if it were the report of a Government expert..."

As such, medical officers employed by the regions can only avail themselves of the privilege granted under subsection (2A)(b), that is, where the evidence does not relate to a fatality.

In order to eliminate the unnecessary restrictions and to allow the medical officers employed by the Regional Health Authorities to effectively perform their medico legal functions which they are required to do, this Bill seeks to amend the Schedule of the Interpretation Act to extend the definition of "Medical Officer" to include medical officers in the employ of the Regional Health Authorities.

The amendment we are seeking is that the Schedule of the Interpretation Act be amended by deleting the definition of "Medical Officer" and substituting the following:

"'Medical Officer' means a medical practitioner in the service of the Government or in the employ of a Regional Health Authority established under section 2(1) of the Regional Health Authorities Act."

Mr. Speaker I beg to move.

Question proposed.

Mr. Colm Imbert (*Diego Martin East*): Mr. Speaker, on a matter such as this where the Minister is attempting to bring into the pool of resources available, persons employed by Regional Health Authorities with respect to the examination of persons who have been killed, or who have died, or suffered a fatal accident, one could spend 75 minutes talking about the crisis in the health sector, talking about the deaths in the hospital, talking about the fact that the Minister of Health made a statement which I have heard from other Ministers about the buck stops here, but one really does not understand what that means. Because, when one makes a statement like that, one expects that certain actions will follow. When other politicians—I believe it was an American president who made the statement about buck stops here—took responsibility, certain actions followed. But we have situations where Ministers of Government, such as the Minister of Health, have made statements such as the buck stops here and the people keep dying.

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You see, Mr. Speaker, one could talk on and on about the strike in our hospitals; the sit-in; the protest; the withdrawal of enthusiasm by senior doctors; the disputes that are raging in San Fernando over the appointment of a fifth consultant. One could talk about persons going into Mount Hope for simple operations and dying through alleged neglect. One could talk about the removal of the paediatric ward from Port of Spain thereby forcing persons who reside in Port of Spain to travel to Mount Hope to deal with a matter of sick children; one could talk for hours, Mr. Speaker, because you see—

Mr. Speaker: Yes, but although one could talk for hours, do you think that one is really being relevant in doing that. One can do that but one would be very irrelevant.

Mr. C. Imbert: Thank you, Mr. Speaker.

The point I simply wish to make is that this is such a vexed question, the matter has impacted upon the health sector as a whole, because there are situations where persons have died through motor vehicle accidents, murder, heart attacks, whatever, and a body lies in the road for hours, and the family suffers humiliation, distress, anxiety because one cannot find the District Medical Officer. I heard, for example, because of a dysfunctional pager, a dead body was lying somewhere in Port of Spain.

Dr. Rafeeq: That is what we are trying to correct.

Mr. C. Imbert: Do not get the wrong impression. Mr. Speaker, there was a dead person in Port of Spain lying on the pavement. They could not find the District Medical Officer; the pager was not working; it was quite a traumatic affair for the family. There have been many instances where people have been killed and lying on the highway; where we disrespect human life and so forth; where a doctor is not present, the police cannot move the body, *et cetera*. That is why we on this side have no objection to this Bill.

I thank you, Mr. Speaker.

11.00 p.m.

Mr. Fitzgerald Hinds (*Laventille East/Morvant*): Mr. Speaker, the Bill before us is a very small one indeed. In fact, if many people are inclined as the Members of that side, to take it at face value, one might think it is a matter that could be treated rather lightly. But the implications for this Bill are significant indeed.

I represent thousands of people in Laventille East/Morvant. I remember during the budget debate many lofty promises were made to the people of this country. I

remember the Minister of Public Administration and Information boastfully, even, telling citizens of this country that the Government had decided to increase their monthly pension packets by a few dollars; I think it was about \$74.00. Now we are here to speak about this Bill which wants to redefine the term “Medical Officer.”

A large portion of elderly citizens’ money is spent on medical care. The majority of the elderly citizens of my constituency, when they have a medical problem are unable, like some of the more able citizens of the society, to go to the expensive private institutions for health care. They rely almost exclusively on the public system.

Hon. Member: What that has to do with the Bill?

Mr. F. Hinds: Mr. Speaker, I am being asked what that has to do with this Bill. But if someone is ill and cannot get proper treatment, he dies, and when he dies, there will be need for a medical officer to do what previously a district medical officer did. Within recent times I had regular contacts with the senior members of my community as I prepared for the debate on this Bill. They have agonized over the fact that while this Government boasted about increasing their monthly pensions by a few dollars, the majority of that money is spent on buying medication.

Mr. Speaker: Are we on the same Bill?

Mr. F. Hinds: Yes, Mr. Speaker.

Mr. Speaker: The Interpretation (Amdt.) Bill?

Mr. F. Hinds: Yes, Mr. Speaker.

Mr. Speaker: You could have fooled me.

Mr. F. Hinds: They go to the Regional Health Authority for medical care and there they are attended to by medical officers.

Mr. Speaker: You and I know that is very far-fetched. Believe you me, from here it is sounding very far-fetched. It does not seem to be on course.

Mr. F. Hinds: Mr. Speaker, in all sincerity, I do not see how—

Hon. Member: You are questioning the Speaker?

Mr. F. Hinds: Not at all.

Mr. Speaker: I just made a suggestion to you. But please proceed.

Mr. F. Hinds: Yes, Mr. Speaker. I am speaking about, but not to, the aged and infirm. I am asking for your protection from the Member for Oropouche. I am

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not saying that he is aged and infirm, but I am asking for your protection. I am not speaking about mental health; I am speaking about physical well-being.

When we devised the concept of the Regional Health Authorities and established them as part of the PNM's programme for the reform of the health sector in this country, we came to this Parliament—I was not a Member of this Chamber at that time, but I have had the benefit of speaking to those who were. I have had the benefit of reading the *Hansard* records and those records are replete with criticisms coming from Members on that side. Some of them were not here, but some were. The Member for Couva South was. The Member for Oropouche was. Well, he has been here a very, very, very long time. The People's National Movement, with the foresight and the vision that the Minister of Health and that Government is now buying into, was the butt of much of their criticism and jokes. They said that we were destroying public sector health care in this country. They made a lot of fuss; they quarrelled; they complained. They did not understand this new approach to dispensing medical services. The decentralizing effort was part of the vision of the PNM to take this country forward into the new millennium.

They criticized it. But by the time they came into office, they recognized that these institutions called the RHAs were not simply working, but working particularly well. The same cannot be said now, after two years and a few months. Of course, I have the greatest admiration and respect for my Friend, the Minister of Health, the Member for Caroni Central. Today is probably the first time he has spoken in this Parliament. No, I think he made a contribution at least once.

I attended a wake only last week in my constituency—

Hon. Member: Your own? [*Laughter*]

Mr. F. Hinds: Listen to who is speaking, “Balroop”. Mr. Speaker, I do not know if you are aware, but the Member for Oropouche is affectionately known in his constituency as “Balroop”, and he takes risks. That is how he assumed that name. He was seen dancing on a table at about 3.00 a.m. He could have fallen—

Mr. Speaker: I have tried to indicate a little earlier that you were going into very deep waters in terms of the relevance to this Bill. I feel that you are continuing along those lines. I will oblige you.

Mr. F. Hinds: Thank you, Mr. Speaker. As I was saying, we saw the whole regional health authority as part of a programme for the decentralization and more effective distribution of health care in this country. The same cannot be said today.

It is common knowledge in this country that citizens are now very wary of going to some of those institutions for treatment by medical officers.

11.10 p.m.

We would have expected that if the Minister of Health, having presumably considered the seriousness of the circumstances and taken into account all of the circumstances under his watch, we would have been debating a bill that really would be having some positive impact on a more efficient distribution of healthcare in this country; but what are we having? We are having alarm all over the country among the people who are speaking about the fact that within the space of one or two years, 37 deaths, many unexplained, have taken place in a well-known medical institution in this country under the watch of the Minister of Health.

Mr. Speaker, people are concerned. Women are going to a certain medical institution in this county to give birth and make a contribution to the continuity of life, and, hopefully, to contribute to the population growth so we can have a healthy, strong and growing population. They have gone there, met with medical officers and within recent times three women died at the Mount Hope Maternity Hospital. I know one of them personally.

Miss Nicholson: It is “knew” not “know”.

Mr. F. Hinds: Forgive my grammar; “I knew one personally”.

Mr. Speaker: Hon. Members, at this time I am prepared to rule. The Member is really being irrelevant to the Bill before us. I really do think so. This is a bill which states:

“An Act to amend the Interpretation Act

Enactment ENACTED by the Parliament of Trinidad and Tobago as follows:

Short title 1. This Act may be cited as the Interpretation (Amendment) Act, 1998.

Schedule amended 2. The Schedule to the Interpretation Act
Chap. 3:01

is amended by deleting the definition of ‘Medical Officer’ and substituting the following:

‘Medical Officer’ means a medical practitioner in the service of the Government or in the

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employ of a Regional Health Authority established under section 2(1) of the Regional Health Authority Act.”

Act No. 5 of 1994

I honestly do not think that the issues which are now being discussed fall within the ambit of this Bill. They may well be nice things that one can talk about on other occasions, but really, the nexus between that and this, I really find very distant.

Mr. Valley: For my own understanding—

Mr. Speaker: I am not ruling, but again, I ask you, please, consider what I am saying because I am not seeing the connection. *[Interruption]* Hon. Members, please.

Mr. F. Hinds: Mr. Speaker, I could not be more sincere, as I say. I do not know then what would be relevant. I really do not know. Honest. *[Interruption]* Thank you very kindly, Mr. Speaker.

Mr. Speaker, what I am thinking is that, as a matter of words, the insertion of this new definition is a matter of linguistics but it has implications for the entire Act. An Act of Parliament passed for the good governance of citizens of a country is not an abstract merely for reading or intellectual purposes. It has its relation to the area in which it is to be operated. I am not speaking merely of the words in the Act and this definition. I am relating this to the real world where people go to medical institutions where they meet medical officers for medical problems.

Mr. Speaker: I am not saying all of that may not be relevant to a different type of debate. All I am asking you to do is to relate it to this.

Mr. F. Hinds: Yes, I am trying.

I know that the Government is not very proud of its record in the area of health, and while I concede that on a technical test you are quite right, perhaps it is not strictly so. However, you can understand full well that when my constituents come to me to relate their problems, I have to find the best way to articulate their difficulties and concerns in this Chamber. But, Mr. Speaker, while your motives are honourable and mine are equally honourable, the Members of the Government, particularly the Member for Caroni Central, not being proud of the record of the health service under his watch, do not want to hear this so they are hiding behind you, but I am glad that you have permitted me to continue to tell them of this poor record in the area of health.

My main concern is how this Bill would improve the distribution of health services through medical officers in this country. How? I am also saying that one would have thought that there are so many issues that need attention in the health system that I thought I should have been dealing with them early this afternoon. We are energized, as we indicated, and ready to go until six, seven or eight o'clock in the morning doing the people's business and we want something serious to talk about. I was hoping that we would have had more. Since it is so little, I will have to deal with the little and then take my place.

Mr. Speaker, having gone to an institution of the regional health authority and been met with a records clerk, for example, and details taken, my constituents meet with a medical officer and sometimes they get—as often happens particularly with elderly people—prescriptions and when they go to the dispensary they cannot get basic medication. These are the kinds of issues I thought we should be dealing with, but unfortunately not. So, the medical officer that we are talking about here writes a prescription after seeing a patient who then goes to the dispensary only to find out that Penicillin and other basic drugs cannot be had. That patient must then find money to pay for it and that is a serious problem.

Mr. Speaker, they have asked me to indicate that to the Minister of Health and the Government, to crave their attention and hope that they will do something about this horrendous situation.

As I was saying a while ago, Mr. Speaker, one of the ladies who died at that institution was seen by perhaps three medical officers and was allowed to literally bleed to death at that institution. I went to that wake and was a part of the family's experience. They told me—

Mr. Speaker: I am now ruling that the line that you are on is absolutely irrelevant to the Bill before us. I ask you, please, to desist from that and proceed to something that is relevant to the Bill. I rule that that is irrelevant.

Mr. F. Hinds: Mr. Speaker, there is another matter. The children living in Laventille East/Morvant, Port of Spain South, Port of Spain North/St. Ann's West, would normally have the benefit of seeing a pediatrician at the Port of Spain General Hospital. The Member for Caroni Central, the Minister of Health, would tell you that those services for children have since been transferred to an institution outside of Port of Spain, that is, Mount Hope. Mr. Speaker, tremendous hardship is now being brought to bear on those children and their parents who must first of all, find extra money for transportation to get there. As I was indicating a while

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ago, many of the medical officers—for example, not only at Mount Hope of which I now speak, but the South Regional Health Authority which takes in San Fernando General Hospital—only last week were indicating to me and the national community that they are concerned about how things are going in that institution.

11.20 p.m.

They were threatening industrial action. I am saying all is not well in the health services in this country. Things were well on course and now they are not well. The Minister comes today with this Bill, the object of which is to amend the Schedule of the Interpretation Act to redefine the term “medical officer”. I agree, it says precious little but then there are so many overwhelming problems in the health service. I do not know. One Member from the other side is suggesting it started yesterday.

I am, therefore, calling on the Minister to take a more serious view insofar as those institutions are concerned. I know he is having some degree of difficulty because there are things he may want to do, but is not getting the support of his Government.

Mr. Speaker, as I made that point I would like to bring to your attention an article that I read in the *Trinidad Guardian* dated Monday, March 23, 1998 at page 23, and it goes under the rubric “Rafeeq ready for HIV testing”. When I read that article it was a bit misleading, but as I read on I understood better that the headline did not truly reflect what the article was about to say. There is, as you know, increasing concern with the problem of the HIV virus in Trinidad and Tobago, and I am sure if we are talking about the regional health authorities, you will agree with me that this is extremely relevant in this debate.

Mr. Speaker: I do not know.

Mr. F. Hinds: I was hoping that you did, Mr. Speaker. I was craving your indulgence. Every citizen of this country understands that this is a serious and growing problem. If Members of the other side feel that this is unimportant and a Member of Parliament must not speak about it, it is entirely a matter for them. I know this is a serious problem and I take the opportunity to demonstrate my view on the seriousness of it, and to recognize the difficulty the hon. Minister is having. There is a school of thought that there should be general testing in order to deal with the problems, by medical—*[Interruption]*

Mr. Speaker: I know that HIV and compulsory testing is not germane to this Bill that is before us.

Mr. F. Hinds: Mr. Speaker, it appears as if my contribution, in the Speaker's view, is entirely irrelevant.

Mr. Speaker: One does not need to cast any type of aspersions on the rulings of a Speaker. I unfortunately have to rule. It is my responsibility to rule whether the contribution of a Member is relevant or not and that is not questionable. According to our Standing Orders, I have tried to guide you, I have tried to express my views without ruling and I am convinced I am being honest that I do not see the relevance.

As you have said, persons in your constituency have told you certain things and come hell or high water, you are going to say it. Nothing is wrong with saying it. You could file a Motion, you could raise it as a matter on the adjournment but on this particular debate, it does not appear to me to be germane. It may be germane if one is discussing something else. It is not a question of not wanting to hear the Member. I enjoy hearing you on issues that are relevant to the Bill. I reserve the right to say to you or to anybody else who is being irrelevant at this hour or any hour, that it is not allowed.

The object of the Bill is to amend the Schedule to the Interpretation Act in order to redefine the term, "medical officer" to include a medical practitioner employed by a regional health authority established under the Regional Health Authorities Act, 1994. It is stretching the imagination to bring HIV and compulsory testing into it. I honestly think so. Please proceed.

Mr. F. Hinds: Mr. Speaker, I will never cast aspersions about your ruling. I accept your ruling that my contribution stretches a bit too far, and I will probably have to find another way. *[Interruption]*

Mr. Speaker: The behaviour of Members on the opposite side is not necessary. We are being very serious. It is not a joke I am making and the Member is dealing with what I am doing. I do not think it is right at a time like this to be interjecting and throwing things around. That is unnecessary. Please proceed.

Mr. F. Hinds: Mr. Speaker, hon. Members, I thank you.

Mr. Kenneth Valley(*Diego Martin Central*): Mr. Speaker, I do not want to run afoul of you, of course, but I think we really need some guidance.

Before us, we have a two-clause Bill which is expanding the definition of the term "medical officer".

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Our main concern with respect to this Bill is that when we view the problems that beset the health sector at present, the question in the back of our minds is: how will this change in definition by itself going to improve the operations of the health sector in general? I think that is the point my colleague was trying to make and, as I said, I do not want to run afoul of you, but we do need some directions because I assumed on a Bill of this nature, one would have asked questions and really drawn examples of some of the difficulties that the citizens are experiencing with the health sector. I ask the hon. Minister simply to tell us, given those problems, how will this two-clause Bill assist in alleviating these problems? That is what we want to get from the Minister. I do not think I need to repeat the examples. That is all we want the Minister to tell us here tonight. Amending this legislation is fine, but we are really concerned with the problems.

Thank you.

11.30 p.m.

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Speaker, there are many issues which have been raised by Members opposite, to which I can respond. There is one to which I must respond in order to set the record straight. This issue was raised by the Member for Laventille East/Morvant. I give him the benefit of the doubt that he did not read the *Trinidad Guardian* dated Friday March 27, 1998, but he chose to quote from the one of Sunday or Monday of this week. There is an article written by me to the Editor, in the *Trinidad Guardian* dated Friday March 27, 1998, under the headline "Minister sets record straight". It states:

"I am dismayed and disappointed at the inaccurate and misleading reporting by your newspaper in an article by Donna Pierre entitled 'Rafeeq ready for HIV testing ...but Government hesitant', published on page 23 of the *Trinidad Guardian* of Monday, March 23, 1998.

My address to the Caribbean/Brazil HIV Candidate Vaccine Workshop on March 22, 1998, at the Hilton Hotel has been misquoted and I would like to set the record straight on this matter.

Contrary to the picture painted by the article, there is no difference between the views of the Ministry of Health and those of the Government of Trinidad and Tobago. It is incorrect and potentially damaging to insinuate that the 'Minister of Health is ready but the Government is hesitant to permit the trials.' Nowhere in my address did I state the Government was the 'seed of the problem'.

Similarly, the article states, 'Rafeeq said he was in total support of the HIV Candidate Vaccine, but still has to wait for support from the Government.' I have no idea about the author's source, but I would like to state categorically that the attribution of these statements to me is simply wrong. It is indeed surprising that other daily newspapers reported the same speech accurately while your newspaper reported something totally different.

Let me make the Government's position on vaccine trials absolutely clear once more: No permission has been granted for the HIV vaccine trials, but we keep an open mind about them. An Ethics Committee has been appointed to make a recommendation to the Government on the desirability of permitting such trials in this country, after careful consideration of all the relevant issues, which I outlined in my address. In particular, there will be no compromise on safety and ethical issues.

I would urge you to ensure a more thorough verification of facts in the future, before publishing potentially sensitive articles that could cause serious misunderstanding.

Because of the sensitivity of the issues involved, I am attaching a copy of the speech I delivered which, if space permits, I will like you to publish in its entirety."

Mr. Speaker, that is the end of the article I wrote to the *Trinidad Guardian*. The speech has been published in its entirety on another page in the same paper. I wanted to clarify that issue.

The issue was raised about the scarcity of pharmaceuticals in certain areas. When we came into office in 1995, the drug budget at that time was \$48 million. For 1998, that budget has been increased by 50 per cent to \$72 million. We recognize there are problems in the health sector. I say to this honourable House that the health sector has immensely improved from the time we took office in 1995. Whereas the people in the past accepted whatever was dished out to them, today because of our openness in Government, people feel empowered enough to challenge the system and demand a higher level of care. That is what we encourage.

As I said, there are many issues to which I can respond, but I would mention this final one about the paediatric service. This service has been transferred from the Port of Spain Hospital to a dedicated paediatric hospital that was built about 10 years ago by the PNM when they were in government. When I visited that

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hospital some months ago and I saw the physical condition of the hospital and the equipment which had been lying there for over 10 years, I knew I was doing the right thing when we made the decision to transfer the service. I admit that that decision was not made by this Government. That decision was made by the PNM when they were in government. It is just that we effected that decision.

There are many issues to which I can respond, but I know that you have ruled that some of these are irrelevant. I thank Members opposite for supporting this Bill.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Mr. R. L. Maharaj: Mr. Chairman, I beg to move that clause 2 be amended by deleting the words, "section 2(1) of".

Question put and agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Question put and agreed to, That the Bill, as amended, be reported to the House.

House resumed.

Bill reported, with amendment; read the third time and passed.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move the Adjournment of the House to Wednesday, April 8, 1998, at 1.30 p.m.

By agreement, the House would not sit on Friday. We would do Private Members' Motions on Wednesday. By consent, on that day before Private Members' Motions, we would have a short meeting of the Finance Committee. The committee's agenda would be forwarded to Members by Friday, April 3, 1998.

May I announce that on Wednesday, April 15, 1998, the Finance Committee Report would be presented to the House of Representatives. Both the Finance

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(Supplementation of Appropriation) Bill, 1997 and the motion for the adoption of the Finance Committee Report would be debated on that day.

Mr. Speaker: Before the adjournment was taken matters were raised on the last occasion but were put for today.

The Member for La Brea is not here. The Member for Arouca South.

11.40 p.m.

**National Flour Mills
(Importation of Rice)**

Mrs. Camille Robinson-Regis (*Arouca South*): Mr. Speaker, on March 10 of this year, in accordance with Standing Order 11(2) and (3) of this House, I requested that I be allowed to raise a motion on the adjournment which reads:

“The current state of affairs at the National Flour Mills following various allegations of improper conduct and mismanagement with respect to the purchase of rice from Gangadas Shah of India, among other things.”

Approval was given to this motion.

Mr. Speaker, the unfolding NFM saga is just one of many such fiascos plaguing the nation during the past year, a year which, without doubt, has demonstrated the Government’s ineptitude and penchant for mismanagement.

It is indeed fair to say that the National Flour Mills has joined the ever-increasing list of state enterprises which either have no board or no fully constituted board and which, apparently, are being run by the Corporation Sole.

If I may be permitted, I will outline briefly some of the facts as have been reported on the NFM fiasco, facts which have become very well known to all in this Chamber and to the people of Trinidad and Tobago.

The purchase, costing over \$30 million, of rice which many still doubt is fit for human consumption has been imported from India at great cost and lost to NFM and the citizens of Trinidad and Tobago. I emphasize: “rice which many still doubt is fit for human consumption” because it was the NFM chairman and, indeed, the Minister of Trade and Industry and Minister of Consumer Affairs who indicated that, depending on the tests which were carried out, the rice could have been sold as dog rice.

Indeed, on page 4 of the minutes of the National Flour Mills dated February 1998, it was stated that board members were: “advised that ships do not have

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forced ventilation and that the damage to the rice was due to delay". This is a clear indication that despite the pretence that the rice which was on the seas for several months was fit for human consumption, the board was informed that the damage to the rice was due to the delay.

Mr. Speaker, the decision to import the rice was based purely on political directive rather than economically sound management policy. I do not say this lightly. The minutes of the Tenders Committee of the National Flour Mills, held on Wednesday, March 19, 1997 at 3.30 p.m., in the company's board room, states quite clearly under "CET Implications on Rice from Extra Regional Sources":

"3.1 Mr. Bharath reported on his meetings with both the Guyanese delegation and the Prime Minister. Based on the outcome of the Meetings, he indicated that Guyana is prepared to allow a further extension on the waiver of CET on parboiled rice coming from extra regional sources, only conditional on NFM being prepared to take an equity investment in a Guyanese Rice Milling facility.

As a consequence, NFM was given permission by the Prime Minister to place an order for rice from India which at present is the preferred source of supply,...

The CEO further indicated that it was critical that an order be placed very quickly in view of the current inventory levels."

Mr. Speaker, from the minutes of the Tenders Committee of the NFM Board, there is clear indication that the Prime Minister gave the directive to place an order for rice from India. This is political interference at the highest level from those who have said that they do not interfere in any way with the boards or management of state enterprises.

The public continues to remain in the dark as to why traditional suppliers have been moved away from and India is being used as the source of supply. The question also is: Why have normal procedures, which have existed in terms of NFM importation practices, not been applied?

I would like to quote from the summary report on grain variances between 1995 and 1997 with regard to the type of price that NFM was in the habit of obtaining with regard to their importation of rice from their normal suppliers. Under the heading:

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“Parboiled Rice	Average Price
January—December, 1993	US \$339.97
January—December, 1994	US \$370.65
January—December, 1995	US \$369.92”

As this Government came into office, the price that they paid per metric tonne for rice was:

“January—December 1996	US \$421.87
January—September, 1997	US \$504.10”

11.50 p.m.

Granted, Mr. Speaker, in many instances, grain prices including rice depend on the future's market and it may be argued that depending on the market at the time, the price for 1995 stated on page 17 under the rubric "Grain Prices" states:

"The principal raw material which accounts for a substantial portion of the total costs, continued the upward spiral. However, consistent with our pricing policy, we were able to offer a price reduction in Parboiled Rice when the world market price dipped momentarily."

Mr. Speaker, the Annual Report also states under the rubric "Rice".

"The rice market was considered as the one most vulnerable to market share depletion. A mixture of price, improved quality and service created the level of competitiveness which secured a market share substantially greater than what was budgeted.

Since the introduction of a Grading System, the production of local rice paddy decreased 60 per cent. The rice produced however, is of a much higher quality and the subsidy previously borne by the Company is now paid by the Government."

Clearly, Mr. Speaker, the local rice consistency in terms of quality had improved, and clearly, the parboiled rice market indicated that the suppliers whom the NFM normally used, were those whom they could safely continue to use because as the Annual Report indicated, prices were declining and additionally, consistency of quality was improving and a system had been put in place not only for the grading of local rice, but also for the rice obtained internationally.

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We have seen in television reports, the sortex system which has been put in place at NFM to ensure that the quality of rice is the best that can be obtained. Yet, when the rice came from India, we got what we have seen, perhaps not in many years, the lowest quality parboiled rice ever received in Trinidad and Tobago in a long time.

In the confusion which erupted when the Minister of Finance attempted to remove the board for its firing of the CEO, we saw the Minister indicating that the board should be removed, and then falling back from that position and saying that he really did not have the authority after an article, ostensibly written by Francis Joseph on the front page of the *Trinidad Guardian* newspaper, but, in fact, as we all know, written by the Attorney General of Trinidad and Tobago advising his Cabinet colleague that he did not, in fact, have the authority which he claimed to have had.

Mr. Speaker, as a consequence of that—

Mr. Maharaj: Mr. Speaker, if an article is referred to—

Mrs. C. Robinson-Regis: Mr. Speaker, I am not giving way.

Mr. Maharaj: Mr. Speaker, I want to put on the record that the allegation is incorrect, that the article did not contain that.

Mrs. C. Robinson-Regis: Mr. Speaker, as a consequence of the attempt by the Corporation Sole to hijack the board of the NFM, we saw the aborted Extraordinary General Meeting and the pressure which was placed on one of the country's most profitable state enterprises.

Mr. Speaker, the gravity of the situation which faces this particular state enterprise cannot be overstated and because of, clearly, what was a clandestine arrangement as we have seen from the Minutes of the Tenders committee between the Prime Minister, the senior management of NFM, and a rice company in Guyana, without the knowledge of the board, we, the people of Trinidad and Tobago find ourselves in what can only be called an untenable situation.

Mr. Speaker, I quote again from the minutes of the February 1998 meeting of the NFM board. On page 4, 1.16 says:

"The Chairman reported that he had spoken to Richard Young of Scotia Bank who said that they advised Mr. Bharath that Gangadas did not have a good reputation. He reported that he also spoke to Dennis Evans and Karen Rampersad of Citibank who said that they advised Mr. Bharath that they had problems with Gangadas."

It says at 1.17:

"The chairman read out 13 charges against Mr. Bharath and asked the Board for the authority to suspend him."

Mr. Speaker, among those charges were:

- 2) That the CEO neglected (willfully or otherwise) to order rice for our December '97—

Mr. Speaker: I just want to indicate that your 15 minutes is just about up, you would have to wind up.

Mrs. C. Robinson-Regis: Thank you, Mr. Speaker.

- 3) That the CEO has not spoken to...the Chairman since the Board Meeting of December 19, 1997, notwithstanding all the problems and discussions re the delivery of rice from India, as is his duty to report to the Chairman."

Mr. Speaker, there is a letter from the solicitors for the company who chartered the vessel which was to bring the rice to Trinidad and Tobago and it stated quite clearly, and I quote:

"4) Owners to receive from charterers an unconditional guarantee that no claims shall be made against the vessel/master or owners for any cargo shortages nor degradation of cargo on board.

This is required because the bills of lading presented were made up before the vessel docked and loaded and are not in accordance with the official mates receipt issued."

Additionally, Mr. Speaker, it was also stated that the bills of lading were made up in such a way as not to include the rightful persons who should have signed the bills of lading and, consequently, all the freight which had been paid could no longer be claimed and the statements which had been made by the chairman and to some extent, the management of NFM, were, in fact, clearly incorrect on this particular shipment of rice.

The solicitors, K.A.C. Bentley of Essex had indicated by letter that they are finding extreme difficulty in dealing with the shipment because it did not follow normal practice.

Mr. Speaker, the whole arrangement was devoid of integrity and honesty, and clearly showed a consistent thread from the Prime Minister, the Minister of

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Finance, the NFM's board, and the CEO of NFM to deceive the people of Trinidad and Tobago and run afoul of normal economic practice for the people of Trinidad and Tobago.

Thank you.

The Minister of Finance and Ag. Minister of Trade and Industry (Sen. The Hon. Brian Kuei Tung): Mr. Speaker. I rise, not as Corporation Sole or Minister of Finance, but as the acting Minister of Trade and Industry this morning.

I had every confidence in the management of the National Flour Mills, and I say that, in spite of the fact that the hon. Member for Arouca South brings a Motion about the current state of affairs at the National Flour Mills following allegations of mismanagement with respect to the purchase of rice.

Mr. Speaker, I have not had a hand in the hiring or firing of anyone at the National Flour Mills, and I know that the Member for Arouca South has a particular interest in her own, very short-lived career at the National Flour Mills. I say short-lived because I understand she would have had a very brilliant future there. She obviously seems to have a lot of connections there.

As a matter of fact, she has read from documents to which I have not been privy, and I am in the Government. I have to admire the lady who speaks about honesty, can dishonestly pluck documents out of the National Flour Mills. She read documents which she says are minutes which I do not have and I am Corporation Sole. One wonders, how could persons who by their very act be dishonest, speak about the dishonesty of the Ministry of Finance.

Mrs. Robinson-Regis: Mr. Speaker, on a point of order.

Mr. Speaker: The relevant section please.

Mrs. Robinson-Regis: Standing Order 36(5). The Minister is imputing improper motives, Mr. Speaker.

Mr. Speaker: Standing Order 36(5) does say that no Member shall impute improper motives to any other Member of either Chamber. The Minister was referring to the fact that you read into the record what you said was from the minutes of the board on two occasions. What the Minister is saying is that he has not got those minutes, he has not had them, and anybody who has them who is not in a certain position there, has them without permission and dishonestly. The word "dishonest" is strong and I would ask the Minister to use a less strong word.

Thank you.

12.05 a.m.

Hon. B. Kuei Tung: Mr. Speaker, I shall be guided by your ruling. As a matter of fact, out of an abundance of generosity, I withdraw the word, unreservedly. What I would say, however, is that it must have been surreptitious means used to be able to get confidential documents, particularly, seeing that the normal formal lines have not been used, whereby those documents had been forwarded to me. [*Desk thumping*]

I am really not in a position to say whether those documents, which have been read into the *Hansard*, are accurate. It could have been something that has been the figment of someone's imagination, or it could be a very novel fictitious writer who is able to come up with documents that purport to link the Minister of Finance and the Prime Minister with the management. As a matter of fact, I remember the hon. Member saying that the management—bear in mind what I am saying, Mr. Speaker, not the board of directors, not the Chairman, not a member of the board—is linked with the Minister of Finance and the Prime Minister in arriving at a tender for rice. Mr. Speaker, that has to be preposterous.

I, myself, in spite of having taken up office two years ago, have never visited the National Flour Mills. I have had no link, whatsoever, with the management. However, I certainly have a link with the chairman and the board of directors in my normal course of duties. Therefore, to suggest that the Prime Minister himself is also involved, in my mind, is totally preposterous. Mr. Speaker, I find this Motion—let me admit that I am a lover of rice. I love every type of rice. I love Jasmine rice, Basmatie rice. I will speak about rice all day and all night if necessary because I love rice. I want to speak a bit, as well, about the hon. Attorney General. I heard the Member for Arouca South mention that the Attorney General gave Cabinet advice and it was on the front page of a particular newspaper. I recall reading—I am assuming it is the same article written by Mr. Francis Joseph, in which he indicated that I may not have had the legal authority to request an investigation. I admitted that I may not have had a legal authority but I certainly have moral authority which I can exercise through a willing board. However, to say that advice was given by the Attorney General when he was away during that period, is again attempting to mislead this House.

I am not saying that the Member is dishonest. On the contrary, I am saying that the Member may have used words which would have the effect of misleading this House, because the Attorney General's name was not quoted in that article and, certainly, he did not give Cabinet that advice.

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Mr. Speaker, I repeat, we have absolute confidence in the management of the company. I made a statement to this House in which I indicated, clearly, that the reason we had asked the board to resign was to ensure that there was no perception, whatsoever, of any political interference while the investigation was taking place. There was absolutely no reason linked with the fact that the services of the Chief Executive Officer had been terminated. If there was one error of which the Government could be accused is, maybe, its sense of timing, in the sense that the request may have come a couple weeks after the board had decided to terminate the Chief Executive Officer. However, it certainly was that Cabinet had no intention of linking one with the other.

My statement read to this House said, in no uncertain terms, that the investigation had already been announced by the Prime Minister; that he had already indicated, publicly, that he wanted a team of investigators to look into the operations of the National Flour Mills. Let me put on record, Mr. Speaker, that it is the intention of this Government, not just to investigate the rice in recent times, but also the number of allegations made against the National Flour Mills over the years of all types of irregularities, whether they are in our time or were in Opposition's time.

Mr. Speaker, it is my view that this Motion is really frivolous. Given the time of the day, it is certainly very untimely; it is misconstrued; it is meant to be mischievous; it is certainly redundant, because the Prime Minister has announced that he would be sending in a team of investigators as soon as the Government is able to do so; that means when we have a board which is comprised, basically, of public servants. We have already made this known that it is the intention of the Government that the Permanent Secretary in the Ministry of Trade and Industry—whom I know Mr. Valley knows quite well—would be the chairman and that another public servant from the Ministry of Finance would also be on the board. The intent, therefore, is that there would be no political appointees on the board during the period of the investigations.

Mr. Speaker, I thank you very much for the opportunity to respond to this Motion.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 12.15 a.m.

WRITTEN ANSWERS TO QUESTIONS

**Piarco Airport Development Project
(Birk Hillman—Contract)**

34. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (i) In view of the recommendations of the report of the Justice Deyalsingh Committee which recommended termination of contracts for the Piarco Airport Development Project, could the Minister state why Government has not terminated the Birk-Hillman contract for design and project management service for the project?
- (ii) In addition to the \$43 million already paid to Birk-Hillman, how much more money is expected to be paid to Birk-Hillman for work on the project?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, the Deyalsingh Committee recommended on page 30 (1) that:

“the contracts between Airports Authority of Trinidad and Tobago and Birk Hillman be terminated.”

In making this and other recommendations the Committee also noted that the recommendation would have serious legal, financial and practical consequences.

In order to return the project on its critical path as well as the recognition of the legal, financial and practical considerations, the Cabinet of Trinidad and Tobago agreed that in accordance with the provision of section 20A (1) (c) of the Central Tenders Board Ordinance, 1961 as amended, that Government enter into a contract with National Insurance Property Development Company Limited (NIPDEC) to complete and commission the Piarco and Crown Point Airports Development Project on behalf of the Government in accordance with a consultancy agreement entered into between Birk Hillman Consultants Incorporated and the Airports Authority of Trinidad and Tobago (AATT), which agreement was authorized by Cabinet in Minute No. 17 of January 2, 1997 and in accordance with the plans and specifications already developed.

In fulfilment of this objective, it will be necessary for the Airports Authority of Trinidad and Tobago to assign the benefits of the Birk-Hillman consultancy contracts to NIPDEC.

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Based on the Cabinet's decision, NIPDEC is required to complete and commission the project within the shortest possible time-frame and within budget. As part of this process, a review is to be undertaken on the size and cost centres of the project. At the end of this process a final costing on all aspects will be possible. However, based on the original contract between Airports Authority of Trinidad and Tobago and Birk Hillman the remaining sums are as follows:

Design Services	\$5,342,400.00
Project Management/Construction Management	\$31,374,000.00
Training and Commissioning	\$22,680,000.00.

**Piarco Airport Development Project
(Northern/Yorke/Coosals—Contract)**

35. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) Has the Northern/Yorke/Coosals (NYC) contract for construction of the terminal building and related aspects of the Piarco Airport Development Project been terminated?
- (b) If the answer is in the negative, could the Minister of Works and Transport state:
 - (i) the reasons why the NYC contract has not been terminated;
 - (ii) the nature of the work involved; and
 - (iii) how much money is expected to be paid to NYC for work on the project?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, in response to the question posed by the Member for Diego Martin West, please allow me to advise this honourable House that the answer to (a) is, no.

Based on the decision of Cabinet that NIPDEC would complete and commission the project on behalf of the Government in accordance with the Birk Hillman consultancy agreement and with plans and specifications already developed, NIPDEC would deal with all matters which would allow the project to be finalized within the shortest possible time-frame and budget and all decisions taken will be forwarded to Cabinet for its approval.

In this regard, the Attorney General has completed vetting the proposed drafts of the following contracts:

- (a) Agreement between the Permanent Secretary, Ministry of Works and Transport and NIPDEC to take over, complete and commission the airport project;
- (b) Agreement between Airports Authority of Trinidad and Tobago and NIPDEC to permit NIPDEC to enter the site;
- (c) Agreement between AATT and NIPDEC assigning the benefits of the Birk Hillman consultancy contracts;
- (d) Agreement between NIPDEC and Birk Hillman varying the services under the Birk Hillman Piarco Airport Consultancy Agreement.

**Piarco Airport Development Project
(Termination of)**

36. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) With the exception of the Seereeram Brothers Limited contract for earthfills, have all other contracts on the Piarco Airport Development Project been terminated?
- (b) If the answer is in the negative, could he say:
 - (i) the reasons these contracts have not been terminated;
 - (ii) the names of the contractors involved;
 - (iii) the nature of the work involved; and
 - (iv) the sums of money which are expected to be paid in 1998 for work done on the project by these contractors?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, with respect to part (i), the answer is no.

Based on the decision of Cabinet that NIPDEC would complete and commission the project on behalf of the Government in accordance with the Birk Hillman consultancy agreement and with plans and specifications already developed, NIPDEC would deal with all matters which would allow the project to be finalized within the shortest possible time-frame and budget, and all decisions taken will be forwarded to Cabinet for its approval.

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In this regard, the Attorney General has vetted the proposed draft of the following contracts:

- (i) Agreement between the Permanent Secretary, Ministry of Works and Transport and NIPDEC to take over, complete and commission the airport project.
- (ii) Agreement between the Airports Authority and NIPDEC to permit NIPDEC to enter the site.
- (iii) Assignment between AATT and NIPDEC assigning the benefits of the Birk Hillman consultancy contracts.
- (iv) Agreement between NIPDEC and Birk Hillman varying the services under the Birk Hillman Piarco Airport Consultancy Agreement.

Piarco Airport Development Project
(Estimated Cost)

37. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) In view of the recommendations of the report of the Justice Deyalsingh Committee on the Piarco Airport Development Project, which recommended construction of a smaller airport, could the Minister of Works and Transport state what is the present estimated cost of the project, including all consultants' fees?
- (b) If the estimated cost exceeds the 1995 all-inclusive ceiling cost of \$400 million, could the Minister indicate why the Government has not followed the recommendations of the 1992 report of the International Civil Aviation Organisation with regard to the sizing of the new airport facility?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, in responding to the question posed by the Member for Diego Martin East, please allow me to advise this honourable House of the following:

- (i) Based on the contract entered into between Airports Authority of Trinidad and Tobago and Birk Hillman Limited, the agreed cost of the project minus consultants' fees was US \$105 million. Project Consultant fees were identified at US \$16.275 million. The final cost of

the airport, at present, will be based on a review by the National Insurance Property Development Company after final hand over of the project to that company.

- (ii) No Cabinet approval identifying a 1995 all-inclusive cost of \$400 million could be clearly identified.

If the hon. Member for Diego Martin East could advise as to the project specifications being referred to, this would assist in answering the question.

However, the existing Piarco Passenger Terminal Building was opened in August, 1962. Even at that time it was recognized that the country's development and the growth in tourism demanded larger terminal facilities. Therefore, in 1968 the Government of Trinidad and Tobago contracted C.C. Parker and Parsons Limited, to determine a long-range development programme for the Piarco International Airport. The hallmark of this study was the introduction of the novel idea that the airport estate can directly be a generator of economic activity. This was revolutionary, for airports were then seen as merely transfer points between air and surface transportation and, at best, a facilitator of economic activity. The Parker study (Jan. 1969) proposed the building of:

1. A New Terminal Building on the northern side of the runway
2. A New Air Cargo Terminal and Warehouse
3. A Parallel Taxiway/Emergency Runway
4. A New Airport Hotel
5. An Aircraft Maintenance Centre
6. A Bonded Industrial Park

The estimated cost of the development was US \$20,000,000 with a two-staged constructed over 10 years (1969—1978).

Two studies which followed confirmed the findings of the Parker study:

1. Phelps, H. O., Dennis, Taylor; Piarco International Airport Development Study 1972—1990. Circa 1972.
2. Montreal Engineering, Peat Marwick *et al*; Preliminary Master Plan Report (Outline Plan) Piarco Circa 1980.

In addition to the development of the airport on the northern side of the runway, these studies confirmed that Piarco remained the best site in Trinidad and Tobago for the development of an International Airport.

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The formal introduction to the private ownership of the passenger terminal was contained in a 1985 study by Aviation Planning Services entitled “A Feasibility Study—Construction, Operation and Ownership of New Passenger Terminal Building and Car Park Facility”. This study also differed from the previous studies in that it recommended the development of the terminal on the southern side of the runway. It can be concluded that this approach was mandated by the need to reduce cost at the expense of other considerations. This study failed to address the economic viability of the estate and the surrounding communities. In fact, the development of the southern side required the relocation of the entire Piarco Village and the Golden Grove Road. The present approach to the development of the airport is guided by four studies undertaken between 1989—1992. These are:

1. Bechtel Airport Development Group
Piarco International Airport Land Use Feasibility Study. Circa 1989.
2. Horwath and Horwath International
Market Study and Prospective Financial analyses Commercial Land Uses, Piarco. Circa 1989.
3. ZHA International Incorporated
Site Improvement Designs
Geotechnical Reports
Schematic Design—Terminal Building
Tender Packages—Bridges and Culverts, Earthworks and Drainage, Airfield Improvements, Site Utilities and Public Roadways. Circa 1991.
4. LEA-TRA Airports Consultants
Feasibility Analysis, Retail Plan and Environmental Impact Study—Piarco. Circa 1992.

The market study by Horwath and Horwath was an input to the overall Bechtel study. The ZHA report prepared a set of engineering designs based on the Bechtel report. The ZHA designs and tender documents which belong to the Airports Authority were part of the request for proposal in 1992 and 1993. The LEA-TRA study sought to establish the economic and financial feasibility of the project, impacts and required mitigation measures.

These studies confirmed that the facilities at Piarco International Airport are inadequate, inefficient, or no longer meet recommended international standards for efficiency and safety. For example, the existing passenger terminal cannot properly

accommodate the current passenger volumes. The cargo facility cannot meet the already substantial need. The lack of a parallel taxiway forces the existing runway to also be used as a taxiway, which severely limits the usability of the runway. Many support facilities such as the crash/fire rescue facility and ground maintenance facility require modernization or replacement.

Passenger Terminal

The approach to sizing of the passenger terminal should ensure that the space and processing needs can be met for the design life of the terminal, while avoiding "overbuilding" which would impose a cost and capital repayment penalty on the project.

The design passenger volume is the peak hour passenger (PHP) flow of the average day of the peak month. This approach permits the airport to satisfy 90 per cent of the design year's hourly traffic demands at the planned level of service. Designing a facility to accommodate the absolute peak traffic demand will achieve the highest level of service, but it will be very costly. The Federal Aviation Administration (FAA) recommendation for gross terminal space in an international terminal is 20 square metres per PHP (20m²/PHP). This standard is flexible since a building can continue to function even if the available areas are less than would be provided in a new terminal in 1999. The existing terminal provided 17m²/PHP in 1991, this figure has since fallen to 15.2m²/PHP in 1995, a condition defined as frequent congestion. It is expected that a breakdown situation of (13m²/PHP) will be reached well before the year 2000.

In arriving at the passenger forecasts discussed, the consultants separated the passengers into categories. These categories were based on the sensitivities to several factors. For example, the tourist passenger component is limited by the number of available hotel rooms. This group is also heavily influenced by promotion and other opportunities in other areas in the world. The visiting friends and relations traffic is influenced by both Trinidad and Tobago's and the world's economy.

Given that there is now an even greater emphasis on tourism and the advantage which Trinidad and Tobago has in this area, given its unique climatic situation, it can reasonably be expected that there will be higher levels of holiday visitors to Trinidad and Tobago than originally forecasted in 1992.

The Tourism Master Plan (TMP) envisages the following tourism traffic volume by the year 2004:

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Air Arrivals, (TMP)	535,000
Total Air Arrivals, (LTA)	<u>230,000</u>
Additional Traffic (TMP)	305,000

Using the TMP figures results in a design requirement in the vicinity of 30,000m² by the year 2004. While it is generally agreed that an airport should have a life span of 10—15 years minimum, the above outline shows that there are many views in the proper designing of the airport. It is expected that NIPDEC will once again be addressing the question of size in their review of the project.

**Piarco Airport Development Project
(Feasibility Study)**

38. Mr. Colm Imbert (*Diego Martin East*) asked the Minister of Works and Transport:

- (a) Has any new feasibility study and/or cost benefit analysis been done to justify an increase in cost of the Piarco Airport Development Project from the 1995 estimate?
- (b) If the answer is in the affirmative, could the Minister of Works and Transport identify when this new feasibility study and/or cost benefit analysis was done, the authors of the feasibility study and/or cost benefit analysis and their qualifications and track record in the field, and the scientific and/or economic basis of their income and expenditure projections for the project?
- (c) Could the Minister advise whether Birk-Hillman's fees are tied to the size of the project?
- (d) If the answer to (c) is in the affirmative, could the Minister indicate what precautions have been taken to ensure that Birk-Hillman is not making unjust profits by unnecessarily increasing the cost of the project in order to increase its own fees on the project?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, in responding to the question posed by the Member for Diego Martin East, please allow me to advise this honourable House that the answer to (a) is, no.

In view of the answer to (a), a response to (b) is not required.

With respect to (c), the contract between the Airports Authority of Trinidad and Tobago and Birk Hillman Consultants Limited signed February 4, 1997 at Article 6 states:

“Contract Price

BHC hereby warrants that the Contract Price shall constitute the total cost to the Airports Authority for the Services exclusive of taxes and except for costs of BHC related to suspension of Services under paragraph 6.5 or Article 19 or variations under Article 10 hereof.

BHC’s fee shall be a net fee, exclusive of any sales, use, compensating use, ad valorem, value added or other taxes, permit fees, licence fees or other fees or charges imposed by any governmental or quasi-government entity in Trinidad and Tobago directly upon the Services or any portion thereof. Any taxes, fees or charges as aforesaid, which BHC is required to pay to any such governmental or quasi-government entity in Trinidad and Tobago shall be added to BHC’s fee and shall be paid by the Airports Authority so that BHC’s fee shall not be less than agreed herein.”

The contract between Birk Hillman and the Airports Authority—

“will not exceed United States One Hundred and Five Million Dollars (US \$105,000,000) (‘the Project Price’) exclusive of the Contract Price, increases to the Contract Price authorised by this Agreement and increases resulting from change orders made by the Airports Authority in the contracts for construction of the terminal and related facilities or due to events beyond the control of the parties to the said contracts. BHC undertakes to make every effort to ensure that the Project will be completed within the Project Price. In the event bids from the pre-qualified contractors for the construction of the terminal and related facilities indicate that the Project Price will be exceeded, BHC will notify the Airports Authority in writing of the increase in cost and its impact on the Project. If after such written notification the Airports Authority requests BHC to do so in writing, BHC will at BHC’s own cost promptly amend its designs and the related specifications in order to bring the Project within the Project Price but still in accordance with the criteria and provisions contained in Appendix “A”. Any cost overruns on the Project Price caused by negligence or default on the part of BHC shall be for the account of BHC.”

Mr. Speaker, I thank you.

**Usine Ste. Madeleine Sugar Factory
(Refurbishing Costs)**

41. Mr. Patrick Manning (*San Fernando East*) asked the Minister of Agriculture, Land and Marine Resources:

Could the Minister kindly indicate:

- (a) the total cost of refurbishing the Usine Ste. Madeleine Sugar Factory for the 1988 crop;
- (b) the cost of the new sugar mill installed and whether it is at present operating at full capacity;
- (c) whether there have been instances of breakdowns of the newly installed mill, and if so:
 - (i) how many breakdowns have occurred to date; and
 - (ii) what was the cost to the company of these breakdowns?

The Minister of Agriculture, Land and Marine Resources (Dr. The Hon. Reeza Mohammed): Mr. Speaker, in response to part (a) of the question, I am advised that the total cost of refurbishing the Usine Ste. Madeleine Sugar Factory for the 1998 crop was \$20.157 million which included the refurbishing and upgrading of the No. 1 tandem mill, relaying the cane yard, repairing and raising the factory roof, replacement and rewiring of the factory's electrical kiosk and extension of factory foundation and buildings.

Mr. Speaker, there is no new sugar mill installed at Usine Ste. Madeleine, so that parts (b) and (c) of the question do not apply.

**Speaker's Official Residence
(Restoration costs)**

44. Mr. Jarette Narine (*Arouca North*) asked the Minister of Works and Transport:

- (a) Could the Minister indicate the overall cost of the restoration works being undertaken at the official residence of the Speaker of the House of Representatives?
- (b) Could the Minister indicate whether local or foreign contractors other than the Ministry of Works and Transport are involved in this restoration, and if so, by what process were they selected?

- (c) If there are foreign contractors retained in the restoration, could the Minister name the foreign firms, indicate their specific functions and the cost at which they were retained?
- (d) Could the Minister give a breakdown of the cost for:
- (i) furniture and fixtures;
 - (ii) office equipment;
 - (iii) landscaping; and
 - (iv) interior decorations?

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Speaker, No. 9 Mary Street, St. Clair was acquired by Government in 1982 as the official residence of the Speaker of the House of Representatives. Originally a two storey building, it is now a single storey three bedroom house which is approximately 90 years old. The last occupant of the house vacated it in June, 1996 by which time it was very badly termite infested, requiring extensive repairs to the roof, floors, walls and ceilings. Many of the trees on the premises were badly infested with Mealy Bug. Mr. Speaker, the overall cost of the restoration works is estimated at \$662,000 and the total expenditure to date is \$437,434.89.

Only local contractors have been involved in the repairs to these premises and they were selected by the Divisional Tenders Committee of the Ministry of Works and Transport with individual contracts being less than \$100,000.

Part (C) of the question does not apply having regard to the answer to part (b).

The breakdown of costs as requested is as follows:

furniture and fixtures	\$31,909.90
office equipment	Nil
landscaping	All landscaping was done by the Ministry of Agriculture, Land and Marine Resources. Materials used amounted to \$6,205.75 for the purchase of promix, fertiliser, compost, weedicide and lawn grass.
Interior decorations	Nil

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It is to be noted that some items of furniture which were in the residence when it was vacated are being refurbished by the Furniture Branch of the Ministry of Works and Transport.