

Leave of Absence

Friday, September 4, 1998

HOUSE OF REPRESENTATIVES

Friday, September 4, 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 leave of absence has been granted to three Members who are absent today. The Member for Port of Spain North/St. Ann's West, the Member for Naparima, and the Member for San Fernando West.

PAPERS LAID

1. National Environmental Policy of Trinidad and Tobago. [*The Minister responsible for matters relating to the Environment (Dr. The Hon Vincent Lasse)*]
2. Report of the Auditor General of Trinidad and Tobago on a Comprehensive Audit of the School Nutrition Programme. [*The Attorney General (Hon. Ramesh L. Maharaj)*]
To be referred to the Public Accounts Committee.
3. Report of the Task Force for the Removal of the Common Entrance Examination. [*The Minister of Education (Dr. The Hon. Adesh Nanan)*]

ABUNDANT LIFE MINISTRIES (INC'N) BILL

**Special Select Committee Report
Presentation**

Mr. Chandresh Sharma (*Fyzabad*): Mr. Speaker, I have the honour to present the report of the Special Select Committee appointed to consider and report on a Private Bill for the incorporation of the Abundant Life Ministries and for matters incidental thereto.

**REMOVAL OF THE COMMON ENTRANCE EXAMINATION
(TASK FORCE REPORT)**

The Prime Minister (Hon. Basdeo Panday): Mr. Speaker, on March 22, 1998, less than six months ago, on the occasion of the formal opening of the Eric Williams Memorial Collection at the University of the West Indies, St. Augustine, I

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announced that the Common Entrance Examination will be removed by the end of this millennium. This was done in deference to the stated goal of our nation's first Prime Minister, Dr. Eric Williams, who, more than thirty years ago, had underlined as a high priority on his *agehnda* the elimination of the Common Entrance Examination for 11-plus children and their automatic movement from primary to secondary school.

Thirty years later, my decision to eliminate the Common Entrance Examination was informed by the need to deal with the traumatic experience faced each year by parents and students. Uppermost in my mind was the need to remove a mechanism which wreaks havoc on the lives of those of our young people who are unable each year to obtain a secondary school place, and above all, it was a decision meant to ensure that all—and I emphasize all—of our children, our nation's most cherished treasures, had an equal opportunity to achieve a sound quality education.

Mr. Speaker, shortly after that announcement, a fully representative task force was appointed in May 1998 under the chairmanship of Mr. Clive Pantin. The task force was mandated to formulate the necessary transition strategy to dismantle the common entrance process and recommend an appropriate formula for the automatic passage of our nation's children from primary to secondary school. Specifically, the task force was entrusted with the following terms of reference:

- To identify the full range of issues to be addressed in relation to the removal of the Common Entrance Examination;
- To prepare a plan for removal of the examination after April, 2000 as the basis for placement of students, including schedules and activities, resources and costs, and primary locations for school places;
- To make recommendation for any necessary changes in the areas of curriculum, teacher training, placement, testing and assessment;
- To address all staffing issues including teacher supply;
- To report within three months of its appointment; and
- To address any relevant or related matters.

Mr. Speaker, today, it is with much pride that I can say to this honourable House that my Government has made a significant step towards the realization of that goal. The report of the Task Force for the Removal of the Common Entrance Examination was submitted on Tuesday of this week to the Prime Minister and to

the hon. Minister of Education. As a measure of priority which I attached to this issue, as well as to ensure that this honourable House is informed of the contents of the report at the earliest opportunity, I am pleased, Mr. Speaker, to be present today at the laying of this report of the Task Force for the Removal of the Common Entrance Examination on the table of this House by the hon. Minister of Education.

Before I proceed to deal with some of the main findings and recommendations of the task force report, I would like firmly to place in perspective the removal of the Common Entrance Examination. The removal of this examination, as the task force rightly suggests, cannot be viewed in isolation as it impacts on the entire education system. I view the removal of the Common Entrance Examination as a critical step in the overall effort to put in place a comprehensive and integrated system of education and training the emphasis of which will be on quality, accessibility and equity. As a matter of priority, I am therefore committed to the development of an education and training system which is relevant, technologically-oriented, and which prepares all of our people—particularly our youth—for the world of work in the 21st Century.

An education and training system which incorporates all of our teachers, parents, communities and religious organizations in a national partnership must be your goal, if we are to deal successfully with these challenges of the new millennium. Mr. Speaker, empowerment through education is one of the mantras which I have chosen to drive this nation forward. Only by empowerment through education will all—and again, I emphasize, all—of our people have the opportunity to realize their undoubted potential.

Only by empowerment through education will we be successful in the fight against poverty and unemployment. This is why since we assumed office 33 months ago, we have been proceeding apace to reform the educational and training system in Trinidad and Tobago. This is also why in my Independence address to the nation last week, I spoke about a revolution in education which is already underway in Trinidad and Tobago. The removal of the Common Entrance Examination is part of that revolution. We simply cannot continue with a system that does not provide opportunities for all our children, and which annually excludes a significant number of our 11-plus children, thereby relegating them at an early age to second class status.

The expansion of tertiary education and the establishment of a community college system by the year 2000 must be seen as part of the continuous assessment programme as envisaged in the report that has just been laid today. So, too, is the

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work of the National Training Agency to co-ordinate all aspects of vocational and technical training to ensure that those of our young people who are not academically inclined will not be left behind. The commitment through the basic education project of US \$121 million so as to *inter alia* improve the quality of teaching and academic achievement in the primary school education is part of the revolution in education upon which this Government has embarked. The basic education project, which is already at an implementation stage, provides for the construction of 15 new primary schools, the refurbishment of 15 dilapidated primary schools and the renovation of 16 additional primary schools, the provision of furniture, equipment, teacher training, revision of the curriculum and provision of instructional material and computers.

We are anticipating that when the 11-plus examination is abolished, students may move on to secondary education at later ages, hence the need for more school places. The negotiation for a loan package with the Inter-American Development Bank will commit US \$150 million towards an extensive secondary school modernization programme. This secondary education modernization programme is expected to be implemented in 1999 and the basic aim is to provide universal secondary education with improved equity and quality.

The programme will provide sufficient secondary education school places through the construction of several new schools throughout Trinidad and Tobago so that all students of the relevant age groups may now be accommodated in secondary schools. It will eliminate the current two-tier shift system and establish a school distribution pattern aimed at a drastic reduction of travel distances for secondary schooling in Trinidad and Tobago. The institutional strengthening of the Ministry of Education and the provision of training for our teachers and principals are necessary ingredients of that revolution. We also intend an expansion of the Energy Skills Centres Network and the establishment of a college of advanced technology in the year 2000 so as to meet the skilled labour needs of the critical energy and industrial sectors.

In anticipation of the fundamental changes, a Ministry of Information Communication Training and Distance Learning has been established, and the Rudranath Capildeo Learning Centre to enhance curriculum development and distance education programmes and materials has been upgraded. Mr. Speaker, today in laying in Parliament the *Report of the Task Force for the Removal of the Common Entrance Examination* builds on all these developments and helps to

sustain the momentum towards a new education and training system designed to empower all of our people.

Permit me now to turn to the task force report. The task force found that:

“Given the importance attached to the Common Entrance Examination and the lack of acceptable alternatives to public secondary education, the examination itself began to exert an inordinate influence on the primary school and the curriculum and the teaching practices within the system.”

1.45 p.m.

"Teaching was very often restricted to those subjects which would be tested at the Common Entrance Examination and the greater part of the school day was given over to administering practice tests rather than to actual teaching. The result was that students, even those who performed well in the examination entered secondary school without the necessary basic preparation for secondary school work."

Mr. Speaker, I was informed by the Chairman of the Task Force that some could not read or write, but they could pass the examination because it reoriented the whole attitude towards education.

"The removal of the Common Entrance Exam by the year 2000 required a comprehensive examination primary and secondary school system. It is to their credit that we are able to undertake such an examination presenting us with far reaching recommendations which impinge on all aspects of education in Trinidad and Tobago."

Among the recommendations are the following:

"The review and development of an integrated primary school curriculum to provide greater emphasis on the development of numeracy and literacy skills;

The establishment of continuous assessment programmes as an integral part of the school system with a pilot project to begin this month and to continue onto July 2000. The aim is to have its full introduction into the system by September 2000.

The development of a comprehensive plan for the professional development of primary school teachers and the establishment of a Board of Teacher Education to coordinate and review all primary teacher education programmes;

The phasing out of the junior secondary school and senior comprehensive school programme and its replacement by a 5-year school programme;

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The successful and consistent construction of new schools and the development and execution of a plan for the budgeting, recruitment, staffing and maintenance of those new schools;

The setting of September 1, 2001 as the target date on which all eligible students in Trinidad and Tobago will be assured of a secondary school place;

The termination of the Common Entrance Exam by the year 2000 and its replacement at least for the next few years by a form of selective examination called the Secondary Entrance Examination.

Mr. Speaker, I would elaborate on this latter recommendation. The Task Force was emphatic in stating the Secondary Entrance Examination would not represent a mere change in examinations. In fact, the Task Force underlined that it would be designed to assist parents, principals and teachers to find the programme of education for which the child is best suited. Accordingly, specific criteria were set out to develop this exam and follow up committees were recommended to deal with the various issues relating to the successful and timely implementation of the programme.

The Tasks Force also placed particular emphasis on the need for the public and parents to be fully informed of these developments so as to ensure awareness and acceptance of the changes required.

Today's laying in Parliament of this report is intended to achieve that objective. The Task Force has also recommended the setting up of committees to ensure the timely and effective implementation of the recommendations in the report. Paramount among them would be an implementation committee to ensure the satisfactory implementation of the report's recommendation including the resolution of any problems and obstacles that may arise.

Before we do so, the matter will be considered by Cabinet. We will be grateful for any comments from Members of Parliament and members of the public, having laid the report in Parliament today. Those would be taken quite seriously and would be reflected in the Cabinet's recommendations.

I agree with the Task Force that this is the most favourable time to launch a complete overall of the education system. I have outlined the comprehensive strategy which my Government is pursuing to revolutionize the education and training system in Trinidad and Tobago. The goal is to create a nation of individuals with the requisite education, skills and training to enable us to take our

place as a successful nation in the competitive global economy of the 21st Century. Removal of the exam is an important part of that overall strategy.

Mr. Speaker, I know I have taken some time, but I thank you for the opportunity to make this statement.

INTERNATIONAL WAR CRIMES TRIBUNALS BILL
[SECOND DAY]

Order read for resuming adjourned debate on question [September 2, 1998]

That the Bill be now read a second time.

Mr. Speaker: Hon. Members, at the time of the adjournment the hon. Attorney General was in the process of replying. He had 35 minutes left, I therefore call on him.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I thank you for giving me the opportunity to continue my contribution on this most important debate.

This debate was adjourned shortly after the Opposition had indicated that it would place certain conditions for the passage of this Bill which requires a special majority. The Opposition stated that it would only support this Bill if the Government re-acceded to the two international human rights bodies and deleted, wherever it appeared in the Bill, the "Attorney General," and substitute it with the "Director of Public Prosecutions".

This Government is not going to allow the Opposition to dictate the pace of this administration's policy in respect of the implementation of the death penalty. The Opposition is not going to blackmail this Government into agreeing to something which is not in the public interest. [*Desk thumping*]. It is not going to frustrate the Government in passing this law. I would deal with that later on in my contribution.

I would first say what this Bill deals with to remind Members of the Opposition and for the record. This Bill is pursuant to a United Nations Security Resolution which set up two ad hoc tribunals to try persons who have been involved in acts of genocide, crimes against humanity, and war crimes in Rwanda and Yugoslavia.

After World War II, the trials of Nuremberg and Tokyo made it quite clear that there must be some machinery to prosecute persons involved in mass murder, acts of genocide and crimes against humanity. Trinidad and Tobago took a lead position in advocating the setting up of a permanent international criminal court.

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While these steps were being taken by this country to lobby the international community for setting up this court, there were the atrocities in Rwanda and Yugoslavia.

When those atrocities occurred, the world community saw the importance of Trinidad and Tobago's position of having a permanent international criminal court. The concept of what this country advocated was translated at the United Nations Security Council in that, they set up these two tribunals to prosecute and try persons involved in these acts of genocide.

So important was Trinidad and Tobago in this process that our country participated in all the international meetings. As a matter of fact, the role which we performed has been recognized. I refer to a book, *International Criminal Court Compilation of United Nations Documents* published in 1998 by "No Peace Without Justice and Weapons Control Center", in Rome. In the preface of the book in an article by Prof. Bassiouni he stated:

“By 1989, the interest of several world leaders became apparent with the calling of a Special Session of the General Assembly to deal with the growing problems of drugs. On that occasion, A. N. Robinson, then Prime Minister of Trinidad and Tobago, assumed a leadership role within the Caribbean and Latin American countries to rekindle interest in that issue. At this Special Session, the Government of Trinidad and Tobago proposed the possibility of establishing an ICC to prosecute major drug traffickers. Because certain major governments opposed the idea, the proposal had no chance of succeeding, but it paved the way for reconsideration of establishing a permanent ICC.”

I quote this article to show that what this is about in this Parliament is not only a national or regional issue, but an international issue in which Trinidad and Tobago has taken a lead position in setting up an international mechanism to prosecute persons who commit acts of genocide as occurred in Rwanda and Yugoslavia.

When these two events occurred in Rwanda and Yugoslavia, the world community decided it was time to set up an international criminal court. Quite recently, earlier this year in Rome, the Government of Trinidad and Tobago again played a leading role in that process. As a matter of fact Trinidad and Tobago not only spoke on behalf of our country at that conference but was also authorized to speak on behalf of Caricom.

In the statement made by Trinidad and Tobago at the opening of this conference, we stated:

"Caricom delegations are also pleased that the initiative of our member state Trinidad and Tobago in restoring the proposal for the establishment of an International Criminal Court to the centre of global attention has borne fruit. Caricom states joined in placing this initiative on the international agenda and for the region this historical conference is of special significance. We wish to acknowledge the leadership role played by His Excellency, Mr. Arthur N. R. Robinson, President of the Republic of Trinidad and Tobago in this effort.

Caricom delegates attached great importance to the establishment of a strong, independent, impartial and effective court."

2.00 p.m.

Mr. Speaker, it will be recalled that when Trinidad and Tobago introduced this issue at the United Nations in 1989 many countries were against it and Trinidad and Tobago persisted because we were convinced that there was need for machinery like the machinery for Rwanda and Yugoslavia on a permanent basis. What we in Trinidad and Tobago have done by this legislation is to create this legal framework whereby if these two tribunals want assistance in respect of the prosecution of persons who have committed these crimes either in Rwanda or Yugoslavia, Trinidad and Tobago could assist in those prosecutions.

If this legislation fails, Trinidad and Tobago would be a safe haven for the criminals of Rwanda and Yugoslavia and they would not be able to be sent back in order to face trial. The policy of the world today and the policy of this Administration is that there should not be safe havens for these criminals.

It had been stated that some of the people—because we would know that some 500,000 people in Yugoslavia were exterminated. Women and children were raped and killed. In Rwanda people were raped and killed. Over one million people were killed, murdered. What this legislation is about is to ensure that those people who committed those acts, if they end up in Trinidad and Tobago, we would be able to assist those tribunals to prosecute and the Opposition is saying that they are voting against this Bill.

Mr. Speaker, the Opposition supported this Bill in the Senate. The Independent Senators supported the Bill in the Senate. The Bill has been passed in the Senate but the Opposition is saying that they want these tyrants to escape justice; they want these murderers to escape justice; they want the condonation of mass murder; they want the condonation of genocide; they want the condonation of crimes against humanity.

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I want to put on the record so that people will get an idea and for the future generation to read what happened in Rwanda and Yugoslavia. I want them to know that even if they vote against this Bill it will still be passed. If they feel they are going to obstruct this Bill they make a mistake.

Mr. David Sheffer, the Ambassador at Large for War Crimes in the United States of America in a speech delivered at the Hague on September 19, 1997 said:

"Last week I visited a site in Rwanda called 'Ntarama'. There on April 15, 1994 more than 5,000 men, women and children were viciously murdered. I stood among the living dead, among scattered skulls and bones and blood-stained clothing on the floor of a Catholic church, where the victims thought they would find refuge from the genocidaire. Hundreds of skulls blanketed a shack nearby. What happened at Ntarama was not the simultaneous extermination of thousands; it was not genocide with the drop of a gas canister into the well of a chamber packed with humans whose terrified eyes need never haunt the executioner. At Ntarama, and throughout Rwanda in the spring of 1994, genocide was murder in the first degree—victim by victim, with machete, club, hoe spear, automatic rifle, or gasoline-fueled fire—bonding executioner and victim to within inches of each other.

A survivor of the massacre, a 37-year-old mother who had collapsed under the weight of the slaughtered corpses and whose entire family perished in the church, guided me through the carnage of Ntarama. We walked among her dead children's skull. She pleaded softly for those responsible to be brought to justice. But she also said that if justice could be rendered, she could live with her neighbours again. And then she breast-fed her newborn infant with a tenderness that spoke volumes. She showed me the courage of a Rwandan woman who lost everything except the miracle of the human spirit.

Our common challenge is to ensure that the enforcement of international criminal law in the 21st century fulfills the expectations of both those who codified it in this century and the survivor of Ntarama."

That is what the Opposition is voting against.

Mr. Speaker, I would like to quote again from Mr. David Sheffer in a speech on the January 28, 1998 in talking about victims and witnesses in the international criminal courts:

"Another real-time example is Rwanda. There, the genocide continues, and women and children are prime targets. Last month, at Secretary Albright's

direction, I visited the massacre site at the Mudende refugee camp in northwest Rwanda shortly after the carnage ended. When I reported to the Secretary, I told her that I witnessed evidence of resurgent genocide. Hundreds of women, children, and men had been slaughtered in the most vicious manner. I learned that about 150 Tutsi women may have been kidnapped by the insurgents, and may well be victimized as have been other Rwandan women..."

He visited a hospital and he said:

"The lone surgeon in the hospital told me how he literally stuffed the brains of women and children back into their skulls and stitched up the consequences of malicious machete attacks. Women and babies with compound fractures moaned in agony. One young girl lay paralyzed by a gunshot wound to her lower spine. We all have a duty to respond to this barbarity."

Mr. Speaker, this Bill is an attempt to make a contribution to the international legal framework to ensure that the victims of these massacres in Rwanda and Yugoslavia get some retribution and justice and the international community gets justice. This Bill represents co-operation by a small country with the world community to ensure that those who commit these heinous crimes would not escape justice.

Mr. Speaker, after World War II when there was the Nuremberg trial there were persons being tried for killing people because they were not of the same colour or creed. There were people being killed because they were Jews; millions of people. The world community at that time said that this must never happen again.

Here it is that we see what has happened in the world and we see what the world community is doing in order to ensure that persons who were involved in these massacres are brought to justice and Trinidad and Tobago has played a very important role in that respect. Mr. Speaker, the concept of these international tribunals is the concept which President Nelson Mandela used in South Africa when he set up the Truth Commission in order to get vindication in some form for injustices committed against people which amounts to genocide and crimes against humanity.

As a nation we have taken the lead not only in the region but we have taken a lead role in the world in ensuring that international humanitarian law would be respected and that there would be machinery to try to punish these persons. The Government, therefore, does not intend to allow this Bill to fail. What the Government intends to do is amend the Bill in order to put certain provisions in the

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Bill which would ensure that it does not need a specified majority. It needs a simple majority and we would be able to pass the Bill.

Mr. Speaker, we would not be following the model legislation which has been set for this matter but we would be able to tell the international community that we could not do it because the Leader of the Opposition and the Opposition in Trinidad and Tobago wanted the Bill not to be in the model form and, therefore, would want the matters in Trinidad and Tobago, if there are persons here, for the process to take a longer time. We will put the blame on the Opposition but the Opposition is not going to frustrate this Government in passing this Bill.

Mr. Speaker, I want to spend some time to put on record what this Opposition is doing. What the Opposition is asking us to do is to re-accede to the human rights bodies. If any government does that in these circumstances, it would mean that the death penalty in Trinidad and Tobago would not be carried out.

I want to read some statistics which the then Prime Minister would probably know about. I am going to read a list of some capital cases to show how delays before these human rights bodies have frustrated the carrying out of the death penalty. I first take the name Irvin Phillip. His petition to the United Nations Human Rights Committee was filed in 1992. The matter is still pending before the United Nations Human Rights Committee—six years which meant that the death sentence could not be carried out. That administration knew about this matter.

Lall Sewrattan: Petition to the United Nations Human Rights Committee filed in 1990, decision given on October 26, 1995. The death penalty could not be carried out because of delay.

Balkisoon Soogrim: Petition to the United Nations Human Rights Committee filed in March 1989 and the decision given in April of 1993. Death penalty had to be commuted.

Ramcharan Bikeroo: Petition to the United Nations Human Rights Committee filed in October 1993. Matter still pending before the United Nations Human Rights Committee. Death penalty had to be commuted.

Allan Henry: Brutal and barbaric murder. Petition to the United Nations Human Rights Committee filed in 1988, still pending before the United Nations Human Rights Committee. Death penalty had to be commuted.

2.15 p.m.

Elvis Penny's petition to the United Kingdom's Human Rights Committee filed on 22nd June, 1995 is still pending with the United Nations Human Rights Committee; death penalty had to be commuted.

Mr. Speaker, the facts about these human rights bodies are:

1. Trinidad and Tobago entered into these arrangements with these human rights bodies before the decision in *Pratt and Morgan* which made it compulsory for the state to carry out the death penalty within five years if it wanted it to be a lawful carrying out of the death penalty.
2. This administration decided that it was going to give the human rights bodies opportunity to put its house in order to get within the time frame of the 18 months within which the Privy Council said it must be decided. The human rights bodies did not do that and, based on that, we appeared before the human rights bodies. They refused to give any undertaking and Trinidad and Tobago decided to withdraw.

The present position is that Trinidad and Tobago is a party to the optional protocol for the International Covenant on Civil and Political Rights which means that individuals in Trinidad and Tobago can apply to the United Nations Committee on Human Rights on any matter with the exception of a death penalty issue. As long as one is on a death penalty one cannot apply. In respect of the Inter-American Commission on Human Rights, Trinidad and Tobago is no longer a party to that and has taken the position that it, like 90 other countries including America and the United Kingdom, does not intend to allow its laws to be frustrated.

Mr. Speaker, the people who sit on these human rights bodies are not judges—some of them are not even distinguished lawyers. Some of them are ordinary persons who, through political considerations, are appointed. For example, there was a Mr. John Donaldson as Chairman of the Inter-American Commission on Human Rights—and these bodies comprise people, most of whom do not believe in the death penalty. As a matter of fact, Trinidad and Tobago has taken the position, and has accused these two bodies of trying to impose the beliefs of the Commission's members on Trinidad and Tobago. They are from a different sociological set up and background.

Mr. Speaker, the Inter-American Commission on Human Rights comprises most people who are from Latin American countries—I think there was one from the Caribbean—and it sits at anytime with about eight or nine members. The United Nation Committee on Human Rights comprises mainly people from the

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European countries and about nine or 10 members sit. This is not a judicial body. It is a group of people set up for the purpose of adjudicating on breaches of human rights, not as to whether the death penalty should be carried out or not. What has happened is that these bodies have been used by persons who are convicted for murder in order to delay the process and escape the death penalty.

Mr. Speaker, in 1994 when the then Prime Minister of Trinidad and Tobago had the Glen Ashby decision, he believed that people who had different sociological backgrounds should not be adjudicating on these matters so far as it affected the death penalty. As a matter of fact on page one of the *Daily Express* dated July 11, 1994, it is reported that:

“Prime Minister Patrick Manning has expressed the view that recent decisions of the Privy Council did not take into consideration the sociology of the Caribbean. Manning...recalled that the People’s National Movement originally supported the retention of the Council...Manning said recent developments tell us that with the European Union coming together, the Privy Council in the United Kingdom has been influenced more and more by...considerations in Europe which are very different from...considerations in the West Indies.”

The considerations of the people who are on these bodies are totally different from the considerations of the people of Trinidad and Tobago.

Mr. Speaker, these human rights bodies do not protect anybody’s rights relating to the death penalty. As a matter of fact, the performance of these human rights bodies insofar as the death penalty matters from Trinidad and Tobago are concerned, is that they are used purely as a delaying mechanism for people in Trinidad and Tobago to get away from the death penalty.

Mr. Valley: Ask Dole Chadee.

Hon. R. L. Maharaj: You will tell us about Dole Chadee because you know.

Mr. Bereaux: You used to represent him.

[Off the record]

Mr. Speaker: Excuse me! What the Member for Diego Martin Central just said about moneys and the like is not right, and what the Member for La Brea just said is out of order. I ask you please not to make those comments during the course of the contributions of Members in this House. In the first place it is wrong to interrupt, sitting where you are, and to say what you said is wrong. I ask you, please, to desist and I ask that it be expunged from the record.

Mr. Valley: Mr. Speaker, I simply want to apologize, Mr. Speaker, but I hope also that the Member would stop suggesting that this side has some relationship with Dole Chadee also.

Hon. R. L. Maharaj: Mr. Speaker, I have not said that here today. *[Interruption]* I am not talking about other times. I have not said that in my contribution here and the other time when I said it you could have challenged me and I would have produced whatever evidence I could have; but I have not said that here. I do not intend to talk about that. If their conscience is affecting them, let it be so.

Mr. Speaker, let us see scientifically, and from the documents, what the people who go to these human rights bodies allege to prevent the death penalty from being carried out and see what the Oppositions want these people to continue to allege to prevent the death penalty from being carried out.

Some of the complaints for the death penalty not to be carried out are: that the person was arrested, handcuffed and was physically and verbally abused by the police for five, 10 and 15 minutes, and they say because of that the death penalty must not be carried out. They say the petitioner was beaten on his belly, ears, ribs, head and other parts of the body and the human rights bodies would take three, four and five years to determine that; and it is for those reasons the death penalty must not be carried out. These human rights bodies are saying that they have to take two, three and four years to determine whether this is so and also to determine whether that could prevent the death penalty from being carried out. So these human rights bodies, with the greatest respect to them, are making the law a mockery as far as Trinidad and Tobago is concerned and as far as the death penalty laws are concerned. *[Desk thumping]* This Government has the courage to stand up to these human rights bodies. We are going to stand up to them and tell them that Trinidad and Tobago is going to implement its laws and they cannot even get the support of the Opposition to prevent the death penalty from being carried out in Trinidad and Tobago. *[Desk thumping]*

2.25 p.m.

Mr. Speaker, a condemned prisoner said that there is a plastic bucket for a toilet and, therefore, he is suffering cruel and unusual treatment and, therefore, the death penalty should not be carried out. The International Human Rights Body has that for nine months and they still cannot investigate it and determine it. Another prisoner said that water in the showers is cold and only occasionally clean; no shampoo is provided and he is forced to wear standard prison clothing which

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makes him feel a little warm and hot at times, and because of that, the death penalty must not be carried out and this International Human Right Body has been investigating that for years and the Opposition is supporting them and saying that should prevent the death penalty from being carried out.

They are saying that we must re-accede in order to have more of these applications, because if Trinidad and Tobago re-accedes, it would mean that many of the people on Death Row might say that the paint is giving them an allergy, that they are allergic to paint and it is cruel and unusual treatment. Another prisoner said that his death penalty must not be carried out because he cannot see friends and relatives for long. He can only see them for 15 minutes twice a week and, therefore, he is receiving cruel and unusual treatment and his death penalty must not be carried out.

Mr. Speaker, those are some of the complaints that these prisoners make, and they say that the death penalty must not be carried out. This Government does not intend to comply with the Opposition's request. This Government is uncompromising in its commitment to implement the death penalty, and it is not prepared to comply with the Opposition. [*Desk thumping*]

Before I go through some of the amendments which I will move at the committee stage and which I have distributed, may I deal with the allegation that the reference to Attorney General in the Bill should be deleted from this Bill? Here again, personality has come into play. The Opposition does not like the Attorney General, and the Opposition says that the reference to the office of the Attorney General in the Bill should be deleted. Why should it be deleted? Because they do not trust the Attorney General. Well, Mr. Speaker, in a Bill like this, the office holder of Attorney General has to perform certain functions on behalf of the state and, just as in the Extradition Act where the extradition would involve certain legal implications and also involve certain political consideration, so in this Act which is of a similar nature, this is the model, this is required.

I merely want to put on the record that if one looks at the Extradition Act which was passed in 1985 by the PNM government, we will see the similarities. Clause 4(1) of the International War Crimes Bill, which is before us, corresponds with section 9(1) of the Extradition Act of 1985, which says that a request has to be made to the Attorney General for assistance from the tribunal and, similarly, a request has to be made from the other country to the Attorney General for extradition. Clause 6(1) of the Bill corresponds with section 10(1)(b) of the Extradition Act which has to do with the issue of a provisional warrant, the

Attorney General being the office holder. Clause 7 of the Bill corresponds with section 10(3) of the Extradition Act, which deals with the discretion of the Attorney General to decide whether to proceed. Clause 10(a) of the Bill corresponds with section 11 of the Extradition Act, which deals with the consent for an order to return, and clause 15(2)(a) of the Bill corresponds with section 8 of the Extradition Act, which deals with the question of the Attorney General's restrictions in return in not issuing a surrender warrant.

So, the Opposition really does not have any genuine reason for not supporting the Bill, but it is pure obstructionist policy, and it thinks that it is spiting the Government and it will frustrate its legislative policy. Mr. Speaker, the Bill was drafted for a specified majority on the basis that when a request was made from the tribunal, the request from the tribunal would be sent to a police officer, the police officer would be given directions by the Attorney General, the police officer would apply for a warrant, and when the police officer gets a warrant on the basis of provisional warrants, the arrest of the person can be effected. It also dealt with the question that where there was an authority to proceed, the Attorney General would issue the authority to proceed and the court would purely examine the documents and determine to return or surrender the person.

Based on that, Mr. Speaker, since the Constitution stated that if one was passing any law which was inconsistent with the Constitution, one had to have a specified majority, we have drafted an amendment to reform those procedures in a particular way, and that is to say, to provide maximum due process of law. That is to say, the police officer would not be directed to apply for a warrant. He will be given the evidence, and he will take the evidence to a magistrate. The magistrate will have to consider whether he would issue the warrant, and that is on the basis of a provisional warrant.

In relation to the aspect of ordering to proceed, the Attorney General will decide whether a case should be proceeded with, and a magistrate will have to perform the functions that happen in an extradition case and will, in effect, have to review all the evidence and determine whether there is a *prima facie* case. Mr. Speaker, the Constitution of Trinidad and Tobago states not that liberty cannot be taken away, but liberty can only be taken away in accordance with due process of law, but the Constitution gives the power to the Parliament, in cases in which it is not necessary to have some of these extended procedures.

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For instance, where a tribunal like an international tribunal has decided matters and it sends here to get the person, the principle in the world, in all legislation, is that one does not have to go through all these procedures, and the model legislation was that which was given. The Opposition did not call for that. It said it is not voting for this Bill because we have to re-accede to the human rights bodies. So, we have to decide, in order to get the Bill through by a simple majority to amend it, although it would mean not going along with the international model, and although it would mean that when a person ends up here, instead of one month it might take one year to send the person away, we will blame that on the Opposition.

We want to get through with the Bill to ensure that the Opposition supporters in Rwanda and Yugoslavia will not get away. Only this morning I was reading on the newspaper that one of our calypsonians was in Rwanda, and several of the police officers were in Rwanda working with the Rwandan authorities, helping victims and witnesses in this struggle, and here we have the Opposition frustrating the Government to help those people in Rwanda and Yugoslavia.

Mr. Speaker, we are going to delete the preamble, amend clause 6 of the Bill so it would fit within what I have just stated and, in effect, we are going to introduce a new clause 10(a) which will permit a person to consent to be able to be sent, instead of going through that whole process. If we have anybody here, we will be able to try to tell them we could go through this long procedure that the Opposition said they must go through, but they will have to be in prison unless the court orders that they get bail, but they have the avenue of consenting and they could go on a plane right away. We are introducing that procedure.

Mr. Panday: That is what is called ingenuity. They are totally incompetent!

Hon. R. L. Maharaj: Mr. Speaker, we are also introducing in the Bill an amendment which says that for the purpose of proceedings under the section dealing with the powers of the magistrate in determining whether to surrender a person, the magistrate shall have light jurisdiction and powers as nearly as may be including power to adjourn the case, and meanwhile remand the person either in custody or on bail, and to have the powers as when the magistrate is acting at a preliminary inquiry.

Mr. Speaker, we also amended clause 26 which has to do with the question of evidential material, where the magistrate is satisfied by proof on oath that there is reasonable ground for believing that there is in any building, vessel, receptacle or

place, any evidential material, he may, at any time, issue a warrant under his hand authorizing the police officer to search such building, vessel, receptacle or place for such evidential material, and to seize and carry it before the magistrate who issued the warrant, or any other magistrate to be dealt with for the purposes of an investigation or prosecution as the case may be.

Mr. Speaker, we have amended this clause in order to get away from any contention that it does not have the intervention of the court in respect of any of these matters, and we had to do that in order for it to comply with the provisions of the Constitution dealing with the passage of a Bill by a simple majority. We also have to amend the clause dealing with the forfeiture of property. Under this Bill, the Trinidad and Tobago authorities would be given the power to confiscate the assets of anyone who is convicted in Rwanda or in Yugoslavia before this tribunal, if that person has assets in Trinidad and Tobago.

It is not unlikely that this can happen, because quite recently, the state department released that there is information that persons who have been involved in the massacres in Rwanda and Yugoslavia are in the Caribbean. As a matter of fact, quite recently, some of the persons were arrested in the United States of America, and some of the persons have been targeted in other countries in the region. So, it is not unknown for these people to be able to even own property in countries under the guise of other people's names. Under this Act, it gives the power to Trinidad and Tobago authorities and the court to forfeit the assets of these persons if they are convicted. Mr. Speaker, we have also introduced in the amendment measures to give to the court the power to freeze the assets pending the hearing and determination of matters before the tribunals.

2.40 p.m.

Mr. Speaker, the clause is amended in order to give effect to the provision of the Constitution which requires a Bill to be passed with a simple majority. What we intend to do, therefore, is to ensure that this Bill is passed in accordance with the law so that those persons who end up in Trinidad and Tobago will not get away if they are wanted in Rwanda or Yugoslavia.

I would show the hypocrisy of the Leader of the Opposition and those on that side. They said that they are interested in people's applications before the human rights bodies and the rights of appeal, and they do not want people to be executed if their rights are being violated or if they have proceedings before a tribunal.

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Concerning Mr. Glen Ashby, I have here the proceedings from the file of the Office of the Attorney General. As you know, this man was executed during the last administration. I want to read the facts because it would show that Mr. Ashby had an application pending before the United Nations Human Rights Committee. Although his application was pending the Member for San Fernando East, as Prime Minister, authorized his execution.

"Mr. Ashby was convicted of murder and sentenced to death on 20 July 1989." I read from the decision of the United Nations Committee on Human Rights which determined that the application on behalf of Mr. Ashby, although he was dead, was admissible to be considered. In the summary of the facts by this committee it states:

"Mr. Ashby was convicted of murder and sentenced to death on July 20, 1989. His subsequent appeals were dismissed by the Court of Appeal on 20 January 1994 and by the Judicial Committee of the Privy Council in London (the highest court for Trinidad and Tobago) on 6 July 1994. Mr. Ashby made a complaint to the United Nations Human Rights Committee (UNHRC) in Geneva on 6 July 1994 and brought a constitutional motion in Trinidad and Tobago on 13 July 1994. Mr. Ashby was executed while in the process of litigating these two actions. The execution was carried out despite an assurance that had been given to the Privy Council by the representative of the Attorney General of Trinidad and Tobago that no such execution would take place before Mr. Ashby's application for a stay of execution could be heard. Further, the execution was carried out while Mr. Ashby's application to the Trinidad and Tobago Court of Appeal for a stay of execution was in the process of being heard and just minutes after the Privy Council heard and granted an application for a stay. Moreover, the execution was carried out while the case was pending before the UNHRC."

Mr. Panday: International deception!

Hon. R. L. Maharaj: The Leader of the Opposition is saying he is not supporting this Bill and would support the tyrants who murdered the people in Rwanda and Yugoslavia, if we do not go back to that committee. The millions of people who were murdered, the hundreds of thousands of women who were raped, the children who were killed and on whom indecent acts were performed, the Opposition is saying it would not vote for the justice of the victims of these crimes. It wants us to go back to the human rights body, but while in government they

executed a man while he had his case pending before this great human rights body and the court of Trinidad and Tobago. [*Desk thumping*]. Such hypocrisy!

I will continue reading from the United Nations Committee report.

"Mr. Ashby was thus executed in spite of the fact that the Government of Trinidad and Tobago knew that Mr. Ashby was in the course of pursuing the remedies available to him by law."

This is a serious matter. The Government of the day violated and breached the law. In another country, at that time, the Prime Minister would have ordered an investigation to determine whether his Attorney General contravened the law, misconducted himself in public office and had him prosecuted.

This is a matter in which this man had a case before the courts of Trinidad and Tobago and assurance was given by the then government that he would not be executed, and in the early hours of morning while the court was sitting, he was executed. They are talking about human and fundamental rights and constitutional rights!

Hon. Members: Shame! Shame. Legal murderers!

Mr. Valley: Mr. Speaker, I understood that the Member had about 35 [*Interruption*] minutes remaining on his speaking time. He is now going on for at least 45 minutes.

Mr. Speaker: You are right, the speaking time of the Member has expired and I have drawn it to his notice that it is necessary to wind up.

Mrs. Persad-Bissessar: Mr. Speaker, I beg to move that the speaking time of the Hon. Member be extended—

Mr. Valley: That time has passed. [*Cross talk*]

Mr. Speaker: It is not open to be extended like that: this is a reply.

Hon. R. L. Maharaj: Mr. Speaker, I assure you I will complete it in the next minute.

"The execution of Mr. Ashby constituted a grave violation of his international human rights, including, *inter alia*, the rights to life, liberty and security of the person, a fair trial and appeal, equality before the law and freedom from torture, cruel, inhumane and degrading treatment or punishment."

The Opposition is not genuine with their contention and it merely wants to obstruct. [*Cross talk*]

Question put and agreed to.

Bill accordingly read a second time.

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I move that the committee stage of this Bill be taken at a later stage in the proceedings as the amendments are being typed.

Agreed to.

**JOINT SELECT COMMITTEE REPORT
(OMBUDSMAN)**

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I beg to move,

Be it resolved that this House take note of the Report of the Joint Select Committee of Parliament appointed to consider and report on the 17th Annual Report of the Ombudsman and the functions and duties of the Ombudsman, which was laid in the House of Representatives on Thursday November 06, 1997.

Mr. Speaker, you would recall in February 1997 that both offices of the Parliament agreed to the setting up, establishment and appointment of a joint select committee with special terms of reference to look into the role and functions of the Office of the Ombudsman, and for a means of providing a more effective machinery for the functioning of that office.

At that time, the 17th Annual Report of the Ombudsman had been laid in the House and we had moved a Motion for debate of that report and for the setting up of a joint select committee. In that 17th Annual Report the Ombudsman had listed 12 very common complaints which mitigated against his office being able to bring a speedy resolution to the problems raised.

Those problems are important. Because of them the committee in its deliberations, came up with the recommendations contained in the report that was tabled in this House. We need to remember what role the Office of the Ombudsman should be performing.

Basically, we appreciate that many persons who encounter during their lifetime, experiences and incidents which seem to be injustices in terms of their relationships with administrative and governmental bodies, seem to have no form

of redress. They may be persons who could not afford a lawyer and in most cases they may not have a cause of action against a particular governmental department. Thus, the Office of the Ombudsman was created and is functioning throughout the world as a means of seeking redress for what we would call the small man or the ordinary person in the country. They could seek redress in cases of injustice through the office of the Ombudsman.

Regrettably, while section 93 of the Constitution clearly states:

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

Set out in section 97 of the Constitution the Ombudsman is given "the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him."

After the investigation the Ombudsman is empowered to make recommendations to the relevant Ministry or government department or authority body to act or cease to continue whatever illegal act they might have been engaged in that was found to be unfair or unequitable.

Within those provisions, while the Ombudsman can make these recommendations to deal with the inequity or injustice, he could take no administrative or legal action in order to have his recommendations enforced. We have heard of him being referred to all the time as a "toothless tiger".

In the background of the functioning of that office the Ombudsman himself listed in the 17th Annual Report on page 4, 12 problems, the common complaints which he felt prevented him from giving effectiveness to his recommendations and speedy solutions to the problems and injustices brought to his attention.

These complaints were: firstly, too much legalism and formalism resulting in intolerable delays. When reports came to him he would investigate and make recommendations to the relevant departments or authority. You would find that maybe 10 years would elapse or in some cases even more, before any justice would be brought to the aggrieved persons.

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- 1) There was too much legalism and formalism in the way the system operated, which resulted in very long delays.
- 2) Failure to deal reasonably and with administrative fairness.
- 3) Misinterpretation, wrongful application of government policies, procedures, rules and regulations.
- “(4) Failure or refusal to meet with members of the public to discuss their problems to arrive at a just solution.
- (5) Taking unilateral decisions or actions without consulting the person aggrieved and an adamant refusal to change a decision whatever the consequences.
- (6) Intolerable delay in arriving at decisions or in taking action necessary for the proper resolution of problems.
- (7) Arrogance, hostility, insensitivity and indifference.”

On the part of governmental departments and authorities.

- “(8) Officiousness, incompetence and inefficiency.
- (9) Failure to use initiative and sound common sense in contributing to a solution.
- (10) Denying fault and laying blame on another department or agency without any attempt to achieve co-ordination with that department or agency.
- (11) Intolerable delay in paying compensation where liability has been admitted for a wrongful act.”

2.55 p.m.

He was saying that even where liability was admitted by the authority or the department there was still intolerable delay in actually paying out compensation he might have recommended.

Finally, the twelfth problem he identified was: persisting in faulty methods and systems which have outlived their usefulness.

Mr. Speaker, given this mandate the committee set up by this honourable House, together with Members of the Senate, commenced on a series of meetings throughout Trinidad and Tobago and, in addition, held meetings with the heads of departments and other persons. Documents were sent out to many groups and individuals for their comments and all the comments were taken in the final deliberations of the committee.

Mr. Speaker, if I may be allowed as Chairman of the Joint Select Committee to place on record the gratitude of the committee for the tremendous assistance received from the officer of the Parliament, Mr. Neil Jaggassar. May I also take this opportunity to thank Members of this House and the other place, on both sides of the House for their contributions with respect to the report laid in Parliament in terms of our mandate.

Mr. Speaker, from the oral evidence that we received and from the memoranda we received it became very clear that many persons felt that the ineffectiveness of the Ombudsman's office was due to the lack of power in that office to enforce the recommendations that he made and it was due to the failure of Parliament to debate and take action on any of his annual and special reports. As a result, some recommendations were made for increasing the power of the Ombudsman whilst others felt strongly that penalties should be imposed for non-compliance with the recommendations.

Mr. Speaker, as you know the Ombudsman investigates complaints of maladministration in the public service and government agencies. The committee was of the view that it could not properly fulfill its mandate without hearing from those who were being investigated; that is to say, the officers of the state departments of the government agencies. It was in this regard that we met with all the Permanent Secretaries here in the Red House in terms of ascertaining from them how they dealt with complaints and investigations being conducted by the Ombudsman and with the recommendations that were made by the Ombudsman in any particular case.

The two general features that emerged from that meeting made it very clear that there was a variety of ways in which requests from the Ombudsman were dealt with by various ministries and the diversity of problems arising from a multitude of functions being carried out by the ministries. What it meant is that each government department seemed to have a different method for dealing with the recommendations from the Ombudsman. The Ombudsman would investigate a matter and would seek information from the relevant government department against whom an allegation might have been made. But each ministry did not seem to have a standard procedure as to how to follow up on the investigations of the Ombudsman, on the requests of Ombudsman and, finally, in terms of recommendations that he would make in a particular case.

What the committee clearly recognized was that there was a need to streamline procedures especially with respect to the communication of the payment of claims, and streamlining procedures in the sense that there should be a standard procedure

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of which department and which official in that department should be the one responsible for dealing with the requests of the Ombudsman and the recommendations.

Mr. Speaker, another common factor which affected all the departments that was brought to the attention of the committee by the Permanent Secretaries had to do with the question of finance. It appeared that in many instances ministries were willing to comply with recommendations for the payment of compensation where the Ombudsman had so recommended, but that it could not do so since the recommendation would involve a cost for which there would be a specific vote allocated for payments of compensation in a particular year. In such circumstances one would only have to wait for funds to be allocated within a particular ministry for such payment. That again resulted in tremendous delays and in many cases to non-payment for many claims that were made.

Mr. Speaker, having looked at the 17th Annual Report and having considered the comments that we received from the public, Permanent Secretaries and the Ombudsman himself, the committee came up with several recommendations as contained on page 9 of the report. One of the first was the establishment of a joint standing committee of both Houses of Parliament to consider reports of the Ombudsman. This recommendation had previously been made in a prior report on the office of the Ombudsman many years ago but was not followed through. This Joint Select Committee believed that this was one way in which the delay in implementing the recommendations of the Ombudsman could be dealt with.

The problem with respect to that was that when the Ombudsman lays the report in Parliament there is no requirement for it to be debated, or for any further action to be taken on it except by special motion for debate on that particular report. Year after year the Ombudsman would be laying these reports in the Parliament and at the end of the day there would be no effectiveness in terms of carrying out his recommendations.

The committee was of the view that if a joint standing committee of both Houses of Parliament was established for the purpose of considering the reports of the Ombudsman it means that at each point that report is tabled in the Parliament it would be referred to the joint select committee and that joint select committee could then deliberate and take action and make recommendations accordingly.

Further, the committee recommended that a time limit of 14 days be set for action on the recommendation of the Ombudsman and if at the expiration of that 14 days no action has been taken the matter would also be referred to the Joint Standing Committee of the Parliament. For example, between annual reports which, as you know Mr. Speaker, are laid annually, one per year, an agreed party, a person upon whom the Ombudsman had adjudicated in terms of determining that this person had been unfairly treated by a government department or agency, therefore, should be compensated, the Ombudsman would make the recommendation.

As I said, for years nothing was done with respect to recommendations. Nothing is being done if it is laid once per year in the Parliament. So that this 14-day requirement means that within the year period even then in matters that no action has been taken after 14 days, that would go to the Joint Standing Committee of Parliament for consideration.

Mr. Speaker, the committee further recommended that the Standing Orders of both Houses of Parliament be amended to allow for matters referred to the Joint Standing Committee of both Houses to be deliberated on in public. This is another approach because at the moment all the proceedings of committees of the House are held in camera, they are not held in public and the proceedings are kept within the committee until such time as the report of the committee is tabled in the Parliament and thereafter it becomes public.

The Committee felt that in order to get action with respect to the recommendations of the Ombudsman that if it is government officials or government authorities or departments had to answer publicly for their failure or neglect to implement the recommendation of the Ombudsman then that would put a further pressure on them to look carefully at the recommendations or to give due consideration to them in an expeditious manner rather than waiting for those to come to the Parliament to the Standing Committee of Parliament for a public hearing. We feel that this very novel approach of having public deliberations for cases which had already been adjudicated upon as being unfair, inequitable or in cases of mal-administration on the part of government departments and government ministries should be subject to public scrutiny.

Fourthly, the committee recommended that the Ministry with responsibility for Public Administration establish and implement, as soon as practicable, a mechanism common to all ministries and public agencies for receiving and acting expeditiously on complaints received from the Ombudsman. This mechanism must

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ensure clear communication between the Ombudsman and the ministry or agency and should include guidelines for greater dialogue between the Ombudsman's office and the ministries at the senior levels.

It should be compulsory that all correspondence be copied directly to the Permanent Secretary. Mr. Speaker, this recommendation was to deal with the problem which the Office of the Ombudsman indicated that it encountered very frequently. That is to say, that when it sent for information from a particular ministry or authority being investigated that it could not always identify which person or official in that ministry was responsible for dealing with the request and, thereafter, for dealing with any recommendation. I spoke about that briefly before but this recommendation is designed to ensure that it is a channel of communication and dialogue between the Office of the Ombudsman and a designated official within the government ministry or government agency. That would make for speedier resolution of matters.

From the persons we met and spoke with there was the indication that even though there was a particular official designated in some ministries to deal with the complaints, requests and the recommendations of the Ombudsman there was no senior official such as a Permanent Secretary who would monitor, supervise and ensure that these matters were dealt with expeditiously. We felt as an administrative function that within ministries all correspondence from the Office of the Ombudsman should be copied directly to the Permanent Secretary in addition to any designated official or officials.

The committee further recommended that the Office of the Ombudsman be located to a centralized facility in Port of Spain separate from any other government office in addition to the establishment of permanent regional offices in other parts of Trinidad and Tobago. Mr. Speaker, as you may be aware at present the Ombudsman operates out of an office in Port of Spain but it is a moving office; that is to say, that on particular days the person of the Ombudsman with his staff will move to different locations in Trinidad and Tobago. But from the submissions we received the committee felt that he would better be able to fulfill his role and carry out his functions and, therefore, better be able to serve the public in all areas of Trinidad and Tobago if there were permanent regional offices located in other parts of Trinidad and Tobago.

Mr. Speaker, we must remember that the persons who normally access the office of the Ombudsman are persons who are least able to afford perhaps

travelling from deep south into Port of Spain to access that office. They are the ones who would really need to have an office nearer to them in order to have access to it to seek justice, fairness and equity. We believe this is an important recommendation that there be permanent regional offices in other parts of Trinidad and Tobago in order to accommodate all citizens of Trinidad and Tobago.

3.10 p.m.

We further recommended that the office of the Ombudsman take a more proactive approach to investigation of complaints with the appointment of additional and more skilled investigators, including persons qualified as attorneys-at-law.

The committee felt that the contingent of staff within the office of the Ombudsman was insufficient for the Ombudsman to be as proactive as he should be in investigating the complaints which came to him. This recommendation basically was for an upgrading of the staffing contingent of the office of the Ombudsman.

Mr. Speaker, the committee further recommended that with respect to public education greater use be made of section 9 (1) of the Ombudsman Act, Chap. 2:12 namely:

“The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports have been the subject of a report to the Parliament.”

Jointly with this, it was recommended that the Ministry with responsibility for public information, together with the Ombudsman embark on a programme of public education on the role of the Ombudsman especially in outlying areas.

From submissions received, there was the view that there were many who would be in need of accessing facilities of the office of the Ombudsman but who were very ignorant, and ignorant in the sense of not knowing what was the role and the function of the office of Ombudsman.

It was interesting to us that during the consultation held throughout the two islands, when persons came to speak with us about the role and function of the office of the Ombudsman—I am sure my friend from St. Ann’s East, a Member of the Committee would bear me out—they embarked on trips everywhere except exactly dealing with the role and functions of the Ombudsman. It stemmed from the fact that they did not know or were ignorant as to what really was the jurisdiction of the office of the Ombudsman and, therefore, felt that the committee

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would be able to hear every complaint they have ever had. We feel that this public education programme would assist in two ways. Firstly, in terms of educating those who would need the services of the Ombudsman, educating them in terms of what exactly would be the function of the office of the Ombudsman, and the way in which they could access these services.

Mr. Speaker, the committee further recommended that the Ministry of Education in collaboration with the office of the Ombudsman create special programmes on the role, functions and duties of the Ombudsman, and that these programmes be incorporated in schools' syllabuses.

I remember some time ago when I was growing up there used to be on the curriculum a subject known as civics where one would do different government departments, different officials within the bureaucracy and the Executive of the country. I know now that some of these are incorporated under the Social Studies programme. The committee felt that it could usefully utilize school syllabuses to incorporate an educational function from within the schools so that at an early age persons could be educated in terms of the role, duties and functions of the office of the Ombudsman. Those were some of the recommendations with respect to the administrative mechanisms.

I mentioned earlier that the whole issue of finance seems to be the major block in terms of complying with the recommendations of the office of the Ombudsman. The committee made specific recommendations with respect to funding. These are as follows:

That a fund appropriately named be established by Cabinet under the Exchequer and Audit Act, and managed by the Treasury Division of the Ministry of Finance.

That the fund operate as a revolving fund perhaps, not unlike the operations of advances fund or a contingency fund.

That initial financing of the fund be made by way of parliamentary appropriation.

Mr. Speaker, at the time of the 1998 budget—as history would have it—we are only now actually debating the motion to adopt this report. The committee further recommended with respect to the fund;

That payments out of the fund be made with respect to and limited to claims agreed by the Ombudsman and the relevant Ministries and agencies.

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That payments out of the fund be made on the request of the relevant ministries, agencies, on submission of the relevant documentation as agreed with and determined by the Treasury Division and on the approval of the Ministry of Finance.

That payments out of the fund be recovered by the Ministry of Finance against the appropriate vote of expenditure of the relevant ministry or government agency.

These recommendations were made after our consultations with the Permanent Secretary and other officials of the Ministry of Finance who advised us as to the manner in which this could be done, and that there would really be no major obstacle for the creation or establishment of such a fund. So the complaint that now arises is that there are no funds within the ministry budgeted within any particular financial year; that there are no funds allocated for payments based on recommendations for compensation. We felt that the establishment of this fund would eradicate that problem.

Basically, those are the recommendations of this committee and once again, if I may in concluding, reiterate that the office of the Ombudsman as we all know is a creature of the Constitution of Trinidad and Tobago which came into effect in 1976. This institution has been served by the incumbent and his predecessor. In terms of fulfilling their role and function within the constraints of the office and the other problems, the committee indicated that both the incumbent and the predecessor have served that office well.

The committee was firmly of the view that many of our less fortunate citizens have received some measure of justice, some measure of relief because of this particular very unique office of the Ombudsman. The committee was totally in favour of the retention of the office of the Ombudsman. It was totally in favour of the functioning of such an office given our society as it stands now, given the fact there are many times when to seek justice it can be a very expensive procedure for many of our citizens.

If I may just indicate, it is clear that whatever functions, whatever justice that the Ombudsman brings, it is at totally no cost to any citizen who accesses the office of the Ombudsman.

In spite of what I have said, that the office has functioned well, it has served many of our citizens, it became very clear as we indicated before that several difficulties have arisen which have rendered the functioning of this office less effective than was originally envisaged.

Mr. Speaker, your committee is of the view that many of the impediments standing in the way of an effective functioning machinery for the office of the

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Ombudsman are purely administrative in nature. In recognition of this and in accordance with the philosophy behind the creation of the office of the Ombudsman, the committee made the recommendations I have outlined.

The committee hopes that these recommendations will be accepted by this honourable House, and that they will be put into effect with some urgency in order to bring redress, justice and equity to our less fortunate citizens who may have encountered mal-administration, inequity and injustice during their course of dealings with government departments and agencies.

Mr. Speaker, I thank you and I beg to move.

Mr. Speaker: Hon. Members, before we proceed with this, we will now revert to the Bill that we were discussing before.

INTERNATIONAL WAR CRIMES TRIBUNAL BILL

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I beg to move that this House do now resolve itself into committee to consider the Bill clause by clause.

Bill committed to a committee of the whole House.

House in Committee.

Mr. Bereaux: Mr. Chairman, based on the voluminous amendments, I wonder whether this could be taken—to give us a little more time to study them—after the tea interval?

Mr. Speaker: If that is the wish of the House, has there been any discussion with respect to that?

Mr. Bereaux: I do not know if there has been. I have been trying to look at it all through this stage of the proceedings.

3.20 p.m.

Mr. Bereaux: We would deal with ours.

Mr. Chairman: The position is the House went into committee and that was passed, but I am saying if there was agreement on both sides then there is no problem, but it appears that there is not.

Hon. Members, you have before you the list of amendments which has been circulated.

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

Question proposed, That clause 6 stand part of the Bill.

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

In clause 6(1)

- (a) Delete the words “suspected or” in paragraph (a).
- (b) Delete all the words after the words “police officer” where they first occur and insert the words “together with any supporting evidence that may have been submitted by the Tribunal, and the police officer shall apply for a provisional warrant of arrest for the arrest of that person”.

In clause 6(2)

- (a) Delete the word “shall” in line 2 and substitute the word “may”.
- (b) Delete the words “suspected or” in paragraph (a).
- (c) Delete the full stop at the end of paragraph (c) and substitute a comma, and insert in the line immediately below the following words:

“and on consideration of any other evidence as in the opinion of the Magistrate, justifies the issue of the warrant”.

Delete the words “ eighteen” and “forty” and substitute the words “ten” and “twenty-eight”, respectively.

Question put and agreed to.

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

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Clause 7 ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 8 be amended as follows:

In clause 8

Renumber as clause (1) and insert immediately after subclause (1), the following subclause:

“(2) This section also applies to a person who has been remanded in custody on a provisional warrant, save that the provisional warrant shall be discharged from the time of the issue of the warrant for his arrest.

(3) The Magistrate shall issue a warrant under this section where he is satisfied that the evidence before him justifies the issue of the warrant.”

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9.

Question proposed, That clause 9 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 9 be amended by deleting the word “direct” and substituting the words “apply to”.

Question put and agreed to.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10 ordered to stand part of the Bill.

New Clause 10A.

Mr. Maharaj: Mr. Chairman, I propose a new clause 10A which reads as follows:

In clause 10A

Insert after clause 10 the following new clause:

Consent 10A.(1) Where the return of any

order for
return

person is requested under this Part and such person is arrested in pursuance of a warrant issued under section 8, he may request the Attorney General to order his return without any proceedings before a Magistrate under section 11.

Form 4
Second
Schedule

(2) Where the Attorney General consents to the request made by a person referred to under subsection (1), and is satisfied that the person understands the consequences of the request, the Attorney General shall, without the proceedings referred to under section 11, and in the form set in Form 4 in the Second Schedule, order such person to be committed to custody, to be kept for the purposes of his surrender to the Tribunal unless submitted to bail.

Form 5
Second
Schedule

(3) At anytime after the Attorney General commits the person into custody shall, with the consent of such person, by warrant in the form set in Form 5 in the Second Schedule, order him to be surrendered to the Tribunal.

(4) Where a person whose surrender has been ordered under subsection (2), withdraws his consent to the order before his departure from Trinidad and Tobago, he shall be brought as soon as practicable before a Magistrate for the purposes of proceedings under section 11, and

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thereupon shall be dealt with as if the Attorney General had not made the order.

(5) The provisions of sections 15(2), (3), (4), (5) and 16(3), apply to the return of any person under this section unless the contrary is expressly requested by that person.”

New clause 10A read the first time.

Question proposed, That the new clause be read a second time.

Question put and agreed to.

Question proposed, That the new clause be added to the Bill.

Question put and agreed to.

New Clause 10A added to the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 11 be amended as circulated.

In clause 11 (1)

Delete the word “(6)” in line four and substitute the word “(8)”.

(5)

- A. Delete the word “not” in line one.
- B. Delete the words “not” and “or” in paragraph (a).
- C. Delete the word “not” in paragraph (b) and substitute for the word “warrant” the words “warrant; or”.
- D. Insert the following paragraph (c)—

“(c) that a *prima facie* case has been made out against that person in respect of the Tribunal offence for which he is charged or convicted by the Tribunal”.

E. Renumber subclause (6) as subclause (8) and insert the following subclauses:

“(6) For the purpose of proceedings under this section a Magistrate shall have like jurisdiction and powers as nearly as may be, including power to adjourn the case and meanwhile remand the person under the warrant either in custody or on bail as when the Magistrate is acting at a preliminary enquiry.

(7) Where the Magistrate makes an Order under this section, he shall, on committing the person to await the warrant of the Attorney General for his surrender to the Tribunal, inform that person in ordinary language of his right to make application to the High Court for judicial review and shall forthwith give notice of the committal to the Attorney General”.

Question put and agreed to.

Clause 11, as amended, ordered to stand part of the Bill.

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Clauses 12 to 18 ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 19 be amended as follows.

In clause 19	Delete all the words beginning with the word “authorise” and ending with the word “take” and substitute the words “apply in writing to the Magistrate for the taking of”.
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Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

Clauses 20 to 25 ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 26 be amended as follows.

In clause 26	Renumber subclauses (2) and (3) as (5) and (6), respectively, and insert after subclause (1), the following subclauses:
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“(2) Where the Magistrate is satisfied, by proof on oath, that there is reasonable ground for believing that there is in any building, vessel, receptacle or place, any evidential material, he may, at any time issue a warrant under his hand, authorizing the police officer to search such building, vessel, receptacle or place for such evidential material and to seize and carry it before the Magistrate who issued the warrant, or any other Magistrate, to be dealt with for the

purposes of an investigation or prosecution, as the case may be, under this Act.

- (3) Where any evidential material is seized and brought before any Magistrate, the Magistrate may detain or cause it to be detained, taking reasonable care that it is preserved for the purposes of the investigation or prosecution, as the case may be.
- (4) For the purposes of this section, “evidential material” means evidence that may be related to a Tribunal offence.”

Question put and agreed to.

Clause 26 as amended, ordered to stand part of the Bill.

Clauses 27 to 30 ordered to stand part of the Bill.

Clause 31.

Question proposed, That clause 31 stand part of the Bill.

Mr. Maharaj: Mr. Chairman, I beg to move that clause 31 be amended as follows.

In clause 31

- A. Delete the full stop at the end of subclause (1), substitute a comma therefor and insert in the next line the following words:

“if he is satisfied that—

- (c) the person against whom the order was made, appeared in the proceedings and if he did not do so, that he received notice of the proceedings in sufficient time to enable him to defend them;
- (d) any other person affected by the order was given the opportunity

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to show why an order should not be made;

- (e) the order is subject to appeal; and
- (f) enforcing the order in Trinidad and Tobago would not be contrary to the interests of justice”.

B. Renumber subclause (2) as (11) and insert new subclauses (2) to (10) as follows:

- (2) The High Court may by Order (hereinafter referred to as a “restraint order”) prohibit any person from dealing with any property specified in a forfeiture order subject to such conditions and exceptions as may be specified in the Order.
- (3) An application for a restraint order shall be supported by an affidavit which may contain, unless the Court otherwise directs, statements of information or belief with the sources and grounds thereof.
- (4) A restraint order—
 - (a) may be made only on an application by the Director of Public Prosecutions;
 - (b) may be made on an *ex parte* application to a judge in chambers; and
 - (c) shall provide for notice to be given to persons affected by the order.
- (5) A restraint order—
 - (a) may be discharged or varied in relation to any property; and

- (b) shall be discharged on the conclusion of the proceedings or application question.
- (6) An application for the discharge or variation of a restraint order may be made by any person affected by it.
- (7) Where the High Court has made a restraint order, the court may at any time appoint a receiver—
 - (a) to take possession of any property that is subject to a forfeiture order property; and
 - (b) in accordance with the court's directions, to manage or otherwise deal with any property in respect of which he is appointed, subject to such exceptions and conditions as may be specified by the court, and may require any person having possession of property in respect of which a receiver is appointed under this section to give possession of it to the receiver.
- (8) For the purposes of this section, "dealing with property held by any person" includes, without prejudice to the generality of the expression—
 - (a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt; and
 - (b) removing the property from Trinidad and Tobago.

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- (9) Where the High Court has made a restraint order, a police officer may, for the purpose of preventing any realisable property being removed from Trinidad and Tobago, seize the property.
- (10) Property seized under subsection (11) shall be dealt with in accordance with the court's directions.

Question put and agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

Clauses 32 to 34 ordered to stand part of the Bill.

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

Schedule 3.

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

Mr. Maharaj: Mr. Chairman, I beg to move that Schedule 3 be amended as follows.

In Schedule 3

- A. Renumber Forms 4 to 9 as 6 to 11 respectively and insert the following new forms:

[Please see attached for Forms 4 and 5]

Delete the words "suspected or accused of" occurring in Forms 1 and 8 and substitute the words "charged

FORM 4

Section 10A

Warrant of Committal (by Consent)

TRINIDAD AND TOBAGO

To all Constables and to the Keeper of

Jail/Prison

A.B. having been arrested pursuant to a warrant issued under section 6(1) or 8(1) the International War Crimes Tribunal Act, 1997 and having requested the Attorney General to order his surrender without any proceedings before a Magistrate under section 11 of that Act.

And the Attorney General having consented to the request of A.B.:

This is to command you, the said constables, to convey A.B. to the said Jail/Prison and there deliver him to the Keeper thereof, together with this warrant; and I do hereby command you, the Keeper of the said Jail/Prison, to receive him into your custody and keep him until he is thence delivered in accordance with the provisions of that Act.

Dated the _____ day of _____, 19

Attorney General

FORM 5

Section 10A

Warrant of Surrender (by Consent) to Tribunal

TRINIDAD AND TOBAGO

To the Keeper of _____ Jail/Prison to all Constables

Whereas a request has been made to the Attorney General by or on behalf of.....for the surrender to the Tribunal of A.B. who is charged for [or who is convicted of] the offence of.....

And whereas A.B. has requested the Attorney General to order his surrender to without any proceedings before a Magistrate under section 11 of the International War Crimes Tribunal Act, 1997:

And whereas the Attorney General consented to that request of A.B. and ordered A.B. to be committed to the said Jail/Prison on

the _____ day of _____, 19 _____, to _____ await his _____ surrender to

Now, therefore, the Attorney General hereby orders with the consent of A.B. that A.B. be surrendered to.....in respect of the offence for which he was committed to custody by the Attorney General.

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Dated the _____ day of _____, 19

Attorney General.

Question put and agreed to.

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

The preamble.

Question proposed, That the preamble be deleted.

Question put and agreed to.

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

House resumed.

Bill reported, with amendments.

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

The House divided: Ayes: 20 Noes: 8

AYES

Maharaj, Hon. R. L.

Panday, Hon. B.

Persad-Bissessar, Hon. K.

Lasse, Dr. The Hon. V.

Griffith, Dr. The Hon. R.

Humphrey, Hon. J.

Sudama, Hon. T.

Nicholson, Hon. P.

Rafeeq, Dr. The Hon. H.

Assam, Hon. M.

Job, Dr. The Hon. M.

Khan, F.

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..

Manning, P.

Imbert, C.

Narine, J.

Hart, E.

James, Mrs. E.

Bereaux, H.

Joseph, M.

Bill reported, with amendment, read the third time and passed.

Mr. Speaker: Hon. Members, we would now revert to the Motion which was moved by the hon. Minister of Legal Affairs.

3.35 p.m.

**JOINT SELECT COMMITTEE
(OMBUDSMAN)**

Mr. Martin Joseph (*St. Ann's East*): Mr. Speaker, I rise to participate in the debate on the Motion:

Be it resolved that this House take note of the Report of the Joint Select Committee of Parliament appointed to consider and report on the Seventeenth Annual Report of the Ombudsman and the functions and duties of the Ombudsman, which was laid in the House of the Representatives on Thursday November 6, 1997.

Mr. Speaker, let me first of all put on record, the manner in which the Chairman of this Joint Select Committee, the Member for Siparia and hon. Minister of Legal Affairs, conducted the affairs of this committee. In participating in this debate, I do not intend to focus too much on the findings and recommendations—I am in agreement—of this committee. Further, I do not think it would be ethical for me to stand and disagree, having been a member of that

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committee and having participated in all of its deliberations and also having agreed with the findings and recommendations of the committee. I think it is important that we pay some attention to some of the factors that give rise to the need of an Ombudsman in the first place, and to the extent to which, perhaps, we can minimize the extent to which citizens are required to utilize the services of the Ombudsman.

In the report, it was indicated that the main focus of the office of the Ombudsman is to investigate maladministration in the public service, particularly, against the less fortunate in society. The Member for Siparia, in presenting the report, made reference to item No. 16 of the report where the Ombudsman cited 12 of the more common complaints which mitigate against his office arriving at speedy solutions to problems reported by members of the public.

Mr. Speaker, in looking at those 12 items, I categorized them into two broad areas. I called one area "systems procedures failings" and the second area "people competencies failings". If we follow that categorization, we will see that two complaints or about 17 per cent can be categorized as strictly systems and procedures failings. That is No. 1 in which he says:

"(1) Too much legalism and formalism, resulting in intolerable delays."

And in No. 11 where he says:

"(11) Intolerable delay in paying compensation where liability has been admitted for a wrongful act."

Mr. Speaker, 7 or 58 per cent of the complaints can be categorized as strictly people competencies failings. Those are:

- "(3) Misinterpretation or wrongful application of Government policies, procedures, rules and regulations.
- (4) Failure or refusal to meet with members of the public to discuss their problems and so arrive at a just solution.
- (5) Taking unilateral decisions or actions without consulting the person aggrieved and an adamant refusal to change a decision whatever the consequences.
- (7) Arrogance, hostility, insensitivity and indifference.
- (8) Officiousness, incompetence and inefficiency.

- (9) Failure to use initiative and sound common sense in contributing to a solution.
- (10) Denying fault and laying blame on another department or agency without any attempt to achieve co-ordination with that department or agency.”

Mr. Speaker, what does this underscore? It underscores that there is an urgent need to continue to reform the public sector. Why? In this immediate case we are addressing the Report of the Ombudsman, but in my opinion prevention is still better than cure.

We must prevent citizens—especially as the Ombudsman indicates—who do not have recourse for redress; who cannot utilize the services of a lawyer; who do not know anyone in the society and as a result can be disadvantaged, from having maladministration take place against them and having to wait 10 or 20 years for redress. It seems to me that we need, as I said earlier on, to put in place mechanisms to avoid as much as is humanly possible, these citizens who after all are citizens of Trinidad and Tobago, from being exposed to maladministration and having to find redress for actions taken in the first instance against them which should not have been taken.

Mr. Speaker, the question that we need to address is how the public sector can perform its roles more efficiently, effectively and fairly. We need to understand that in today's world and in the world of tomorrow, we are dealing with citizens, who as customers, with private sector organizations that provide goods and services and are demanding better quality products and services at less cost. That is a change. There was a time when high quality goods and services were associated with high cost. That is no longer the case. I remember when I was growing up we used to hear about “good things not cheap and cheap things no

Because of the ability to add value in the most efficient and effective manner, private sector organizations are able to provide high quality goods and services at low cost.

Mr. Speaker, when those same citizens deal with the public sector, they are also demanding higher quality public goods and services at lower taxes. In order for governments to be able to respond to this new need, it is absolutely important that public sector organizations continue to provide highly efficient and effective goods and services at lower taxes. This recognition, all around the world, has caused governments, especially those governments that have recourse to international lending agencies, to put mechanisms in place to reform the public service.

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Mr. Speaker, when we, the People's National Movement, formed the government of the day, during the period 1991—1995, we understood why public sector reform was so critical to improving the efficiency and effectiveness of the government. If I may be permitted—

Mr. Sudama: Were you there?

Mr. M. Joseph: In our Manifesto of 1991, this is what the People's National Movement indicated as it related to public sector and public service reform. Permit me, Mr. Speaker, to quote some aspects of that 1991 Manifesto. It says:

“The public service in any country plays an important role in both formulation and implementation of public policy. In an increasingly dynamic world, the demands and challenges facing the public service are becoming more varied and complex. An on-going programme of Public Service Reform must form part of any approach to the Public Service.

The PNM is therefore committed to reforming the Public Service in consultation with the public sector trade unions so as to ensure:

- greater responsiveness to the needs of the citizens
- an improved quality of service
- speedier delivery of services
- greater efficiency in revenue collection
- elimination of archaic systems which result in wastage of financial and human resources
- greater accountability.

The PNM will approach the question of Public Service reform by initially introducing its review and implementation programme in four (4) designated Ministries:—Health, Agriculture, Finance and Industry. These four Ministries will serve as models for implementation of reforms in other Ministries.

To achieve this, an implementing task force reporting directly to a Minister with responsibility for public service will be immediately directed towards addressing these concerns.

Among the priority areas to be reviewed in the Public Service are:

- organization structure of the service
- classification systems and job descriptions

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- financial management and budgetary systems
- disciplinary procedures.

In addition, all Ministries will be required to develop a five-year strategic plan and an annual plan against which they will be evaluated.”

This underscores again, the point I was making earlier on about ensuring that these ministries are so organized that we can provide speedy, efficient and effective service to all citizens of Trinidad and Tobago.

Mr. Speaker, interestingly enough, we were not unique in that respect. Permit me to put on record, the attempt made by the United States government in a report called *Creating a Government that Works Better and Costs Less*, the Gore Report on Reinventing Government. If I may be permitted to just quote a couple aspects of that report, it says:

“The National Performance Review is about change—historic change—in the way the government works. The Clinton administration believes it is time for a new customer service contract with the American people, a new guarantee of effective, efficient, and responsive government. As our title makes clear, the National Performance Review is about moving from red tape to results to create a government that works better and costs less.

These are our twin missions: to make Government *work better and cost less.*”

The report goes on to identify the ways in which they were able to accomplish it. Let me just quote the final part of this report which says:

“This performance review is not about politics. Programmes passed by both Democratic presidents and Republican presidents, voted on by members of Congress of both parties, and supported by the American people at the time, are being undermined by an inefficient and outdated bureaucracy, and by our huge debt. For too long the basic functioning of the government has gone unexamined. We want to make improving the way government does business a permanent part of how government works, regardless of which party is in power.”

Mr. Speaker, we also indicated in our 1995 Manifesto what we had accomplished during the period 1991—1995 and what we intended to do if we had formed the government coming out of the November 06 elections. It is history that we did not form the government and as a result we now have a new party forming the Government.

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3.50 p.m.

I tried to find out, by way of its manifesto, what is the UNC's policy with respect to public sector/public service reform. Unfortunately, there is not a single mention in the manifesto of the public sector and its intention with respect to reform and it is not surprising. Mr. Speaker, I will tell you why it is not surprising. One of the first things the UNC's Minister of Public Administration did—perhaps, without any vision as to the public sector—was to come to this honourable House—unfortunately, I do not have the exact date—and criticize the Member for Port of Spain North/St. Ann's West, the then Minister of Public Administration, on the performance of the Ministry of Public Administration.

Mr. Speaker, let me just back up a bit. To underscore how important public sector reform was, the Manning administration during 1991—1995 had a Ministry of Public Administration—something unknown before—to underscore how critical public administration and the reform of the public sector were to efficiency and effectiveness. Not only that, but to also provide better service to the citizens of Trinidad and Tobago.

Then, Mr. Speaker, in comes the Minister of Public Administration, perhaps, with no articulated vision of public administration, and as I said, wrongly criticized the performance of the public administration ministry during the period 1991—1995. He came and lambasted: talked about it being a waste of time, work was not being done and so forth. Nothing could have been further from the truth. However, during that period of time the policy position with respect to public sector reform was put on hold, as were many other things. Then, just a few months ago there seemed to be a re-interest in public service reform, so much so, that I would quote the *Trinidad Express* dated September 3, 1998. It says:

“Mark off to Malaysia

Public Administration Minister Wade Mark left yesterday for Kuala Lumpur, Malaysia to attend the 1998 biennial conference of the Commonwealth Association for Public Administration and Management.”

Mr. Speaker, having criticized, soundly, the entire approach towards public sector reform—waste of time, waste of money, nothing was accomplished and so forth—there seems to be a renewed interest in an understanding of the importance of public sector reform in terms of making sure that we take Trinidad and Tobago into the 21st Century.

Let me underscore, Mr. Speaker, the hon. Member for Couva North and Prime Minister is now talking about a total quality nation as part of the mandate for the

UNC's administration. This administration says many things and when we look at some of the systems, policies and procedures that are put in place to make sure that it is really serious about what it is saying, it does not take very long to realize that it is just a lot of talk. Mr. Speaker, a major area in any total quality nation has to be the public sector, which is one of the largest sectors in the economy. Yet, at the same time, the Government pays lip service to the importance of that segment, in terms of the behaviour of the Minister of Public Administration. The point, as I said, is that the Minister of Public Administration is now off to Malaysia. I continue to quote:

“The theme of the conference is ‘The New Public Administration: Moving into the 21st Century and focuses on three aspects of the new public administration—the changing nature of the political/administrative interface; partnering with other organisations in society; and managing change specifically through an examination of the use and management of information technology, as well as through the improvement of the quality of service to the citizen.’”

Mr. Speaker, my hat is now off to the Minister of Public Administration because of the recognition of the importance of public sector reform in ensuring—

Hon. Member: What is your point?

Mr. M. Joseph: It is all related. Mr. Speaker, for those who want to know what the point is, I am saying that if we ensure that we have a more efficient and effective public service, we would reduce the need for the Ombudsman having to intervene on behalf of citizens who have no redress by way of paying legal fees. Prevention is better than cure. I am not talking about doing away with the office of the Ombudsman. I am saying that we can reduce the need for citizens to go to the Ombudsman and wait 5—15 years in order to get redress. That is the point, Member for Nariva. I am making the point with respect to this administration's behaviour as it relates to the public sector.

Let me bring it home, Mr. Speaker. There are two editorials, one in the *Express* and one in the *Newsday*. With your permission, I will put them on the record. I quote from the *Express* editorial:

“Inexcusable case of neglect

We wait with the proverbial bated breath for the report of the committee appointed to investigate the circumstances leading to the death of 68-year-old Joyce Stafford. Ms Stafford died on Tuesday after waiting ten hours for an

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ambulance to take her from the Pt. Fortin Area Hospital to the San Fernando General Hospital.

Preliminary reports indicate the reason the ambulance could not be dispatched. This came about because one of two ambulance drivers scheduled for duty that night had not reported to work, and another was asleep and could not be found.

According to a hospital official quoted in yesterday's *Express*, even though there were enough drivers to have all shifts manned, and two serviceable ambulances, the practice of drivers reporting for work, signing in and then disappearing is 'a normal thing'."

Mr. Panday: Did that start last year?

Mr. M. Joseph: It did not start last year, hon. Member for Couva North, but if the Government was serious about public service reform and it had taken up the cause—

Mr. Panday: What have you done in the last 30 years?

Mr. M. Joseph: Mr. Speaker, I could only talk about the period that we just came out of, 1991—1995, where we recognize—*[Interruption]* Mr. Speaker, we can deal now, with now. There is a recognition that did not exist all the years before. The matter is now sharply in focus and given that, there is a responsibility on the part of the Government to treat with the whole question of public sector reform. I would not let Members on the other side distract me, Mr. Speaker.

I will quote the second editorial that comes from the *Newsday*, dated Friday, September 4, 1998. It says:

“Callous disregard for residents

Petrotrin's six-day delay in repairing a damaged gas pipeline at St. Croix Road, Barrackpore, until escaping gas sent flames soaring as high as 15 feet on Tuesday, amounted to a dismissal of the concerns of residents who had, understandably, feared an explosion.

The gas leak had been highlighted in both the print and electronic media after the problem arose last Saturday, yet no corrective action was taken by the State-owned company until Tuesday's fire, (the second) three days later.

Petrotrin had a social responsibility that it failed to discharge, adequately, until Tuesday's igniting and giant flames created a sense of unease in nearby

residents and a feeling in the wider community that the company was being indifferent to the welfare of villagers.

An earlier posting of a 'No Smoking, No Naked Lights' sign, without early corrective steps, clearly could not have been regarded as enough."

Petrotrin should have had the damaged and leaking gas line repaired within 24 hours of receiving the first report.

The moral, perhaps, was that no one in authority at Petrotrin acted expeditiously, and the State-owned oil company has come out of this as seeming to be less than a good corporate citizen.

Petrotrin must accept that it has a social responsibility to discharge way beyond the turning of a profit, providing jobs, paying taxes and providing revenue for the Government. Its social responsibility also includes acting promptly to deal with problems such as this week's damaged gas line at St. Croix Road, Barrackpore.

Meanwhile 300 residents of Cottage Road, Lower Barrackpore, are themselves victims of bureaucratic indifference, following the collapse a week ago of a newly constructed bridge linking their settlement to outside areas.

Since the collapse of the bridge, the villages have been quietly ignored and they claim that no one from either the Ministry of Works or the Regional Corporation has turned up to see about salvaging the bridge."

4.00 p.m.

Mr. Speaker, what would the people concerning these two incidents I referred to have to do? They would have to wait and seek the input of the Ombudsman in order to get their matters redressed. I am saying that we have an obligation, as we move into the 21st Century, to ensure that all our citizens, irrespective of who they are, where they come from, who they know or do not know, feel safe and comfortable with respect to the use of the services the state provides.

Mr. Speaker, I am saying that until such time when that is our vision, then we would be more than sailing. This brings me to a personal issue I have to address. On the last occasion, as the representative for the constituency of St. Ann's East, I made the comment—while we dealt with another matter—that in St. Ann's East we have a situation that is worse than it has ever been in the history of this country which has to do with the problem of water. There are areas in which for six days at a time there is no water being delivered; areas such as Sam Boucaud, Pipion Road, Cantaro Village and Brass Street area. I am saying it was never like this before.

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Mr. Assam: You have been in office for 34 years, what have you done? I am fed up of you now. Are you complaining to yourself?

Mr. Speaker: Order, please!

Mr. M. Joseph: Mr. Speaker, I am saying that as we are being asked to take note of this Joint Select Committee's report on the 17th Report of the Ombudsman, I am sure if we look at the 18th, 19th, 20th or 21st reports we would see the same matters recurring. I am saying that until such time as we put measures in place to prevent these things, the 18th, 19th, 20th, 21st, 22nd and all other reports of the Ombudsman would continue to show up some of these inefficiencies and we would be debating them.

I thank you, Mr. Speaker.

Mr. Hedwidge Bereaux (*La Brea*): Mr. Speaker, I rise to make a very brief contribution in respect of this Motion:

“Be it resolved that this House take note of the Report of the Joint Select Committee of Parliament appointed to consider and report on the 17th Annual Report of the Ombudsman and the functions and duties of the Ombudsman, which was laid in the House of Representatives on Thursday November 06, 1997.”

Mr. Speaker, the office of Ombudsman is not unique, but very important in respect of the citizenry of Trinidad and Tobago and in particular, as I said before, those persons who are unable to access the courts because of their lack of wealth or adequate means; or who do not have the kind of clout that could enable them to get certain things done. In fact, the Ombudsman is the refuge of the average, ordinary citizen as against the administration. Here we speak—*[Interruption]* Mr. Speaker, I am usually the person who, more often than not, receives the brunt of your order. I do not go against that, but I would appeal to you, when I am trying to be really constructive and well-behaved, to ask the hon. Member for St. Joseph to allow me to make my contribution because I can change it at any time.

Mr. Speaker: Hon. Members, I simply wish to indicate that the Member for La Brea is entitled to protection of the Chair and insofar as the Member for St. Joseph has done anything to have the effect of putting him off, I ask him to desist. Please continue.

Mr. Assam: Can I rise on a point of order, Mr. Speaker?

Mr. Speaker: What is the Standing Order?

Mr. Assam: 43(1).

Mr. Speaker: [*Consults Standing Orders*] Overruled. Please continue.

Mr. H. Breaux: Mr. Speaker, as I was saying, the office of Ombudsman is really the refuge and shelter which the citizenry, the average man, has when dealing with the administration. When one looks at the comments, and I want to take the point that the Ombudsman made when he said that these reports should be debated in the Parliament. I believe, in a way, we have failed to deal with the whole question of the Ombudsman. When I say “we”, I mean we as a Parliament because the Ombudsman really reports to Parliament and when he raises these problems with the administration we, as a Parliament, should debate them and come to some consensus as to how certain things should be done.

To underscore it we see that to some extent some of the complaints or the failures which the administration claim to have, or their inability to deal with some of the matters raised by the Ombudsman are as a result of the lack of funding. I want to quote from paragraph 19 of the report of the select committee which says:

“Another common factor which affected all Ministries and was brought to the attention of your Committee by the Permanent Secretaries dealt with finance. It appeared that in many instances, Ministries were willing to comply with the recommendation but could not do so since the recommendation involved a cost for which no budgetary provision was made in that particular year and funds could not be sourced elsewhere. In such circumstances the public servant could only wait until appropriate funds were allocated.”

Now, whereas I agree that in some cases that is a plausible excuse for non-performance, it is not sufficient simply to say there are no funds. The public servants involved, if they were concerned and operated in the private sector, might have said something like: we recognize the infraction; there are no funds budgeted and we would make the necessary requests for funds in the next year of the budget.

So, that is a point, and in particular, that strikes at the recommendation made by the committee which says that a fund appropriately named, be established by the Cabinet under the Exchequer and Audit Act and managed by the Treasury Division of the Ministry of Finance and that the fund operate as a revolving fund, perhaps, not unlike the operations of Advances Fund or the Contingency Fund and the initial funding be in the budget.

4.10 p.m.

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I want to give advance notice here, Mr. Speaker, that when this particular parliamentary appropriation comes around, it will definitely receive my support and I am certain other Members on this side would be prepared to give their support. I have looked at the 12 difficulties which the Ombudsman claims were most prevalent in preventing his office from arriving at speedy solutions. Too much legalism and formalism; failure to deal reasonably and with administrative fairness, and when I go down further, I see things like arrogance, hostility, insensitivity and indifference; officiousness, incompetence and inefficiency; denying fault and laying blame on another department or agency; intolerable delay in paying compensation where liability has been admitted for wrongful act.

When I read this litany of twelve hindrances to the speedy operation of the Ombudsman, I wondered that maybe the time has come for an Ombudsman in respect of Government and Government Ministers and their behaviour to the population, the Opposition Members and their constituencies. The Hon. Member for St. Ann's East made certain comments in respect of certain areas, and I am looking at them here. It says:

“(10) Denying fault and laying blame on another department or agency without any attempt to achieve co-ordination with that department or agency.”

I could only recall Parrylands Government School and the people of Parrylands. We came into this House time and again and pointed it out, and it turned out that there were volatile gases emanating from Petrotrin's operation in Parrylands, including H₂S. That was found out, and they ignored it on three occasions when I came to this Parliament, denying fault. They brought in people from elsewhere, but it has turned out that it is theirs. It was their fault, and it is believed to have cost a worker in school her life. It has a child in hospital, and up to now, not a penny in compensation. Not even a consideration, Mr. Speaker. Again, the same company, this time in Barrackpore, had gas emanating from a broken line. It was not their gas, again, until a fire came about. A gas line is like a bomb. If one drops a match, it could explode. We notice the people of Parrylands and Barrackpore.

There is another situation in La Brea that I have reported time and again to the Regional Corporation controlled by the UNC, by the luck of the draw—a large lake in this day of dengue fever.

Mr. Speaker: Is the Hon. Member still on the Ombudsman Report?

Mr. H. Breaux: Very much, Mr. Speaker. I am advocating that we get an Ombudsman to deal with activities by the Government because, too often, governments blame public servants for their own inaction and for their own wilful misconduct. I make the point again that with respect to poor and indefensible people, this Government does not discriminate.

I want to quote a statement made by Basdeo Maharaj, the former executive assistant to the Prime Minister. It was reported in the *Independent* newspaper:

“You think Basdeo Panday have time with poor people?”

I am saying that whether one is poor in Parrylands or in Barrackpore, let us forget ethnicity. They are against us, and I want to say here, it is all well and good for us to come here as Parliamentarians. I support dealing with the questions of the Ombudsman and the various difficulties which the Ombudsman experiences in respect of carrying out his work and the work of his office, but I believe that we have to find a way to properly monitor the operations of this Government and the ministries.

I heard the hon. Attorney General, from time to time, talk about watchdog committees for Ministries. At one time, when we brought the changing of the Financial Year Bill, they utilized that as an excuse for not supporting it, although we showed them how a true, responsible Opposition would behave in the manner in which my colleagues voted when I was not here, unfortunately, due to illness. I want to congratulate my colleagues for supporting the change of Financial Year Bill.

I want to deal with another point. Arrogance, hostility, insensitivity, officiousness, incompetence and inefficiency! If the callous, cowboy bravado and cavalier behaviour of the Member for Pointe-a-Pierre—the self-styled Sheriff—does not remind you of that, I cannot say what does. Let me get on to the question. Mr. Speaker, as I was saying, looking further into this report, statements were made with respect to the Ministry of Education, in collaboration with the office of the Ombudsman, creating special programmes on the role, functions and duties of the Ombudsman, and that these programmes be incorporated in the schools' syllabus.

I could recall that when I was quite a young person, there was the problem of carnage on the roads and the highway code was distributed to all the schools. I am saying that a similar document should be prepared and distributed to the schools, not only in respect of the office and functions and role of the Ombudsman, but also, the actual responsibilities of citizens in this country and what they must

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expect from the Government. In particular, in terms of the human rights of the people of this country.

I want to deal with some of the other recommendations. The establishment of a joint standing committee of both Houses of Parliament to consider reports of the Ombudsman. I am in full support of such a committee, but we need other joint standing committees, and I am calling on the hon. Attorney General and the Prime Minister to bring in the other joint standing committees which they promised in respect of being watchdogs at various ministries. I could very well see a number of them. We want one for the Ministry of Energy and Energy Industries; definitely one for the Ministry of Agriculture, Land and Marine Resources because of some of the infractions which are alleged to be going on there. Mr. Speaker, take, for instance, the Ministry of Health. My colleague from St. Ann's East pointed out a number of areas, and I believe we have not heard any report from the Ombudsman or anybody else in respect of those deaths on the maternity ward, and the treatment on the maternity ward in the Eric Williams Medical Sciences Complex. There was a report on that, quite unlike what the Minister of Agriculture, Land and Marine Resources gave.

I go on to the other recommendations. That a time limit of 14 days be set for action and recommendations of the Ombudsman and if at the expiration of the 14 days there is no action, the matter be referred to a joint standing committee of Parliament. Mr. Speaker, as much as I am anxious to get persons and ministries to respond urgently to the request made to them by the Ombudsman, I believe that putting a strict 14-day time limit in respect of the failure to report within 14 days will not serve the best interest. It will not seek the best interest of the office of the Ombudsman. All it will seek to do is move the backlog and the problem up to the joint standing committee. I will explain why.

Usually, when a report is made to the Ombudsman, it is a report made after a history of failures and inefficiency and a history of the citizen not being able to receive what he or she believes they should have received: the kind of service or attention. So, just a request from the Ombudsman would obviously send that Ministry or that department searching for the facts. Usually, with recognition of the way the public service operates, even though it is operating a little better now, as a result of training and matters that were put into place when Mr. Gordon Draper was the Minister of Public Administration, it will definitely take some substantial time, maybe about a month, in order for the particular department to marshal the facts.

4.25 p.m.

When a letter is sent to a ministry it goes firstly to the registry where the mails are cleared. [*Interruption*] I was not working in a ministry, I worked in the private sector most of my life. It goes to the registry and then gets directed to the various parties and as a result of that it takes three days. The letter takes about two days, that process takes about three days so we already have five days. Therefore, 14 days is definitely not sufficient time.

What we should say is, after 14 days the office of the Ombudsman should receive a response indicating in some particularity, firstly, the things the ministry intends to do to supply the answer and give an average time-frame within which it could expect such an answer. That time-frame should not exceed 60 days. After that, if the answer has not been received, then it should come to the standing parliamentary committee.

If we are putting this standing committee in place and expect it to work we have got to be careful that we do not overburden it. We have to face the facts, if you start sending everything up to the standing committee it would not be able to handle it and the citizen would be no better off. I suggest that there be some change in the time-limit set.

It then states:

"(c) That the Standing Orders of both Houses in Parliament be amended to allow for matters referred to the Joint Standing Committee of both Houses to be deliberated on in Public."

It should be "debated", that appears to be an error there.

Mrs. Persad-Bissessar: It is not an error.

Mr. H. Bereaux: If it is not an error, in what manner would it be deliberated? By debate I take it. All right, I am not going to mince matters on the drafting here.

Mr. Speaker, as we know the Standing Orders of this House need to be amended in several areas. I am in support of this particular resolution of changing the Standing Orders.

The document also says:

"That the Ministry with responsibility for Public Administration establish and implement as soon as practicable, a mechanism common to all Ministries and Public Agencies for receiving and acting expeditiously on complaints received from the Ombudsman. This mechanism must ensure clear communication between the Ombudsman and the Ministry or Agency and should include

guidelines for greater dialogue between the Ombudsman and the Ministries at the senior levels."

I think there is need to determine what is an agency.

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

4.30 p.m.: *Sitting suspended.*

5.05 p.m.: *Sitting resumed.*

Mr. Speaker, when we took the break I was on the point of indicating that the Ombudsman's responsibilities involve dealing with complaints against government ministries and government agencies. There is that grey area when it comes to the definition of a government agency because I can recall, from time to time, state enterprises, namely enterprises owned or controlled more than 50 per cent by the state, sometimes take the view that because they are private companies they are not, in effect, government agencies. I know we are not going into minute detail as to some of the responses or lack of responses which the Ombudsman receives from some of these state enterprises. I am certain, however, that a number of them do not reply to him under the guise that they do not fall under his control. I think there is need to clarify the definition of agencies.

Without seeking to further trouble you for time, Mr. Speaker, may I say that, but for few observations which I have made requiring some change or amendment and but for the need, I believe, for us to find some way to control the propensities of the parties on the other side of this honourable House and to make sure that they follow the straight and narrow path and act out their statements in this honourable House, I want to identify myself and my sentiments with the 23 paragraphs of this document.

Unfortunately, over the years after initial teething problems additional difficulties have emerged rendering the office of Ombudsman less effective than was originally envisaged. Nonetheless, after very careful and deliberate consideration and having read the contents of this report and in accordance with the philosophy behind the creation of the office of the Ombudsman, I want to join with the committee in endorsing the recommendations made and ask that Parliament implement, to a large degree, those recommendations.

I thank you.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, I thank hon. Members for their contributions and I thank the Members for St. Ann's East and La Brea for their full support of the recommendations of this report.

I have just a few comments in reply to the points raised by Members on the opposite side. I think we need to be reminded that this report arose out of the 17th Annual Report of the Ombudsman and I think we need to refresh our memories as to the date of that report. This report covered the period January 1, 1994 to December 31, 1994; a period that fell squarely within the administration of those on the other side. Therefore, the 12 complaints that were referred to over and over again by the Member for La Brea were complaints that were lodged by the Ombudsman within the 17th Annual Report as at December 31, 1994 and referred to—Mr. Speaker, these were the comments that the Member for La Brea kept referring to and talking about mal-administration in government. He talked about—and I quote again the problems that the Ombudsman pointed out that he was encountering and which the hon. Member for La Brea attempted to impugn that this Government had been guilty of.

Mr. Bereaux: I said I was not speaking with respect to the public servants. I was comparing the statements made by the Ombudsman with the Members of this Government and their behaviour; not the public servants.

Hon. K. Persad-Bissessar: Mr. Speaker, I repeat that the problems that were encountered were problems that described very clearly a period of time within which those on the other side were in administration. All the mal-administration that we were dealing with arose out of January 1, 1994 to December 31, 1994 and previous to that time because the Ombudsman made it very clear that despite all his reports, year after year after year, after 34 years of the other side being in office, nothing had been done to rectify the mechanisms by which he operated to deal with the kinds of problems encountered in a public service that was being administered by the then government.

Too much legalism and formalism; failure to deal with administrative fairness; hostility, arrogance and intolerable delay. All of those matters which the Member for La Brea throws at the feet of this Government are clearly within the period of time within which his government had operated. I think we should make that very clear.

Secondly, far from this Government not having any commitment to reform of the public sector and despite all the—I am sorry to say—rantings of the Member for St. Ann's East, with the greatest of respect, his own Member contradicted

what he was saying and his own Member, the Member for La Brea, clearly stated that the public service has gotten better. Mr. Speaker, I want to state clearly for the record that this Government is committed to public service reform. This Government is committed to having a public service that is efficient, competent and very customer-friendly.

The Member for Arima has made tremendous strides with respect to the whole business of information technology within the public service. We have seen tremendous change with respect to that. You will remember that 1,000 computers have been removed in order to make sure that they are compliant with the new millennium. On the top of that, Mr. Speaker, you will recall within the budget the Government's provision for loans for computers for public servants. That commitment to updating the public service and bringing the public service out of the age of dinosaur and bringing it squarely into the new information age to take us into the 21st Century, we are committed to that on this side.

Mr. Speaker, whilst I agree with the hon. Member for St. Ann's East that we should seek to minimize mal-administration and it is my respectful view that those on this side as the Government of the day are clearly committed to minimizing mal-administration, we must remember in today's world in Trinidad and Tobago; in today's world outside of Trinidad and Tobago; in yesterday's world in Trinidad and Tobago and outside of Trinidad and Tobago; and in tomorrow's world in Trinidad and Tobago and outside of Trinidad and Tobago it is very clear that there will be incidents of mal-administration of ineffectiveness, inequity and injustice, that is very clear. History has shown us we do not live in a perfect world. Therefore, as a responsible Government our duty is to put systems and mechanisms into place in order to deal with such incidences of unfairness, mal-administration and of injustice that may occur within any society that is living. As long as a society grows and develops and as long as we continue to live as human beings there will always need to be a system of adjudication of rights, a system of balancing of rights and the office of the Ombudsman is such an office which will do those things.

To say that our aim should be to minimize mal-administration, we totally agree but we must not forget that that does not set aside the need to put effective mechanisms in place to deal with inequities and mal-administration and to give redress to the less fortunate citizens of this land.

Very little else was said on the other side. Some comments were made by the Member for La Brea with respect to time-frames and time periods within which action

should be taken. Mr. Speaker, we will give due consideration to the suggestions he has made but the Joint Select Committee within its deliberations did consider the question of putting time-frames and within the report there is one time-frame that is put. But certainly, when this is given flesh the question of time-frames for reports to requests from the Ombudsman would be given due consideration. We must remember the report will not list, as any law does not list, every single possibility but what it does is to give the general principle and then the flesh would be put on the bones; that foundation which is set within the recommendations of the report.

On the issue that the hon. Member for La Brea again raised. He looked at this report and the problem identified and he said what we needed to do is have an Ombudsman for government Ministers and for the Government. Mr. Speaker, I think most of us on this side each time we come to this Parliament continue to be flabbergasted by what I can only call the brazenness of the Members on the other side. For the 34 years they were in government they failed to take any action to deal with any of the matters that he has raised—talking about an Ombudsman for Government and government Ministers—and when it is very clear that this Government right now has on the Order Paper as Bill number 9: “A Bill to amend the Constitution of Trinidad and Tobago—the establishment of Parliamentary committees.” This Government has shown very clearly that none shall escape whether you be a government Minister or an official within a ministry, from the setting up of these committees—we have talked about this so many times. They have a copy of this Bill. They have read the Bill and I am sure when it comes to making that constitutional amendment that they will support it because this will give effect to that kind of monitoring of the work of officials in ministries and government Ministers and other commissions. We are committed to that and we have made it very, very clear; even the report of this Joint Select Committee.

I would like to point out that we laid this report in Parliament. We came into office in November of 1995. We laid the 1994 report in 1995 and immediately, in December, 1995, a mere one month after we had come into office, I moved a Motion in this Parliament for us to debate this 17th annual report to set up a Joint Select Committee. The Joint Select Committee has now brought its report to Parliament and is asking for Parliament to adopt it.

5.20 p.m.

So that very early in our administration we made it very clear that the failure that was envisaged on the other side—for the 34 years they have failed to deal with issues and with the difficulties facing the office of the Ombudsman. We

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confronted it within two months of coming into Government. Today, we have brought that report, and we will implement it once the Parliament approves it and we remain committed to dealing with the issues, problems and with the complaints.

For the hon. Member to say we need to set up this watchdog for government—just on Wednesday when we were here there were allegations which came from the other side that government Ministers are engaged in misconduct, allegations of corruption and again, the Member for La Brea said that we must have this Ombudsman because of misconduct on the part of government Ministers. I think Minister Assam cleared that last Wednesday and may I say very clearly again, if Members opposite have evidence of corruption on the part of any of us they must bring the evidence. They have the role, they have all the Standing Orders of the Parliament to allow them to bring that to the Parliament. Each time we come here they impute every Minister of Government, and that is not good enough. They must bring the evidence against us within the Parliament.

The Member brought Winsure/Maritime before the Parliament, he headed the Public Accounts Committee, investigated it and a report was brought back to the Parliament. They have found no allegations of misconduct within that report that was brought back to the Parliament. That is the report that I have seen that has come back to the Parliament. If there are allegations of misconduct, bring the allegations, stop the talking, use the Standing Orders and bring those allegations against us.

In closing, I once again thank the member of the parliamentary staff, Mr. Neil Jaggassar, for his tireless efforts in assisting us to get this report done and all the other members of the Parliament department who assisted us with respect to the meetings of the Joint Select Committee.

Mr. Speaker, I place on record as Chairman, my sincere thanks to all the other members of the committee: Mr. Harry Partap, Mr. Chandresh Sharma, Mr. Razack Ali, Mr. Barendra Sinanan, Mr. Martin Joseph, Sen. Philip Hamel-Smith, Sen. Nizam Baksh, Sen. Andrew Gabriel, Sen. Penelope Beckles, Sen. Prof. Julian Kenny and Sen. Prof. Kenneth Ramchand.

I sincerely thank all those members of the public who came forward and who sent either in writing or personally their submissions and views on the Seventeenth Annual Report of the Ombudsman and assisted in making recommendations towards a more effective machinery for the functioning of the office of the Ombudsman.

Mr. Speaker, I thank you very much, and I thank hon. Members for the opportunity to have served on this Joint Select Committee. I think all the Members who served on this committee would attest to the fact that it was a very interesting exercise, it was a very fruitful exercise and at times it was most enjoyable in our work that we were engaged in. I beg to move.

Question put and agreed to.

Resolved, That this House take note of the Report of the Joint Select Committee of Parliament appointed to consider and report on the 17th Annual Report of the Ombudsman and the functions and duties of the Ombudsman, which was laid in the House of Representatives on Thursday, November 6, 1997.

**JOINT SELECT COMMITTEE REPORT
(INTEGRITY LEGISLATION—GREEN PAPER)**

The Minister of Trade, Industry and Consumer Affairs (Hon. Mervyn Assam): Mr. Speaker, I beg to move the following motion standing in my name:

Be it resolved that this House take note of the report of the Joint Select Committee of Parliament appointed to consider the Green Paper on Integrity Legislation which was laid in the House of Representatives on Thursday, November 6, 1997.

Mr. Speaker, it is widely recognized that integrity in public life is one of the most important planks upon which a civilized and civil society is constructed. In fact, the converse, corruption in public life has been the subject of much debate and has been a cancer in many societies particularly in developing societies, and corruption manifests itself in different forms. Some of us believe that corruption only deals with financial transactions but in many countries as one knows, particularly in the United Kingdom and more latterly in the United States of America, sexual favours have also been part of the whole corrupt structure of Government. Indeed, attempting to get favours and influence decisions to peddle influence is also part of the structure of corruption in societies and in politics. The result of all of these things is an increase in the cost of public administration, cost overruns in all kinds of projects, artificial scarcities, bending of rules, creating a situation of unsafety and unhealthy practices and indeed, it is the disadvantaged and the people who could least afford that suffer most in these circumstances.

Mr. Speaker, the question of integrity in public life has been debated and we have seen many tracts written on integrity in public life beginning with ancient Greek when the pre-Socratic philosophers wrote about ethics; Aristotle, Plato,

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Thomas Aquinas, Cardinal Newman, John Locke, John Hume and more lately the great Lord Bertrand Russell, all of the great exponents of ethics in public life.

Even in Trinidad and Tobago, the framers of the Constitution—Act No. 4 of 1976 of our Republican Constitution—were moved to insert a clause in this Constitution. If one looks at clause 138 of Act No. 4 of 1976, it says:

“There shall be an Integrity Commission for Trinidad and Tobago consisting of such number of members, qualified and appointed in such manner and holding office upon such tenure as may be prescribed.

- (2) The Commission shall be charged with the duty of—
 - (a) receiving, from time to time, declarations in writing of the assets, liabilities and income of members of the House of Representatives, Ministers of Government, Parliamentary Secretaries, Permanent Secretaries and Chief Technical Officers.
 - (b) the supervision of all matters connected therewith as may be prescribed.

It goes on in section 139:

“Subject to this Constitution, Parliament may make provision for—

- (a) the procedure in accordance with which the Commission is to perform its functions;
- (b) conferring such powers on the Commission and imposing such duties on persons concerned as are necessary to enable the Commission to carry out effectively the purposes of section 138.
- (c) the proper custody of declarations and other documents delivered to the Commission;
- (d) the maintenance of secrecy in respect of all information received by the Commission in the course of its duties with respect to the assets, liabilities and income of any member of Parliament and any other person; and
- (e) generally to give effect to the provision of section 138.”

This was our Republican Constitution—Act No. 4 of 1976—which was promulgated in 1976. Do you know that the PNM administration never ever gave effect to sections 138 and 139 of the Republican Constitution? It took an NAR

administration 12 years later in 1988 to give effect to the provision of sections 138 and 139 of Act No.4 of 1976.

When these Members opposite talk about integrity in public life, and they want to accuse others of corruption and speaking of morality and mal-administration, they never gave effect to a constitutional provision that was enshrined in Act No. 4 of 1976.

5.30 p.m.

Indeed if one looks at the debates of 1988 when they were in the Opposition and the NAR was in Government, they were very reluctant to give the kind of support and teeth to the setting up of the Integrity Commission. The *Hansard* is replete with the kind of obscurantist arguments which were put forward by the three Members who were on that side at the time.

Mr. Valley: Mr. Speaker, I wish to state that firstly, the debate was in 1987. Secondly, the statement is incorrect, I spoke in that debate and we supported integrity legislation, as a matter of fact, we were asking that it be much wider.

Hon. M. Assam: Mr. Speaker, it is a fact that the PNM never gave effect to that Constitutional provision and it was 12 years after the promulgation of that Act that it was a NAR administration which brought it into being. As I said earlier, the obscurantists on that side wanted to delay the passage of the implementation and to water down the Integrity Commission.

In fact, while the PNM was in the driver's seat it never sought to improve on the powers of the Integrity Commission, or to give it that kind of teeth in order that integrity in public life could be improved and safeguarded. It took Sen. Wade Mark in an Opposition Senate position to move a motion to have a review of the legislation which led to the appointment of a committee which brought about a Green Paper, *Integrity in Public Life A Review of the Legislation*. It was this Administration, when it came into office in November, 1995 which pursued this matter, and it is well-known that on Friday 7, 1997, a resolution was agreed to by this honourable House that:

Whereas the Green Paper on Integrity Legislation was laid in the House of Representatives on February, 02, 1996 and in the Senate on February 06, 1996 and whereas both Houses of Parliament agreed that a joint select committee be established to consider the said Green Paper and to submit recommendations to Parliament thereon and appointed such a joint select committee by

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resolution passed by the House of Representatives and the Senate on Tuesday, June 04, 1996 and Tuesday, June 11, 1996 respectively;

And Whereas the joint select committee reported to this House on Friday, November 08, 1996 that it was unable to complete its deliberations and recommended that continued consideration of the matter be undertaken at the next session of Parliament.

Be it resolved that a joint select committee be established to consider the paper on Integrity Legislation and submit recommendations to Parliament thereon. And that this joint select committee be authorized to adopt as part of its record all the work done by the joint select committee which was appointed to consider the said matter.”

On Tuesday, February 18, 1997 a similar resolution was agreed to by the Senate.

Mr. Speaker, the Members of that committee of which I had the honour to be Chairman were: Miss Pamela Nicholson, Mr. Harry Partap, Mr. Manohar Ramsaran, Mr. Kenneth Valley, Mrs. Camille Robinson-Regis, Mr. Finbar Gangar, Mr. Selwyn John, Mrs. Vimala Tota-Maharaj, Mrs. Nafeesa Mohammed, Sen. Prof. Kenneth Ramchand and Sen. Prof. Julian Kenny.

Mr. Speaker, to tell you the extent to which that side was interested in integrity legislation, their presence at these meetings was very infrequent and when they attended, most of them could not go the distance. There were a couple of them who were very consistent in their appearance and for this I am very grateful to a couple of the Opposition Members, particularly from the Senate who came very consistently and religiously to these meetings.

So when they come here and talk about immorality and corruption and they are given an opportunity to sit in a joint select committee to deliberate on some of the most important aspects of the conduct of Members in public life and show little interest in making a contribution by attending regularly and being present throughout the session, one begins to wonder how serious, how honest, and sincere are Members opposite with respect to developing a regime that would redound to the benefit of this country by having a set of legislation and an integrity commission that would scrutinize and regulate to some extent the conduct of people in public life.

We went about our business by holding press conferences, printing and distributing the Green Paper on Integrity Legislation far and wide and had them

delivered to public institutions like post offices and government departments. We requested written memoranda from individuals and organizations specifically identified by your committee for that purpose, we convened meetings at different strategic locations throughout Trinidad and Tobago; we placed advertisements in daily newspapers requesting written comments from the general public and informing them of the dates and venues of public meetings.

Mr. Speaker, we also had public meetings at the Works Lecture Hall in Scarborough Tobago; the Town Hall in Arima; the Technical Institute in San Fernando; Presentation College, Chaguanas; City Hall, Port of Spain. We received written memoranda from media houses; non-governmental organizations; trade unions; the Law Association; the Integrity Commission; the Law Commission of Trinidad and Tobago; some Members of Parliament; some members of the Tobago House of Assembly; the Inter-Religious Organization; some of the Municipal and Borough Corporations; the Law Students Association; the Students Guild of Undergraduates, University of the West Indies; and the general public.

Mr. Speaker, we had a total of 12 meetings in order to deliberate on this most important aspect of public life. We met on April 18, 1997 at the Red House, Port of Spain; Monday, May 19, 1997 at the Red House, Port of Spain; Tuesday May 27, 1997 at the Red House, Port of Spain; Wednesday, June 4, 1997 at the Red House, Port of Spain; Monday 23, 1997 at Works Lecture Hall, Scarborough, Tobago; Wednesday, July 9, 1997, at Arima Town Hall; Wednesday, July 23, 1997, at San Fernando Technical Institute; Monday July 28, 1997, at Presentation College, Chaguanas; Wednesday, August 6, 1997, at Port of Spain City Hall; Monday, September 8, 1997, at the Red House, Port of Spain; Monday, October 13, 1997 at the Red House, Port of Spain; and Monday, November 3, 1997 at the Red House, Port of Spain.

We examined thoroughly the Green Paper on Integrity in Public Life. We also examined some legislation which was appended to the Green Paper which was circulated to all Members and members of the public. One of the interesting features of our discussion was a view which was held by our side that we should increase penalties in a number of areas for infractions of the law and they should be heavy to signal to the national community and to people who have any aspirations to enter into political and public life that we were not prepared to tolerate any kind of malpractices in public life and we intended to guard very jealously, integrity in public life.

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Mr. Speaker, you would be surprised at the kind of resistance we received when we said that fines would be increased from \$20,000 to \$250,000; and from \$10,000 to \$100,000. We encountered the stiffest resistance to these proposals. Again, one would begin to wonder whether the Members opposite are serious about integrity in public life. If they are serious they should not be afraid of a \$100,000,000, or a \$10 million fine because if you are clean, you are clean. As is said in local parlance “if you do not have cocoa in the sun you do not have to look out for rain.” Therefore, if your hands are clean, I believe it is said in the courts, one can plead mercy before the courts if one’s hands are clean. Come with clean hands. I can now understand why some of the Members opposite were afraid to increase these fines to a level which would represent a certain amount of seriousness on our part in order to preserve integrity in public life.

However, there was much argumentation, debate and exchange of ideas. There was much give and take and it was an exciting and challenging time for me as chairman to guide the deliberations of this committee because of the various opinions which were sometimes diametrically opposed to each other. From a very deep, philosophical standpoint I must admit, although this standpoint was rooted in most cases in the political culture which the other side had promoted for over 30 years in Trinidad and Tobago.

Mr. Speaker, most of the recommendations contained in this Green Paper were accepted by the committee except for a few areas. One of the areas where we could not agree and where we agreed to disagree and to send in a report indicating that we did not have an opinion conforming to the Green Paper and as a consequence, the Draft Bill which is appended to the report were as follows: There are provisions whereby a person in public life can establish a blind trust, and while the Act sets out the criteria for the establishment of such a trust, there is no provision whereby the proper maintenance of such a trust can be safeguarded. Moreover, there is no legal requirement on such a person to place his assets in a blind trust. It is only at one's discretion.

There was much debate and discussion on the question of a trust because, as you know, even if one establishes a trust, that does not in any way guarantee that he or she would not have influence over the management of that trust.

There was another argument why a person who makes a sacrifice to enter into public life where one’s family life is sacrificed, one’s financial and other types of resources; health, recreation and leisurely hours which one would normally enjoy as a private citizen.

Why should one, on top of all these sacrifices—in some cases a reduction in one's income, what one has garnered over the years, prior to one's assumption of public office—have to give that set of assets to a stranger to manage? One must take into account some of the interesting arguments.

5.45 p.m.

If one is a married person with a family, one's assets may very well belong partly to one's wife and partly to one's grown children. Why is it? Unless one is able to segregate—which is a very difficult thing to do, because if one has a building, how could one segregate that building to say this room is my wife's, that one is my son's, the other is my daughter's and this one is mine. Segregating assets could be a difficult thing. Therefore, to subject one's assets that have been garnered together with one's family, prior to one's assumption of public office, is a sacrifice which members of the committee felt should not be borne by members in public life.

Mr. Speaker, taking into account the enormous amount of sacrifices Members already bear by being in public life—although it is a voluntary decision to enter into public life; nobody puts a gun to one's head. However, notwithstanding that, even if it is voluntary, one should not be subjected to inordinate sacrifices because, as you know, Mr. Speaker, if that is done a person may be tempted beyond his level of strength. That was a second consideration.

Thirdly, Mr. Speaker, some Members felt why not declare one's assets to the Integrity Commission as one enters into public life and say, these are my assets: I have two houses, 10 acres of land, shares in Republic Bank, Royal Bank, Unit Trust Corporation, I have this, that and the other. This is the valuation of my assets, and from year to year, the Integrity Commission, through its officers, would be able to monitor the performance of these assets to see whether their performance is something over and beyond what is taking place in the economy and the financial sectors in Trinidad and Tobago.

These were broadly some of the arguments and, therefore, they seemed fairly persuasive. We have, therefore, agreed to enter into our report, a *caveat* against the question of a blind trust or putting one's assets into a trust as a consequence of some of these arguments.

The next very contentious and prickly point that we spent much time debating was the question of family interests. In the Green Paper it says:

“The position within the Commonwealth shows that the majority of registers established require full and complete disclosure and this includes the interests of a spouse and in most cases that of the minor children of the family *in so far as the person in public life is aware of those interests.*”

That is a very interesting point that this very Green Paper makes insofar as the person in public life is aware of those interests. Suppose I am not aware of all or some of the interests of my wife and I were to make a declaration, in all innocence, in all sincerity, what happens thereafter? Similarly with my minor children—a minor is anybody under 18 years—what happens and it is discovered that I did not declare all of the assets and financial interests of my wife and my minors?

More than that, Mr. Speaker, it was argued that if a Member of Parliament or a person is supposed to make a declaration to the Integrity Commission, would that Member or person be so naive as to put any kind of assets in the name of his wife or of his children if he or she wanted to under-declare his assets? Or even if he wanted to over-declare his assets with the hope that if he over-declared his assets in the first year and he committed any wrong, that would be able to compensate for the following years? That was an argument put up by some members of the committee.

However, they also said: “My wife is an individual. My wife is a citizen. My wife has all the rights accruing under law to the citizens of Trinidad and Tobago.” Why, because I have entered into public life, having again undertaken a sacrifice, should my wife and children suffer and endure the same kind of sacrifice when, in fact, they are enjoying the same kind of disadvantages that I am enjoying as a consequence of my assumption of public office? That is a double imposition on one’s wife and children. These were some of the arguments that were put forward. Mr. Speaker, because of some of these arguments—I am not giving all of them—it was decided, again, that we should not have wives and minors forced to declare their assets with the Member or person who is responsible for declaring assets before the Integrity Commission.

The other matter was non-pecuniary interests. It says here:

“A perusal of the declaration form prescribed in the Second Schedule to the Integrity in Public Life Act 1987 reveals a comprehensive and extensive register with respect to direct pecuniary interests and paid activities. The declaration covers income, bank accounts, cash investments, immovable property, mortgages, business ventures, motor vehicles, insurance policies and particulars of any other property or liability. However, non-pecuniary interests were not addressed.”

Mr. Speaker, that was something that was debated very hotly. When integrity legislation is introduced, is it done because they think politicians are crooks? If that is the premise and basis on which it is done, then a law would have to be written, so all-encompassing, comprehensive, water-tight, water-proof, that one would never be able to get a law written, because, indeed, a human being is so ingenuous that if he or she wishes to be crooked he could think of any scheme that would allow him to be so. Therefore, why does one wish to include both pecuniary and non-pecuniary interests? Do you know what is a non-pecuniary interest, Mr. Speaker? It is membership in a professional club.

Mr. Speaker, if my colleague here, the Member for Barataria/San Juan, who is a distinguished medical doctor and specialist neurologist is a member of the Medical Association which is a professional organization, must he declare that as a non-pecuniary interest? We found this to be rather burdensome and in some cases not making much sense.

Again, Mr. Speaker, if one is a member of a trade union one has to declare that as a non-pecuniary interest. Now, imagine someone like the Member for Arouca North, who came out of the trade union movement—

Hon. Member: And the Member for Couva North.

Hon. M. Assam: Okay, does the Member want me to add the Member for Couva North? I will do so. I am always willing to co-operate with the Opposition when they make sensible suggestions and that is a sensible suggestion. Why is it, because they came out of the trade union movement, they have to declare that as a non-pecuniary interest? Again, it seems to me that is a fundamental right: the right to associate is an entrenched right in Act No. 4 of 1976. Why should I have to declare an entrenched right, as a member of a professional body, as a member of a trade union, or as a member of a private club? We thought that was trampling and going too far on the rights of the individual.

Consequently, we felt that the inclusion of a non-pecuniary interest would not serve the purposes and, indeed, could reinforce a rather perverted image of all politicians being corrupt.

5.55 p.m.

Mr. Speaker, there was another extremely contentious issue with respect to both the Draft Bill and the Green Paper and it had to do with post employment restrictions which says that in addressing this problem the United States and Canadian Legislation seeks to impose a restriction of two years on ministers and

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one year on senior public officials from accepting a position in or lobbying on behalf of any entity with which they had official dealings.”

The United States of America is a large country—I believe there are 50 states—with 255 million people and enormous opportunities; economic and otherwise. One can move from state to state and gain a livelihood. Similarly, Canada, which is one of the four largest countries in the world with 10 or 12 provinces and with enormous opportunities. People can move from province to province or even migrate from Canada to the United States of America; and with the Free Trade Area of the Americas they can go to Mexico and so forth. If this legislation applies in other large countries, maybe, there could be some justification on the grounds of size, economic opportunity and the ability to move—the great mobility they have in these large countries.

When one considers a country of less than 1,800 square miles with 1.3 million people, where economic and employment opportunities are limited and, particularly, when a politician demits office in a small country, that politician is treated worse than a human being. They pour and heap scorn upon you. Having served in public life, whether people agree or disagree with you, whether they did not agree with your political philosophy or decisions you made while you were in office, the point is that you made a sacrifice and you served in public life. You should not be victimized. You should in no way be victimized for having served in public life. Suppose I demit office at age 45, a young man with a long future ahead of me, why should I be denied post employment opportunity? Why should you impose restrictions upon me for two years? If you want to do that then you should pay the man or the woman who served for the two years that he or she is being restricted or debarred from accepting employment opportunities [*Desk thumping*] because then you are going to reduce people who served in public life to literal vagrants.

As you know, when you serve in public life you are, to a large extent, because of the sacrifice of a reduced income and the expenditure you have to engage in—people always want a trophy: pay their light bill, buy schoolbooks for their children, pay their water rates, give them a little handout here and there which is part of the culture that was certainly spawned by the opposite side; a culture of dependency—when you leave politics you are totally impoverished unless, of course, you have an inheritance like the Member for Diego Martin East.

Mr. Speaker, we found it very difficult to accept this particular principle of restrictions on post employment. I had an opportunity to serve this country abroad

as our High Commissioner to London, and I remember very well, when I was there, the Chancellor of the Exchequer, Mr. Nigel Lawson, demitted office—irrespective of how he demitted—and within three months landed one of the biggest jobs in Barclays Bank PLC. Mr. Douglas Hurd, who was the Foreign Secretary, demitted office and within 60 days he landed one of the biggest jobs in a large corporation.

If this Parliament has emulated the precedence and conventions of the mother of parliaments in the United Kingdom, they being a larger country with even greater opportunities than ourselves, I do not see why we should impose these wrenching and punishing restrictions on ourselves, particularly when we are such a smaller and less endowed country.

Mr. Speaker, these were some of the more difficult areas we had to wrestle with and, by and large, we reported that we were not able to support them in the Green Paper. There are many other small areas, but these are the fundamental ones. So that, the Draft Bill that is attached to this report contains some of the issues and provisions which this committee was unable to accept. Consequently, it is my view that the Government, having accepted, in principle, the report of the Joint Select Committee of Parliament appointed to consider the Green Paper on Integrity Legislation and to submit recommendations to Parliament thereon, because of Government's substantial agreement with the report, this piece of draft legislation will necessarily have to be reworked to reflect the recommendations of this Joint Select Committee to which I am sure a lot of people have already alluded with a certain amount of fear and consternation as elucidated by my very distinguished friend, the Member for Diego Martin East.

Mr. Speaker, I do not think I should detain the Parliament any longer. You know I like to focus on my argumentation and I do not believe I should speak on and on for the sake of hearing myself. I thought I would give you the bare essentials and bring to this Parliament the kinds of arguments, discussions, concerns, issues and essential points that we arrived at in coming to the conclusions that we arrived at in this report.

I want to pay tribute to the members of the parliamentary staff; all of them, and in particular, our first secretary, Miss Dawn Dolly and then Mr. Neil Jaggassar. I thank both of them and other members of the parliamentary staff for all the patience, work and timely reports that they submitted to us in order that we reached the deadline before the prorogation of Parliament at the end of the last session. I also thank all members who served on this committee and for their inputs in bringing about a report that I believe, if not all of us, most of us can live with

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and which could form the basis of a new piece of integrity legislation where the integrity commission could be much more effective in ensuring integrity in public life.

Mr. Speaker, I thank all members of the public; all the people who sent in memoranda and appeared before the committee to give oral evidence; all the organizations, unions, the media and everyone who participated or contributed in one form or another to the realization of this report and its content. I express my very grateful thanks to all of them and hope that when the revised legislation eventually finds itself in the Parliament all of us will give our total support to this measure. I am absolutely sure, even though some of us do not at all times manifest this kind of behaviour, and we do it more with lip service, that all of us would like to see a country that has an international image as we move into the 21st Century. As we have all our news on the internet; as we begin to be part of global society and form part of trading and mega blocs and all the various international and regional organizations, Trinidad and Tobago's image will be one in which members who form part of public life will shine like the stars of the great old days when people who entered public life entered for sacrificial and public services only and not for gain.

With these few words, Mr. Speaker, I thank you and I beg to move.

6.05 p.m.

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Speaker, I came here today as a member of the committee which considered the Green Paper entitled Integrity in Public Life simply to second the Motion moved by the Hon. Minister and make a few comments but, after listening to the Minister—especially in the first part of his contribution—I think I have to make more than a few comments.

The Minister comes here this afternoon and attempts to portray that he had difficulty in the committee, having to put members in line to support the Green Paper. Nothing could be further from the truth. The committee had to pull the Minister along the course. One does not have to believe me but, after attending the first meeting, I realized that the only person who wanted to speak in the committee was the Minister as Chairman of the committee. There were other members in the committee and I said I would come in. I support integrity in public life. I was there in 1987. The Minister of Sport and Youth Affairs was in the Parliament. The Member for Oropouche was in the Parliament. I supported that legislation, and I want to come to that soon.

After the first two meetings, and I saw what was happening, I told my colleague, “You go to those meetings. If you are having difficulties, let me know.” I came back here at the end of session when there was difficulty, and if I did not come back in, there would have been a minority report, but I came back in and there was a level of compromise. I am just going to one verbatim report of a meeting in which the members of the Commission attended the session, and I want your guidance, Mr. Speaker. I think it is okay to quote from the verbatim of a committee’s report. Is it?

Mr. Speaker: Proceed with other things and I will confirm it in a while.

Mr. K. Valley: Ordinarily, I would not do this, but I cannot take the hypocrisy where an individual would say one thing in a committee and then come to the Parliament when he comes simply to present a report that has unanimity and attempt to politicize a thing which ought not to be politicized.

Mr. Speaker, I will go to the second point that I wanted to make—I will come back to that as soon as you rule. The Member claimed that the PNM, while in Opposition in 1987, attempted to block the integrity legislation. Nothing could be further from the truth. I spoke in that debate, and I just want to quote some of the things. I cannot get the *Hansard*, but the *Hansard* is recorded in this nice little book that I had the pleasure of writing some time ago. We made the point that basically, we were coming from a basic premise, and we said it in these words:

“When persons in public life fail to maintain a certain minimum standard of behaviour in their daily lives in accordance with the general expectation of the national community, the citizenry feels cheated and abused.

The response to this betrayal or abuse of the people's trust is generally not only a disrespect for the persons concerned, but more importantly, a disrespect for the society's institutions, its norms and its laws.

In short, it leads to a complete breakdown of the society. It is against this background, and within this context, that we view the question of integrity in public life to be above party politics.”

That is the first point we were making. We were approaching this concept of integrity in public life as an issue that is above politics.

“Though one of the problems with the Bill is that it is myopic as it deals merely with the financial aspects of integrity, in spite of that constraint, we welcome the start.

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We believe that the national community is now sufficiently vigilant to deal adequately with moral breaches of integrity which stop short of financial implications. However, we should not compromise on the principle that miscreants should be dealt with according to the due process of the law. We welcome the attempt to ensure that persons in public life conduct their affairs with integrity.”

Mr. Speaker, could one say then that the PNM attempted to block the passage of the integrity legislation?

Mr. Speaker: I would refer you to Standing Order 81 which deals with the premature publication of evidence. It actually states that the proceedings of and the evidence taken before any select committee and any documents presented to decisions of such a committee shall not be published by any Member thereof, or by any other person before the committee has presented its report to the House.

I take it that what we are doing is that we are in the course of presenting it. It has not yet been presented, so I would prefer if you do not refer to things in the course of this. I take it that the report would be presented after we have gone through the motions.

Mr. K. Valley: Just for my clarification, I thought that the report has already been presented to the House and we are now debating the report, Mr. Speaker.

Mr. Speaker: I am wrong. You are right.

Mr. K. Valley: So, I am saying that given that, I cannot see anybody saying that the PNM attempted to block the Bill, but more than that, we saw the problem, the shortcoming of that Bill, and we said so then. This is what we said:

“However, we do have a major problem. The Bill is deficient as there is a large gap through which even the most corrupt individual can easily fall. As the Bar Association opined, the Bill will catch no one. This is so because the Bill requires only that a person in public life file a true declaration with the Commission. The Commissioners and administrators at the Commission are sworn to secrecy and confidentiality under the pains of penalty for breaches thereof.

Thus, if a person in public life has ill-gotten gains, all that is required under the legislation is that they be declared. There is no provision that gives the Commission the right to enquire or determine how this asset was acquired.

Moreover, even if the Commission is of the view or has reasons to suspect that these may have been ill-gotten gains, there is no provision for the Commission to refer the matter to the Director of Public Prosecutions, or to

any other person or office for investigation to determine whether an offence has been committed.

In fact, as it now stands, if members of the Commission were to do so, they would be in breach of the legislation and would be subject to fines and/or imprisonment.

What we are attempting to correct today, we told them in 1987, so I do not know what the Member attempted to do here. We went further:

The Jamaican Act is instructive, as it provides for the taking of action if corrupt acts are brought to the attention of the Commissioners. The Parliament Integrity of Members Act, 1973 provides an avenue for the Commission to inform the Director of Public Prosecutions of such misdemeanour, quite unlike the sham of this legislation.”

That is what we said in 1987, so I did not have to attend every meeting. I knew what integrity in public life legislation ought to be about, and to come here hypocritically and say that the PNM did nothing, he quotes 1994.

The fact situation is that in 1993 the Commission had a symposium. Arising out of that symposium, Sen. Wade Mark who attended the symposium, went to the Senate with a resolution which was readily accepted and the Green Paper was commissioned. The Member knows that. He said that in his contribution. Mr. Speaker, let me just give you a few anecdotes of the committee meeting. On page 17 of the meeting of June 4, 1997, where the Chairman is arguing and said that look, really, he does not think that his wife's assets or his dependent children's assets should be included. He made the point that:

“Mr. Chairman: Under this legislation, everybody is being treated as a crook. That is the problem with integrity legislation. The problem with integrity legislation is that we start with the assumption that everybody is a crook or bribable.”

That was his view of integrity legislation.

“Justice Collymore: I would answer it this way. We see that you cannot ask a man to give a detailed account of all his wife's assets. If his wife is carrying on a business, we do not want a balance of that. We would like to know, so far as is known, whether the assets which are available to him show that he is functioning in a healthy financial session.

We do not assume that people are acting as crooks. If a person is subject to corrupt practices, he received a bribe of \$5 million and shunts it off to some other member of his family, how is that situation to be monitored?

Mr. Chairman: We are stressing the negatives. That is the problem with integrity legislation. That is where the law is flawed. Everything hinges around the inequity of the man. The positive should be emphasized. How can you help a public official to have integrity in public life? Do you know how that is done? By paying him well.”

A while ago, the Member ended by stating that with the passage of this legislation, he hopes that we can go back to old time days when people would serve for serving sake and not for pecuniary gains, as it were. That is not what he was saying in the committee! In the committee he was saying,

“Listen, you must pay him well. They should say that a Minister should be given a house, a car and paid \$50,000 per month, like in Singapore. Therefore, unless he is a terrible man or woman, he would not be susceptible to bribes, corruption and all the things of which he is accused. In my view, that is what integrity should be all about. That should be the positive recommendation of this Green Paper.”

Mr. Assam: Of course, the Member is taking my point out of context. When I said that people long ago did not enter public life for gain, I did not mean that a labourer was not worthy of his hire. I did not mean that! It is like the Bible. Those who preach the gospel should live by the gospel!

What I meant by gain is that one should not get involved in extracurricular activities for gain while one is exercising political influence in public office, but one should be paid well, and that is not gain, because if I am an engineer or a doctor or lawyer, I would earn money outside! When I become a Minister, you pay me well! When I say gain, I mean illegal gain. So do not try to distort what I am saying.

Mr. K. Valley: Until now, I thought that saying from the Bible meant that those who preach the gospel should live by the principles they preach. I now understand that what it really means is that those who preach the gospel should make money from it! I never thought that is what it meant. I am sorry! Honestly, up to now, I thought that the statement meant that if one says certain things as a pastor, one should carry it out with integrity. I have just learned something.

After that statement, the goodly Prof. Kenny, a member of the committee speaking to the Chairman:

“Sen. Prof. Kenny: With all due respect, I think that the case you have just made belongs elsewhere. It belongs in the Cabinet. We, as humble legislators, have just the existing legislation and proposals for new legislation.

Now the philosophy of the Government is something which is the responsibility of those in power. Cabinet should be making the general decision as to policy, where we are headed, and then things will flow from it.

I am really sitting on the outside on this. As a Senator, I know what the existing legislation is. I have read the Green Paper and the legislation proceeding from it which, frankly, seems sensible.

If there is a policy shift in Government, then we ought to know what it is. I do not think that in this Joint Select Committee of Parliament it is appropriate that we should be examining the new policies of Government. We have to work within the framework of our terms of reference.”

That is the goodly professor. Continuing:

“Justice Collymore: May I continue, please? Your party has come out strongly at the hustings in support of this Green Paper for the introduction of legislation which would provide more teeth. It does not say more salaries. It talks about strengthening the legislation so as to satisfy the general public that there is an atmosphere of morality.

In 1993, before this Government came into power, they held a symposium which was attended by distinguished professional persons from a broad cross-section of the community.

If you examine our report, you see other conclusions. There was a general outcry for legislation of this kind, not merely to raise the salaries of Ministers and so on which, of course, is a matter for you.

Mr. Chairman: The Salaries Review Commission. Not me.

Justice Collymore: It was the concern of the previous administration—the NAR administration—and the new administration that this legislation should be strengthened.

In fact, the Salaries Review Commission under Sir Isaac Hyatali said you either strengthen the legislation to monitor public affairs, or abolish the Commission entirely”

The point we were making way back in 1997.

“You would be just wasting time.

Justice Collymore: I do not think that the views you have expressed represent the views of your party.

Mr. Chairman: I do not know where you got the views of my party in this regard. I know that on the hustings we talked about four matters. We did not talk about Integrity Legislation at all."

6.20 p.m.

I would not have gone through this document because I thought that we met as a committee, we did our work and our report, we compromised at the end and signed the report, and the Member's job was simply to present the committee's report. He had no mandate to come and politic: none whatsoever. His mandate was quite simple, but he came here to misrepresent, in his hypocritical way. Hypocrisy must be exposed on every occasion. [*Desk thumping*]

We continue, he said:

"We did not talk about integrity legislation at all. However, so be it. [*Interruption*] The issues at the election were four and only four. I remember them very well I have a jersey at home." [*Laughter*]

Mr. Assam: Enjoy yourself!

Mr. K. Valley: Justice Collymore asked him:

"Then, why the Green Paper? Why are we here?"

The Chairman of the Integrity Commission was amazed and asked, "If your party has no position on integrity, why are we here? I am reading from page 18 of the *Hansard*."

Mr. Chairman: The Green Paper started in 1994, as you know, as a result of a motion raised by Sen. W. Mark, and the then Attorney General, Mr. Sobion, was given a mandate and a committee appointed. It has come into this administration and this administration has pursued it."

In other words, this is not our work, we came and met it.

He continues:

"I am not saying that I am against integrity in public life."

I am skipping a part here that is not really relevant. [*Interruption*] I will read the whole thing, no problem.

"I hope I do not give that impression. I am all for integrity in public life. I am saying that there must be a balance in pursuing integrity in public life and this balance must not only be in attempting to assume that all politicians are

bribeable, scamps and corrupt and that everything in our power must be done to stop them, including bringing in their wives and children. I am saying that a more sensible approach is to find out, if there are instances of corruption, why they happened. Was it greed? Was it venality? Was it because they were forced to? Was it because there are a set of corrupters and corruptees in the society? What about the corrupters? We are only dealing with the corruptees. To have corruption, there must be a corrupter and a corruptee. We have not dealt with the corrupter; we are only dealing with the corruptee. We are not dealing with the causes of corruption."

Then my colleague Mrs. Mohammed said:

"I think all administrations, as Justice Collymore pointed out, have been eager to strengthen this Commission."

This again represents the PNM's view that we wanted to strengthen the Commission.

That is not the view of my very good friend from St. Joseph. When we come to the Parliament let us speak the truth honestly, every time and let us get the work done. Do not come with hypocrisy.

I go next to page 36 so that one would get a fair view of the Minister's thinking at the committee level, which was quite different to his thinking here. Remember that the Member made the point that Eric Williams put it in the Constitution that he did not believe in integrity and that he had five years to do it and did nothing. Mr. Speaker, just listen to the Minister on that point. He started out by saying:

Mr. Chairman: I often wonder why Eric Williams, after having passed Act 4 of 1976 never introduced Integrity Legislation. That is why I asked the question you know. He died in 1981, so he had five years in which to do it, then his successor, Mr. Chambers came in and he did not do it either, I wonder why?

Justice Collymore: The party of which you were a member at the time brought it.

Mr. Chairman: Yes, I was a Member of the NAR.

Justice Collymore: Perhaps you are in the best position to tell us why.

Mr. Chairman: Well I was exiled to London, so I do not know Justice Collymore. I really do not want to introduce politics but I am saying we have to be very careful in constructing law, not to hamstring in any way, or unduly restrict the freedoms of persons simply because one is a public officer, or former public officer, or one has voluntarily decided to give public service and

because one was in public life, he is going to suffer after leaving public office, or one must be unduly inconvenienced while he holds public office."

In the committee, the members felt that he was not really in favour of the whole concept of integrity legislation.

Mr. Assam: It was too tame for you. You are too shallow to appreciate the difficulty of that thinking.

Mr. K. Valley: Perhaps, you may deal with it but you may have more difficulty trying to deal with me. [*Cross talk*].

On page 22 let us see what they are talking about. Justice Collymore is speaking about some of the areas they feel ought to be protected in the legislation and the whole area of lobbying, nepotism and that type of thing:

"Mr. Chairman: I have a question. What is wrong with lobbying, influence peddling and acceptance of gifts that you would want to suggest they are offences against public morality?"

We in Trinidad and Tobago pay firms to lobby for us, when we go abroad we accept gifts and we also give gifts as you are aware. I take a gift to my counterpart in the Ministry of Trade and he gives me a gift. Influence peddling is something that goes on in every aspect of life even in religion, because one of the first places propaganda was used was in the Roman Catholic Church—"

That may be blasphemy.

"—and it was the creation of the division of propagation of faith in the year 325 or something like that. That has to do with influence peddling all over the world. What is wrong with influence peddling, acceptance of gifts and lobbying?"

Justice Collymore: May I try to answer you by dealing with lobbying?"

Lobbying as you quite correctly said is practised in North America and we ourselves pay persons to do lobbying. There is lobbying and there is "lobbying" and one has to define what lobbying is contrary to public good and what lobbying is purport. There is a certain line which is crossed and one must define that line, if one thinks there is such a line.

With acceptance of gifts, we are quite cognizant of the fact that persons holding your position give and receive gifts and it would be an impropriety and an indiscretion if someone makes a gift and you refuse it if it was in the normal course of official business. But there is giving gifts of one kind and there is giving gifts which amounts to something else and that is where the line is drawn.

With influence peddling, as you see, we all influence each other to what we are trying to do now. I am not peddling influence, but I am trying to give you my views which I hope some might be acceptable to you. It is quite a different thing where you come to the Minister saying, 'Minister, I am a good party Member, do you think you could help me out?' And use your influence."

Mr. Chairman: What is wrong with that?

Justice Collymore: If you say there is nothing wrong, then there is nothing right. There is a thing called nepotism and giving an unfair advantage to someone.

Mr. Chairman: What is wrong with nepotism?

Justice Collymore: I rest.

Mr. Chairman: My party member?

Sen. Prof. Kenny: Please, Mr. Chairman."

At that point you could see that the committee was aghast, this was our chairman.

"**Mr. Chairman:** I am asking you to tell me what is wrong?

Sen. Prof. Kenny: If you give me a chance I will tell you. The Constitution of this country guarantees equality of treatment before anybody who is part of the public realm..." [*Laughter*]

6.35 p.m.

"If you, Mr. Chairman, would give preference to a relative when two people are not actually competing but they are...seeking something, this is nepotism. This is contrary to the Constitution. That part of the Constitution is concerned with fairness so that every citizen, every individual, will feel that he has an equal opportunity. That is what your party is talking about, equal opportunity.

Mr. Chairman. All of us won the election in 1995 on the UNC ticket therefore everybody was entitled to become a minister. If, therefore, I was not appointed a minister I was not given equal treatment under the law."

That was the response of the Minister.

"**Justice Collymore:** Mr. Chairman, I feel that I should almost whisper this in your ear, but what was the Deyalsingh Commission about? Could you remind us what it was about?

Mr. Chairman: I do not know.

Justice Collymore: Oh, you do not know, I rest.

Mr. Chairman: What was it about? Do you mean the procedures for the award?

Justice Collymore: I think the behaviour of certain persons in the awarding of contracts was dealt with. If the Integrity Commission had to deal with it, I do not know whether we would have come to a different conclusion. However, I do not want to press the point because I think it is well known.”

Mr. Speaker, one can go on. But I simply wanted to make the point. As I said, I did not plan to get involved in that this evening. I thought I would just get up as a Member of the Committee and second the Motion. My colleague is all geared up to speak on the Motion. It is my colleague who is supposed to be speaking on this Motion but there is something within me that really detests hypocrisy. I do not understand why the Minister found it necessary here this evening, after chairing a committee and after meeting on all those occasions, to come here with a committee report that was signed by every Member other than two who were absent for various reasons but a report which both sides are in basic agreement to attempt to politicize the committee's work. That is unfair especially when, in the committee setting, the Chairman expressed those types of views and there are others but I think I have made the point.

We are for integrity in public life and we support the report. We would merely note the Bill that is attached to the report because the committee spent its time on the Green Paper. We looked at the Bill. The Bill has to be amended because there are certain clauses in the Bill with which we would have—especially given events over the last day since the committee reported. There are certain issues with which we would have some difficulties.

Mr. Speaker, let me do now what I thought I would really be coming to the House to do today. I rise to second the Motion raised by the Minister. Thank you.
[Desk thumping]

ARRANGEMENT OF BUSINESS

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I propose to adjourn the House but there is one matter, a private Member's Bill. We would have no objection if it is taken now.

Agreed to.

ABUNDANT LIFE MINISTRIES (INC'N) BILL

Special Select Committee Report

Adoption

The Parliamentary Secretary in the Ministry of Local Government (Mr. Razack Ali): Mr. Speaker, I beg to move that this honourable House adopt the Report of the Special Select Committee appointed to consider and report on a Private Bill for the Incorporation of The Abundant Life Ministries and for matters incidental thereto.

Mr. Speaker, the purpose of the Motion is for the incorporation of this organization by an Act of Parliament. The committee is satisfied that the Abundant Life Ministries has been and is presently performing many functions free of charge. For example, the organization runs a drug rehabilitation centre and their record shows significant results contributing to the reforming of the lives of many of our youths and so enhancing the quality of life for these unfortunate persons.

Mr. Speaker, during the committee's deliberation, apart from taking oral evidence from the promoters the committee examined the following documents submitted by them:

- (a) constitution and by-laws;
- (b) audited financial statements;

I will not mention the periods because it is noted here.

- (c) list of membership of various branches;
- (d) Minutes of executive meetings held on specific dates.

Mr. Speaker, the committee made a careful examination of the preamble and clauses of the Bill and having regard to all the evidence, the committee is satisfied that the facts and allegations presented in the Bill are true and correct.

The committee wishes to report that it has completed its deliberation and has found sufficient proof in support of the incorporation of this organization by an Act of Parliament. The committee, therefore, recommends that the Bill be accepted by the House of Representatives.

Mr. Speaker, I thank you for having the opportunity to chair this committee and I beg to move. [*Desk thumping*]

Seconded by Mr. Jarrette Narine.

Question proposed.

Question put and agreed to.

Report adopted.

Abundant Life Ministries Bill
[MR. ALI]

Friday, September 4, 1998

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

Bill accordingly read tthe third time and passed.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj: Mr. Speaker, I beg to move that the House do now adjourn to Friday September 11, 1998 at 1.30 p.m. May I announce that on that date the Government intends to take through all its stages a Bill entitled "The Regulated Industries Commission Bill, 1998". It is not yet on the Order Paper. It is before the other House and the adequate written notice and a copy of the Bill will be sent to Members. We will do that Bill first and then we will continue the Motion which was in progress a short while ago.

Mr. Speaker, may I also announce to hon. Members that on Monday, September 21, 1998 at 10.30 a.m. the House would commence debate on the Bill entitled "An Act to amend the Constitution of Trinidad and Tobago - implementation of the death penalty". The Government intends to complete debate on that Bill on September 21, 1998.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 6.50 p.m.