

*Leave of Absence**Friday, December 11, 1998***HOUSE OF REPRESENTATIVES***Friday, December 11, 1998*

The House met at 1.30 p.m.

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

Mr. Speaker: Hon. Members, I have received correspondence from the Member for Port of Spain North/St. Ann's West, who has asked to be excused from December 4 to 18, 1998. I have also received correspondence from the Member for Port of Spain South, who has asked to be absent from December 7 to 13, 1998. Leave has been granted.

PAPERS LAID

1. Report of the Auditor General on the accounts of the Tobago Regional Health Authority for the period December 19, 1994, to December 31, 1995. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]

To be referred to the Public Accounts Committee.

2. Report of the Auditor General on the accounts of the National Maintenance Training and Security Company Limited for the year ended December 31, 1997. [*Hon. R. L. Maharaj*]

To be referred to the Public Accounts (Enterprises) Committee.

3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the San Fernando City Corporation for the year ended December 31, 1986.
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the San Fernando City Corporation for the year ended December 31, 1987.

Papers 3 and 4 to be referred to the Public Accounts Committee.

COMMISSION OF ENQUIRY REPORT**JUSTICES OF THE PEACE**

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, the Government considers it its duty to inform this honourable House of

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the actions taken, and those that are to be taken in respect of the report of the Commission of Enquiry appointed by Cabinet on November 17, 1996 to enquire into the allegations of corruption and illegal conduct made against Justices of the Peace.

The Report of the Commission of Enquiry, as you will recall, was laid in this House for the information of Members of the House and the public. The Report of the Commission of Enquiry raised issues of great public importance affecting the administration of justice in Trinidad and Tobago and was startling in its revelation. Two most important findings contained in the report were with respect to the training of Justices of the Peace and the corrupt practices by Justices of the Peace. These two findings revealed that the office of the Justice of the Peace was not only poorly regulated and administered, but was also besmirched by allegations of corruption, improper and illegal conduct and wrongdoing.

With respect to the training of Justices of the Peace, I would like to quote what the Commission of Enquiry stated at paragraph 40 of the Report:

“Although Justices of the Peace are vested with jurisdiction concurrent with Magistrates and act judicially in the issuing of summonses and warrants, the granting of bail and the authenticating of statements, they have received no formal training on the relevant legislation and fundamental practices and procedure. At best, seminars have been held and lectures delivered but not of sufficient depth and detail to equip these officers with the knowledge and skills necessary to adequately fulfill their role and functions. Generally, what they have learnt they have picked up along the way. “

Mr. Deputy Speaker, with respect to corrupt practices by Justices of the Peace, I would again, with your kind permission, quote from paragraphs 59 and 60 of the report which states as follows:

“The Commission discovered that the corruption relating to Justices of the Peace has various manifestations and involves a frightening degree of collusion, particularly in the granting of bail and accepting of sureties. It is sad to say that the whole process of obtaining bail from some Justices of the Peace has evolved into a vile and vicious experience for persons in custody and their families. A mode of extortion has become so entrenched that the public seems to have accepted it as the norm.

While all Justices of the Peace deny that they charge, demand, fix, or suggest any fee for their services, there is direct evidence that some Justices of the Peace

exact large sums of money from persons seeking bail for an accused. Some argued that it is to compensate them for expenses incurred. Others stated that they would accept “gifts” in the form of a meal or money for granting bail. Evidence was also received that Justices of the Peace call for a percentage of the amount of the bail fixed in cash. It is not unreasonable to infer that if a corrupt Justice of the Peace fixes the amount of bail himself, his reward would be taken into account. Some Justices of the Peace attempt to shelter under the umbrella of ignorance and claim that there is no provision in the law prohibiting Justices of the Peace from charging a fee for their services.”

The Report of the Commission of Enquiry also contained serious allegations of misconduct and wrongdoings by six named Justices of the Peace. The appointments of these six have been revoked after due process of law was complied with.

Mr. Deputy Speaker, there exists in the Ministry of the Attorney General an Advisory Committee which comprises Mr. Lennox Sheppard, Senior Legal Officer of the Solicitor General’s Department, Mr. Deo Bhagowtee, Adviser to the Law Review Commission, Mrs. Nicole Chapman-Valere, Legal Research Officer of the Law Commission and Mrs. Corinna Atherley, Acting AO II from the Ministry of the Attorney General.

Whilst the Commission was sitting, the Advisory Committee was mandated to prepare a handbook for Justices of the Peace setting out the laws which apply to Justices of the Peace in the performance of their duties and functions. That is, the law relating to the granting of bail and taking of oaths and the Judges Rules with respect to the authentication of written statements and identification parades and also, to include in the said handbook, a code of ethics.

The handbook was prepared by Mr. Deo Bhagowtee, Advisor to the Law Review Commission in collaboration with Mr. Lennox Sheppard and Mrs. Chapman-Valere and was also vetted by the Director of Public Prosecutions, Mr. Mark Mohammed and His Worship Mr. Beecham Maharaj, the Chief Magistrate.

Whilst the Commission was sitting, the Advisory Committee was also mandated to interview persons who, prior to the appointment of the Commission, had applied for the office of Justice of the Peace and to examine the laws relating to the Justice of the Peace and to prepare a draft Justice of the Peace Bill in this respect.

Mr. Deputy Speaker, after the Report was laid in the Parliament, the Attorney General met with Justices of the Peace at the Gulf City Auditorium on October

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27, 1997 to apprise them of the findings and recommendations of the Commission. At this meeting copies of the handbook for Justices of the Peace were distributed to Justices of the Peace who were present.

I also forwarded a copy of the Report of the Commission of Enquiry to the Commissioner of Police and to the Director of Public Prosecutions requesting them to take such action as they consider necessary in light of the serious allegations of illegal conduct and of corrupt practices made against certain Justices of the Peace.

Mr. Deputy Speaker, a special squad was appointed by the Assistant Commissioner of Police, Mr. Kenneth Grant, to carry out investigations of the allegations contained in the report. I have been informed that as a result of the investigations as of November 30, 1998, 35 persons namely eight Justices of the Peace, 19 bailors and three Attorneys-at-Law, three police officers and three other persons are being prosecuted for 298 offences.

Mr. Deputy Speaker, investigations with respect to allegations of illegal conduct and corrupt practices by Justices of the Peace and other law enforcement officers are still continuing.

1.40 p.m.

Based on a report of the Advisory Committee, I recommended to the President that the appointment of 21 Justices of the Peace, who had resigned, migrated or were not functioning because of illness, should be revoked. The appointment of these Justices of the Peace have accordingly been revoked.

In response to one of the recommendations of the Commission of Inquiry that Justices of the Peace should be intelligent and sufficiently educated in order to appreciate the nature of the office and the procedure involved in executing the duties of that office, I instructed the Advisory Committee to interview all the existing Justices of the Peace, and new applicants for the office, to assess their ability, competence and suitability to function.

Mr. Deputy Speaker, the interviews of existing Justices of the Peace and all new applicants as at December 31, 1997, were completed on January 16, 1998. The new applicants interviewed were also given copies of the handbook. I should add that at the end of 1997, Members of Parliament were requested to indicate the districts which they considered in need of more Justices of the Peace, and to invite civic-minded persons within those districts to apply for appointment. At April 24, 1998, a number of persons had applied in response to this request. Those persons have been interviewed and have also been given copies of the handbook.

In accordance with the recommendation of the Commission that Justices of the Peace should be intelligent and sufficiently educated, and having regard to the fact that Justices of the Peace are required to perform these important quasi-judicial functions, the Advisory Committee has requested that all existing Justices of the Peace and new applicants for that position take a written examination to test their knowledge of the relevant law and the functions that Justices of the Peace are required to carry out. The questions for the examination were based on the various subject matters contained in the handbook, relating to the law and the duties and functions with respect to Justices of the Peace.

The written examination was held in Port of Spain, San Fernando and Scarborough on February 14, 1998. The written examination was for persons who applied in 1997, and the examination for those who applied in 1998 was held at the same venue on May 16, 1998.

To ensure that magisterial districts are adequately served with a sufficient number of Justices of the Peace, I instructed the Advisory Committee to submit to me a list showing:

- (1) the number of Justices of the Peace, based on the 1990 population ratio required in a magisterial district;
- (2) the present number of Justices of the Peace operating in that district;
- (3) the vacancies for Justices of the Peace existing in that district.

The Committee was also asked to recommend from among the applicants who had been interviewed and who had passed their examination, appointments as Justices of the Peace to fill the existing vacancies in the various magisterial districts.

The Advisory Committee has provided me with a list which shows that the number of Justices of the Peace required for Trinidad and Tobago is 125: 119 in Trinidad and six others in Tobago. The number of existing Justices of the Peace in Trinidad is 72 and the number in Tobago is 6. The number of vacancies for Justices of the Peace in Trinidad and Tobago is 28.

The Advisory Committee has submitted the names of 25 applicants who have been interviewed and who have satisfied them by their performance in the examination. They have recommended their appointment as Justices of the Peace in the various magisterial districts in which they reside. I have considered the recommendations of the Advisory Committee and the appointments, when made, will be published in the *Gazette*.

The Advisory Committee will, at the beginning of 1999, be interviewing the new applicants with a view to filling the three remaining vacancies to make up the 28.

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In paragraph 22 of the Report of the Commission of Inquiry, it was stated that there is a marked absence of comprehensive legislation to regulate the office of Justice of the Peace. A draft Justice of the Peace Bill will provide greater regulation of the office of Justice of the Peace; criteria for selection and appointment of Justices of the Peace and a mandatory code of ethics for that position. That bill has been drafted and is subject to discussion. Those discussions are being studied and the Bill is now with the office of the Chief Parliamentary Counsel. Consultation is also taking place with respect to that bill. After the bill has been finalized, it will be submitted to Cabinet for consideration.

The report of the Commission of Inquiry also recommended that in order to cover out-of-pocket expenses, Justices of the Peace should be paid a stipend to enable them to perform their functions without having to expend their own financial resources as they do presently.

Studies have been undertaken by my Ministry on the implementation of this recommendation and it is hoped that they will be completed by January 1999 and would then be submitted to Cabinet for consideration.

One of the recommendations of the Commission of Inquiry is that the Justices of the Peace should be provided with identification cards. My Ministry has already printed these cards and they would be distributed to Justices of the Peace early in the new year.

Mr. Deputy Speaker, you would recall that earlier I had referred to paragraph 40 of the report of the Commission of Inquiry which dealt with the lack of any formal training on the relevant legislation and fundamental practices and procedures relating to the office of Justice of the Peace. The result of the examinations confirmed the finding of the Commission of Inquiry, since it showed that some of the existing Justices of the Peace and some new applicants for that position lacked a thorough knowledge of the law relating to the duties and functions of that office.

I have, accordingly, instructed our Advisory Committee to liaise with the Chief Magistrate in drawing up a curriculum to conduct training sessions for Justices of the Peace. The results of the examinations will be used as a basis for drawing up a programme to include the subject matters on which emphasis will be placed in the training session. It is hoped that after completing these training sessions, Justices of the Peace would be able to carry out their duties and functions efficiently and befitting the dignity of the office.

The Advisory Committee has informed me that they have since held meetings with a magistrate designated by the Chief Magistrate and the Clerk of the Peace of the St. George Magisterial District, regarding the training of Justices of the Peace. I am also informed that the training session will commence early 1999 and the venue for the training session would be Port of Spain, Chaguanas, San Fernando and Scarborough.

Mr. Deputy Speaker, in the past there has been continuing criticism of Justices of the Peace in the performance of their duties and also innumerable complaints and allegations of corrupt practices by Justices of the Peace. The office of Justice of the Peace is an honourable one that calls for a high degree of integrity and civic-mindedness. The appointment of a person to the office of Justice of the Peace is not simply an honour bestowed on that person, but an honour conferred on that person to undertake a civic duty in the administration of justice.

It is unfortunate that many persons, who were appointed as Justices of the Peace in the past, were of questionable character and integrity, and it is only with the appointment of the Commission of Inquiry that they have been brought to book.

The office of Justice of the Peace is an office in which the holder voluntarily undertakes to perform a civic duty free of charge in the administration of justice. In other words, the office of Justice of the Peace is not one of emolument. The duties and functions of such an office are prescribed by law.

One of the major avenues to which the office of Justice of the Peace has become corrupted was with respect to the granting of bail and the performance of other quasi-judicial functions. The Law Commission is in the process of drafting comprehensive legislation to deal with the granting of bail. As I adverted to earlier, the draft Justice of the Peace Bill, after it has been finalized, will put the regulations of the office of Justice of the Peace on a better footing.

1.50 p.m.

Mr. Deputy Speaker, to sum up, the approach of my Government is to deal with the problems confronting the office of Justices of the Peace in a holistic manner by dealing with some of the findings and recommendations by the Commission of Enquiry to which I have adverted. There is yet more to be done in the future with respect to some of the other findings and also with respect to the implementation of some of the recommendations of the report of the Commission of Enquiry.

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Mr. Deputy Speaker, I sincerely hope that when all is done to implement the recommendations contained in the report of the Commission of Enquiry, the office of Justice of the Peace would once again be restored to its prestigious position.

Thank you.

Mr. Valley: Mr. Deputy Speaker, I want to know whether the Leader of Government Business would be kind enough to lay the Report of the Commission of Enquiry.

Hon. R. L. Maharaj: Mr. Deputy Speaker, the report of the Commission of Enquiry was already laid in the House, as I mentioned in my statement. There was a statement made on the report which was laid. This is a report on the implementation of that report.

HUMAN RIGHTS DAY 1998

The Minister of Social Development (Hon. Manohar Ramsaran): Mr. Deputy Speaker, half a century ago, a small group of visionary men and women came together and presented the world with some guidelines for our future which is known as the Universal Declaration of Human Rights. Yesterday, this revolutionary initiative was celebrated.

This declaration is not simply another policy document, but is representative of something much deeper. It represents our universal commitment to human rights, protecting and promoting the fundamental social, economic, and cultural rights of all our citizens taking into special consideration vulnerable groups such as children, women, the elderly, the disabled, and other disadvantaged groups.

Mr. Deputy Speaker, in order for us to fully appreciate our rights, such as the right to life, freedom of expression, freedom of movement, education and religious worship, let us stop for a minute and imagine our lives without them. It is not a pleasant picture, I can assure you. Let us remember those unfortunate souls who are currently still denied their rights, rights; that we take so much for granted, and let us guard against complacency by using this opportunity to renew our commitment to the preservation of human rights for all.

I daresay, Mr. Deputy Speaker, that human rights should be the concern of all of us. For in the words of Mary Robinson, human rights commissioner, "they address directly what is necessary for a life of dignity for every human being." As nationals, we need to breathe life into the words of the declaration, and by our actions make a real difference in the coming millennium. Human Rights Day

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should not be celebrated only on December 10, but should be incorporated into our daily lives. "All human rights for all", as this year's theme suggests, should be our common call to action on this anniversary and in the years to come.

The Universal Declaration of Human Rights has been reinforced in international and regional treaties, in constitutions of nations and in policy pronouncement by governments. The human and fundamental rights provision of the Constitution of the Republic of Trinidad and Tobago reflects some major provisions of the declaration.

This Government is committed to upholding the declaration. We have also gone a step further to implement decisions of the United Nations which give effect to the principles espoused in the declaration. Not only have we complied with and upheld the declaration, but we shall continue to do so in the future.

The United Nations, in its efforts to secure the protection of human rights enshrined in the declaration, passed resolutions to set up *ad hoc* tribunals for Rwanda and Yugoslavia. Our Government assisted in formulating model legislation to facilitate countries in creating their own domestic legal structures to give effect to these resolutions. I think the Opposition voted against this.

Mr. Deputy Speaker, our Government has also taken steps to implement Article 25 of the Declaration that calls for promoting understanding, tolerance, and friendship amongst all racial and religious groups. The Government has also introduced in Parliament an Equal Opportunities Bill which would create institutions to promote equality of treatment and opportunities in our country.

This Government has also taken further steps to enact a Freedom of Information Law. The bill that is before Parliament will give individuals, including members of the media, a statutory right to obtain Government-held information. The Government also took a leading role in the efforts of the United Nations to establish a permanent international criminal court.

Cabinet has approved the establishment of a Human Rights Unit within the Ministry of the Attorney General to ensure that obligations arising under the Human Rights Agreement to which Trinidad and Tobago has become a state party, are complied with. Cabinet in November 1998 also agreed to the establishment of a Human Rights Committee within the Ministry of the Attorney General to provide *inter alia* all necessary human rights data to the unit referred to.

If one makes an objective assessment of the human rights position in our country, one must conclude that we have an excellent track record. There can be

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no doubt that during the time this Government has been in office these rights have been enjoyed by the people of Trinidad and Tobago. There can be no doubt that there is freedom of expression of the press. There can be no doubt that there is freedom of property.

The Ministry of Social and Community Development, and by extension, the Government of Trinidad and Tobago, is firmly dedicated to ensuring that citizens of our country be allowed their rights. We have placed great emphasis on social development, poverty eradication and sustainable human development. To this end, Government in 1996 established the Change Management Unit for Poverty Eradication and Equity Building to focus specifically on treating with poverty issues. Since its inception, the Unit has initiated a number of innovative programmes, for example, the “adopt a community” project which is a partnership between the Government and corporate sector to alleviate the economic hardships of individuals in disadvantaged communities.

These and other efforts, Mr. Deputy Speaker, have met with success as reflected in the Human Poverty Index of the 1997 United Nations Development Programme Human Development Report which rated Trinidad and Tobago favourably in its continuing efforts at successfully eradicating poverty. We have taken many important steps to place these rights at the top of our national agenda and in so doing, have engaged the co-operation of many organizations within civil society.

Permit me, Mr. Deputy Speaker, to elaborate on some of our other on-going projects which have been designed to address the specific needs of vulnerable groups.

Maternity benefits for female workers are now mandatory by law. It protects female workers from arbitrary dismissals due to pregnancy and provides them with rights to promotion opportunities while on maternity leave.

The national minimum wage across the board would provide low income earners with a minimum rate wage of \$7.00 per hour.

Mr. Deputy Speaker, the Government recognizes that health care is a fundamental human right. With this in mind, the Government is in the process of health sector reform which is aimed at improving accessibility to, and equity in health care services. However, as with all other rights, the right to health care also involves the right of the individuals to look after their own health.

This Government continues its efforts to ensure school places for all children up to secondary level. Education and training continue to be our watchwords as

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we make Trinidad and Tobago a truly quality nation. It is quite clear that this Government puts human rights at the centre of our development.

Persons with disabilities—a number of actions have been taken to facilitate improvement of the conditions of persons with disabilities. In September, 1997 the new disability assistance grant became operational and Cabinet agreed to the establishment of a National Co-ordinating Committee on Disability (NCCD) and a Disability Affairs Unit (DAU). The committee held its inaugural meeting on November 17 of this year, and the unit would be operational by the end of January 1999.

In the area of vocational training and education, additional financial assistance was granted to the National Centre for Persons with Disabilities (NCPD) and the ILO Convention No. 159, which deals with vocational training and employment for persons with disabilities was recommended for ratification by the 144th Tripartite Committee.

In terms of promoting national awareness of the needs and concerns of persons with disabilities, a half-hour documentary and three 15-minute fillers on issues such as recreation, employment, training and achievements of persons with disabilities have been aired on national television. The ministry is also in the process of finalizing an information booklet, developed and produced by persons working in the field, for persons with disabilities and other interested persons.

Mr. Deputy Speaker, the Government continues to provide financial support to nine homes for the aged to assist with recurrent operational expenditure and is currently reviewing the subventions with a view to increasing the same.

The ministry in recent times has also held its own celebrations to commemorate the International Day of Older Persons by providing gifts and entertainment for selected senior citizens. This year, the function was held on September 30, and was significant because it also marked the launch of the International Year of Older Persons which is to be celebrated in 1999. It is expected that with the heightening of activities during 1999, the situation of senior citizens in Trinidad and Tobago would be improved.

In the area of social security, much has been achieved over the past three years. The quantum of old-age pension has been increased within a two-year period from \$420.00 to \$520.00 and is to be further increased to \$620.00 in 1999. In addition, the income ceiling criteria for eligibility for the pension would be increased, allowing for additional members of our senior citizens to be eligible for the benefit.

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Mr. Deputy Speaker, this Government increased, from two to five years, the period one could be absent from this country during the 20 years prior to his 65th birthday so he would be able to qualify for old-age pension.

Recognizing too, the importance of ensuring the continued contribution of our senior citizens to national development, the ministry, with assistance from the Trinidad and Tobago Association of Retired Persons (TTARP) also developed a project entitled the Senior Citizens Bureau, which is a register of the skills of older persons. In terms of public awareness and education, the ministry provided and distributed five brochures on issues pertaining to ageing and would soon be commencing activities toward the development of a national policy for older persons.

Our Government is also extremely concerned about the continuing incidence of socially displaced individuals and has established a Social Displacement Board which serves as an advisory body on matters relating to social displacement. The board is responsible for monitoring the holistic plan on social displacement. It is our sincere intention that the plight of these socially displaced individuals will be alleviated.

On the issue of children, Mr. Deputy Speaker, I have recently returned from Lima, Peru where I attended the Fourth Ministerial Meeting on Children and Social Policy in the Americas. At that meeting, governments of the region further committed themselves to reaching the goals set by the 1990 Declaration for the Survival, Protection and Development of Children, which emanated from the World Summit for Children to which this country was a signatory. We recognized that collectively, significant strides have been made towards achieving goals for child survival and development, especially in areas of immunization coverage, which has resulted in a 95 per cent decrease in measles, deaths and the virtual elimination of neonatal tetanus. However, there was also recognition of the immense challenges which still lie before us in areas such as HIV/AIDS, child poverty, child abuse and other issues relevant to child protection.

My ministry has also been actively engaged in the promotion of child rights following Trinidad and Tobago's ratification of the United Nations Convention on the Rights of the Child in November, 1991. To this end, we have been disseminating information on the Articles of the Convention which indicate a child's right to the most basic of human rights, that is, to a name; nationality; protection from physical or mental harm and neglect, including sexual abuse and exploitation; the highest attainable standard of health care; education and discipline with respect to the child's dignity.

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As you may be aware, Mr. Deputy Speaker, the second annual Child Rights week was celebrated in November of this year. The thrust of this activity was to sensitize the national community, both children and adults alike, to the convention and to advocate a more child-friendly society. Our sensitization efforts have also taken a grassroots approach as demonstrated by the project, "Promotion of Child Rights in Communities" which was launched in July, 1998 and takes the form of interactive workshops in rural districts.

Mr. Deputy Speaker, in this 50th anniversary year of the Declaration of Human Rights, the world has come to the understanding that the fulfillment of child rights is vital to human progress, not only because it is a moral and ethical imperative, but also because child rights are the key to the economic and political health of our society. Thanks to our efforts and those of UNICEF, children are now placed higher on the national agenda than ever before. There is now more recognition of the fact that every child has rights to develop physically, mentally and socially to his or her fullest potential, to express opinions freely and to participate in decisions that affect his or her future.

Remember, Mr. Deputy Speaker, that child rights are human rights.

As we approach the turn of the century, let us agree to renew our collaborative efforts and commitment to further refine and implement the many treaties, agreements, declarations, and programmes of action which promote and protect the rights of our citizens, for together we must make a difference if we are to survive.

Thank you Mr. Deputy Speaker.

2.05 p.m.

NEW TENT CITY MALL

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Deputy Speaker, I wish to make a statement to this honourable House about the Tent City Mall which was gutted by fire and which is now fully reconstructed. Following the fire on April 22, 1997 and while the ashes were still hot, this Government, through the Hon. Prime Minister, responded immediately to the plight of the vendors who were affected.

While negotiations with respect to the rebuilding of a structure was taking place, the Ministry of Local Government provided instant temporary relief by providing financial assistance in the sum of \$116,055 to meet all costs for three months for re-establishing displaced vendors. Tents and other requirements were

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provided on the burnt out site for the vendors to carry out their trading. A further \$63,000 was provided for the same purpose and this arrangement existed until September 14, 1997. It is relevant to point out that an offer was made to the displaced vendors to be accommodated at the Eastside Plaza, a similar type incubator facility. This offer was turned down by the vendors.

Mr. Deputy Speaker, one would recall that the re-construction of the Tent City Mall was conceived out of a need to provide accommodation for the commercial activities of the vendors who were displaced by fire on the morning of April 22, 1997. With the approval of the Cabinet, the Ministry of Local Government and the Ministry of Works and Transport collaborated to construct the new Tent City Mall which was designed to accommodate the 120 users of the Street Vendors' Association (1990) Ltd. whose place of business was destroyed by the fire.

The conceptual plan of the mall was geared towards promoting commercial and business entrepreneurship in the development of the inner city of Port of Spain. The Ministry of Works and Transport was the executing agency for this project at the budgeted sum of \$8 million (VAT inclusive). This sum to be drawn from the appropriate head and subhead of expenditure under the Ministry of Local Government. The executing agency was responsible for the preparation of schedule of accommodation, contract document and supervising the design/build contract and construction of the new Tent City Mall.

The Central Tenders Board then invited tenders for the Ministry of Local Government on July 16, 1997 for the design/construct services of the new Tent City Mall. The response, however, of the prospective tenderers to a visit of the site was poor. Tenders closed on August 7, 1997 and a contract was awarded to Moosai Development Company in the sum of \$6, 956,521.74 plus 15 per cent VAT of \$1,043,478.26 to a total cost of \$8 million on September 9, 1997.

The final designs and revised schedule of accommodation which was agreed upon with the representatives of the Street Vendors Association (1990) Limited provided accommodation for 69 vendors' booths at 200 square feet per shop space, four hairdressing booths at 200 square feet per shop space, all comprising the following 117 shop rental areas as follows: rentable, 94; hairdressing, 4; barbers, 6; office, 1; security, 1; juices and drinks, 3; bar, 2; and cooking area, 6. The gross space being 19,200 square feet.

The contractor was responsible for the construction of the facility in accordance with the requirements and to obtain the necessary approval from the respective statutory agencies, namely the chief design engineer at the Ministry of

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Works and Transport, the city engineer and the Trinidad and Tobago Electricity Commission (T&TEC). Mr. Deputy Speaker, the sod turning ceremony took place on September 24, 1997. A 94-day construction period was projected with construction commencing on September 24, 1997 and to be completed by December 26, 1997. Construction did not commence on the scheduled day owing mainly to the inadequacy of the structural design to satisfy the geotechnical soils report. Statutory approval for the sub-structure foundation and ground beams were only granted on December 5, 1997. Funds allocated for the project could not have been utilized at the end of fiscal year 1997. Consequently, funding for the project had to be budgeted for in the 1998 budget estimates and the sum had to be revised accordingly.

Mr. Deputy Speaker, with respect to agency approvals, to date the approval has been obtained from the following statutory authorities: Town and Country Planning Division; Chief Design Engineer, Water and Sewerage Authority and Trinidad and Tobago Fire Services. Problems associated with the connection of the electrical mains in accordance with the governing regulations which delayed the Chief Electrical Inspectorate approvals affected a new plan completion date of November 30, 1998. However, at this point, all electrical works have been completed and inspected by the Chief Electrical Inspectorate and T&TEC is completing the cable works for the permanent electricity connection to the site. The air-conditioning system has been installed and the plumbing installation is complete and is awaiting inspection by the Water and Sewerage Authority (WASA) and the Public Health Inspector.

Mr. Deputy Speaker, with respect to the occupation of the mall by the legitimate vendors, I wish to state categorically and for the benefit of our detractors that at no time did the Ministry of Local Government ever consider omitting *bona fide* tenants who occupied Tent City before the destructive fire. In order to ensure the efficient and effective management and administration of the mall, a new board has been appointed comprising a representative of the Street Vendors' Association, the Port of Spain City Corporation, a union representative, a non-governmental organization, small business and the like. Regrettably, however, the Street Vendors' Association has not yet named a representative to sit on the board, despite correspondence sent to it since November 19, 1998 on the matter.

This board shall be responsible for directing and managing the affairs of both the new Tent City Mall and the Charlotte Street Mall except that when it meets to discuss the matters of the relevant mall, only the representative of the particular

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mall will attend. The board shall fall directly under the purview of the Ministry of Local Government. The board, in its wisdom and in collaboration with the Ministry of Local Government, interviewed on November 27, 1998 nine candidates who responded to an advertisement in the press on Sunday, September 27, 1998 for the post of the manager of Tent City Mall. Arising out of the interview, a manager was appointed. The board, recognizing the need for managerial support given the nature of the facility and the objectives for which it was established, saw the need for an assistant manager. The alternate was appointed assistant manager. Other support staff will be appointed in due course. The board has identified broad objectives, fair and relevant criteria for the occupation and management of the Tent City Mall.

Mr. Imbert: On a point of order, Sir, in relation to Standing Order 13, Order of Business, I ask for a ruling. After 2.15 p.m. can statements by Ministers continue? It is Private Members' Day.

Mr. Deputy Speaker: Standing Order 13, Order of Business, says:

“Unless the House otherwise directs, the business of each sitting day shall be transacted in the following order:

- (a) Prayers.
- (b) Oath of Allegiance of a new Member.
- (c) Announcements by the Speaker.
- (d) Bills brought from the Senate.
- (e) Petitions.
- (f) Papers.
- (g) Presentation of Reports from Select Committees.
- (h) Questions to Ministers.
- (i) Requests for leave to move the adjournment of the House on definite matters of urgent public importance.
- (j) Statements by Ministers.
- (k) Personal Explanations.
- (l) Introductions of Bills.
- (m) Motions relating to the Business or Sittings of the House and moved by a Minister or Parliamentary Secretary.
- (n) Public Business.”

The House is on the order of "Statements by Ministers". The Member may continue.

Mr. Imbert: Forever?

Mr. Deputy Speaker: We all have our Standing Orders which are like this since 1961 and we really do need to change the Standing Orders. I agreed that there is no time limit on "Statements by Ministers" and the precedent has been set where Ministers are allowed to finish their statements. I think you should bring a motion if you want to change the Standing Orders. This is not open to debate.

Mr. Manning: Mr. Deputy Speaker, it is traditional in the Parliament that on Private Members' Day the Government suspends all Government Business so that the Opposition is allowed one day per month on the parliamentary agenda to advance matters it considers important. What is happening in the Parliament today seems to be a violation of that. Not only are statements being made, but a number of statements, the relevance of which this side of the House has not yet been able to identify. I am asking whether the traditional convention that applies to Private Members' Day has now been abandoned by the Government.

2.20 p.m.

Mr. Deputy Speaker: Prior to the sitting of the House, it is traditional of the Leader of Government and the Opposition Chief Whip to get together to determine the course of proceedings of the House. We are just following the Order Paper as directed. If the Member wants to change it, I would suggest that the Opposition Chief Whip and Leader of Government Business collaborate on it.

Mr. Maharaj: Since the hon. Member for San Fernando East has been permitted to make that comment and imply that we were trying to change the procedure of the tradition, if we look back, we would see that on Private Members' Day, even during the last administration, ministerial statements were made. If they are saying that something is wrong, they should produce the record, but ministerial statements are made on Private Members' Day. So it is totally incorrect.

What cannot happen, and it can only happen with the consent of the Opposition, is that if, for example, there is an amendment to a Bill from the Senate, I spoke to the Opposition Chief Whip and he agreed, if he disagreed that cannot be done, or should not be done; a Government should not use its majority for that, but ministerial statements have been made in the past on Private Members' Day and it is quite permissible.

Hon. D. Singh: Mr. Deputy Speaker, had it not been for this disturbance, I would have finished and debate would have started on the other matter on the agenda.

I was on the point where the board has identified broad objective, fair and relevant criteria for the occupation and management of the Tent City Mall. Among such criteria are: that first preference be given to *bona fide* vendors who occupied the Tent City prior to the fire; that new applicants be considered after proper background checks have been made; a determination of the number of vending areas for a particular type of business; that vendors' complaints and conciliatory mechanisms be established; that fees be consistent with the nature of the facility, the type of business, and meeting the administrative costs of managing the facility, such as salary, utility bills, insurance, *et cetera*.

Mr. Deputy Speaker, what we have discovered is that some tenants were owners of two or three booths, and which were subletted to others. Those tenants who had occupied the Mall prior to the fire through subletting tenancy arrangements and who apply, will be considered once satisfactory proof of such occupancy is determined. The administrative and managerial details of the Tent City Mall are the Board's prerogative.

Finally, keys to the facility are expected to be handed over to the Ministry. I believe the handing over took place this morning. The Tent City Mall will be formally opened soon after. Meanwhile, the board has invited applicants for occupancy thereof, and I wish to reiterate that former *bona fide* vendors who occupied the Tent City Mall prior to the destructive fire will be given first preference to the new facility. [*Desk thumping*]

In the Ministry of Local Government, we identified clear objectives, planned programmes associated therewith and execute such programmes effectively, primarily because we engage in constant monitoring and review and are always responsive to the concerns of the citizenry. But we demand accountability, transparency and value for money. We shall not be daunted because we know we are doing an efficient and effective job. [*Desk thumping*]

Thank you, Mr. Deputy Speaker.

FINANCE BILL

Senate Amendment

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

That the Senate amendment to the Finance Bill listed in the Appendix to the Supplemental Order Paper be now considered.

Question proposed.

Question put and agreed to.

Clause 9

Senate amendment read as follows:

9 New Section 40A(1)

- (A) In line one insert after the words “may inspect” the words “only those”.
- (B) In line two insert after the words “financial institutions” the word “necessary”.
- (C) In line 4 insert after the words “correct tax” the words “in respect of financial services income”.

Mr. Maharaj: Mr. Deputy Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Question proposed.

Question put and agreed to.

**INNOCOGEN
(UNSATISFACTORY AGREEMENT)**

Mr. Kenneth Valley (*Diego Martin Central*): Mr. Deputy Speaker, I think if the national community had any reservations concerning the InnCogen matter, the performance of the Government this afternoon in this House, I am sure, would have removed any reservations that any citizen would have had. Their mere performance has demonstrated a level of culpability. It was as though they did not want this Motion to be debated in the glare of the media at all. [*Desk thumping*] As though there was that attempt to bore the media into leaving early. I feel confident that the media would be with us until the end of this debate, so that we can share with the national community some very important information.

It is really with a high degree of regret that I have to move this Motion standing in my name:

Be it Resolved that this honourable House condemn the unsatisfactory manner in which the Trinidad and Tobago Electricity Company (T&TEC) entered into an Agreement with the firm “InnCogen” for the supply of electricity by InnCogen to T&TEC; and

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Be it further Resolved that this Agreement be voided and that the choice of the provider of the electricity requirement of T&TEC be made through the system of public tender.

Mr. Deputy Speaker, this matter has come up in this House on a few occasions: in the budget debate and up to last week. It has been on the national agenda now for some time. To my mind, it is the first time that there is an issue surrounding corruption that points to the highest level of governmental authority in this land. [*Desk thumping*] What I find amazing is that, in spite of the information, in spite of all the facts that we have placed before the national community, we are greeted with nothing but silence from the hon. Prime Minister.

Mrs. Robinson-Regis: That is insulting!

Mr. K. Valley: Nothing but silence from this transparent Government. As we move this Motion in this House this afternoon, he is not even here.

I want to start from the beginning, because I am sure you would recall that on February 6, 1998, the Minister of Public Utilities came to this House to inform us of his Government's plans with respect to increasing electricity generation for T&TEC. I want to refer to that statement, so that one can see the hypocrisy and the sleight-of-hand to which we have been subjected in this transaction over time. Mr. Deputy Speaker, we were informed on that day that the Minister had received from T&TEC an overview on a plan of action for the provision of additional capacity to satisfy the country's growing demand for electricity and that the Government had instructed T&TEC to negotiate with three co-generators who expressed the desire to supply additional power to T&TEC. These were Norsk Hydro, the Aluminium Company of Trinidad and Tobago and InnerCob Industries.

He stated further that given the time constraints, neither Norsk Hydro nor the Aluminium Company of Trinidad and Tobago could have met the requirement to increase generating capacity by September, 1999. However, InnerCob Industries could have done that and that InnerCob, as a co-generator, was supposed to be developing a glass manufacturing plant, a paper manufacturing plant, a particle board plant and an ethanol refining plant. Of course, the electricity generation was primarily in support of these plants and, as a co-generator, the company would be selling the excess capacity to T&TEC.

So that on February 6, 1998, this House was informed that the choice of InnerCob—I do not think there was any talk of InnCogen at that time—to supply electricity to T&TEC was predicated on the whole concept of co-generation on the

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fact that we were talking about a potential supplier who was going to be bringing to the country other investments, creating other employments.

I am confirmed in that view by the Due Diligence Report done by T&TEC with the firms in the United States. I read directly from page 9 of the report. In that report, it stated quite clearly that:

“The T&TEC team viewed the implementation of the Glass, Paper, Ethanol and Panel Board Projects as most important to the economy of Trinidad and Tobago, as the benefits to be gained in terms of the optimum use of the Country's natural resources, employment, foreign exchange, etc. were enormous.”

2.35 p.m.

The article continues:

"The team was of the view that the success of these projects depended to a large extent on the success of the co-generator. As such, T&TEC was prepared to work closely with InnCogen..."

By that time InnCogen had come into the picture.

"...to ensure the successful implementation of the co-generation facilities, once agreement could be reached on the terms of the agreement and assurance could be given that at least two (2) of the four (4) projects would come on stream in the near future."

Mr. Deputy Speaker, in the statement by the Minister on February 6, he informed this House that with respect to the floating glass plant a commercial contract had been signed with Stein Hurty of France to provide 250 megatons per day, and with respect to the paper plant a commercial contract had been signed with a French corporation of Jacksonville, Florida. The sod turning for these two projects was scheduled to take place in April 1998. Of course, today is December 11. I might have been out of Trinidad and Tobago from time to time, but I am not aware that there was sod turning with respect to any of these plants in April, May, June, or any other month.

Hon. Member: It is coming.

Mr. K. Valley: In the same "Due-Diligence" report, the Trinidad and Tobago Electricity Commission team counselled the Innercob people that it was critical there was a nexus and linking of these plants with the power plant. Failing that, the power plant would really be an independent power producer. In that situation there would be need for public tender.

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It is on page 8, and I quote once more:

"T&TEC's major concern was the type of guarantee InnCogen could provide to ensure that at least two (2) of the four (4) projects (Glass, Paper, Ethanol and Panel Board) would be implemented. T&TEC, while recognizing the financing implications of including project guarantees in the PPA, argued that without these projects, the energy facility could not be categorized as a co-generator but rather as an IPP and, therefore, participation would have to be through public tendering."

It was clear, at least from T&TEC's point of view, that unless one could qualify as a co-generator then the only system used by the company for the purchase of increased generating capacity in Trinidad and Tobago was via the public tendering route. They stated that quite clearly.

What we find is that the Government used its governmental power to direct this state enterprise to do what it ought not to do; to do what, in my opinion, was illegal. On the note dated October 23, 1997, we have the information supplied to the board to the effect:

"On 1997-10-16, T&TEC received a letter from the Ministry of Public Utilities indicating that Government had agreed to offer a Guarantee in favour of InnCogen for the discharge of the obligations and liabilities of T&TEC under the PPA and that the PPA should be delinked from the other four (4) InnerCob projects."

The next sentence is rather instructive, it states:

"The relevant Clauses in the Draft PPA would be modified accordingly."

That one sentence says, perhaps, a book. What it implies is that negotiations were in progress between the Trinidad and Tobago Electricity Commission and InnerCob/InnCogen, and that T&TEC was holding firm to the view, you had to link, at least, two of these plants. They said that they were coming here to build in the first place. In fact, this company was coming to build some plants in Trinidad and Tobago, and to do so they needed electricity generation. Since there was a minimum plant size in terms of generating capacity, they would bring their plant and have some excess. They were asked, quite kindly, whether they could sell that excess to T&TEC. That was the ruse, and the concept that they were coming under. Camouflage would be a good word. Perhaps, as it were, more like a 3-card artiste.

They said that they were coming to bring investment to Trinidad and Tobago, they needed electricity generation and if they had excess they would sell it to

T&TEC. But when T&TEC told them that they had to link it and make sure they came under the definition of "co-generation", because if they could not do that, then they would have to go out for public tendering, there was a hem and haw. The Government then directs T&TEC, "Do not do that, leave it out!"

There is more to it, because on another document from T&TEC, "*A TIMETABLE TO ENSURE GENERATION ADDITION BY SEPTEMBER, 1999*", when we look at this document, we see a clear plan as though somebody was putting pieces in place very carefully to favour certain persons. I would have to put some of it on the record:

"T&TEC's 1997 History and Forecast projects a maximum demand of 757 MW in 1997 increasing to 919 MW in 2001. This represents an average annual growth rate of about 5.0%. Based on information received subsequent to the publication of the Forecast, it appears that this growth may be even higher as additional new industrial loads are now expected over the next few years.

The present contract with the Power Generation Company of Trinidad and Tobago (PowerGen) provides for a maximum contracted load of 719 MW plus a contracted spinning reserve of 100 MW. T&TEC's strategy for meeting the system load beyond 719 MW is to apply a level of control of the arc furnace load of the steelworks and to contract additional capacity from PowerGen. The latter, however, is limited to the excess capacity which can be derived from the existing facilities without sacrificing system reliability. Discussions have already started with PowerGen and the terms of an agreement should be finalized soon. It is expected that these measures would allow T&TEC to meet its maximum 1998 load commitment."

The people obviously have done their homework and are making arrangements, as they are accustomed doing, to deal with their situation. They realized that there was a shortfall, have spoken with PowerGen, and giving that company additional supply in 1998 would be okay.

The next paragraph is instructive:

"In order to meet the system load beyond 1998, T&TEC has determined that new generation capacity would have to be added. Traditionally, this exercise would dictate that a specification be prepared and new plant and equipment acquired and installed in time to meet the load through public tendering."

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Traditionally, we know how to do our business. We do our scheduling and we go out for public tendering. The next sentence continues:

"To date this process has not been started because, at Government's request, T&TEC has been holding discussions with a number of co-generators with a view to finalizing an agreement for the purchase of additional power."

T&TEC was kept back in its work, in its timely sourcing of additional generating capacity, because the Government directed them to talk with Innercob. We will see InnerCob equity capital in a while. As a matter of fact, they seem to be out of the deal; paid off already.

"It appears that Government's policy is to accommodate these enterprises as they bring to the country a large number of jobs and numerous other economic benefits."

We see T&TEC being frustrated in its effort by delays from the Government. When we look at what actually happened we see that whereas even if these four plants were to come on board, there would be a demand for electricity of some 20 megawatts. We note that the plant being built is of a size of about 320 megawatts, more than ten times the needs of the companies for which the plant was supposed to be built in the first place.

Mr. Deputy Speaker, again, information coming out is instructive. I would quote from the agreement signed between the company InnCogen and T&TEC. What was said in the information memorandum put out for the sourcing of finance was that T&TEC's obligation was to purchase and pay for capacity or substantially all of the capacity of the plant which in that document is stated as some 215 megawatts. "Substantially all" means that T&TEC is the main customer.

The agreement goes further and talks about a commitment first of all up to a maximum of 195 megawatts. It states:

"(b) the right, but not the obligation, at any time and during the Initial Operating Period to purchase from InnCOGEN, at a price including both the capacity and energy elements set forth in the Trinidad PPA, electricity available from the Trinidad Project above 195 MW if and to the extent such electricity is not being delivered to any of the Innercob facilities..."

Therefore, for the plant which has a size of nearly 215, there is first of all a commitment to take 195 megawatts and a further right to take an additional amount, and in this agreement you would see up to 210 megawatts taken and paid for. By no stretch of the imagination can one classify this transaction as a co-generation.

2.50 p.m.

Co-generation talks of excess, perhaps 10 or 20 per cent; but we are talking of a situation where, even at the 195 level, we are talking about a maximum of 20 megawatts being provided for the plants which they came here to provide for and 195 megawatts as excess.

There is good reason that warrants if one is going as an independent power producer that one ought to go by public tendering, a situation that is different if, in fact, one is a co-generator. As I explained, the concept of co-generation is that the company has some excess and wants someone to kindly take it from them and give them something for it which they can price at marginal cost. The company has excess but, basically, they are satisfying their own needs. The independent power producer, especially in this situation—you consider an independent power producer—such as in the situation of PowerGen coming to Trinidad. They have one main customer, T&TEC and because there is that one main customer and, more than that, because that customer is a state company, fully owned by the government, because they are exposed to certain risks, the independent power producer would be expected to get certain guarantees and assurances. That is normal for the independent power producer.

In turn, Mr. Deputy Speaker, T&TEC the company, would want to be assured that they get the most competitive price in the arrangement because as soon as they have agreed that they are going with this individual, immediately that individual has the upper hand, as you would see when we look at some of the terms in the agreement. When you look at the agreement you will see that whether it is the PowerGen or whether it is InnCogen, because you are talking about one basic buyer, there are certain assurances that a government would have to give, certain commitments and so forth. But even that is predicated on the fact that there was a fair, above board public tendering procedure so that one can be assured that the price is right. When we look, for example, at what was done, because one did not go through that public tendering procedure, the assumption is clear and one sees it from the information, that the price obtained was not the best price possible.

When the Minister spoke on February 6, he made the point that the price offered by InnCogen was some US 1.2 cents per kilowatt per hour and compared that to the 1.67 cents that PowerGen was getting. He did not tell us at that time that in the case of InnCogen—first of all we are talking about a 30-year contract as against a 15-year contract, and any home owner would tell you that if one has a mortgage over 20 years rather than 10 years, the 20-year mortgage would cost a

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lower amount per month because it is spread over 20 years; but the total sum over the period would obviously be much more. That is the first point.

He did not tell us, also, that InnCogen was obtaining from the Government all types of tax incentives—fiscal incentives, no tax for eight years—that PowerGen could not get from the PNM government. I have a document here which stated quite clearly what we told PowerGen when they came to us. When PowerGen approached us with respect to the incremental profit tax which we had put in place in 1994, when they came in there was no incremental profit tax but in the 1994 budget, for those of you who may remember, the government of the day said it would lower the rate of taxation but it would give a lower rate of tax on the incremental profit.

PowerGen, at that time, had approached us with respect to giving them some indemnification with respect to that and we told them we could not: not even that we could do. Lo and behold we see a company coming in a similar situation and getting an eight-year tax holiday! Obviously, Mr. Deputy Speaker, if one is getting a tax holiday—a financial benefit which has the effect of reducing overall cost—obviously one ought to provide a lower price.

Thirdly, and just as significant, is the fact that under the PowerGen agreement one has to take into consideration the reserve that the company is committed to maintaining for situations of emergency which, again, InnCogen does not have to provide. The only way one can be assured that, in fact, Trinidad and Tobago obtained the best price from the company is via the public tendering route. Without that competitive tendering there is no assurance, and especially given those three variables it is extremely likely that the price that one could have obtained from the bargaining would have been extremely low.

Mr. Deputy Speaker, when we look at the Information Memorandum put out by InnCogen in its quest to source funding for this project, again, we see some information that is rather startling. First of all, we are informed of the distribution of the funding—even before going to the distribution of the funding let us look at an undertaking given by InnCogen. InnCogen undertakes to T&TEC, among other things, that a wholly owned subsidiary of York shall own not less than 51 per cent of the issued share capital of InnCogen at all times from the date of commercial operations of the first unit to the 10th anniversary of such date.

Mr. Deputy Speaker, when one looks at the structuring of this transaction, one sees a company that is insulating itself good and proper and staying as far away as possible from the transaction, taking no risk whatsoever, ensuring that the other

party accepts all the risks. Mr. Deputy Speaker, let me say categorically that as of now this undertaking is not being met by York Research. As of this time this undertaking by a wholly owned subsidiary of York—and York has to mean York Research, the company on which T&TEC did a “due diligence” in 1997.

When you look at the structuring of InnCogen, InnCogen Limited, the Trinidad project company, is owned by York Holdings, Barbados. Some little company in Barbados that has \$2 million in equity—of the US \$150 million which was borrowed, \$100 million is allocated to this project. The capital cost of the project is nearly \$71 million but, as you will see later, for their own corporate use York Research is getting \$25 million. They have insulated themselves but they are getting theirs up front. One can imagine what those funds are for but we will deal with that. The Trinidad plant is owned by a Barbadian paper company, as it were, which, in turn, is owned by York Ex international, SRL, which in turn is owned by York Holdings, Cayman, LLP. York Research is not there at all.

The concept of a wholly owned subsidiary means that either York will hold it directly or the company that is going to hold shares in this company is a direct subsidiary of York Research. In my opinion, and on this basis alone, this contract can be avoided. [*Desk thumping*]

It says on page 6 of their offering circular:

“InnCogen is 100% beneficially owned by York Holdings (Barbados) SRL, a Barbados society with restricted liability (the “Trinidad Guarantor”), which in turn is 100% beneficially owned by York Ex International SRL, a Barbados exempt society with restricted liability... The Trinidad Parent is indirectly beneficially wholly-owned by York.”

That is not, in my view, the concept of a wholly-owned subsidiary. It is not.

3.05 p.m.

It is necessary, first of all, to remove themselves as far as possible from the transaction, so that if anything goes wrong, they keep their \$25 million they got up front and run. I do not know, perhaps these poor lenders have good faith in the initial lender. Because, after having read that offering circular, it has to be a madman to put his money in that transaction. But, that is not for me to say. I am sure they know more about financing than I do. I say, “Good for them”.

Because, when one looks at that transaction and they have said it clearly, this is non-recourse financing to York Research Corporation. They said it—\$71 million for the Trinidad operation and another \$31 million somewhere else, and

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they have accounted for I think \$124.7 million; the rest of the funds is for York Research Corporation to pay their friends and family, perhaps, and they have removed themselves from the firing line.

When the agreement is looked at, T&TEC has quite a bit of obligation as well as the Government but York Research Corporation is out of the picture completely.

Let us look, Mr. Deputy Speaker, at the Trinidad and Tobago guarantee. I take the first point and I made the point earlier that when one is dealing with an independent power producer, one expects that a certain level of comfort will have to be given to that power provider, but that is predicated on the public tendering procedure.

Listen to some of the points here:

“InnCOGEN has entered into an agreement with the Government of Trinidad, acting through the Minister of Finance of Trinidad, effective as of February 12, 1998, under which the Government of Trinidad has agreed, among other things, to provide certain tax relief to InnCOGEN...”

That is not one that had been asked to be given. We did not give it in the case of PowerGen.

“...guarantee to InnCOGEN the performance of T&TEC’s obligations and liabilities under the Trinidad PPA and provide various rights, benefits and incentives to InnCOGEN, including environmental indemnification...”

Any change of law.

“...The Trinidad Government Agreement is supplemental to the Trinidad PPA and the obligation of the Trinidad Government thereunder shall not be impaired by any privatization of T&TEC.”

So that even if T&TEC is privatized, Government is still liable under this guarantee. Even if Government no longer owns one share in T&TEC, Government is still liable under this guarantee. Payment guaranteed to ensure that if T&TEC does not pay, they will pay. Basically, that is what they are saying.

Mr. D. Singh: Same as PowerGen.

Mr. K. Valley: And I have no problem with PowerGen because it is an independent power producer which got through via independent tendering procedure which we will look at and the Government owns 51 per cent of PowerGen.

The next term here is “Term and Termination”. Listen to this, Mr. Deputy Speaker:

“The provisions of the Trinidad Government Agreement and the rights and obligations thereunder...shall remain in effect until the earlier of (a) 99 years from February 12, 1998 or (b) the date upon which InnCOGEN, its successors and assigns, including a lender or purchaser from the lenders in the exercise of their security rights, permanently ceases to carry on its operations at the Trinidad Project.”

I looked, because this is the PowerGen agreement and I had to get this because when I saw that clause, I had to ask whether in our agreement—the power purchase agreement with PowerGen—there was that clause requiring a 99-year commitment on the part of the Government.

I simply want to read to you, Mr. Deputy Speaker, and through you inform the national community of the marked difference in arrangement. If I can just find the guarantee agreement that is included in the binder.

Miss Nicholson: You should have marked it.

Mr. K. Valley: Yes, I should have done that. Suffice it to say that the agreement provides for the expiration of the Government guarantee on the termination of the PPA which is normal. I will find it in a second, because I need to put it on the record. I will return to that, Mr. Deputy Speaker, because, to me, that is extremely important.

When we look at the concept of *force majeure*, again, we see that if PowerGen cannot construct their plant on time and if there is any delay, the penalty there is a mere US \$3,000 per day—nominal amounts. In the case of T&TEC, however, if, for any reason, they cannot take the gas, they have to pay the full amount—an equal agreement, Mr. Deputy Speaker. It all comes from the fact that one failed to go through what is normal in agreements of this type. What is difficult to understand is the fact that there was a precedent that they could have followed; that, quite simply, there was the PowerGen transaction that the Government could have used.

When we were doing that PowerGen transaction, first of all, we got an international finance corporation. It was engaged by T&TEC on the recommendation of the Cabinet and T&TEC’s normal tendering procedure was used, so that there was tender No. 5929 which was used for the prequalification of the firms; tender documents were issued to some 52 interested firms and joint

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venture organizations, all of which submitted data. On the advice of the IFC, T&TEC appointed an engineering consulting firm which had the responsibility of setting up a data room and so forth, so that one could go in and view the data.

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

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

Question put and agreed to.

Mr. K. Valley: Mr. Deputy Speaker, that was a good break because I was able to find the Government Implementation Agreement. I just want to read what the PowerGen agreement says on that point under the Government guarantee. It says that:

“This Part is a continuing guarantee and shall cover all of the Guaranteed Obligations at any time and from time to time, and no demand by the Company shall reflect or restrict the rights... This Part shall remain in effect until the PPA has terminated in accordance with its terms and all of the Guaranteed Obligations have been satisfied...”

So, whereas this guarantee is limited to the terms of the PPA satisfying the guaranteed obligations, we have a situation in which we are talking—I do not know why—about 99 years when we are, in fact, talking about a 30-year agreement.

I was comparing the PowerGen transaction and making the point that 52 firms received tender documents; 15 of those firms were short-listed based on evaluations and were invited to submit tender for equity participation; six of these firms submitted tenders by the close of business on February 4, 1974. So that a clear process was seen. There was an announcement that we were looking for a joint venture partner. We prequalified 52 firms; they got tender information; we short-listed 15; we got information from six of them and, it is out of that process that PowerGen came. It is out of that process.

So that, in the case of PowerGen, one did not have a difficulty, firstly because of that tendering procedure and, secondly and more importantly, it was a joint venture partner with the Government in T&TEC owning 49 per cent of the company bringing management, having economies in terms of purchasing and so forth, all to the benefit of T&TEC.

In that agreement, when we came in 1994 to amend the Act, we provided for additional independent power producers, because we were aware that as we move

forward, there would be the need to out-source the generating capacity. There was no need in the future, we thought, to say that only T&TEC can be a power producer in Trinidad and Tobago. So that we provided in that legislation for other firms and so forth, to be able to produce power on the knowledge that T&TEC would be able to purchase that from an independent power purchaser.

At no time, however, did we consider that having allowed for that, that one would use this subterfuge, this sleight of hand to give such type of sweetheart contracts to friends.

Mr. D. Singh: Whose friend?

Mr. K. Valley: This issue of corruption which now seems to pervade governmental activity is really a sore point in our society and, while one would admit that corruption is a problem all over the world and for all times, I think we are all aware of what happens with societies if action is not taken to stem the tide of corruption.

I think we are aware, Mr. Deputy Speaker, what happens in societies where governmental authorities fail to act when these issues of corruption are raised and this InnCogen matter is not really unique, as it were. We have had—and I really do not want to go back to old heart—but when, in a country in a three-year period, one can have that perception of corruption surrounding the rice issue at the National Flour Mills Limited; the National Petroleum Marketing Company Limited issue with respect to Ken Soodhoo; the airport issue and the fact that with respect to two of these, the Prime Minister commissioned enquiries—

Miss Nicholson: And said he would act! That is the point!

Mr. K. Valley:—and said he would act, let the chips fall where they may. This is what he informed the House.

3.20 p.m.

What has happened, Mr. Deputy Speaker? Nothing has happened at the airport. As a matter of fact that airport issue has become more of a scandal. The rice issue, nothing; as well as the document with respect to the National Petroleum issue. I am sure the Prime Minister has not even read it as yet. I remember I was the Chairman of the Public Accounts Committee and you were a member of that committee and you know how hard we worked, and we produced a report and nothing has happened to date.

Mr. Deputy Speaker, I had the pleasure of listening in this House, way back in 1977, to the now President of the Republic of Trinidad and Tobago, in a debate,

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which I considered at that time—as a matter of fact up to now—to be the best that I have heard from him, when he raised this matter of corruption; the Member for Tobago East, as he then was. I remember the Prime Minister spoke in that debate, so the Prime Minister is also aware of the effects of corruption on the society.

Mr. Robinson was making the point then, that corrupt practices undermine the integrity of public administration. On some issues with respect to corruption, he said:

“...corruption must be taken seriously and must be taken seriously for the following reasons:

1. It is a highly infectious disease and it spreads throughout the society.
2. It produces inefficiency and distortions in the economy and prejudices healthy economic growth.
3. It increases business and other costs.
4. It undermines the stability of democratic governments.”

I am quoting the famous sociologist, Gunnar Myrdal. He says:

“The significance of corruption...”

And as you know, the Asian drama where that famous sociologist looked at Asia and the corruption that was then prevalent there in the 1970s and so forth. Of course, most of us would know that the current Asian crisis is a function also of the corruption that was endemic in that area.

Mr. Deputy Speaker, just looking at the Internet last night, in respect of the problem in Venezuela, it is claimed again to be owing to the level of corruption and the number of societies all over the world that crumble because of the fact that the people in charge fail to deal with issues of corruption as they arise. I think if we fail to support this Motion today, we are going to be guilty also. [*Desk thumping*]

If we listen to the cries outside the Parliament, one would hear the newspapers, the man on the street, calling for a commission of inquiry into the corrupt practices of the Government because of the fact that this Government has failed to act and even when they submit a matter to a commission, fail to take decisive action on the outcome of those reports. [*Desk thumping*] They are out there. Everybody is asking. I have looked at the Constitution, I saw one newspaper stating that the President on his own, can call for a commission of inquiry and I wish that newspaper was correct. I wish our Constitution had, in fact, given the

President such powers because we do need that now, Mr. Deputy Speaker. [*Desk thumping*]

In participating in that debate, the Attorney General at the time, Mr. Richardson, made the point that the Attorney General in a government has certain responsibilities and that no government, no Prime Minister, can direct him with respect to his actions. He mentioned in passing, that Mr. Robinson had acted as Attorney General for a short period and he should have taken action. I thought that was rather instructive for debate today. I just want to quote a bit of what the Attorney General was saying. It says here:

“...I have already pointed out, Cabinet cannot direct an honourable Attorney General as to what action is expected of him when it comes to criminal laws of the Republic of Trinidad and Tobago or of any democratic state.”

I want to repeat that for the benefit of the Member for Couva South. If there is one person in this Parliament whom we expect to act in these matters, is the Attorney General. [*Desk thumping*] He just cannot sit and stay quiet and allow this level of corruption to be running through our country. I do not think I have the time, Mr. Deputy Speaker, but I want to recommend, really, the contribution made by the then Attorney General, to our current Attorney General so that he can get some indication of what is expected of him in that position.

I honestly hope this would be the last time that I would be dealing with any issue with respect to corruption in this House. When I consider our society, what I consider is important in our society today, when I consider the level of crime, the level of poverty and so forth—the issues that we should be considering—and I see an agreement such as that Power Generation Agreement and the Government’s guarantee where the seller seems to have been assisted in providing a water tight agreement that would even attempt to compromise an incoming government, I have great difficulty with that.

When, for the first time, there is the perception of corruption surrounding the office of the Prime Minister, and the Prime Minister stays silent and/or refuses to have even a commission of inquiry to get to the facts—perhaps there is a logical explanation, I do not know—all we want to do is hear the facts. [*Desk thumping*] All I want to know from the Prime Minister is, why given this information did he not act in this way? Why did he find it necessary to instruct T&TEC to delink the two plants from the Power Purchase Agreement? Why was that necessary? Why did he find it necessary to provide an eight-year tax holiday to InnCogen? Just tell me why. Why did he fail to use the well-established public tendering procedure to

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get the power generation that T&TEC required. Those are simple questions and I simply want the Prime Minister—my Prime Minister of Trinidad and Tobago—to give me some explanations and to give the national community those explanations.

I hope, Mr. Deputy Speaker—not I hope, I know as a fact—there are quite a few Members on the other side who still believe in honesty, integrity, and so forth.

Mrs. Robinson-Regis: Which one?

Mr. K. Valley : And I will hope that in this debate they would participate and say honestly, whether they like what is happening in our land at this time.

I thank you, Mr. Deputy Speaker.

The Minister of Public Utilities (Hon. Ganga Singh): Mr. Deputy Speaker, I rise to speak on this Motion moved by the hon. Member for Diego Martin Central. I rise this afternoon to congratulate T&TEC for the aggressive manner in which they pursue the national interest for bringing savings to T&TEC and by extension, to the country, of over \$189 million between 1999 and 2008. [*Desk thumping*]

Mr. Speaker, I wish to congratulate T&TEC for getting power cheaper; that is to say, 24.3 per cent cheaper than what is obtained today from PowerGen. I also wish to congratulate T&TEC for enhancing the reliability of its service for its new generation. The country stands to gain from the enhanced reliability of service as T&TEC will be in a position to depend on another source of electrical power. T&TEC will manage the contracted capacity from PowerGen and InnCogen in a way to maximize reliability at the lowest cost.

Mr. Deputy Speaker, it is not well known, but I wish to share with this honourable House and the national audience, that within the last few months under the same Power Purchase Agreement that the hon. Member spoke so eloquently of and which provides for penalties when PowerGen cannot meet their contracted capacity, I will relate to this honourable House for the months of September, October and November of this year, the failure of PowerGen to meet their contracted capacity and repercussions of that.

In the month of September 1998, total penalties billed by T&TEC to PowerGen for lack of contractual capacity performance was \$1,432,301. In October the amount billed by T&TEC and has to be paid by PowerGen is \$3,313,274. In the month of November the amount was \$224,389.

What this demonstrates, Mr. Deputy Speaker, is that the PowerGen turbines are getting old. Some of them, I understand, are 36 years old. It was mentioned in the other place where, I think, Sen. Daly gave them the names “sitting bull” and “crazy horse”; so old were they when the Act of the vesting of the assets of T&TEC into power generation assets came up for debate. So clearly, Mr. Deputy Speaker, there is an emerging trend having regard to what is happening in the electricity generation sector.

Mr. Deputy Speaker, I also want to take this opportunity to congratulate T&TEC for pursuing a par of energy efficiency, for InnCogen’s plant being new and at the cutting edge of electrical generation technology will operate at higher efficiencies than that of PowerGen.

3.35 p.m.

Mr. Deputy Speaker, this will result in lower fuel costs and T&TEC will be able to pass these savings on to its customers. I congratulate T&TEC for introducing competition to an industry that was previously a monopoly. With InnCogen competing with PowerGen there has already been a 10 per cent reduction in PowerGen’s price to T&TEC in the contracted 40 mega-watt capacity which was contracted from April of this year. Clearly, there will also be competition in the employment sector as the coming into being of PowerGen will provide the employees of PowerGen with the opportunity to work with another electrical generator.

Mr. Deputy Speaker, I wish to indicate to this honorable House that the opening up of the generation subsector will increase the attractiveness of Trinidad and Tobago as a preferred location for projects and will thus bring in direct and indirect employment opportunities and other economic benefits to the country.

Notwithstanding the claim by the hon. Member for Diego Martin Central as to when the other projects associated with this electricity generation will come into being, there is valid and certain reasons for that, and in the course of my presentation I will indicate that.

I have been advised that with regard to applications and outline planning permission the following are instructive:

With respect to InnCogen, date of application—November 21, 1997

Outline Planning permission granted—May 27, 1998.

Outline planning was only granted on November 2, 1998

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With respect to InnerCob Glass—date of application—November 21, 1997.

Outline planning permission, only granted on November 2, 1998.

With respect to InnerCob Ethanol Plant, date of application—November 21, 1997; date of outline permission, planing permission granted—November 11, 1998.

With respect to InnerCob paper plant date of application—November 21, 1997; date of outline planning permission granted—November 11, 1998.

The projects are in the process and in the context of what evolves. You can see how a Government with an eye to promoting employment opportunities to bring in investment flows, having regard to what is happening in the world economy, must have an appreciation of the practical realities of doing business in Trinidad and Tobago.

Mr. Deputy Speaker, the InnerCob project together with InnCogen would provide employment for over 700 persons and an estimated 2,000 jobs at the construction stage at an estimated capital cost of \$350 million. It is already known, as the hon. Member indicated, that the cost of the InnCogen project was indicated in the offering memorandum.

There are compelling reasons to congratulate T&TEC rather than to condemn T&TEC, cheaper power, savings of \$189 million, enhanced reliability of electricity supply, energy efficient electricity supply, introduction of competition breaking existing monopoly and today, we know what a monopoly in the hands of the private sector can do. We have an excellent example of what is happening in the cement industry. In fact, my colleague was moved to say we regard the cement industry as a rogue company and this is the kind of prevention we are attempting to ensure does not happen in the electricity generation sector. Clearly, T&TEC deserves the congratulations of this honourable House.

Dr. Rowley: Thank you very much. I do not mean to interrupt you unnecessarily. Would the Member say whether he regards a 51 per cent ownership in PowerGen by the state as private sector monopoly?

Hon. G. Singh: Mr. Deputy Speaker, through you, the hon. Member is acutely aware that that 51 per cent is only a paper 51 per cent. How the management of PowerGen operates is that the foreign 49 per cent controls the management structure of the company, and they have a right to veto, so what you have is that you own 51 per cent but you have effective private sector monopoly in the generation sector, and it is their agreement. The 51 per cent is a nominal paper 51 per cent.

Mr. Deputy Speaker, when the hon. Member for Diego Martin Central spoke on the BWIA divestment issue—and one knows he is operating on the false premise and misleading not only this House, but the general population that the PowerGen agreement was a power purchase agreement. PowerGen was the divestment of the generating assets of T&TEC, not a power purchase agreement. It was the sale of the assets of T&TEC. Power plants, equipment, property, that is what the sale to PowerGen was about and I will deal with that. Therefore, that was a divestment. It was a different kind of transaction.

In the *Guardian* of Saturday, December 10, 1994 in responding to Sen. Daly's contribution on the divestment of BWIA the hon. Member for Diego Martin Central had this to say and I quote:

“Giving the assurance that Government would make information available on the transaction Valley stated that the Government was elected to govern and we will carry out that executive function providing information to Parliament but we will not compromise in carrying that executive function.”

But the information was not yet available. I agree with him. That is a statement of principle, elected to govern and you govern. But at that time Parliament had not yet received one iota of information with respect to BWIA divestment. Contrast that situation. When we came into office we brought and laid before this honourable House the PowerGen purchase agreement.

3.45 p.m.

Mr. Valley: Mr. Deputy Speaker, this document contains the whole of PowerGen's agreement. This was laid in the House in 1995. With respect to BWIA, before the divestment, I came to this House and delivered a statement on the government's plans. If one goes to the Parliament Library, there is a whole bundle of documents with respect to the BWIA transaction, which was laid immediately after the closing of this transaction.

Hon. G. Singh: Mr. Deputy Speaker, I assure the hon. Member that it is during my tenure as Minister of Public Utilities that I had to seek the permission of PowerGen to lay the power purchase agreement before this honourable House. It is, therefore, the UNC who laid that document.

Secondly, we laid the Severn Trent agreement before this House in the face of the massive hue and cry. The *Hansard* records that we provided the information to this honourable House. They kept a veil of secrecy.

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Mr. Deputy Speaker, consistent with that approach, we made our statement to Parliament on February 6, 1998—from which the hon. Member quoted liberally. He indicated in his presentation that at that time he did not say InnCogen. However, I refer him to paragraph 4, which states that negotiations between T&TEC and InnCogen commenced on August 21, 1997 and that after 22 meetings between T&TEC and InnCogen, an agreement was reached for power purchase.

We came to this honourable House and gave the Members, and the national community by extension, all the information available to us. This means, for the edification of the hon. Member for San Fernando East, that there was no attempt to provide a veil of secrecy in this matter. We were performing our executive function in the manner in which we were elected so to do.

I would like to pay particular attention to the decision-making of the hon. Member for Diego Martin Central—very salient points about the issue of governance. When one is elected to govern, one governs. I quote from an article in the *Express* dated December 10, 1994, written by Debra John, which deals with the BWIA divestment.

“Valley noted that everyone had had something to say about divestment in the Budget debate, with the main point of contention being BWIA. Responding to Kamla Persad-Bissessar’s point about the lack of information on the programme, Valley admitted, ‘I think we are guilty,’ but he said Government intended to lay a White Paper on divestment within the next month, ‘and it should satisfy some of her questions.’”

The point that really struck me in this article was contained in the penultimate paragraph which states:

“Valley replied that Government had quite clearly said that it would retain a ‘golden share’ to have control over ‘certain’ areas. ‘We know that we have to go there protecting our investments,’...He added that the Prime Minister, the Minister of Finance and he had met for over three hours with the Acker executive and, at the end of it, ‘we felt comfortable. And you know that critical decisions are very often made on how you feel,’ he told the House.”

I repeat this into the record for the national community. Here we have the Prime Minister, the Minister of Finance, the Junior Minister of Finance and Minister of Trade and Industry meeting with the Acker executive for three hours. I quote this clearly and concisely. I refer to the *Express* dated December 10, 1994:

“Valley replied that Government had quite clearly said that it would retain a ‘golden share’ to have control over ‘certain’ areas. ‘We know that we have to

go there protecting our investments,'...He added that the Prime Minister, the Minister of Finance and he had met for over three hours with the Acker executive and, at the end of it, 'we felt comfortable. And you know that critical decisions are very often made on how you feel,' he told the House."

Mr. Deputy Speaker, within my term in this House, the hon. Member for Diego Martin Central has said that BWIA was the best deal ever. Clearly, he governs by gut feeling. He makes decisions to part with the patrimony of a country, to circumscribe the state prerogative in dealing with an airline, and to own an international airline, on the basis of what he feels.

When I read that, my mind went back to the movie, *Flash Dance*, with Jennifer Beals. She used to dance to a song called, *Flash Dance (What a Feeling)*. The hon. Member for Diego Martin Central is no Jennifer Beals. Clearly, every time the hon. Member saw Mr. Acker, he had a good feeling and that is how the BWIA divestment came about.

The question which arises at this stage is: How did T&TEC enter into this power purchase agreement with InnCogen? Because of the economic success of this Government, because of the tremendous growth taking place in this economy, because of the industrial expansion in this country, there is a commensurate greater demand for utility services, including that of electricity.

3.55 p.m.

In fact, there is a benchmark that if there is a 5 per cent growth in the economy, there is a commensurate 5 per cent growth in the demand for electricity. Taking that kind of projection, one clearly sees that there is need for T&TEC to engage in some measure of generation expansion.

Mr. Deputy Speaker, having regard to that fact, what are the options available to T&TEC from a political point of view? T&TEC could have engaged once more in building generation plant capacity and owning it itself. Clearly, from the policy directions taken hitherto, it could not embark upon that, but further it did not have the capital to engage in that, so self-generation, so to speak, was not an option.

The next approach really involved the power purchase agreements from either independent power producers or co-generators. Those are the two options. I see the Member is learning a bit about power, but then, he is Southern Electric's friend, he knows a lot about power.

Mr. Manning: Mr. Deputy Speaker, I would like to caution my learned friend from Caroni East that those who live in glass houses should not throw stones.
[Desk thumping]

Hon. G. Singh: I indicate to the hon. Member that my house has very little glass, it is made of hardwood and concrete.

Mr. Deputy Speaker, I refer to a World Bank document on the Trinidad and Tobago power sector entitled *Preliminary Evaluation on the basis for a Sector Strategy* dated November, 1992 which stated as follows:

“At the sectoral level, the Government has decided to attract private sector participation as a long-term strategy for the sector within which a competitive environment would be maintained. The aim is to stimulate efficiency through the pressure of potential and actual competition.”

So this is what the World Bank is saying in terms of a policy perspective as of November, 1992.

Mr. Deputy Speaker, from a further policy perspective, we were also advised by the Adam Smith Institute—the consultants hired by the previous administration in 1993—of the dangers of monopoly powers of one generator of electricity. The consultants seriously questioned the wisdom of permitting PowerGen to invest in, or bid for new generation capacity. The consultants further suggested that for reasons of increasing competition and reducing the dependence on one supplier, other suppliers be allowed to provide additional capacity. So the World Bank in 1992, and Adam Smith in 1993.

Mr. Deputy Speaker, it is in this context we said that we had no intention of converting a state monopoly into a private monopoly. Consequently, we enunciated a clear policy perspective in the *Medium Term Policy Framework 1998—2000* and I quote:

“New generation expansion of the system will be done utilizing the Co-generation/Independent Power Producer’s (IPP) approach. These measures will relieve T&TEC of the financial responsibility of generation expansion while at the same time deepen the involvement of the private sector at the generation level.”

What T&TEC did was consistent with our stated policy and its implementation. We have stated once more in the *Medium Term Policy Framework 1999—2001* as follows:

“Government’s policy regarding future generation expansion will emphasise demonopolization of the power generation sector through the participation of co-generators...”

Mr. Deputy Speaker, there were three processes that could be used for the implementation of the policy position, (1) competitive bidding, (2) competitive negotiations, or (3) direct negotiations.

As you will see from T&TEC's memorandum dated July 17, 1997 from which the hon. Member quoted liberally, that T&TEC had been directly negotiating for an extended period of over a year and a half with three potential co-generators. We take the point that they had a traditional way of doing business, but when you are in an environment in which you are seeking to increase the levels of employment, and the investment to your country, then you must ensure that you maximize the national interest and we felt that the way to go was by way of co-generators.

Mr. Deputy Speaker, the direct negotiation for the procurement of power purchase agreements from power producers have been used and is common in several countries and states including Indonesia, the Philippines, twelve states in the United States of America, and the most recent examples of direct negotiation with power producers and creation of power purchase agreements is in the United Kingdom and the Australian state of Victoria.

Further, T&TEC's tendering and purchasing procedures allow for direct purchases with authority for values of more than \$5 million by the board. I make reference to T&TEC's tendering and purchasing procedures, clause 15(e). Mr. Deputy Speaker, you see that direct negotiations for direct purchases fall within the ambit of T&TEC's tendering procedures and loans.

Having established the efficacy of T&TEC's direct negotiation method as being with the practice of the utility industry worldwide from Asia, Europe, America and the Australian subcontinent, and within the ambit of T&TEC's own tendering process, it is clear, therefore, that the manner in which they proceeded to negotiate directly with the various co-generators fell within the ambit of the law.

Mr. Deputy Speaker, it is pertinent to know that whatsoever may be the method, the following three elements must be ensured: transparency, the economically efficient outcome, and, the least possible transaction cost. I want to demonstrate to this honourable House the openness of the process in which T&TEC engaged.

Far from being conducted in the veil of secrecy, I wish to list for this honourable House, the sequence in order of the events which took place. I would refer to a report on InnerCob industries provided for by the Ministry of Foreign Affairs. My hon. colleague is attending a meeting out of the country otherwise he would have been here delivering this part of his address.

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I read from a report provided by the Ministry of Foreign Affairs entitled *Report on Innercob Industries Trinidad Limited* and this is the public sector document to which this report gave rise and which emanates from the annual report of the Consulate General of New York. It states:

“In 1996 the Consulate General of Trinidad and Tobago/New York in collaboration with TIDCO embarked on a major thrust of attracting investment flows to Trinidad and Tobago through its participation in trade exhibitions within the areas of the jurisdiction of the Consulate General and the promotion of Trinidad and Tobago as an investment friendly country. These efforts were in keeping with the stated mission of the Consulate General as directed by the Government of the Republic of Trinidad and Tobago.

4.10 p.m.

As a result of these efforts, the Consulate General was visited by a number of prospective investors, including the president of InnerCob Industries Limited, the chairman of Yorke Research DBP Limited, the president of Cap Three Corporation Limited, officials from Lloyd Stevens Capital Market of Wall Street, New York, government officials in the state of New York and by prospective investors for the industrial estate under review, Steinherty and Bill Lloyd Corporation.

Mr. Manning: Mr. Deputy Speaker, I thank the hon. Member for giving way. While he is going through the chronology of events, I wondered if he would be kind enough to let us know at what point in time Mr. Narinesingh joined InnerCob.

Hon. D. Singh: It is not our business!

Hon. G. Singh: Since he has named him, perhaps he has that information. I certainly do not. Mr. Deputy Speaker, in this context, I continue to quote from the report. The president of InnerCob Industries Limited, Mr. Cosmos Bonaparte, visited the Consulate General and informed the Consulate General of a project which he had been nurturing over the past 10 years which involved the establishment of five plants to be located in Trinidad and Tobago: a glass manufacturing plant using InnerCob Industries Limited silica sand in Matura; a paper manufacturing plant using the feed stock used paper in Trinidad and Tobago; an organic ethanol plant; a particle board plant and a co-generating power plant to supply the electrical needs of these plants.

The report goes on to point out the social and economic benefits and the point is that the attraction of these investors started in the Ministry of Foreign Affairs at

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the level of the Consulate General and this is how they came to Trinidad. So, it is part of the overall governmental policy in the attraction of investors.

Mr. Deputy Speaker, the chronology of events continues. I want to give a thorough appreciation of the chronology for the benefit of this House and the national community. On November 19, 1996, InnerCob Industries Limited wrote to the Ministry of Public Utilities indicating that Yorke Research Corporation of America was associated with them in the provision of chill water, hot water and steam to complement their proposed paper, glass and ethanol projects. Their proposed electricity requirement was 25 to 30 megawatts and they requested the anticipated surplus of approximately 15 to 20 megawatts be sold to the national community.

On January 13, 1997, representatives of InnerCob met with the Trinidad and Tobago Electricity Commission (T&TEC) to provide details of their project and the involvement of Yorke Research Corporation. The joint venture partners also included the Design/Build Professionals Inc. of the United States of America. T&TEC, by letter dated February 6, 1997 to Yorke DBP confirmed the details of the matter discussed, and I would read from that letter of February 6, 1997:

“Attn. Robert C. Paladino

Executive Vice-President,

Gentlemen,

Purchase of excess capacity from co-generation facility

You have advised us that you, along with your co-venturer InnerCob Industries Trinidad Limited, propose to construct a co-generation facility to supply electrical and thermal energy to the proposed InnerCob Industries Trinidad Limited industrial complex with excess electric capacity to be sold to the Trinidad and Tobago Electricity Commission. Further, we understand that the co-generation facility will be on line before the industrial complex.

At a meeting with the representatives of InnerCob Industries Trinidad Limited held on January 13, 1997, the siting of the co-generation facility and alternatives for incorporating the facility into the existing T&TEC system were discussed. As indicated at that meeting, we expected that all transmission costs associated with this project would be charged to the facility.

By this letter, we now confirm to your mutual understanding that T&TEC will be prepared to negotiate a long-term agreement for the purchase of excess power from the co-generation facility.

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Some of the issues to be negotiated include the following:

capacity, sale and purchase obligations, purchase price, billings and payment, term of agreement, availability and reliability of supply, penalties for non-performance, default determination and other remedies, *force majeure* events and dispute resolution.

We look forward to meeting with you to discuss these issues and more important, agreeing on a time-frame for the availability of excess power as this would impact on our generation planning process.

Yours faithfully,

D.R. Singh
Acting General Manager
T&TEC”

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

Motion made, That the hon. Member’s speaking time be extended by 30 minutes. [*Hon. K. Persad-Bissessar*]

Question put and agreed.

Hon. G. Singh: Mr. Deputy Speaker, to continue the chronology, on February 24, 1997, Yorke DBP wrote T&TEC advising that InnerCob was now proposing to relocate the co-generation facility from O’meara Industrial Estate to a site in Brechin Castle owned by Caroni (1975) Limited. On February 24, 1997, Yorke DBP wrote T&TEC requesting a meeting on March 4, 1997 to commence negotiations of a long-term PPA. They intended utilizing a preliminary draft PPA dated December 2, 1997 which they had earlier submitted to the Ministry of Public Utilities as the basis for discussion.

Following further correspondence from Yorke DBP, InnCogen, on March 6, 1997, meetings were held with T&TEC on March 19 and March 21, 1997. Following these discussions, InnCogen attorneys submitted a revised draft PPA dated March 20, 1997 and by fax of April 3, 1997. On May 5, 1997, T&TEC’s General Manager made a slight presentation entitled “Meeting Trinidad and Tobago’s Generation Requirements through Co-generation and Independent Power Production” to the Ministers of Energy and Energy Industries, Public Utilities and the president of the National Gas Company.

Mr. Deputy Speaker, in confirming the meeting to the Ministry of Utilities by letter dated May 21, 1997, the General Manager recommended *inter alia* that the T&TEC team visit companies in the United States which were being provided with power by InnCogen. The recommended due diligence exercise was carried out on June 25—27, 1997 by a team comprising members of the T&TEC board and executive management.

I know that the hon. Member for Diego Martin Central quoted liberally from his due diligence exercise and I would merely quote from the final paragraph.

“The T&TEC team viewed the implementation of the glass, paper, ethanol and panel board projects as most important to the economy of Trinidad and Tobago as the benefits to be gained in terms of the optimum use of the country's natural resources, employment, foreign exchange, etc. were enormous. The team was of the view that the success of these projects depended to a large extent on the success of the co-generator. As such, T&TEC was prepared to work closely with InnCogen to ensure the successful implementation of the co-generation facilities once agreement could be reached on the terms of the agreement and assurance could be given that at least two of the four projects would come on stream in the near future.”

So, Mr. Deputy Speaker, the chronology continues. The Trinidad and Tobago Electricity Commission submitted to the Ministry of Public Utilities a paper dated July 16 entitled “A Timetable to Ensure Generation Addition by September 1999”. We have to understand the practical realities of the environment within which T&TEC was operating. They had to provide power because in their time line projection, by September 1999, if they did not have generation facility added to their system, then we would revert to the stage of having outages once more.

They had discussions with co-generators and they point out to these discussions. I quote from paragraph 2 of this memorandum entitled “Discussions with Co-generators”:

“Of the number of companies who have expressed an interest in supplying power, only three apart from PowerGen have engaged in serious discussions with T&TEC. These are Hydro-Aluminum, the Aluminum Company of Trinidad and Tobago (ALCOTT) and InnCogen. Outlined is an overview of discussions held to date with these companies.”

Mr. Deputy Speaker, I would quote because it would give an appreciation.

“1. Hydro-Aluminum.

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Hydro's discussions with the Commission started about a year ago when they presented a proposal for establishing an aluminum smelter facility. The smelter capacity was given as 200 tonnes per year and would employ approximately 600 persons permanently. The cost of the plant was estimated at US \$1 billion and was scheduled for completion by mid 2001. The peak and average power requirements for this facility was given at 360 megawatts and 340 megawatts respectively."

It continues, Mr. Deputy Speaker.

"To date, only preliminary technical discussions have been held, however, it is the Commission's understanding that the excess power from Hydro will not be firm. Hydro has confirmed that depending on the number of units on planned and/ or forced outages, there will be periods when the smelter would have no excess power and might be even looking for support from the grid.

Hydro also presented a project schedule which gave March, 1998 as their first decision point when approval would be sought from the board. Detailed engineering works should follow...

Hydro conceded that although work on the power station could start after the first decision point, it would be difficult to meet T&TEC's phase one schedule of September, 1999."

I want to tell this honourable House that currently T&TEC is negotiating for the second phase of its power generation capacity coming on line with Norsk Hydro.

Mr. Manning: Aluminum Smelter! [*Standing*]

Hon. G. Singh: I am not giving way. After your last question, you do not deserve it. Mr. Deputy Speaker, T&TEC is directly negotiating with the smelter to add an additional 170 megawatts to its capacity. Then, we are providing a 10-year tax holiday for the power plants together with Government guarantees. We are quite clear. There is PowerGen, InnCogen and the third phase of power production in this country will come from the aluminum smelter Norsk Hydro. So, it will give T&TEC the opportunity to be able in the post 2002 period to purchase power in a limited sense on the spot market so that with any additional capacity, T&TEC would have three choices of generators and be able to get the cheapest power available. Competition!

Mr. Deputy Speaker, this document goes on to deal with the second aluminum proposal which was ALCOTT, and at the time of this memorandum from T&TEC which was July 16, 1997, ALCOTT had not presented a project schedule so they eliminated themselves from the process. This memorandum continues in dealing

with InnCogen. T&TEC's view is that InnCogen is best positioned to meet the September 1999 deadline for new generation. The company has proposed the installation of two 73 megawatt generating units with a conversion cost of 0.016 kilowatt hour based on—this is a technical thing—a capacity of 146 megawatts at 90 per cent availability. Preliminary work has also been done on the feasibility of installing a third 73 megawatt unit strictly for reliability purposes. The corresponding conversion cost is estimated at 0.24 kilowatts. The same kind of technical jargon.

4.25 p.m.

The total projected load of the proposed industries is estimated at 20 megawatts; all extra power is expected to be taken by degrade.

The Trinidad and Tobago Electricity Commission's major concern at this time is the type of guarantee this investor can provide to ensure that at least two of the co-generation projects are implemented. T&TEC recognizes the financing implications of including such a guarantee in the PPA. However, without this project, the energy facility cannot be classified as a co-generator, but rather as an independent power producer and participation would then have to be done through public tender. *[Interruption]* We are presenting a clear situation. At the discussion stage, they came to the same kind of conclusion.

InnerCob also entered into a Memorandum of Understanding with TIDCO. It is a very exhaustive Memorandum of Understanding I do not think time will permit me to get involved in that.

InnerCob Industries also concluded an agreement with Caroni (1975) Limited which included the leasing of approximately 80 acres of land for industrial projects and also an agreement, in principle, to retrain and engage personnel through the labour reduction policy.

As a result, T&TEC's requests in its paper entitled, "A time-table to ensure generation addition by September, 1997", and having regard to the Memorandum of Understanding entered into by InnerCob with TIDCO, an agreement with Caroni (1975) Limited; Cabinet agreed to authorize, on July 31, 1997, T&TEC to enter into negotiations with a view to formalizing a power purchase agreement with InnCogen.

To continue the chronology, InnCogen was informed of this decision through a letter to Yorke DBP from T&TEC dated August 7, 1997. The negotiations between T&TEC commenced on August 21, 1997 and they were finalized on February 5, 1998 after a total of 22 meetings.

InnCogen (Unsatisfactory Agreement)
[HON. G. SINGH]

Friday, December 11, 1998

T&TEC's negotiating team comprised a combination of members of the board, together with the executive management of T&TEC. The core of T&TEC negotiators included: Mr. Devanand Ramlal; Mr. Stanley Ottley; Mr. Dennis Singh; Mr. Kenrick Bobb; Ms. Juris Morris; Mr. Indaljit Singh; Miss Colleen Licorish; *et cetera*; and they are all senior executives at T&TEC.

The firms of Slaughter and May, Pollonais and Blanc and Burn and Burn, all of Trinidad and Tobago, acted as legal advisors.

Mr. Deputy Speaker, it is prudent for me to make one point before the adjournment. The hon. Member for Diego Martin Central spoke about corruption. I want to remind that hon. Member of the legacy of Sam P. Wallace. Because I want to read into the record of this honourable House a letter from the Port Authority of Trinidad and Tobago to me dated December 3, 1998. I read:

“Hon. Minister,

Re: Electrical fittings consigned to the Racing Authority

I am to refer to previous correspondence dated November 20, on the above subject in which the authority indicated that a total of 45 containers, amended to 43 containers due to double counting, originally consigned to the Trinidad and Tobago Racing Authority were held in storage due to the abandonment of the Caroni Racing Complex Project.

As requested, the Authority has conducted a search of its files in order to obtain the manifest documentation related to the containers under reference. So far, the Authority has only been able to locate documentation in respect of 18 of the 43 containers as listed hereunder.”

So, Mr. Deputy Speaker, since 1981 they had 43 containers containing electrical fittings, power generators, diesel generators, lying in the docks of Port of Spain. Because when the information was brought to me last month, I caused an investigation in the matter and today we have located 18 of those containers.

Cabinet, at its sitting yesterday, authorized T&TEC to take charge of those 18 containers, the contents of those 18 containers, and to make recommendations to Cabinet as to how to distribute the contents of those 18 containers; and also, we have given the Port the mandate to look for the other 17 containers. They want to talk about corruption! The Caroni Racing Complex represents a tangible legacy that they tried to cover up since the year 1981. From this week, we will make it available to the public.

Adjournment

Friday, December 11, 1998

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Deputy Speaker, I know it is the tea break, but after consultation with the other side, I beg to move that this House do now adjourn to Friday, December 18, 1998 at 1.30 p.m.

On that occasion, we would do the Freedom of Information Bill and would start the debate on Government Motion No. 3, which deals with the recommendations by the Salaries Review Commission.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 4.32 p.m.