

*Leave of Absence**Friday, December 18, 1998***HOUSE OF REPRESENTATIVES***Friday, December 18, 1998*

The House met at 1.30 p.m.

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

**Mr. Speaker:** Hon. Members, I wish to advise that two Members of this House have sought and obtained leave of absence from today's sitting. One is the Member for Tobago West and the other is the Member for Port of Spain North/St. Ann's West.

**FELICITATIONS**

**Mr. Speaker:** I wish to advise hon. Members that I received communication from His Excellency the President of the Republic of Trinidad and Tobago, dated December 11, 1998 which reads as follows:

“My dear Mr. Speaker,

On behalf of my wife and myself I wish you and the other hon. Members of the House of Representatives and your respective families, good health in Peace and Happiness during the Christmas holidays and throughout the New Year.

Yours sincerely,

Arthur N. R. Robinson, TC., OCC., SC.  
PRESIDENT OF THE REPUBLIC OF  
TRINIDAD AND TOBAGO.”

**PAPERS LAID**

1. The Civil Proceedings (Amdt.) Rules, 1998. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
2. The Family Proceedings (Amdt.) Rules, 1998. [*Hon. R. L. Maharaj*]

**ORAL ANSWERS TO QUESTIONS**

### Extra Heavy Trucks

**8. Mr. Martin Joseph** (*St. Ann's East*) asked the Minister of Works and Transport:

- (a) Is the Minister aware that there are trucks above 8 tons transporting quarry material on the nation's roads?
- (b) If the answer is in the affirmative, will the Minister indicate the regulations under which they are allowed to operate and when the said regulations came into effect?
- (c) If no such regulations exist, will the Minister indicate what steps the Government intends to take to correct this irregularity?

**The Parliamentary Secretary in the Ministry of Works and Transport (Mr. Chandresh Sharma):** Mr. Speaker, I thank the Member for St. Ann's East.

The answer to part (a) is yes.

The answer to part (b) is, section 23(1), (2) and 21(3) of the Motor Vehicles and Road Traffic Act, Chap. 48:50; and regulation 28(e)(1) of the Motor Vehicles and Regulation Traffic Act applies. The legislation came into effect in 1978.

Part (c) does not apply.

### Public Servants' Pension (Increase)

**9. Mr. Martin Joseph** (*St. Ann's East*) asked the hon. Minister of Social and Community Development:

- (a) Does the Government have any intention of increasing the pension payment currently being paid to retired public servants?
- (b) If the answer is in the affirmative, can the Minister indicate when these increases are likely to take effect?

**The Minister of Social and Community Development (Hon. Manohar Ramsaran):** The answer to (a) is yes.

The Government is unable to state precisely when these increases are likely to take effect. However, given the current reform of the pension system, most retired public servants would benefit from increases under the National Insurance System. In addition, any further increase to retired public servants would be made within the context of the pension reform programme and must take into account Government's financial position.

Mr. Speaker, I would like to add that this question would have been better directed to the Minister of Finance, under whose portfolio pension for public servants falls.

**MIRROR NEWSPAPER ERRONEOUS REPORT  
(ELECTIONS AND BOUNDARIES COMMISSION)**

**The Prime Minister (Hon. Basdeo Panday):** Mr. Speaker, in the Friday, December 11, 1998 edition of the *TnT Mirror* newspaper on page 32, an article appeared entitled “Did Robinson Blank Panday?” Because of the outrageous and untruthful allegations made against this Government in the article, I find it necessary to make this statement to this honourable House in respect of the matter.

In the article, it was claimed that this Government had attempted to have the chairman and members of the Elections and Boundaries Commission replaced by an entirely new board at the end of their term as commissioners in 1998. The role of the Elections and Boundaries Commission is to review the number and boundaries of the electoral constituencies of Trinidad and Tobago. They also register all qualified voters and regulate the conduct of general and other elections in the country.

In order to preserve their independence in this vital role, section 71(12) of our Constitution clearly states that in the exercise of its functions, the Commission “shall not be subject to the direction or control of any other person or authority”. This is demonstrated by the fact that, by section 71(8) and (9), the Commission regulates its own procedure and controls its own staff. Further, under section 71(10), the salaries and allowances of the staff and the Commission are paid out of the Consolidated Fund.

Because of the importance of the role of the Elections and Boundaries Commission and its commissioners, the road to their appointment is clearly set out in section 71 of the Constitution. Under section 71(2) of the Constitution, the Commission consists of a chairman and not less than two or more than four members.

When their five-year term expires, section 71(5) provides that their tenure may be renewed, but only after consultation with both the Prime Minister and the Leader of the Opposition. By section 71(3):

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

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It is therefore impossible for the Government to railroad the appointment of the chairman or members of the Commission in the way that is suggested, since the Leader of the Opposition has to be consulted in this process.

Obviously, in the interest of democracy, and this also is provided for in our Constitution, the chairman and members of the Elections and Boundaries Commission are not appointed for life. In fact, the appointment of the chairman and two members of the Commission, Mr. Oswald Wilson and Dr. Norbert Masson, was renewed for a second term of five years after consultation with myself and the Leader of the Opposition on September 30, 1998.

I would therefore like to specifically deny paragraph three of that *TnT Mirror* article since it is not true, as alleged, that this Government suggested that the Elections and Boundaries Commission Board and chairman should be replaced by new members with a school teacher from the south as the new chairman. The implications are clear.

With respect to the allegation in paragraph four of the third column of the *TnT Mirror* article that this Government was worried by the independence of the Commission, I would like to say that this is a totally untrue allegation. This Government was elected by the democratic electoral process which was supervised by the present Commission. This Government respects and cherishes that part of the Constitution which governs the activities of the Commission.

Finally, in the fourth column of the article at paragraph two, it is alleged that this Government proposed that President Arthur N.R. Robinson should step down because of ill health. Nothing could be further from the true sentiments of this Government, which are to support, uphold and respect our President in his role, particularly when he is unwell. Again, the intention is clear—to divide the society, create mischief.

In view of the above, I can only regard this article as a scurrilous attempt to smear this Government and to impugn the integrity of the Elections and Boundaries Commission, its chairman and its commissioners. As stated earlier, the Elections and Boundaries Commission, its role and appointment of its chairman and members, are rightly enshrined in the Constitution. It is vital, for the future of participatory democracy in this country, that they remain so, and this Government remains determined to ensure that this is and shall be the case. *[Desk thumping]*

**GUARDIAN NEWSPAPER ERRONEOUS REPORT**

**The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore):** Mr. Speaker, I wish to refer to an article which appeared on the front page of the *Trinidad Guardian* on Wednesday, December 16, 1998. The article indicated, among other things, that Government plans to appoint Commodore Richard Kelshall as Chief of Defence Staff of the Trinidad and Tobago Defence Force, by way of a three-year contract.

The article further indicated that the present Chief of Defence Staff, Brigadier Carlton Alfonso, would be sent as a Military Attaché to London or Washington, D.C., or will serve as an Advisor to the Minister of National Security or the National Security Council.

Mr. Speaker, my Ministry issued a statement refuting the allegations. However, in the publication of Thursday, December 17, 1998, the Editor's note on page 1 of the *Trinidad Guardian* newspaper, under the caption, "Not so says Ministry", stated that the *Guardian* is sticking to its story, as the author said he got the report from impeccable sources.

As Minister of National Security, I want once more to categorically refute all those allegations in the article. At no time did this Minister give such a report to the *Guardian* newspaper, nor was any officer within my Ministry authorized to give such a report. The report is therefore false, and no doubt was designed to cause conflict within the defence force. The only impeccable source for such a report is the Ministry of National Security and, since it did not emanate from within this Ministry, the source which the *Guardian* is alleged to have quoted cannot be, and therefore, is not an impeccable one.

I wish to emphasize the following: Commodore Richard Kelshall has not been offered a three-year contract appointment by the Government as Chief of Defence Staff. There are no plans to appoint Brigadier Carlton Alfonso as Military Attaché to London or Washington, D.C., or for him to serve as an Advisor to the Minister of National Security or the National Security Council.

Mr. Speaker, I will be registering a formal complaint with the Media Complaints Authority on this matter.

Thank you.

#### **PROJECT EXCEL (INCN) BILL**

*Question put and agreed to,* That a Bill entitled "An Act for the incorporation of Project Excel and for matters incidental thereto", be now read the first time.

*Bill accordingly read the first time.*

**1.45 p.m.****SALARIES REVIEW COMMISSION  
(FIFTY-SECOND REPORT)****The Prime Minister (Hon. Basdeo Panday):** Mr. Speaker, I beg to move,

*Whereas* it is provided by section 141(1) of the Constitution that the Salaries Review Commission shall, from time to time, with the approval of the President, review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12)—(15) of the Constitution, Members of Parliament, and holders of such other offices as may be prescribed;

*And Whereas* it is provided in section 141(2) of the Constitution that the report of the Salaries Review Commission shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying thereafter on the table of each House;

*And Whereas* the fifty-second report of the Salaries Review Commission was submitted to the President who has provided a copy of the said report to the Prime Minister who has presented a copy thereof to the Cabinet;

*And Whereas* a copy of the said report was laid on the table of the House of Representatives on Friday, November 20, 1998 and in the Senate on Tuesday, November 24, 1998;

*Be it Resolved* that this House unanimously support the recommendations contained in the fifty-second report of the Salaries Review Commission.

Section 140 of the Constitution says:

“(1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.”

Section 141 says:

- “(1) The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices...
- (2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet...”

Mr. Speaker, this House has debated previous reports of the Salaries Review Commission, the last time being around October 22, 1992, when the twenty-third, twenty-fourth and twenty-fifth reports were debated. I want to read the minute on the Cabinet decision on that report. I intend to show that the Cabinet acted illegally and wrongfully in that matter and that we do not intend to make that mistake with respect to this report.

Cabinet Minute No. 2663 dated October 22, 1992 reads as follows:

“Cabinet, having noted

- (1) the comments of the Chief Personnel Officer on the recommendations in the under-mentioned Reports of the Salaries Review Commission:
  - (i) the Twenty-third Report on a general review of salaries and other conditions of service of offices within the purview of the Commission;
  - (ii) the Twenty-fourth Report on the salaries and terms and conditions of service of holders of the offices of Commissioner of Prisons and Chief Fire Officer;
  - (iii) the Twenty-fifth Report concerning the terms and conditions of service of the Special Adviser (Protective Services), Ministry of National Security;
- (2) the recommendations of the Salaries Review Commission and the Chief Personnel Officer in respect of salaries for members of Group I of the Judicial and Legal Service (Appendix I to the Attachment to the Note refers);
- (3) that the Chief Personnel Officer recommended that the effective date for implementation of revised remuneration should be January 1, 1993;

agreed

- (a) to accept the recommendations of the Chief Personnel Officer on the Twenty-third, Twenty-fourth and Twenty-fifth Reports of the Salaries Review Commission as set out in the Attachment to the Note and appendices thereto, subject to the recommendations in respect of the following being referred back to the Chief Personnel Officer:
  - (i) Salaries of Members of Parliament;
  - (ii) Housing for Ministers of Government and Parliamentary Secretaries;
- (b) to rescind the decisions recorded at sub-paragraphs (a) and (b) of Cabinet Minute No. 1807 of September 20, 1989 concerning the terms

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and conditions of service of the Solicitor General, the Director of Public Prosecutions and the Chief Parliamentary Counsel...”

What the Parliament did on that occasion was to take the report and refer it to the Chief Personnel Officer for review. It is my view that was a cop-out. It was wrong in law. It was unconstitutional, and I have sought a legal opinion. As a matter of fact, during the debate on that Motion, I argued that it was unlawful. It was very strange. On that occasion, the Leader of the Opposition, who was then Prime Minister accepted the recommendation as far as his salary was concerned, but reduced the recommendation insofar as the Speaker and the Leader of the Opposition were concerned. *[Interruption]* I am sure that Members of the Opposition will have an opportunity to respond.

Cabinet agreed to accept the recommendation of the Chief Personnel Officer on the reports of the Salaries Review Commission, subject to the recommendations in respect of salaries of Members of Parliament and of housing for Ministers of Government and Parliamentary Secretaries being referred back to the Chief Personnel Officer.

In my view, the issue was whether it was legally correct for Cabinet, in 1992, to seek the advice of the Chief Personnel Officer on the recommendations made by the Salaries Review Commission. The Chief Personnel Officer is the secretary to the Salaries Review Commission. What actually happened was that a report was received from a body appointed by Parliament and Cabinet decided that another body would amend what the Salaries Review Commission did. That is wrong in law. *[Interruption]* The hon. Member will have an opportunity to respond, I am sure.

I have read section 141(1) and (2) of the Constitution: Section 141(2) states:

“(2) The report of the Salaries Review Commission concerning any review of salaries or other conditions of service, or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying, as soon as possible thereafter, on the table of each House.”

An essential element to the lawful exercise of power is that it should be exercised by the authority upon whom it is conferred and by no one else.  
*[Interruption]*

**1.55 p.m.**



**Mr. Manning:** That is by the Cabinet, not the Salaries Review Commission!

**Mr. Speaker:** Order. Order.

**Hon. B. Panday:** My friend does not understand what he did. He accepted the recommendations of the CPO. That was not a Cabinet recommendation. Cabinet did not adjudicate upon this matter. It is the CPO who adjudicated on it and made the recommendation. Cabinet accepted the recommendation of the CPO to overrule the Salaries Review Commission.

“In the case of statutory powers, the question is whether, upon a true construction of the Act, it is intended that a power conferred on one body may be exercised by another on the authority of the body on whom the power is conferred.”

That is when the Salaries Review Commission has the power, it is the body that the Constitution conferred a power to make a recommendation and then sends it to Cabinet, it is whether Cabinet can now refer it to another authority for review. That is the issue.

Mr. Speaker, we must forgive them. I do not expect the Leader of the Opposition to understand the law. There is a maxim, as you are quite aware, Mr. Speaker, “*delegatus non potest delegare*” which is relevant to the law of agency and indicates that such action is not normally allowable. I can refer you to case law; there is the case of *Re S(A Barrister) [1970] I Q.B* at page 160 and there is also the authority in *Wade on Administrative Law* Sixth Edition. All these things are quite clear to be initiated. In that case:

“The courts held actions ultra vires in a number of cases where the effective decision was taken by a person or body to whom the power did not properly belong.”

That is why I read the Cabinet minutes. I read the Cabinet minutes to indicate that this was a decision of the CPO which was accepted by the Cabinet. It does not make up the Cabinet’s decision. They merely accepted the CPO’s decision.

Mr. Speaker,

“Section 141(1) of the Constitution clearly empowers the body known as the S.R.C., with the approval of the President, to review the salary and other conditions of service of the President, holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries and the holders of such other officers as may be prescribed. Section 141(2) provides that the report of the S.R.C. concerning any review of salaries or other conditions of service or both shall be submitted to

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the President who shall forward a copy of the said report to the Prime Minister who shall present it to Cabinet...”

Not to the CPO.

“...and for laying the same as soon as possible...”

Mr. Speaker, it is my submission that the framers of the Constitution envisaged that the function of Cabinet was to either accept or reject the report, never to amend it, because if it amends the report then it is the Cabinet that will be imposing its own views on what the salaries should be. That was not intended. What was intended was that the Salaries Review Commission which was given all the facilities—when I refer to the report you will see—should look at this matter. The Cabinet could not possibly have addressed its own mind to the salaries because it does not have the mechanism to call witnesses and receive reports which is what the Salaries Review Commission does before it makes a decision. Nowhere does it say that function could be delegated to the CPO. Thereafter, the matter is to be laid on the table of the House.

Mr. Speaker, I submit respectfully that the:

“... statutory authority is given to the SRC to perform the particular functions of reviewing salaries and other conditions of service. The procedure for presenting the Report is set out in Section 141(2). No where in that section is there any power to delegate that function to another person.”

Cabinet does not have the power to delegate the function to someone else, which is what it clearly did when it told the CPO, “You review what the Salaries Review Commission has done and make recommendations. You alter the report”.

CPO, as a public officer, performs the duty of Secretary to the Commission.”

That has put her—he or she as the case may be—in an invidious position. She sits there as secretary, hears all the evidence that has come before the commission and then, on instructions of the Cabinet, changes the decision of the SRC. On what evidence? Evidence different from the one that was presented to the SRC when it, in fact, made its decision? That is to put the officer in an invidious position.

That officer, the CPO,

“...is not authorised to review the salary and other conditions of service.

The CPO is not authorized to do that.

“The Cabinet, which has the general direction and control of the government of Trinidad and Tobago and is collectively responsible therefor to Parliament, under section 75 of the constitution, is free to consult with and to seek advice from persons such as the CPO, once any report from the SRC is forwarded to Cabinet for its approval and subsequent laying in Parliament. However, it cannot give directions in a manner which allows the recommending or the decision making process to effectively fall into the hands of a person who has not been given that authority by statute. The practical effect of the then Prime Minister’s request was that the CPO was asked to review the recommendations of the SRC in respect of the relevant reports. The CPO’s recommendations were then accepted by the Cabinet...”

That is, they did not address their minds. They do have the facilities to do so. Those facilities were given in the Constitution to the SRC.

“The CPO’s recommendations were then accepted by the Cabinet...

almost

“...blindly...”

as it were

“...and subsequently laid in Parliament. This was an unlawful act on the part of the Cabinet of the day. Cabinet, could not purport to take onto itself the power to delegate the function of the SRC to a public official. Delegation of authority must be authorised by statute, either expressly or impliedly and no such power exists under section 141 of the Constitution. Additionally, the SRC had to exercise its powers itself. The Commission could not delegate its powers to any other person.

In light of the above, while Cabinet was free to consult.”

and so on as I said, and to get advice,

“...it was unlawful for the Cabinet to accept and adopt a review of the recommendations made by an ‘outsider’ since such action was ultra vires...the constitution.”

**2.05 p.m.**

Mr. Speaker, I am making this submission because you would notice what the Motion says. “Be It Resolved that this House unanimously support House does not “unanimously support,” the Government will not implement it,

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and it will not alter the Salaries Review Commission. I will tell you why we really cannot alter the Salaries Review Commission.

The 52nd Report which was laid in this House and which is the subject matter of the debate here today says at page 2:

“4. This exercise marks the fourth comprehensive review of salaries and terms and conditions of service for the offices within the purview of the Commission. The last such review was undertaken in 1991 and recommendations were submitted in our Twenty-third Report dated August, 1991.”

6. Although referrals for the reviewing of existing terms and conditions of service of various office holders came to us throughout 1997, we did not consider it appropriate to conduct these exercises in isolation having regard to the structured relationships which exist within the entire group of prescribed offices.”

So they are addressing their minds to their function. It is not CPO's function, not even the Cabinet's function.

“This view was emphasized in both our Forty-fifth and Forty-seventh Reports of April, 1977 and July, 1997 respectively, and in which we also pointed to the urgent need for a general review of the terms and conditions of service of all office holders within our purview.”

This is what in fact has happened with this Report.

“7. The need for a general review became even more pressing, due to the widening of the gap in compensation between broadly comparable jobs in the public and private sectors.”

Did the Cabinet, when it altered its Report address its mind to that?

“This was borne out by our own research...”

They do their own research.

“as well as certain compensation surveys produced in 1996 and 1997 by various consulting firms.”

They have power to hire technical people, experts in order to produce this Report and a Cabinet came and got the CPO to alter it! On what basis?

“Our concern in this regard stemmed from the principle we had espoused in our general review of 1991 that top managerial pay in the public sector should

bear relevance to that prevailing for comparable levels of work and responsibility in the private sector.”

They are telling you the criteria by which they came to their decision because they are the ones who have the power to exercise and implement those criteria.

“8. In this connection, we took note of the views expressed in the submissions made to us that, first of all, the current level of compensation was affecting the ability of the State to recruit and retain suitable personnel in the offices which fall within our purview.”

Cabinet has the power or the mechanism to make decisions like that! Where are the facilities for Cabinet to address its mind to things like that? They are telling you how they operate and the reason for this Report is because the public service is losing its top officers to the private sector because its compensation package is in no way comparable.

“We understand, for example, that in the Judicial and Legal Service, this has been the cause of the continued existence of vacancies and, in an effort to address the problem, the medium of contract employment has been utilized to ease the shortage.”

So the Government takes on people on contract, pay them the higher salaries because they are not going to work but deny public servants who are doing the same job that salary. You are bound to defeat the morale in the public sector. You cannot continue like that.

“This situation was seen as attributable to:

- (i) the steep rise in the cost of living over time and the resulting erosion in the dollar-value of existing remuneration packages;
- (ii) the widening gap in compensation for broadly comparable work between the public and private sectors;
- (iii) the attractive mix of benefits and perquisites which characterize the remuneration packages in the private sector; and
- (iv) the disparity created by the need to provide attractive compensation packages to persons recruited to serve on a contract basis in the Public Service.

9. It is within this context that the 1998 general review was undertaken.”

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Mr. Speaker, the persons who are to be affected by this Report are as follows: This is a comprehensive report which took into consideration comparative salaries and the need to attract persons into the public service, the need to keep the qualified persons who are in the public service. With your leave, I shall inform this House of all the offices that have been dealt with in this report:

The President  
Prime Minister  
Attorney General  
Minister of Finance  
Ministers of the Government (Cabinet)  
Cabinet Minister of Government (Non-Cabinet)  
President of the Senate  
Speaker of the House of Representatives  
Leader of the Opposition.

As a matter of fact, they recommend that he moves from \$8,000 to \$14,000.

Mr. Speaker, I wish I had the power to allow persons to delete their names from this list but my duty is to inform you what is happening:

Parliamentary Secretary  
Vice-President of the Senate  
Deputy Speaker of the House of Representatives  
Members of the Senate  
Members of the House of Representatives who will now move from \$5,250 to \$8,000 per month  
The Ombudsman  
Chief Justice  
Justice of Appeal  
Puisne Judge of the Industrial Court  
President of the Industrial Court  
Vice-President of the Industrial Court  
Chairman, Essential Services Division and Members

The Chairman and all Members of the Tax Appeal Board  
Top managers in the Public Service  
The Permanent Secretary to the Prime Minister and Head of the Public Service  
Permanent Secretary, Ministry of Finance  
Commissioner of Inland Revenue and Chairman of the Board of Inland Revenue  
Economic Adviser to the Prime Minister  
Permanent Secretary  
Chief Personnel Officer  
Director of Personnel Administration  
Chief Medical Officer  
Director of Contracts  
Commissioner of Inland Revenue  
Comptroller of Accounts  
Comptroller of Customs and Excise  
Director of Budgets  
Director, Research and Development  
Chief Administrative, Officer, Tobago House of Assembly  
Executive Director, Investment/Divestment  
Secretary, National Security Council Secretariat  
Executive Officer, Office of the Ombudsman  
Deputy Chief Personnel Officer  
Deputy Director of Personnel Administration  
Secretary, Integrity Commission  
Chief Executive Director, Water and Sewerage Authority  
General Manager, Port Authority  
General Manager, Public Transport Service Corporation  
Executive Director, National Housing Authority

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Divisional Manager, Technical Services, Water and Sewerage Authority  
Divisional Manager, Operations, WASA  
Divisional Manager, Special Projects, WASA  
President and Director of the Financial Institution of the National Institute of Higher Education and Research.  
Chief of Defence Staff  
Commissioner of Police  
Commissioner of Prisons  
Chief Fire Officer  
Special Adviser to the Prime Minister on Crime  
Special Adviser to the Cabinet on all protective services and Chief Executive Officer of the National Security Council.  
Inspector of Police Services  
Chairman, Police Complaints Authority  
Senior diplomatic representatives. That is ambassadors (Residents and Non-residents)  
Chairmen and members of the Commissions of Boards, which includes the Elections and Boundaries Commission.  
Judicial and Legal Service  
Solicitor General  
Director of Public Prosecutions  
Chief Parliamentary Counsel  
Master of the High Court  
Chief Magistrate  
All the magistrates and all the State Counsels  
Registrar General  
Director of Law Review Commission  
Head of the Legal Division in the Office of the Ombudsman



The Assistant to the Chief State Solicitor and a series of legal personnel in that department including legal research officer, parliamentary counsel.

**2.15 p.m.**

This report deals with the review of the salaries of the Chief Secretary of the Tobago House of Assembly (THA); the Deputy Chief Secretary; Secretary; the Assistant Secretary; the Presiding Officer; the Minority Leader—there is a little dispute with that at the moment; Deputy Presiding Officer; Assemblymen and Councillor.

Mr. Speaker, it also deals with local government representatives who have been quarrelling for a long time that their remuneration is too low. The Salaries Review Commission in its Fifty-second Report has dealt with the remuneration for the Mayors and Deputy Mayors of Port of Spain, San Fernando, Arima, Point Fortin and Chaguanas; and chairmen and vice-chairmen of committees, aldermen and councillors of the regional corporations. Therefore, this is indeed a very comprehensive report.

I have tried to make a comparison of the salaries that exist, because that is one of the criteria to which the members of the Salaries Review Commission made reference. In Trinidad and Tobago a Prime Minister receives \$15,000 per month; in Canada, the TT equivalent is \$50,000 per month; Australia, \$72,000 per month; the United Kingdom, \$90,000 per month. I did not have the one for Jamaica, but in Barbados, \$31,000. We took Barbados because—

**Mr. Bereaux:** A Prime Minister like you should get \$5,000!

**Mr. B. Panday:** Concerning other parliamentary officers, a minister in the Parliament of Trinidad and Tobago gets \$12,000; in Barbados, \$23,000. The Leader of the Opposition now gets \$8,000; in Barbados he gets \$20,000; a Member of Parliament here gets \$5,000; in Barbados, \$9,448.

It would appear that in arriving at the findings of this report, that is the kind of exercise that the Salaries Review Commission looks at in fixing these salaries. The Chief Justice in Trinidad and Tobago, for example, gets \$15,000 per month; in Barbados he gets \$27,000, and in Jamaica \$27,000. The Justices of Appeal in Trinidad and Tobago get \$12,000, in Barbados, \$23,900; in Jamaica, \$25,295. A puisne judge here gets \$11,000, in Barbados, \$22,000; in Jamaica, \$23,000.

Mr. Speaker, I have not had time to find out the figures for Speakers, [*Laughter*] but I am sure that the differential is in the region that I have quoted with respect to the other offices, as we compare with the other Caribbean countries.

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It is for this reason that we have framed the Motion in the way that we have. We believe that this is too important a matter of which to make a political football, and we suspect that there are moves afoot to make a political football out of this. Therefore, the Motion is absolutely clear when it states:

*"Be it resolved* that this House unanimously supports the recommendations contained in the fifty-second report of the Salaries Review Commission."

I read those legal opinions because I am saying that it is wrong—even if the Cabinet did have the power—for the Cabinet to alter the report. It either accepts or rejects it. If the Cabinet rejects it, it can send it back to the Commission with its own views and let the commission adjudicate upon it. What it cannot do is alter the figures in the report.

Thus, to prevent this matter from becoming a political football, the Government has decided that it would not implement the report unless it has the unanimous support of the Opposition. Then, this report will not be implemented, and the public servants and whoever are mentioned in the report will have to wait until they change their minds. [*Interruption*]

I beg to move. [*Desk thumping*]

*Question proposed.*

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, on the last occasion, it was agreed that we would start this debate with the Government moving the Motion and then starting the Freedom of Information Bill. The Opposition Chief Whip has indicated that they would like to make a contribution. We have no objection to a contribution being made and then to start the Freedom of Information Bill.

We came prepared on the basis of the agreement. We would then adjourn this debate for January 8, 1999, after the Opposition has spoken. [*Interruption*] Mr. Speaker, we have agreed that one Member of the Opposition would make his contribution on this debate and then we could start—

**Mr. Speaker:** Did you agree on that?

**Mr. Valley:** Mr. Speaker, first of all, let me just clarify. There was no agreement on the last day. The Leader of Government Business mentioned to me what he planned, and I am happy now that he is agreeing, given the importance of this debate, for us to continue this debate, and I thank him for that.

**Mr. Speaker:** What I am trying to get at is: the Leader of Government Business has said that there was an agreement on the last occasion between both sides, that this debate would have been adjourned today, of course, subject to my approval, after the moving of the Motion. He has indicated that notwithstanding this agreement, it is now suggested and agreed that there be one person speaking from the Opposition Benches, after which he is going to move that the matter be adjourned to January 8, 1999, so that one could proceed with the other matter.

Is there agreement on that?

**Mr. Valley:** Mr. Speaker, all I was saying is that, first of all, there was no agreement on the last day, but I was informed. With respect to the continuation of the debate we would like the debate on this matter to continue today, at this time.

**Mr. Speaker:** So there is no agreement that the matter would be deferred after the first speaker?

**Mr. Valley:** No.

**Mr. Speaker:** I see.

**Mr. Patrick Manning** (*San Fernando East*): Mr. Speaker, I begin by making a comment. In doing so, I mean no disrespect to members of other political parties who have had an opportunity to govern Trinidad and Tobago.

When I listened to the presentation of the hon. Prime Minister this afternoon, I had to give credence to a view that has been expressed recently which says that there is something about the governance of this country that the People's National Movement understands, that other political parties do not seem to understand. [*Desk thumping*] When political parties and particularly the one that governs the country at this time, have run into the kinds of problems that they have run into, and put the society through the kind of turmoil that they are putting it through at this time, then I have to give credence to the view that there is something about the governance of this country that is understood by the PNM, which does not appear to be understood by other political parties. [*Desk thumping*]

The Constitution of Trinidad and Tobago establishes a Salaries Review Commission, but the Constitution also clothes the Government with executive authority. Therefore, the question that really arises is this: whose decision is it? Is it the decision of the Salaries Review Commission or the Government? It is a simple matter. In coming to a conclusion to make a decision, one is free to consult as one sees fit, and to accept or reject any advice given to any individual or group of individuals.

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**2.30 p.m.**

If the Cabinet, in its wisdom and consistent with the constitutional reality of Trinidad and Tobago, accepts the advice of anybody, however knowledgeable or ignorant that person may be, then the Cabinet, in its own deliberate judgment and consistent with the authority with which it is clothed under the Constitution of the country, is acting properly. That is the reality of the situation.

While the hon. Prime Minister got up and in looking at the report he talked about the issues that were taken into account—and they are clearly outlined at the beginning of the Report of the Salaries Review Commission—what he did not say, Mr. Speaker, is the effects of these recommendations on the largest employer in the country, which is the Government, the public sector, the effects of these recommendations on the rest of the public sector. He did not say that was taken into account. It is important. He talks about the Chief Personnel Officer. The Chief Personnel Officer is the employer under the law and the state is the largest employer.

Let me get back to the Salaries Review Commission. Under section 140 of the Constitution—I do not want to argue with the Prime Minister. One thing I am certain of is that the advice on which he has just based his contribution did not come from the Attorney General.

**Mr. Maharaj:** It did.

**Mr. P. Manning:** It did? *[Laughter]* I understand you know. *[Interruption]* Oh, so you give him the Solicitor General's advice?

**Mr. Maharaj:** *[Inaudible]*

**Mr. P. Manning:** Oh ho, so when we take the advice of the Chief Personnel Officer—we could not do that but you can give him the Solicitor General's advice? *[Desk thumping]* I do not understand these “fellas”, Mr. Speaker. There is something about governance that the People's National Movement seems to know of which other political parties appear to be ignorant. *[Desk thumping]* If they listen to the radio programmes—and clearly they have not been listening—and they listen to the representatives of the public sector unions they would understand that if they go in the way they are setting up to go, this country would be heading for serious trouble in 1999. They feel free to do that because they know they will not be in government. We faced that before.

Mr. Speaker, in 1989 when the debt of Trinidad and Tobago was rescheduled with a repayment schedule that doubled the service in 1992, 1993 and 1994 of the

order of US \$600 million we made the point that a bed of thorns was being prepared by the then government of Trinidad and Tobago for the next government which they knew would not be them. What we are seeing here today is exactly the same thing. *[Desk thumping]*

Section 140 of the Constitution states:

“(1) There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(2) The members of the Salaries Review Commission shall hold office in accordance with section 126.”

141(1) The Salaries Review Commission shall from time to time with the approval of the President review...”

Mr. Speaker, the word is “review” and the lawyers will understand that word has a particular understanding and connotation in the context of the Constitution of Trinidad and Tobago. It “shall review”, it did not say it shall decide, it did not say it shall make.

“...the salaries and other conditions of service of the President, the holders of offices...”

(2) The report of the Salaries Review Commission...

because what does it do with this report?

“...concerning any review of salaries or other conditions of service or both, shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet...”

Mr. Speaker, why would the Constitution say that the report of the Salaries Review Commission must be presented to the Cabinet by the Prime Minister? So the Cabinet can look at it? So the Cabinet can say, “well, them fellas did a good job or did not do a good job.” Where does the executive authority lie? Does it lie with the Salaries Review Commission, or does it lie with the Cabinet? *[Interruption]* The Attorney General is saying it tongue in cheek because I do not think he advised the Prime Minister of that. He is trying to save his own skin here this afternoon but we will deal with that later as well.

It cannot just be a question of the Cabinet having access to the report to accept or reject. It is the Cabinet’s decision. The Salaries Review Commission could say

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what it wants. It does not, at any time, approach the people of Trinidad and Tobago for any vote in this country and when the elected representatives go to the people, it is on their shoulders that the responsibility for accountability resides. It does not reside with the Salaries Review Commission. It resides with the Cabinet and, therefore, the Salaries Review Commission is advisory to the state. It is advisory to the executive and any Cabinet of Trinidad and Tobago that takes the view that whatever the Salaries Review Commission submits we can either accept or reject then they are not understanding the constitutional reality of this country and the constitutional context in which they are called upon to govern. Suppose you agree with some and you do not agree with others? You accept some and leave the others? You can do that you know. What are they saying? That if I do not agree with some I accept all or none. It comes from the Prime Minister who has spent enough time in this Parliament, irresponsible as he was on the last occasion in 1990 when we dealt with the matter.

Mr. Speaker, let me drink some water because that is not the only travesty that is being committed here this afternoon. We reject categorically and out of hand any suggestion that the last government acted improperly to accept the advice of the Chief Personnel Officer. The Chief Personnel Officer is a member of the Salaries Review Commission and also has an independent complexion and that is the representative of the employer, the state, in negotiations with the public sector trade unions. *[Interruption]* You can say what you want. You are not different.

Mr. Speaker, if you look at the composition of the Salaries Review Commission—I mean no disrespect. All the members of the Salaries Review Commission are honourable gentlemen and ladies—the person in the Salaries Review Commission with the expertise is the Chief Personnel Officer but the Chief Personnel Officer who has this particular responsibility within the context of the public sector of Trinidad and Tobago could have that responsibility circumscribed when he sits as a member of the Salaries Review Commission. Therefore, any wise government which has a proper understanding of the governance of Trinidad and Tobago will seek the views of the Chief Personnel Officer before it does anything else. If this Government had done that it would have realized that in the 52nd Report of the Salaries Review Commission there are a number of anomalies which, if not addressed, could lead to some difficulties down the road and we would come to that in due course.

The second point I want to raise is the wording of the Motion itself. Mr. Speaker, listen to this Motion:

“Whereas it is provided by section 141(1) of the Constitution that the Salaries Review Commission shall, from time to time, with the approval of the President, review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15) of the Constitution, Members of Parliament, and holders of such other offices as may be prescribed;

And whereas it is provided by section 141(2) of the Constitution that the report of the Salaries Review Commission shall be submitted to the President who shall forward a copy thereof to the Prime Minister for presentation to the Cabinet and for laying thereafter on the table of each House;

And whereas the fifty-second report of the Salaries Review Commission was submitted to the President who has provided a copy of the said report to the Prime Minister who has presented a copy thereof to the Cabinet;

And whereas a copy of the said report was laid on the table of the House of Representatives on Friday November 20, 1998 and in the Senate on Tuesday November 24, 1998;

Be it resolved that this House unanimously supports the recommendations contained in the fifty-second report of the Salaries Review Commission.”

Mr. Speaker, the word “unanimous” represents here a piece of constitutional nastiness because in 1962 when the Opposition and the Government sat at Lancaster House to negotiate an independent constitution for Trinidad and Tobago, they discussed these matters. They discussed which of the responsibilities under the Constitution should be deeply entrenched, which should not be, which of the issues that are before the Parliament of this country require a simple majority, which of the issues require a special majority of the two-thirds, which requires a special majority of three-quarters, which requires a special majority of three-fifths. They came to conclusions on that and the Parliament decided that.

Mr. Speaker, the fundamental rights and freedoms—sections 4 and 5 of the Constitution and section 13 also refers to it—as long as you are amending that you need a three-fifths majority. There are other clauses that are deeply entrenched. From where does this new arrangement now emerge that to pass something in this Parliament you need the unanimous support of both Houses? From whence has that come? I do not understand what that is. Mr. Speaker, it is extraconstitutional.

Then we ask another question, suppose—and they have the majority—today we vote on this Motion and it is passed by a simple majority, it is properly passed in this Parliament if that happens, what is the status of it? It is properly passed by the Parliament but the resolution itself says: “BE IT RESOLVED that this House

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unanimously supports the recommendations....” So it is not and it will not be unanimous. *[Interruption]* So what? Then you are acting illegally. *[Interruption]* So what? It is your decision. It is the decision of the Cabinet.

**Mr. Panday:** Unless we have your support.

**Mr. P. Manning:** You can say what you wish. *[Interruption]* Support what? A political football?

Mr. Speaker, I was waiting to hear the Prime Minister—what he is, in fact, saying is this: that he wants the support of the Government and the Opposition. Whenever that argument is used it is normally used as a national interest argument. I am asking the Prime Minister a question: are you now saying that in the national interest the Opposition should support the Government to pass the Report of the Salaries Review Commission? I would like to hear what he says.

**Mr. Panday:** Yes, of course.

**Mr. P. Manning:** You are saying that? He is saying that you know, Mr. Speaker. Just suppose we accept the argument of the Prime Minister that in the national interest we should support the Government on this matter. You know what, in fact, we are saying? That on every other matter in which we did not support the Government, we are not acting in the national interest. He wants us to accept that argument. Is that what he is saying?

Mr. Speaker, this year I attended a seminar at Marlborough House and I am indebted to the Commonwealth Secretariat and the Commonwealth Parliamentary Association for the opportunity to have interfaced with a number of politicians from around the Commonwealth. There were 20 in all and this question came up there. We were discussing the role of the Opposition. This question came up there and I asked it. Do you know what emerged? Whenever a government comes to an opposition and says that it wants it to support a matter in the national interest, it is the biggest stroke that it is trying to pull. They are using that argument merely because they want the opposition’s support.

And, whenever an Opposition says that it will support in the national interest, it is because the Opposition wants to support it but it is just trying to find an umbrella under which it could be supported. We on this side, categorically reject the argument of national interest because when we sit here—I do not know how they behaved when they sat here—all the decisions we take, we take them in the national interest of the people of Trinidad and Tobago. *[Desk thumping]* Therefore, we are not accepting that.



**2.45 p.m.**

Present at that seminar in London earlier this year, was a former Prime Minister of one of the states of India—I cannot remember which one it is; I think it was Assam or one of those states. What he was saying was, he was a member of the Indian Cabinet; he was Prime Minister of the state of—

**Mr. Speaker:** Chief Minister.

**Mr. P. Manning:** Chief Minister of a state of India. He was also, I think, a presiding officer and he told us that he used that argument on the Opposition when he was Chief Minister. He used the argument and he laughed, because when that came out on the table, he acknowledged, without reservation, that whenever he was in that particular state, it was a strategy to try to get the support of the Opposition in circumstances where otherwise that support would not have been forthcoming.

I want to ask the Government: What national interest is involved in the Prime Minister trying to set his own salary? You understand what I am saying, Mr. Speaker? And, what is dangerous about it is that the Government, in coming this afternoon—I was listening to hear the argument because there is an argument that they carried out, but they have not made a proper argument this afternoon and, even if we were so minded, there is no basis on which we could support what the Government is saying to us today, because they have not argued the case in any manner that gives me reason to want us to reconsider our position on this side. Our position is that we are not voting for this. Do you know why, Mr. Speaker? Because we will not sit here and agree to the increase of salaries of any Minister of Government on that side.

[Words Expunged]

Therefore, I am not supporting any increase for them. We are not doing that.

**Mr. Sudama:** What about your own Members?

**Mr. Speaker:** May I say to the Member for San Fernando East that I regard the allegation he has made in this House, as infringing the Standing Orders. It will be expunged from the record and I ask you please not to repeat it. It is casting aspersions and it is clearly in contravention of the Standing Orders. The Standing Orders could be changed if you want, but as the Standing Orders stand, it is not permissible. I ask you to withdraw it so that it can be expunged.

At the same time, I wish to indicate to Members of the House on the other side that whether or not something has been said which contravenes the Standing

Orders, I would prefer if they leave me to deal with it rather than make outbursts such as have just been done.

**Mr. P. Manning:** Mr. Speaker, you know that I am a strong believer in the system by which we operate and, therefore, if you have ruled the statement out of order, I, unhesitatingly and without reserve, withdraw it. I withdraw it, Mr. Speaker. But, I want to ask you a question, Mr. Speaker. Am I expected—because I could only talk to you. I cannot talk to anybody else.

**Mr. Speaker:** The hon. Member knows full well that I have more than sufficient time to “ole” talk with him outside of the Chamber or behind the Chair. But, insofar, I accept his gracious withdrawal of what he said and the acceptance of my ruling, but the other issue he is just going into, I would suggest he leave that for another time. Please continue.

**Mr. P. Manning:** Mr. Speaker, since you do not want me to talk to you, I will talk through you. Could I ask a question, through you, of this honourable House? Am I expected to support a salary increase for the Minister of Public Utilities? I ask the question.—

**Mr. D. Singh:** Oh! They are your colleagues now.

**Mr. P. Manning:** Yes, my colleagues, too. We are a team for those who do not know. [*Desk thumping*] Am I, or my colleagues on this side, expected to support a salary increase for the Minister of Public Utilities? Mr. Speaker, information has come into the public domain; it is not me.

I draw the attention of hon. Members to the *TnT Mirror* of Friday, December 11, 1998. They could ignore it if they want.

**Mr. Speaker:** Just one second. Before it is done, let us understand what we are doing. It is my view that if a Member cannot say something because it offends against the Standing Orders for somebody else to say in the House through one of the Members that, “Well, look, this is the position with respect to a Minister”, is equally as offensive. You understand what I mean?

**Mr. P. Manning:** I understand that.

**Mr. Speaker:** So, that, we have to be careful about peddling something that could offend against the Standing Orders.

**Mr. P. Manning:** Mr. Speaker, I thank you for your guidance. I am always guided by you, but all I wanted to do was to draw to the attention of hon. Members of this House and, particularly, to the attention of the hon. Member for

Caroni East, a newspaper report and, especially, as I have seen no refutation of it, to what conclusion am I expected to come?

You are asking me, Mr. Speaker, and the Government is asking me and us on this side to unanimously support a proposal and we are asking: For whom? There is an allegation here. It is here. “Ganga Singh’s \$ Million Mansion”. That is the headline of the article. Mr. Speaker, the Members on the other side will do well to just sit quietly and listen to what I have to say because this matter—*[Interruption]* Well, the hon. Member does not have to listen. No problem. This matter is far more serious on the face of it than it might appear.

What the article does is, it says that the hon. Member for Caroni East has broken down a perfectly good house that he had—that is what the article is saying and I do not want to put it all into the record; I could do that—and rebuilt a house at a cost of \$1.5 million. That is what the article says. The article also says that—

**Mr. D. Singh:** You let Gopaul do that!

**Mr. P. Manning:** The Member could say what he wants. The article also says—

**Mr. Speaker:** Order! Order, please.

**Mr. P. Manning:** That is what we are talking about. We are talking money. I will tell you where I got mine. What it also said was that the house has a three-vehicle car port; it names the three vehicles that will reside in that car port and they are not cheap. One is a jeep. It is all in the article here. It also says that perhaps the hon. Member himself might have been independently wealthy. I acknowledge that. It is entirely possible that the Member might have been independently wealthy. That is always possible. Or, that the hon. Member, in his previous incarnation as a practitioner of the law, would have done extremely well. That is always possible. I do not know of any case for which he has gained renown, but it is always possible that he may have done very well.

What is troubling to me and to Members on this side about this article, is that the action that has taken place, has taken place shortly after the consummation of the InnCogen deal. That is the point.

**Mr. Humphrey:** Standing Order 36(4) and (5).

**Mr. G. Singh:** Mr. Speaker, I wish to thank the hon. Member for giving way. I find the imputation of the hon. Member very serious and if he should make that imputation on the outside, it is a different matter. Mr. Speaker, I want to know if the hon. Member has any idea as to the nature of my joint income with my wife,

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who is a corporate secretary/legal adviser of the largest petrochemical company of this country; whether he has any idea as to the extent of my debt in this matter; but, he is using the privilege of this honourable House to make all kinds of wild allegations. I would declare my assets and I want the hon. Member to do the same.  
[*Desk thumping*]

**Mr. P. Manning:** I would like to assure the hon. Member for Caroni East that I was not making any wild allegations. It is fact. I am giving him an opportunity to clear his name. That is what I am doing. He may not recognize it. Let me say something, through you, Mr. Speaker, that—[*Interruption*]

**Mr. Speaker:** Order! [*Interruption*] Order please!

**Mr. P. Manning:** The last piece of advice I wanted to give to him today—

**Mr. Speaker:** Minister of Planning and Development, please, what was just done is not right. You cannot stand, when I am on my legs, and shout something from where you were standing and, when I am on my legs, you ought not to be walking out of the House. Those are in the Standing Orders. Please.

[*Mr. Sudama attempts to address Mr. Speaker on his feet but not at a desk*]

**Dr. Rowley:** You cannot speak from there.

**Mr. Speaker:** Hon. Members, I ask you please to conduct yourself with the decorum that is expected of this House. Please proceed.

**Mr. P. Manning:** Mr. Speaker, I could not agree with you more. I have given the hon. Member, whether he wants to accept that or not, an opportunity to clear his name. I want to give others an opportunity this afternoon, too, but he is the first.

The last piece of advice I was going to give to the hon. Member for Caroni East was to declare his assets publicly. That is what I was going to suggest to him. I am suggesting that he declare his assets publicly. Because, I say one thing: if this country had any proper Attorney General, shortly after an article like this was published, the Member would have had a visit from two police officers who would have asked, “How come it appears as though—we are not accusing you of anything—you have come recently into enhanced revenues.” It looks that way. It may not be so at all. He may have had this for some time. It may be part of a moratorium. We understand that, but show cause. All we are asking him to do is to show cause. [*Interruption*]

Do not tell me anything about the Integrity Commission please, because, whatever the Integrity Commission finds out, it can take no action on it. One of the things I would have expected—and the Attorney General knows that—is that when they are coming with matters like this before the Parliament, they should know that the whole question of integrity is going to be raised and that the integrity legislation under which this country operates today, in the light of all that is taking place contemporarily around us, is something that should be addressed by the Parliament in the shortest possible time.

**3.00 p.m.**

Mr. Speaker, I would like to make hon. Members of this House privy to a piece of advice you gave me in 1978. It was April 01, when you took a faithful decision when you took your leave of the Government of which you and I were a part, and you were entitled to that. It was on that day I was promoted to the Cabinet, and shortly thereafter, you were kind enough to address me and to give me a piece of advice as follows: “Do not let anybody force you to do that which you feel you ought not to do”. In putting it in that way, Mr. Speaker, you recognized that I have a background and upbringing, and a certain understanding of what is right and what is wrong. I like the way you put it. “Do not allow anybody to force you to do that which you feel is not right”. I would like to make that piece of advice available to hon. Members opposite because when Mr. Speaker gave me that advice he knew that if one does not do that, then there are consequences.

I assure you that I have stuck to that piece of advice and I feel confident, especially now that you have returned to public life, that you have stuck to it too, because you and I know if we do not do that, the consequences are dire. I do not think that seems to be well-known by those on the other side.

I had gone through the crucible and the burning fiery furnace, and if there was anything, any flaw in my integrity, not only would that have surfaced long ago, but I would have had to depart this political existence a long time ago. I can stand here today and speak the way I am speaking because I have behaved in these matters like Caesar's wife.

Mr. Speaker, I do not know if this Government knows what is being said about Members of the Cabinet, and my colleagues and I on this side of the House are expected to agree to an increase in salary for the hon. Minister of Works and Transport? Is that what we are being asked to do? Mr. Speaker, do you know the story about the airport? I am just asking you if you know, and even if you do not know, as many people

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do not, people have heard, and there is a view in existence in the national community which seems to suggest that all is not well in the state of Denmark.

Incidentally, let me also advise the Member for Caroni East on one other matter. For every corrupt Minister, there is at least one corrupt official. Recently, the Attorney General—and I want to commend him on it—was seeking to advance in this Parliament plea bargaining legislation. I urge him this afternoon to come with it quickly. Come with your plea bargaining legislation fast, because we feel that it has serious implications for the preservation of integrity in public life in Trinidad and Tobago. I could put it plainer for you if you want, hon. Member for Caroni East.

Mr. Speaker, the InnCogen deal has gone through and we are hearing all kinds of things, but we know that subsequent to that—and I do not know if there is any relationship between the two—the chairman of T&TEC was driving a Mercedes Benz. I do not know if there is any relationship. Those are the facts. There are reports of a house in Kensington being bought for the wife of a high government official. Do you know who they say it is? Mr. Speaker, it is being said, and I do not know if it is true. I am sorry the hon. Prime Minister is not here. It is being said—it is in nobody's interest for this kind of talk to be in the public domain because it is tarnishing the integrity of Trinidad and Tobago.

**Mr. Assam:** The PNM tarnished it for 30 years.

**Mr. Speaker:** I think that hon. Members have to be very careful about publishing that for which they cannot vouch. If it was being proper for the hon. Member to say something about a Member of the House, for him to say that there is a talk, or town say, is to my mind, equally offensive. I think you could make your several points with respect to the matter before us without necessarily sailing as close to the wind as you are.

**Mr. P. Manning:** Thank you very much, Mr. Speaker. I always accept advice from you, but may I say it is not accurate or proper to assume that that which I am saying I cannot vouch for. That is an assumption.

A new Government has been elected in Venezuela—*[Interruption]* The new President of Venezuela has begun with a major attack on Petroleum de Venezuela, and in the minds of investors, that immediately starts a problem. The way investors think, and the two countries which are competing for foreign investment

in the energy sector in this part of the world are Venezuela and Trinidad and Tobago. The minute that kind of uncertainty has been injected in the public life in Venezuela, the tendency of investors is to pull back immediately, and had Trinidad and Tobago been in good standing in their own mind, they would have moved immediately to increase their investments in Trinidad and Tobago. That would not happen if only as a consequence of their perception of what is now taking place in this country and, therefore, what is likely to happen is everybody would stand back and watch for a while. All the allegations that are in the public domain respecting integrity of the Government of Trinidad and Tobago are hurting the people of Trinidad and Tobago very badly indeed and they must know that.

When it is said that a Government Minister, a high government official, could purchase a property in Young Street in Toronto, break it down and is erecting a new building on the property to conduct a business which is to be managed by his brother-in-law and they whisper who it is, I wonder if hon. Members opposite believe that these things are not affecting us. It affects us. And they expect me to agree to a salary increase. We would do no such thing. We are not agreeing to any salary increase for you.

Mr. Speaker, I could go on, and on, and on. The report is not without some anomalies. Take the position as it relates to Ministers and just for the record, I want to advise the hon. Prime Minister and hon. Members opposite that I never went before the Salaries Review Commission, nor wrote, nor addressed the Salaries Review Commission on the question of salary increase. There was no formal representation. I just want to let them know that because they had made that suggestion earlier on.

Mr. Speaker, there is something about governance that the People's National Movement seems to understand that you all do not understand. You now have Members on your side who sat in a PNM Cabinet. I do not know if the hon. Member for Point Fortin still has any decency left to say it—but I am sure he does. In his conscience let him say what were his experiences in a PNM Cabinet and what are his experiences in a UNC Cabinet. *[Desk thumping]* The hon. Member for Naparima, whatever you want to say, he also sat in a PNM Cabinet. I want to ask him a question, I do not expect him to answer it. *[Interruption]*

**Mr. Speaker:** Could I one more time ask that we have order and I particularly address this to the Minister of Local Government, and the Minister of Trade Industry and Consumer Affairs and Minister of Tourism. I ask you please, could we keep the standard up.

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**Mr. P. Manning:** This is an appropriate time for me to ask another question. Do they expect me and Members on this side to agree to a salary increase for the Minister of Local Government?

**Mr. Speaker:** Hon. Members, the speaking time of the Member for San Fernando East has expired.

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

*Question put and agreed to.*

**Mr. P. Manning:** I thank hon. Members for their kind gesture. When the Prime Minister was outlining the criteria that the Salaries Review Commission took into account, one of the things they did not take into account was performance. Had they taken performance into account, there could be no justification for giving a salary increase to the hon. Minister of Local Government. In fact, he would have to pay us back some money, he would have owed the state a handsome amount of money based on his performance and attitude and behaviour demonstrated to the national community, that he is totally unsuited to the public life in Trinidad and Tobago or any other country.

In 1978 I was appointed Minister of Maintenance, I was not happy with the appointment, and one year later when I was given a different portfolio, I was upset that I was now settling into this portfolio and was moved one year later—*[Interruption]*.

**3.15 p.m.**

**Mr. Speaker:** Please continue.

**Mr. P. Manning:** One year later, I was appointed to two portfolios, then, by 1981, when Mr. Chambers became Prime Minister, I was moved again—upset—but the one thing I learned, moving as I have—and I have been very fortunate to have been exposed in that way, from portfolio to portfolio in the Government—is that no portfolio is more important or less important than any other portfolio. *[Desk thumping]* I have learned that.

It is like the limbs of a body. Who is to say that the ears are more important than the eyes—if I am to use a biblical approach? Who is to say that the nose is more important than the mouth? Who is to say that the feet are more important than the hands? The fact of the matter is that each has its own function to perform and one can only get a perfect performance if each one performs in accordance



with what is expected. Therefore, we on this side cannot accept the assertion at all that the salary of the Minister of Finance and the salary of the Attorney General should be higher than the rest of the Cabinet. I do not know if the Prime Minister has seen it, but it creates a problem for a Prime Minister also.

It is our view that all Ministers are equal. We have been advancing this for a long time. All Ministers are equal and there can be no justification for paying the Minister of Finance or the hon. Attorney General a higher salary than any other Minister. In the instant case, the violence that is being done is that they are trying to pay Mr. Kuei Tung and Mr. Ramesh Lawrence Maharaj more money than the others.

**Mr. D. Singh:** What is so wrong about that?

**Mr. P. Manning:** I do not know how the hon. Members opposite feel about that. In the case of the Attorney General, I would reluctantly accept that there is a case to be made to pay him a special allowance because under the Constitution, there are two offices mentioned for Cabinet: the Prime Minister and the Attorney General, and the Attorney General must be a lawyer. In other words, he is the only Minister under the Constitution who must have a technical professional qualification to be able to hold a particular office. Therefore, there can be some justification—and it is with reluctance that we accept it—for paying him an extra professional allowance, but in terms of basic salary, there is no justification for paying any Minister a higher salary than any other Minister. I urge the Government before they seek to implement any report like this to consider whether they want to do that.

The second point I want to raise is the whole question of tax-free salaries. What this report now seeks to do is to expand the number of persons in receipt of that. It is our respectful view that only one person in Trinidad and Tobago should not pay taxes, and that is the President. It is because of the symbolism of the office that he holds. I know I do not have to argue this now, Mr. Speaker. We have argued this before elsewhere and, of course, in different and happier times. I am a beneficiary of your wisdom on this matter, but I advance it again, because there are others here who do not know these things and who do not understand them.

In our respectful view, there can be no justification for tax-free salaries for anybody other than the President because we all send our children to the same schools, we all drive on the same roads and we all require the same high standard of the roadway for our own passage and the high standard of education in schools. We all participate in the same public utilities and these things have to be funded and maintained.

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All of us will require a very secure environment, therefore, the police must be properly equipped and properly trained. How are we going to fund these essential responsibilities of the state if some people pay tax and some do not? The history of it is also instructive to us. Hon. Members may not be aware. I want to make it quite clear that I am not casting any aspersions on judges or the Judiciary in this country. We are just developing an argument. Judges get three allowances that are not normal. First, they get a special allowance. I know how that came about.

**Mr. Assam:** Eric Williams did it. You were in the Cabinet.

**Mr. P. Manning:** I know. I just said that. I was not in the Cabinet, but I know how it came about. Mr. Speaker, the tax-free allowance is the second one and the third one is judicial contact.

**Mr. Assam:** They do not have that anymore.

**Mr. P. Manning:** Whether one has judicial contact or one is being given an allowance to cover judicial contact, it exists. In every instance which these things happen, the state was faced with a problem which it sought to settle on an interim basis by making special payments: special allowance, judicial contact and the tax-free allowance.

The Government has a decision to make and that is, is it going to leave those allowances in place in principle, or is it going to commit itself to a course of action over time designed to eliminate these allowances? What will it do? What we are noticing from this report is that steps are now being taken to expand the number of persons who gain these allowances and it is our respectful view that it is wrong in principle. That has caused a major problem in the Industrial Court. In fact, I have a letter here written to the Hon. Attorney General. Does anyone know what the report recommends? It recommends that three categories of persons, the President of the court, the Vice-President of the court and the Chairman of the Essential Services Division have their terms and conditions equated to that of a puisne judge.

Mr. Speaker, you sat in the Industrial Court, did you not? All right, you do not have to take it personally. Does anyone know what that does? Because there are other members of the court. While the law calls for two of those three people to be lawyers, it does not do so in respect of the third person. The fact that the third person is a lawyer is incidental, but it sets up a distinction in the court itself as between persons sitting on the same bench in the same case, according to one, a much higher priority in terms of salary than to the other. On what basis?

What the report does is destroy a relationship of 33 years standing between the President, the Vice-President and the Chairman of the Essential Services Division and the rest of the court. The differential used to be some 2.87 per cent or \$6,000 per annum. The new differential, after this report is implemented, would be 3000 per cent or \$204,900 per annum. The Government has to decide whether it wants to implement that; not a decision of the SRC, thank you very much. Nobody voted for the SRC. The executive authority rests with the Cabinet. *[Desk thumping]*

They are coming here to tell us we must support it unanimously. When they were increasing the housing allowance from \$1,000 to \$5,000 per month, Mr. Speaker, which one of us did they consult? *[Desk thumping]* Did they consult the distinguished Members for Diego Martin West, Diego Martin East, Arouca North, or Arouca South?

**Dr. Rowley:** No, Sir. They just took it.

**Mr. P. Manning:** To whom did they speak? They took the position then that the authority rests with the Cabinet and the Cabinet only and, therefore, they could do it. *[Desk thumping]* Arguments of convenience; whenever it suits them, they fall this way or that, not understanding that in Government, they have to be consistent because their sins of today are likely to visit them tomorrow. *[Desk thumping]* There seems to be something about governance in Trinidad and Tobago that the People's National Movement only, seems to understand. *[Desk thumping]*

Mr. Speaker, magistrates have a big quarrel with this report. I do not know if you know. When the Attorney General went to the Cabinet last year and they agreed to pay legal officers in the public service an enhanced special allowance ranging from \$3,500 per month to some \$6,000 per month, they did not ask anything. The Cabinet did it, and in so doing, they upset a careful balance that has been established in the public service, but they do not understand balances.

I wonder if they have consulted the Classification and Compensation Report that has been adduced to them subsequent to the elections of 1995? If they do not understand, Mr. Speaker—and they do not seem to understand the implications of that—then they would do all kinds of wild things, like what they are doing here, or paying an advisor to the Minister of Health \$71,000 per month under contract, and they will come here and say that his basic salary is so much and so much. Not only is the basic salary less than that, but they have set up the arrangements and they have included in the responsibilities certain arrangements that lead to him drawing a salary. That is what they do. When it comes to proper governance, they

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do not know how to do it, but when it comes to skullduggery and enriching their own, they are past masters. [*Desk thumping*]

So, they created a problem in the magistracy, and now this report comes in and the SRC recommends a total set of salaries that is less than the salary they were obtaining plus the special allowance of January last year. Magistrates are now saying that they have ended up with a cut in salary because of this. We would never have done that. While they are doing that, Miss Jennifer Baptiste, Mr. Trevor Oliver, President of the teacher's union, TTUTA; and Errol Mc Leod, President of the OWTU are sitting, watching and waiting. [*Interruption*] And the Member is right, Selwyn John. The regret is that when the time comes, they would not be facing them. They will be facing us.

I wonder if they understand what they are doing. I do not know. Do they understand what they are doing? That is why, in the statement that the Hon. Prime Minister made today, one of the objectives should have been to deal with that impending situation in respect of negotiations with the public sector, because it is trouble next year. Let me not get into the argument. Tell them about oil price being \$10 per barrel and hear what they would tell them, because they have not justified what they want to do. They just feel that politics is the be all and end all of the existence in this Parliament, and if they could win a temporary battle, they win that and life goes on. That is the way they all see the Parliament and our political existence. [*Desk thumping*]

Mr. Speaker, they go to local Government and decide to pay mayors a salary: the mayor of Port of Spain, \$10,000 per month—more than a Member of

**Mr. D. Singh:** The SRC says so!

**Mr. P. Manning:** Please! I am saying that it is in the report. The decision is not the SRC's; the decision is yours. If you do not know, the decision is y-o-u-r-s! [*Desk thumping*]

**3.30 p.m.**

Mr. Speaker, they say the Mayor of San Fernando must get \$8,000. Why? Is the Mayor of San Fernando uglier than the Mayor of Port of Spain? What is the difference? What is the reason? Then, we see this argument that they must pay that salary because a mayor is full time. A mayor's job is full time? The minute

we buy that argument and we make a mayor's job full time, I am asking a question: would the current Mayor of Port of Spain have given up involvement in his business at Queensway to accept the full time job of mayor at \$10,000 a month? It is a fallacious argument. Would His Worship, the Mayor of San Fernando, give up his job running Classic Caterers to take on a full time mayorship of San Fernando at \$8,000 a month? Something is fundamentally wrong with the thinking.

**Mr. Valley:** The Mayor of Chaguanas would have accepted it, he was unemployed.

**Mr. P. Manning:** But, I am indebted to my friend from Diego Martin Central. I could understand that the Mayor of Chaguanas would have accepted, because he is otherwise not engaged.

Mr. Speaker, you understand the point I am making. The argument is fallacious and the minute they implement a recommendation like that in the form it now is, they sabotage the local government system in the country and they prejudice persons of the highest abilities in the country, from exposing their talents and making their contributions at the level of local Government. That is the reality of it. We cannot do that.

It goes on and on. Had this Government submitted this report of the Salaries Review Commission to the Chief Personnel Officer for comments they would have been told all of these things. They would have seen and been in a much better position to understand the anomalies which are in this report and, therefore, a need for policy decisions on the part of the only authority in the country who can do that, the Cabinet, for some policy decisions to be taken. The Government has to take those decisions as they see fit.

I have only touched the surface of it. I would like to suggest that all of these issues be referred back to the Salaries Review Commission. Even at this late stage, the Government of Trinidad and Tobago should seek the advice and views of the Chief Personnel Officer.

Mr. Speaker, I also want to raise one other point. I alluded to it very briefly initially. I want to make it now. I think, having regard to what we have seen in the national community within recent times in terms of integrity in public life, it is very important that this country addresses, posthaste, the question of integrity in legislation. I do not want to put it any more starkly than that. It is an issue. The Integrity Commission at this time, together with the legislation, is inadequate to deal with

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the issues of the day that have come forward and, it is our view that new integrity legislation for this country should be addressed in the shortest possible time.

So, I just want to recap that we on this side are not going to support the Motion as moved by the hon. Prime Minister. The Motion was inadequately moved, the arguments of the Prime Minister were fallacious. The Prime Minister did not give a proper justification, especially having regard to the pitfalls that lie ahead of us, why they would want to implement the report and for what reason: that has not been done. Most of all, we are not prepared to agree to any salary increase for a regime whose financial probity has been the subject of some significant question.

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

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, it is unfortunate that in a matter like this, which transcends personalities and the names of individuals, and really affects the national interest, that political parties in the Parliament and Members, in order to make a decision one way or the other, have reduced the situation to personalities. Attempts are being made to make this issue a political one.

Mr. Speaker, it is even more disturbing when it was agreed to by Opposition and Government, as recorded in the report of the House Committee of the House of Representatives, which was laid in this Parliament in November, 1997. Mr. Speaker, as you know, the House Committee consists of Members of the Government and Members of the Opposition. In that report, it supported the review of the Salaries Review Commission on the terms and conditions of service of Members of Parliament.

It is no secret, therefore, that the Opposition felt that Members of Parliament were not being paid properly and that the Salaries Review Commission should review the salaries in order to make a decision as to whether there should be an increase or not.

What has become very difficult in this matter, over the years, is that it seems as though Members of Parliament and Government seem to be afraid to deal with issues which affect the terms and conditions of Members of Parliament. What has happened is that they seem to be prisoners of the fact that they know that there should be an increase, they know that the Salaries Review Commission has done well, but they do not want to come publicly and support it. They would go behind

backs, they would go into a room, they would go in the House Committee and they would say, “Yes”, but when this report has been laid in the Parliament, they cannot come and say, “Yes, this is a good thing, let us try to do it,” because they are afraid of political consideration. They believe that the trade union movement and their supporters would be against them.

So here it is we have a situation where, as mentioned by the hon. Prime Minister in his contribution, it is recognized that not only Members of Parliament—let us get it clear Mr. Speaker. This report is about the Judiciary, the Auditor General, the Director of Public Prosecutions (DPP), the Solicitor General, top public servants, members of the Elections and Boundaries Commission, service commissions, permanent secretaries, and the Head of the public service. So to give the impression that we want—if I put it this way—an increase for ourselves, is totally wrong. It is not right. The time has come for us to level with the population. The fact of the matter is that many of these persons, as mentioned in the report, are underpaid, terms and conditions are wrong, there is an injustice, and the Salaries Review Commission is given the power under the Constitution to make decisions on these matters.

I sat here and I could not really believe, with the greatest respect for the Member for San Fernando East, who has served as this country's Prime Minister, that he would misrepresent, I am sure unconsciously, the provisions and the structure of the Constitution the way in which he did.

Mr. Speaker, section 140 of the Constitution of Trinidad and Tobago provides—and in order for us to understand this, I would read it so that we can understand why the Constitution framers decided to have a Salaries Review Commission; why it was given the power to review the kinds of terms and conditions it was given, why the provisions stated that the report would go to Cabinet and it must be laid in Parliament. If the Cabinet, under this Constitution, can rewrite the Salaries Review Commission Report, then it can rewrite the Elections and Boundaries Commission Report. It would create a serious precedent, if, on the basis of what the Opposition is saying, that the Cabinet of Trinidad and Tobago can take that report and, in effect, take out parts, delete, substitute its own judgment and decisions, it can then rewrite an Elections and Boundaries Commission Report. That, Mr. Speaker, is wrong. That cannot be done. It would be constitutionally wrong. Section 140 (1) says:

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"There shall be a Salaries Review Commission which shall consist of a Chairman and four other members all of whom shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition."

Mr. Speaker, why is it that this Commission is appointed in this way? It is appointed in this way in order to have an independent commission, so that the members of the Commission cannot be pressured by politicians and it is constituted in this way in order to insulate them from political interference. So we first see it is an independent commission. Section 141(1) says:

"The Salaries Review Commission shall from time to time with the approval of the President review the salaries and other conditions of service of the President, the holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries, and the holders of such other offices as may be prescribed."

In section 136(12) to (15), it mentions the DPP, the Auditor General, judges, the Chief Parliamentary Counsel, members of the commission, *et cetera* and therefore, Parliament would have to specify from time to time who are the persons or which offices the Salaries Review Commission would look at to review the salaries and other conditions of service of the President, *et cetera*. So it shows that the Salaries Review Commission is given the power under the Constitution to review the terms and conditions, in order to make a report which must be submitted to Cabinet, and must be laid in the Parliament.

Why is it that an independent commission is given the power to review the offices as mentioned? Take for example, the DPP. The Director of Public Prosecutions is a legal officer and he is not employed by the Government, *per se*, he is employed by the state. Therefore, no Government can try to put pressure upon him with respect to his terms and conditions or in respect of his functioning in the exercise of his discretion. A judge is in the same category. These officers whom the Salaries Review Commission is given jurisdiction to review their terms and conditions are the persons whom and the offices of which the Constitution would like to insulate from political interference. Just as the Speaker of the House of Representatives, the Salaries Review Commission is given that jurisdiction, because it does not want a situation where any Government could in any way put pressure directly or indirectly on persons who occupy these offices.

So, when we had to determine what kind of Constitution we wanted, since Members of Government and of Parliament could appear to be in very embarrassing positions which could violate the rules of natural justice, it was



decided as far as the public interest is concerned, that Government should not fix terms and conditions of members of Government or of parliamentarians, and the Parliament should not fix terms and conditions of Members of Parliament. It is in that context, that it was decided that that independent body, the Salaries Review Commission, be given the power to determine terms and conditions.

**3.45 p.m.**

The functions of the Salaries Review Commission were ordained by the Constitution of Trinidad and Tobago. The Constitution is the supreme law of Trinidad and Tobago. If we would like to uphold law, we must decide whether we would act in accordance with the Constitution or not.

Cabinet gets a report, it is its duty to lay that report in Parliament. Our contention is not that Cabinet does not have the power to accept the report but that Cabinet cannot rewrite the report. Parliament cannot rewrite the report. If we feel that the report is bad and we do not want it, Cabinet can decide to send it back to the Salaries Review Commission for its consideration.

**Mr. Valley:** Would the hon. Attorney General please inform us what happens if, when the report is sent back, the Salaries Review Commission says that is what they think and sends it back to Cabinet? How does one resolve such a stalemate, if the Cabinet does not have the final authority for taking executive decisions?

**Hon. R. L. Maharaj:** Mr. Speaker, the Salaries Review Commission is performing an executive function. The Constitution of Trinidad and Tobago placed the state under three branches. There is the legislative arm, which is the Parliament; the executive arm, which is the Government and the other executive authorities; and there is the judicial arm of the state. Nowhere is the Constitution of Trinidad and Tobago and in any constitution under which we operate which follows the Westminster prototype, are there other arms of government.

The government is part of the executive authority and Cabinet has the executive authority of Trinidad and Tobago. The Salaries Review Commission is part of the executive arm. It is not part of the legislative arm, nor the judicial arm. The judicial arm decides cases, so the Salaries Review Commission does not have the power to decide cases or issue warrants because they are not magistrates or judges. The Salaries Review Commission has no legislative powers, so they are not part of the legislative arm. It is part of the executive arm. The executive arm of the state is broken down in several areas and the Cabinet under the Constitution exercises executive authority. The Constitution puts into the Salaries Review Commission, executive powers.

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To say that the Cabinet is the only body which exercises executive power is not correct. When the Elections and Boundaries Commission makes its tally for the elections and determines which party wins, it is part of the executive arm of the state. It is not part of the judicial or legislative arm.

**Mr. Valley:** Mr. Speaker, is the hon. Attorney General saying that the Salaries Review Commission has final executive authority?

**Hon. R. L. Maharaj:** I did not say that.

**Mr. Valley:** Mr. Speaker, what is he saying then? Will the hon. Attorney General please clarify whether Cabinet has final executive authority with respect to reports coming from the Salaries Review Commission?

**Hon. R. L. Maharaj:** Mr. Speaker, it seems that the Opposition Chief Whip does not understand. Before I was asked the question, I said that Cabinet does have the power to reject the report. Cabinet and the Parliament does not have the power to amend or rewrite the report.

**Mr. Valley:** Mr. Speaker, I would simply like to find out, if Cabinet rejects the report and it goes back to the Salaries Review Commission, and the Commission is adamant and sends the report back to Cabinet, how the stalemate would be resolved if Cabinet does not have final executive authority with respect to reports from the Commission.

**Hon. R. L. Maharaj:** Mr. Speaker, I will say it again. Cabinet, under the Constitution, only has the power to accept or reject. It cannot rewrite. If it attempts to rewrite, it will be trespassing on the Constitution.

Mr. Speaker, I regret to say that the Opposition come here and express views which they cannot support. The Opposition Chief Whip said that the Salaries Review Commission is not part of the executive. I have explained it and I have heard nothing from him to challenge that now. Anyone who has been part of this Parliament for five years should understand. I am sure that the Minister of Local Government, who has just come to the Parliament, understands it.

This issue came up in 1992. At that time, the then Opposition took the position that what the Government was doing was wrong. What the then Government did was make the Chief Personnel Officer a member of the Salaries Review Commission, so he or she sits and signs the report. There is no minority report.

I have heard here today that the Chief Personnel Officer is the employer. He does not employ the Chief Justice. He does not employ the Speaker of the House. He is

not the employer. The state of Trinidad and Tobago is. The Chief Personnel Officer has certain jurisdictions with respect to terms and conditions of employment and being an advisor. As a member of the Salaries Review Commission, the Chief Personnel Officer signs and can give a minority report if she wants. The Opposition is now saying that we should send this report to the person, who has agreed to it and has signed it, to be reviewed so that we can rewrite it. Mr. Speaker, it merely has to be stated to be rejected because it is so ludicrous.

In 1992, when this issue came up, we, in Opposition, tried to correct the then Government. With your leave, Mr. Speaker, I read from the *Hansard* dated October 30, 1992 at 3.30 p.m. This was part of my contribution on the issue. I would like to put on record what we said then. I would then read what advice the Solicitor General gave because, under the Constitution of Trinidad and Tobago, the Solicitor General advises the Attorney General who advises the Cabinet. The Solicitor General is a legal officer, not employed by the Government, but by the state. She is the chief legal officer for the state. I quote:

“Madam Speaker, when I rise in this House and I am about to say anything which has to do with the law, I seem to recall the utterances from the other side which give the impression that they are not interested in conforming to law. I hope I am wrong in my assessment.

What this motion brings into focus quite clearly is the action of the Government in flagrantly undermining institutions set up under the Constitution to perform particular functions.

The Constitution of Trinidad and Tobago provides a particular machinery to deal with matters relating to salaries of certain persons including members of the higher judiciary, parliamentarians and others. This is the Salaries Review Commission. One of the reasons why this Commission was set up under the Commission, the purpose and the whole motive behind it is to protect this commission from political interference and manipulation.

“We see an effort in the country at what has been happening in all these institutions—political interference and manipulation.

The Salaries Review Commission is a body set up, quite clearly, under section 140 of the Constitution of Trinidad and Tobago. As my leader, the hon. Member for Couva North, said, that body has been given specific functions and duties. The duties of that body are circumscribed by the

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Constitution. The Constitution is the supreme law of the land. The Government, Members of Parliament, Ministers, Members of Cabinet take an oath to uphold the law and the Constitution. The Personnel Department..."

Referring to the Chief Personnel Officer.

"... is also described and his powers and that of his department can be found in the Civil Service Act Chap. 23:01. His powers are circumscribed...if he trespasses on the functions of others he is acting unlawfully and if he acts unlawfully, and a Government adopts that action, the Government is acting unlawfully."

It goes on to discuss that the government was, in effect, undermining the law.

"Section 141(2) of the Constitution of the Republic of Trinidad and Tobago is mandatory, and it is to be construed as requiring the report of the Salaries Review Commission to be laid as soon as possible..."

### **3.55 p.m.**

Mr. Deputy Speaker, in 1992 the Opposition took the position that the Cabinet of the country did not have the power to rewrite the report of the Salaries Review Commission. We took the position that if it could have done that it would create not only a breach of the law, but it would be a serious precedent for Cabinets to rewrite the reports of independent commissions. We all know that several independent institutions are similarly circumstanced in that their reports must be laid in Parliament and sent to the Cabinet.

When this issue came up, in preparing for this matter, I thought it best that in the light of the view I held at that time, I should not give an opinion on this matter for the Government without having the opinion of the Solicitor General. I have an opinion signed by the Solicitor General—parts of it were read by the hon. Prime Minister—in which she holds the view that:

"Section 141(1) of the Constitution clearly empowers the body known as the S.R.C., with the approval of the President, to review the salary and other conditions of service of the President, holders of offices referred to in section 136(12) to (15), members of Parliament, including Ministers of Government and Parliamentary Secretaries and the holders of such other offices as may be prescribed. Section 141(2) provides that the report of the S.R.C. concerning any review of salaries or other conditions of service or both shall be submitted to the President who shall forward a copy of the said report to the Prime Minister who shall present it to Cabinet and for laying the same as soon as possible

thereafter, on the table of each House. Therefore, statutory authority is given to the SRC to perform the particular functions of reviewing salaries and other conditions of service. The procedure for presenting the Report is set out in Section 141(2). Nowhere in that section is there any power to delegate that function to another person. The CPO, as a public officer, performs the duty of Secretary to the Commission. He is not authorised to review the salary and other conditions of service. The Cabinet, which has the general direction and control of the government of Trinidad and Tobago and is collectively responsible therefor to Parliament, under section 75 of the Constitution, is free to consult with and to seek advice from persons such as the CPO, once any report from the SRC is forwarded to Cabinet for its approval and subsequent laying in Parliament. However, it cannot give directions in a manner which allows the recommending or the decision making process to effectively fall into the hands of a person who has not been given that authority by statute. The practical effect of the then Prime Minister's request was that the CPO was asked to review the recommendations of the SRC in respect of the relevant reports."

That is in respect of 1992 action of the then government.

"The CPO's recommendations were then accepted by the Cabinet blindly and subsequently laid in Parliament. This was an unlawful act on the part of the Cabinet of the day. Cabinet, could not purport to take onto itself the power to delegate the function of the SRC to a public official. Delegation of authority must be authorised by statute, either expressly or impliedly and no such power exists under section 141 of the Constitution. Additionally, the SRC had to exercise its powers itself. The Commission could not delegate its powers to any other person.

In light of the above, while Cabinet was free to consult with and seek the advice of the CPO on the recommendations made by the SRC, it was unlawful for the Cabinet to accept and adopt a review of the recommendations made by an 'outsider' since such action was ultra vires section 141 of the Constitution. The then Cabinet, having obtained advice from the CPO should have genuinely considered the same and kept the decision in its own hands."

Mr. Deputy Speaker, this is not the individual, Ramesh Lawrence Maharaj, speaking. This is the holder of the office of the Attorney General who had the Solicitor General in the Ministry, who is given the power under the Constitution, to advise the Cabinet and to advise the Parliament, through the Attorney General in respect of constitutional matters. The advice is that the Cabinet,

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in 1992, did not have the authority to review or rewrite the report of the SRC and, therefore, in the light of that, we cannot fall into the same error.

Mr. Deputy Speaker, I heard something during this debate which I found to be very frightening. The hon. Member for San Fernando East said that if this country had a proper Attorney General, after reading the report in the *TnT Mirror* on the house belonging to the Minister of Public Utilities, he, the Minister, would have had a visit by two police officers inquiring as to why it appears as though he has recently enhanced his revenue; he would have been called upon to show how he has done this. If this is an admission of how the PNM and the Member for San Fernando East got his Attorney General to function, I find it very frightening. It makes me feel that maybe now we have to find out how some people were harassed during the rule of that regime.

Mr. Deputy Speaker, under our Constitution police officers investigate matters; the Director of Public Prosecutions, not the Attorney General, decides whether a criminal offence is committed and whether it should be prosecuted. As a matter of fact, I think it may be appropriate at this stage for us to understand that although police officers, the DPP and those officers of the DPP's office are employed by the state, politicians do not have the power to give directions as to who is to be prosecuted or not. The Minister responsible for law, or in respect to the police, is answerable to the Parliament for anything that is done or not done. If for some reason police officers are being corrupt and the issues are raised, the Minister would have to get the answers and answer to the Parliament; whether it is the DPP's office or the police.

**4.05 p.m.**

The Ministers cannot tell anybody who to prosecute. I find it very frightening that the Member for San Fernando East, who served as Prime Minister and who wants to serve as Prime Minister again, can say that an Attorney General owes a duty that when he reads anything in the newspaper that he must get the police officers to go to the person's house and ask him—that is as if we are going back in history, it is the Star Chamber. As I understand it—and if I am wrong anybody can tell me afterwards that I am wrong—the Attorney General, under our Constitution, the holder of the office, has one distinction in relation to which other officers of the Cabinet do not have and that is, the holder of the office, whoever he or she may be, also performs a quasi judicial function. That is to say, he or she takes no direction from the Cabinet when it comes to what advice he or she gives or what action he or she takes in order to ensure that the interest of the public is protected.

The Attorney General does not have any power and he will be exceeding his power if he reads something in a newspaper, to say to a police officer: "Go to the Minister's "house" or "Go to the trade union leader's house." If that is the case, then when a trade union leader gets up and criticizes the Government and some reporter puts in the newspaper his income, he is driving a Mercedes Benz, he has a house, without finding out whether there is a mortgage for the house, whether the person borrowed the money, whether his wife is working, how much money the wife is working for—it was said in the context of the Minister of Public Utilities and I do not think that I can stand here without saying that if one has to make allegations against a Member of this House like that, I would think that it is the responsibility of the Member on the other side to say his income in 1995 was so much, his salary from 1995 to so and so has been so much, the house that he has built has cost so much but there is no mortgage, that he has no income and so forth, to show that you have facts. To come and say that because a newspaper puts a photograph that somebody has a house, the person is corrupt. I do not think it is right especially in a debate like this.

Mr. Deputy Speaker, we are talking about a very serious matter. The issue in this debate is whether we unanimously accept the report of the Salaries Review Commission. The Opposition is entitled to say that they are not prepared to accept it but I do not think that it should be coloured with all these other matters. If it is that the Opposition is saying that the Permanent Secretary should not get his increase they must come and say that, but they must not come and use other things to try to hide what they want to say. If it is that they are saying that they do not think permanent secretaries who work so hard in the public service deserve this increase, they must say so. If they are saying that councillors in Trinidad and Tobago who work so hard, they do not deserve this increase, then say so.

A Trinidad councillor's present salary is \$1,250.00 a month—I understand he is sitting in the Parliament. The recommended increase is \$2,000 and the PNM is opposed to that. They say they must not support this because they would not get that.

Is the PNM saying that if they do not like a particular councillor that is why they are voting against it? They do not like a particular Minister so they vote against it too. The travelling allowance for a Trinidad councillor is \$570.00. The recommended travelling allowance is \$900.00. Is this the disrespect that the PNM wants to continue against councillors? The local Government election is coming. Do you want councillors who have to perform all these important roles in the new reform that you said that you had—they were born under your regime and they are

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now coming to fruition, is that the kind of salary and travelling allowances that you want to give councillors?

Mr. Deputy Speaker, the telephone allowance for a councillor at present is \$100.00. The recommendation is that it be increased to \$150.00. Are you voting against that too? The total for the Trinidad councillor is \$1,920 and the recommended increase is \$3,050.00.

Let us take the Tobago House of Assembly. Present salary \$4,000. The recommended increase is \$5,300. Do you mean you love Tobago so much but you vote against them? You would vote against the Tobago councillors and Members of the Tobago House of Assembly getting that?

Mr. Deputy Speaker, it was a petition by Councillor Harvey R. Burris who was in the Parliament a while ago. I am sorry. You see, the members of the PNM are coming to us to petition us to get justice against the Opposition [*Desk thumping*] The heading of the petition is urging us to persuade them to stop the disrespect of local government representatives. This is a PNM councillor, one of their own bosom who is supporting what I am saying obviously. One sees how wrong it is for us to use personalities to colour our judgment on important matters which affect the national interest of Trinidad and Tobago and it is not too late. I would ask the Opposition to reconsider because this has nothing to do with Minister Ganga Singh or the Minister of Local Government. This has to do with whether Members of Parliament and Ministers of Government should get an increase.

Let us face facts. If it is you feel that Members of Parliament are paid properly, say so. So far I did not hear the Member for San Fernando East say that the Members of Parliament in Trinidad and Tobago are paid properly. I have not heard him say that at all. As a matter of fact, I heard a Member of his party and a Member of Parliament who represents the PNM said that Members of Parliament are not paid properly. He has said he cannot come to the Parliament because he does not have enough money and he cannot perform his functions as a Member of Parliament because he is not getting enough money and he is not here today. The poor gentleman is in South Africa. He has to travel ocean in order to make a living, watching cricket, doing all sorts of things in order to make a living.

Mr. Deputy Speaker, you see how many Members of the Opposition are absent when the Parliament is sitting. Poor ladies and gentlemen they have to try to make a living because they recognize that the terms and conditions are not good enough. They recognize that they were not performing their duties as Members of Parliament.



**4.15 p.m.**

This is a House Committee report. The members of the committee are—and I would start at the top: Mr. Ramesh Lawrence Maharaj; Dr. Reeza Mohammed; Miss Pamela Nicholson; Mr. Manohar Ramsaran; Mr. Kenneth Valley; and Dr. Rupert Griffith. That was in November of 1997—

**Mr. Manning:** Mr. Deputy Speaker, could the Member please tell us whether the report was signed.

**Hon. R. L. Maharaj:** The report was signed. It was adopted in the Parliament. [*Interruption*] I will not read the whole report, because I read part of it already which said that the committee recognized that Members of Parliament were not being treated properly. There was a host of measures that it supported which included [*Interruption*] the provision to Members of the House of Representatives of adequate furniture and equipment in their constituency offices in order to discharge their duties.

When we got into office one of the complaints from the Members of Parliament—including complaints from the other side—was that their constituency offices were not properly serviced, because there was not sufficient furniture and equipment, therefore, there should be an increase in these facilities.

The House Committee considered that matter, Opposition and Government agreed, and recommendations were made. As Leader of Government Business I took it to Cabinet and we got improvements. Now they have computers, air-conditioning, [*Crosstalk*] increased staff and allowances.

**Mr. Bereaux:** I would like the Attorney General to clarify whether Members of Parliament are entitled to have air-conditioning in their offices. If he could tell me where it came from, I would be most pleased.

**Hon. R. L. Maharaj:** I cannot remember the details, but as far as I can recall from the House Committee, Members of Parliament who had computers were able to get air-conditioning, and fax machines. [*Crosstalk*]

Another matter was the office staff of the Members of Parliament were not being paid sufficiently. If I remember they could only employ two people at \$3,500. [*Crosstalk*] It was \$2,500 when we got into office. It was raised to \$3,500 for two people, then we further raised it to \$5,000 and they could employ three people. [*Desk thumping*] That was all part and parcel of the fact that the Members of Parliament, not us alone—[*Interruption*] They did not reject it, as a matter of fact they are enjoying that, and they are entitled to enjoy it.

The Salaries Review Commission did not have to see about that because the Cabinet had the authority to deal with it. Also, as part of the recommendation—*[Interruption]* Yes, the report was laid in the Parliament. It was not debated. The Opposition did not want to debate it and the Cabinet made a decision. *[Crosstalk]*

**Dr. Mohammed:** Why did you not raise a Motion on that?

**Hon. R. L. Maharaj:** Mr. Deputy Speaker, as part and parcel of the policy of the House Committee which consists of both Opposition and Government Members, we also felt that we should support the review by the Salaries Review Commission of the terms and conditions of service of Members of Parliament.

That was also part, just as the other things that were mentioned, and there were other reforms. One of the other reforms was, in effect, to have more effective management of the Parliament structure. Thus, this question of the Government supporting proposals for increased terms and conditions of Members of Parliament did not come out of the blue. It came because of the genuine recognition by both Opposition and Government, and based on that recognition a request was made by the President to have all these matters looked at.

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

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

*Question put and agreed to.*

**Hon. R. L. Maharaj:** Thank you, Mr. Deputy Speaker. The point has also been made—whether unrelated or related—about integrity legislation. If the Opposition was serious about integrity legislation—you would have heard that I had indicated we were prepared to debate today the Freedom of Information Bill. One of the most important tools that governments have recognized to deal with corruption is the question of having effective parliamentary systems and open government. All over the world there are allegations of corruption but the important thing is to have machinery to investigate, detect and prevent any acts of corruption.

The Freedom of Information Bill which is before this House is recognized worldwide to be an important tool. As a matter of fact, international lending agencies have recognized that freedom of information legislation and effective parliamentary systems are the most effective tools in dealing with investigating and preventing corruption.

When the PNM was in Government, they opposed a Freedom of Information Bill. As a matter of record, the Opposition drafted a Freedom of Information Bill,

brought it to this Parliament and the PNM then in government voted against it. They have not taken any steps—[*Crosstalk*] [*Mr. Manning stands*] Please, after tea I will give way.

**Mr. Manning:** I thank the hon. Attorney General for giving way. You are showing gentlemanly qualities. I want to correct the allegation. What we voted against was a version of the Freedom of Information Bill that was brought to Parliament by a then member of the Opposition who, in fact, sought to restrict access to information under the guise of the Freedom of Information Bill.

**Hon. R. L. Maharaj:** Mr. Deputy Speaker, that is untrue! [*Crosstalk*] As a matter of fact, the PNM government stayed in office. If they did not like that Bill could they not have amended it? They could have taken out the clause. They got a Bill already drafted, they did not like some of the clauses, they want to take out the clause, but they want the Opposition to advise them how to do that.

Mr. Deputy Speaker, do you see what I am talking about? [*Interruption*] That is it: they did not like me. [*Desk thumping*] [*Laughter*] They did not like the Member for Couva South.

**Mrs. Robinson-Regis:** Mr. Deputy Speaker, on a point of order, Standing Order 38. I contend that the Member for Couva South is anticipating, and I seek your ruling. [*Crosstalk*] [*Mr. Deputy Speaker peruses the Standing Order*]

**Mr. Deputy Speaker:** The Member for Couva South. [*Desk thumping*] [*Laughter*]

**Hon. R. L. Maharaj:** I want to give the assurance to the Member for Arouca South, that I am not debating the Bill, but merely answering the allegations that the Government is not interested in integrity. I go forward.

This administration has demonstrated by its proposed reform that it is interested in setting up mechanisms to have allegations of corruption dealt with. The PNM also opposed having an effective parliamentary system in which there would be Members of both Houses of Parliament examining every government department and ministry. How did the PNM from 1991—1995 before the election was called—that date when the Member for Diego Martin Central knocked his head when the then Prime Minister announced the date of the next general election. I remember that day, when the then hon. Prime Minister read from a handwritten note which he took out of his jacket, announced the election and the Member for Diego Martin Central knocked his head and looked up in the sky.

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I would not say what the Member for Diego Martin West said. [*Laughter*] But if you look at the record you would see from 1991—1995 whether the PNM passed or attempted to pass any law to deal with corruption or integrity. The answer is no. What you would find is that they attempted to pass a law to take away the independence of service commissions. What they are doing and saying today is that the Salaries Review Commission should not be independent, but that there should be political interference in its functioning.

They are again attacking the independent commissions. [*Crosstalk*] That is how they dealt with integrity. In 1991—1995 there were allegations of corruption against the Members for Diego Martin East and Central and the Member for St. Ann's East. But what did they do to set up any mechanisms to deal with it? I am sure the Member for San Fernando East as Prime Minister did not ask his Attorney General to go to the Member for Diego Martin Central when the *TNT Mirror* printed all kinds of things about him. I am sure the Member for San Fernando East did not ask his Attorney General about his life or how his revenue increased. [*Cross talk*]

I am reminded that when the allegation was made about the Member for San Fernando East selling his car, I am sure he did not ask the Attorney General to check on it. I am sure. [*Laughter*] It is right to put a response to the question of integrity and that the Government has not done anything about it. The Opposition has raised these issues to answer a Motion which is: do you agree that this House accept the report of the Salaries Review Commission?

**4.30 p.m.**

That is it. What I am saying is do not come and say that the Government was bad because if we have to answer this from what you have said, then I could talk about how the Member for San Fernando East locked up the Speaker. I do not want to talk about that here, Mr. Deputy Speaker. I want to talk about the issues in this report. [*Interruption*]

**Mr. Deputy Speaker:** Order! Member for Princes Town, order. The sitting is suspended for half an hour.

**4.30 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*

#### PROCEDURAL MOTION

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I wish to move that further debate on this Motion be adjourned to Friday, January 8,

1999 at 1.30 p.m. and that we proceed with the Senate amendments on the Postal Corporation Bill.

*Question put and agreed to.*

**TRINIDAD AND TOBAGO POSTAL CORPORATION (NO. 2) BILL**

**Senate Amendments**

**The Minister of Public Utilities (Hon. Ganga Singh):** Mr. Speaker, I beg to move that the Senate amendments to the Trinidad and Tobago Postal Corporation (No. 2) Bill, 1998 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:*

- A. In subclause (1)—
  - (a) insert after the words “exclusive right” the words “for a period of five years”;
  - (b) delete the full stop in paragraph (c), substitute a semi-colon and insert after paragraph (c), the following paragraph:
    - (d) perform for hire or reward, all incidental services relating to receiving, collecting, sending, dispatching and delivering any letter referred to in paragraph (a).”
- B. Delete subclause (4) and substitute the following subclause:
 

“(4) A person other than an employee or agent of Trinidad and Tobago Post who carries any letter weighing two kilograms or less for hire or reward within Trinidad and Tobago, commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.”

**Hon. G. Singh:** Mr. Speaker, I beg to move that this House doth agree with the Senate in the said amendment.

*Question proposed.*

**Mr. Colm Imbert** (*Diego Martin West*): Mr. Speaker, we note that one of the amendments is a matter debated at length. This particular clause the amendment of which will remove the exclusive right of this postal corporation and give them a right only for five years is an amendment that we proposed on this side of the House during the debate and the Minister, in typical arrogant UNC style, refused point blank. It is interesting that this has gone to the other place and come back now and the PNM's recommendation is now accepted.

The issue, however, is wider than that because there is this whole question of the delivery of mail and what constitutes a letter and so forth. The Minister has not explained what gave rise to this amendment in the Senate; why there is now deletion of subclause (4) and a change to subclause (4); why we have an amendment here in 9 (1) (a) and so forth.

Before we can agree to this, I would like the Minister to tell us why he has changed the exclusive right to a right for a period of five years. The Minister cannot reply? I hope the Minister can say something, if not, Mr. Speaker, we need to amend the Standing Orders. I hope that someone can tell us. If not the Minister, someone else on that side will tell us why we should agree to these changes because there is a delivery service in Trinidad and Tobago. There are courier services which have nothing to do with a post office. There are companies that deliver letters and they are not agents of the post office neither are they employees of the post office. Will this amendment mean that all of these companies now will have to go out of business? If so, can the Minister explain why he is against competition in this sector? Is it that the Government is in favour of monopolies?

One gets the impression that this is a Government that talks about things but its actions are totally different. Look at the case of cement. You heard a lot of talk from the Member for St. Joseph about cement and what he will do and he will take off the duty. He has done no such thing. It is just all "ole" talk from this Government about competition and so forth. We have heard all kinds of " coming from the Government about their not being in favour of monopolies. We have heard the Government state that they are going to lay in this Parliament a policy position about monopolies and yet—

**Mr. Assam:** It is coming.

**Mr. C. Imbert:** It is coming. Yeah, it is coming like the drop in the price of cement too.

Mr. Speaker, houses have gone up by \$10,000 because of this monopolistic Government. *[Interruption]* This creates a monopoly. This puts little people out of business and we do not agree with it.

I would like the Minister to say why he is opposed to competition. Why can he not say that there should be a premium on delivery of letters by persons not related to the post office; that they must charge twice, three times or four times. I understand in Canada that the premium is just three times, Mr. Speaker.

In Canada, private courier services are allowed to compete with the post office and the premium is only three times. Yet, we saw in the previous form of this legislation, they wanted to make it 10 times and now they want to completely eliminate the competition. So that this Government which talks so much about monopolies in the press—I thought Ministers were not supposed to talk to the press, but we see the Minister of Trade, Industry and Consumer Affairs all over the newspapers talking about Trinidad Cement Limited being a rogue company. We will deal with them.

**5.10 p.m.**

Then, there is some lame duck excuse about how he did not get the information.

**Mr. Assam:** I see the Member is envious. He does not get into the press.

**Mr. C. Imbert:** So, in effect, this Government is one that promotes monopolies to further its own ulterior interests. Why is the Minister opposed to competition? I would like the Minister to tell me now. Thank you, Mr. Speaker.

**Mr. G. Singh:** Mr. Speaker, at the time of the presentation of this Bill about two weeks ago, we made a thorough analysis as to why there was the necessity, at least in the transition period, for exclusivity for the post in terms of the letter mail. Express Mail Service, Parcel Post and other packages would be open to competition, but for letter mail, there must be exclusivity because, by virtue of the fact that we are taking an institution which is within the bosom of the public sector, without the attributes of a commercial enterprise and transforming it into a corporation, bringing about enterprise reform, we are now bringing it in the transition period to ensure that it must, in the initial period, have the monopoly. Because, Mr. Speaker, letter mail together with the sale of stamps comprise some 80 per cent of the revenue for the post. By embracing full competition at this premature stage would ensure that the postal corporation goes under.

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Therefore, we have established a time period—and this is the world learning in this area—that wherever there is the opportunity in the world to move from a public department, one of official governance to one of corporate governance in the postal services, there is a transition period and a general time-frame for that. The general time-frame we have projected is that of five years and we have agreed, within that period, to establish exclusivity for the post in terms of the letter mail only. There will be competition in terms of mail going overseas; in terms of Express Mail service; in Express Mail inland; in parcel post inland; but, only in terms of the letter mail, will there be exclusivity for that part of the market.

Further, with respect to what the hon. Member said, we listened to what they said and we recognized that there is need for some kind of compelling force to drive the process of change so as to make the postal corporation more commercialized and we felt that five years was a sufficient period as we had mentioned in the debate in this honourable House.

For those reasons, we felt that we had to prepare the post before we levelled the playing field. We cannot take an institution that is really without the facilities and throw it into open competition just like that. This is a transition period for open competition and competition will come five years hence.

Having recognized that, I beg to move that the House doth agree with the Senate in the said amendment.

*Question put and agreed to.*

*Clause 11.*

*Senate amendment read as follows:*

In subclause (3), delete the words “normally resides in Tobago and”.

*Question proposed.*

**Mr. G. Singh:** Mr. Speaker, this is merely a cleaning up exercise and for the purposes of better drafting, it gives the Tobago House of Assembly the power to determine who will sit on the board. This normally resides in Tobago but it was thought to be somewhat superfluous. It is merely a cleaning up exercise.

I beg to move that the House doth agree with the Senate in the said amendment.

*Question put and agreed to.*

*Clause 28.*



*Senate amendment read as follows:*

Insert after subclause (2), the following subclause:

- (3) The Minister shall lay in Parliament as soon as practicable after the date of assent of this Act, a report which shall include—
- (a) a statement of the amount of Trinidad and Tobago Post's initial capital referred to in subsection (1)(a);
  - (b) a statement of the liabilities converted into capital pursuant to subsection (1)(b);
  - (c) a statement of the amounts paid by way of Parliamentary appropriation referred to in subsection (1)(c); and
  - (d) a copy of the valuation referred to in subsection (1)(d).

*Question proposed.*

**Mr. G. Singh:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Mr. Speaker, this merely makes clause 28 more accountable to Parliament and it allows the statement of the capital, liabilities and amounts paid by way of parliamentary appropriation and a copy of the valuation of the assets to be brought before this honourable House.

**Mr. Imbert:** Mr. Speaker, this matter arose, I am advised, because there are serious concerns about integrity and I would ask—[*Cellular telephone rings*]

**Mr. Speaker:** Sorry. No. That really is a bit much.

**Mr. Maraj:** Mr. Speaker, I apologize. I had taken it off.

**Mr. Speaker:** Please continue.

**Mr. Imbert:** Mr. Speaker, serious questions of integrity surround the actions of persons who support the present administration. [*Cellular telephone rings again*]

**Mr. Imbert:** I do not know if this is deliberate.

**Mr. Maraj:** Clearly it is malfunctioning, Mr. Speaker.

**Hon. Member:** Throw it away.

**Mr. Valley:** Take out the battery.

**Mr. Imbert:** I am raising questions of integrity and I am being disturbed.

Mr. Speaker, may I ask that before a management contract is entered into for the post office, or before any arrangement is made by the Ministry of Public Utilities or the Government with regard to the transfer of assets, sale or the awarding of a management contract for the post, that this clause be amended and that this matter be laid in Parliament prior to that action. Because, if we have a situation where a contract is awarded that is questionable, what is the point of laying it in Parliament after the fact?

I noticed that this is a step in the direction that the people of this country want; they want more transparency from the Government. There are so many things taking place; so many contracts and so many irregularities are spoken about, that this amendment seeks to address that partially. But, why are these matters not to be laid in Parliament before any action is taken with regard to the transfer, sale or giveaway of state assets? I ask the Minister to tell me why. Could he tell me whether he will be laying this in Parliament before giving away the post to New Zealand Post, or after giving away the post to New Zealand Post? Or, like the InnCogen matter, where we found out about it afterwards.

I understand there is something called “WaterGen” that is coming soon. Just like InnCogen, it is a question of dealing with the management of public assets. I understand this may be another matter where we will find out about it after the fact.

So, can I ask the Minister to explain why, or if these matters will be laid in Parliament before or after the post is given away to New Zealand Post.

**Mr. G. Singh:** Mr. Speaker, I know it is pretty late in the afternoon but the hypocrisy of the Member for Diego Martin East is unbelievable. Here it is, I informed this honourable House on August 14 that we have entered into negotiations. I outlined to this honourable House the members of the negotiating team dealing with the New Zealand contract and that New Zealand Post was the preferred bidder and the various aspects of it. This is a management contract. Now, my good friend from San Fernando East—

**Mr. Manning:** I said nothing. How I came into that?

**Mr. G. Singh:**—entered into a management contract five days before an election campaign.

**Hon. Member:** Which he knew he was going to call.

**Mr. G. Singh:** Yes. We have demonstrated throughout this postal divestment process, Mr. Speaker, in this management contract, the clarity and transparency of

purpose of the negotiating process that is on-going and it is unbelievable the level of hypocrisy demonstrated by the Member for Diego Martin East.

**Mr. Valley:** Mr. Speaker, I wonder whether the Minister would give way. I have one question. I wondered—and I agree that there is a process for the

**Mr. G. Singh:** No. It is not divestment; it is a management contract.

**Mr. Valley:**—why a similar process was not followed in the InnCogen deal.

**Mr. G. Singh:** Mr. Speaker, I am on my feet in the debate and I have been demonstrating the openness of the process. Similarly, we have taken the same approach in the postal sector. So that we have to do things in a certain sequence. We have to form the corporation and when the corporation is formed, the assets of the post will be vested in the corporation and then the board will make the decisions. Then, only when the assets are vested, will we have an appreciation of the capital and liabilities, of any amounts to be appropriated by way of Parliament and of the valuation of the assets to be vested in this corporation; then we can lay this in Parliament. So, I do not see the question arising at all. We have demonstrated throughout the process, that we intend to keep Parliament informed.

Mr. Speaker, having regard to that, I beg to move that this House doth agree with the Senate in the said amendment.

*Question put and agreed to.*

**5.25 p.m.**

*Clause 45.*

*Senate amendment read as follows:*

“Insert after the words ‘prepayment of the postal article’, the words ‘where the required postage is not paid by the addressee.’”

**Mr. G. Singh:** This is merely by way of ensuring that if a package is sent to you and there is insufficient postage attached to the package, you would be given the opportunity to pay the additional postage and collect the package. So it is a cleaning up and, in a sense, for better governance of the system.

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

*Question proposed.*

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*Question put and agreed to.*

*Clause 46.*

*Senate amendment read as follows:*

“In subclause (2), delete the words ‘neglects or’ and substitute the word

**Mr. G. Singh:** Mr. Speaker, in this case there is the obligation to pass on the article, and we listened to what Members had to say and we moved the appropriate amendment. Therefore, it establishes a measure of knowledge rather than merely having this in your possession so the word “knowingly” seeks to cover that and the Upper House agreed with it.

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

*Question proposed.*

**Mr. Valley:** Mr. Speaker, I have a fundamental difficulty with this clause, and the change from the words “neglects or” to the word “knowingly” does not change the situation at all.

Clause 46 says:

“(1) Where a postal article has not been delivered to the addressee but comes into possession of a person other than the addressee, that person shall return it to Trinidad and Tobago Post for delivery.

(2) A person who neglects or fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars.”

Mr. Speaker, as a fact, I am in breach of that right now. I bought a property in 1981 and for some reason, the post continues to deliver mail there to the former owner and I do not know where he is and I really do not feel—after doing it for a few years—that I should be under an obligation to be running to the post office to be carrying this mail. My time is valuable. I have a number of things to do and I have a fundamental difficulty with this clause. I think it interferes with my rights to use my time as I see fit, rather than acting as an employee of the post office.

I think the simple thing is just do not deliver it to my house in the first place, then there would be no difficulty. I am once more asking the Minister to refrain from placing an obligation on a citizen. The emphasis ought to be placed on

having the postal employees do their jobs rather than, because of their negligence, placing a liability for a fine of five thousand dollars.

**Mr. Imbert:** Mr. Speaker, I too, object to this clause. We object to it in its original form and we object to the amendment.

Mr. Speaker, suppose the Member for Couva South keeps sending me a copy of the *Rising Sun*, but it is not addressed to me, it is addressed to someone else but they keep delivering the *Rising Sun* to my house. I tell them I do not want it, stop delivering it here and they keep delivering this rubbish to my house and after a while I say, "garbage for you". It is addressed to my neighbour, not to me, but they tell the postman to deliver it to my address and I knowingly decide to discard this object. Am I liable on summary conviction to a fine of \$5,000 because I do not like the *Rising Sun*? This is ridiculous!

Mr. Speaker, I have used this example because somebody could be set up with this clause. This is bad law, that is why I am putting it in *Hansard* because if it goes to court I would bring the record of *Hansard*, with your permission Mr. Speaker, and with the permission of the House, because I object to a clause which indicates that if someone continuously delivers mail to me which is destined for somebody else, I have an obligation to carry it back to the post office even if I keep writing the post office to stop sending me this thrash, this thing with the sun on it with the five things. This clause needs some amendment, it needs some tightening up.

I am assuming that the word "knowingly" has been inserted so that the person would be informed so they would come to you and say, "Mr. Imbert, you have received a copy of the *Rising Sun*, but it is for your neighbour, please give it to the post office." And the next day they send me another copy, and the next day after that, and the next day after that, so I know that I am getting somebody else's mail.

Mr. Speaker, there is need for an amendment to this amendment which gives someone the right to advise the post office that it is sending mail that you do not want and once the person does that, that person is relieved of any obligation and not subjected to any prosecution. Who is to be charged? The occupant, the person's name which is in the post office?

Suppose my brother is a UNC member and the mail is coming for him, but it is coming under my name because I am the occupant. This clause is too loose, and I reject this clause, I would like the Government to amend it and get rid of the ambiguities.

**Mr. Sinanan:** Mr. Speaker, I too would like to join my colleagues in objecting to this clause for the fundamental reason being that it cannot be

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enforced. How are you going to enforce this clause? You have the mailman delivering mails, he does not know the sender, the sender does not even know if the mailman is going to take that mail from the post office and deliver it to "X". There is no proof so when you say the person is going to be fined if he knowingly proves intent. This clause cannot be enforced. Here we are passing laws that could never be enforced. I am appealing to the Minister to look at this again. It is impossible to enforce this clause.

**Mr. G. Singh:** Mr. Speaker, I wish to thank the hon. Members for their contribution. We went through that in the debate and as I indicated on that occasion there is certainly an ideological distinction between those on that side and those on the Government side. The ideological distinction points to simply that we place individual responsibility upon people, whereas those on that side there is no individual responsibility whatsoever in a measure of anarchy and let there be a free for all. *[Interruption]*

Mr. Speaker, by rewording the provision by adding the word "knowingly" we are seeking to establish that a certain mental component must be there that you must have the literate knowledge that this letter is in your possession and it is not meant for you. I understand what the Member is saying, but it places an obligation on him to inform the post office.

The whole section must be read. Clause 46(1) says:

"Where a postal article has not been delivered to the addressee but comes into possession of a person other than the addressee, that person shall return it to Trinidad and Tobago Post for delivery."

There is a real problem of mail security in the country, and whereas you may have a situation as indicated by hon. Members, there is something sacred about the mail and if you get a letter not meant for you there must be an obligation with the sanction associated with that for you to take it back to the post office.

Mr. Speaker, in many instances there are people taking mail which is not meant for them and rifling through the mail and this provision also covers that. It also seeks to place significant obligation on the ordinary citizens to ensure that they return mail which is not meant for them and places a high threshold on individual responsibility which is consistent with our policy position.

*Question, on amendment, put.*

*The House divided:*      Ayes: 18      Noes: 12

AYES

Maharaj, Hon. R. L.  
Singh, Hon. G.  
Persad-Bissessar, Hon. K.  
Lasse, Dr. The Hon. V.  
Griffith, Dr. The Hon. R.  
Humphrey, Hon. J.  
Sudama, Hon. T.  
Maraj, Hon. R.  
Rafeeq, Dr. The Hon. H.  
Assam, Hon. M.  
Job, Dr. The Hon. M.  
Khan, Dr. F.  
Nanan, Dr. The Hon. A.  
Partap, Hon. H.  
Mohammed, Dr. The Hon. R.  
Singh, Hon. D.  
Ramsaran, Hon. M.  
Ali, R.  
NOES  
Valley, K.  
Manning, P.  
Imbert, C.  
Robinson-Regis, Mrs. C.  
Narine, J.  
Hart, E.  
James, Mrs. E.  
Bereaux, H.  
Joseph, M.  
Sinanan, B.

Hinds, F.

Williams, E.

*Question agreed to.*

*Clause 49.*

*Senate amendment read as follows:*

“Delete the words ‘containing any noxious substance or thing, including a dead animal commits an offence’ and substitute the following words:

- (a) substance, the possession of which contravenes the Dangerous Drugs Act, 1991;
- (b) noxious substance or thing including a dead animal or filth, commits an offence.”

**Mr. G. Singh:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

Mr. Speaker, with respect to the amendment from the Senate, I wish to indicate to this honourable House that the Government proposes to delete clause 49 “(a) substance, the possession of which contravenes the Dangerous Drugs Act, 1991;” and the letter “(b)”

It now reads as follows:

“Delete the words ‘containing any noxious substance or thing, including a dead animal commits an offence’ and substitute the following words:

- (a) noxious substance or thing including a dead animal or filth,”

Mr. Speaker, the reason for this is that clause 49(a) is already covered by the Dangerous Drugs Act, 1991 so it is redundant.

*Question proposed.*

*Question put and agreed to.*

**5.40 p.m.**

*Clause 51.*

*Senate amendment read as follows:*

Insert after subclause (2), the following subclause:



“(3) The detention in Trinidad and Tobago Post of any postal article on the ground of its being in contravention of this section shall not exempt the sender thereof from any proceedings which might have been taken if the postal article had been delivered in due course”.

*Question proposed.*

**Mr. G. Singh:** Mr. Speaker, I beg to move that the House doth agree with the Senate in the said amendment.

This is dealing with the posting of dangerous enclosures and it merely seeks to clarify the issue further. I beg to move.

*Question put and agreed to.*

*Clause 58.*

*Senate amendment read as follows:*

Delete and substitute the following clause:

“Limitation period            58. Notwithstanding the provisions of any other enactment, an information shall not be laid in respect of an offence under this Act after five years from the time when the matter of the information arose.”

**Mr. Valley:** Does that make any sense to you?

**Mr. G. Singh:** Mr. Speaker, when we were before this honourable House, one would recall that the previous provision stated:

“Notwithstanding anything in the Summary Offences Act, any information in respect of an offence against this Act may be laid at any time.”

We sought advice on the matter and went with this amendment before in the other place and it received the approval of the other place. Therefore, there is a limitation period now, whereas previously, there was no limitation period and it was very much open. We took the comments of Hon. Members on the other side. Mr. Speaker, I beg to move.

*Question proposed.*

**Mr. Imbert:** Mr. Speaker, on the previous occasion we had indicated that this clause was ridiculous where one could lay charges against someone at any time, 20 to 35 years after the fact. Of course, the hon. Members opposite ignored us and railroaded the legislation through this House. However, we now see five years, but again, it is with respect to any offence. So, the offence which they would not be

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successful in charging me for of not delivering the mail that they sent to me erroneously—which has a \$5,000 penalty—now has a limitation of five years and other offences, like opening up a little company and delivering letters weighing less than 2 kilograms, which has a fine of \$100,000 also has a limitation of five years.

In legislation of this type, the Attorney General, himself, has brought legislation to this House which changed the statute of limitations on the recovery of debts where the period was two years previously and he has categories of offence and different times for categories of offence. I find that this is a weak attempt to address the issues that we raised. There are different categories of offence; there should be different categories of limitation, as there are with regard to debts and other matters that relate to the statute of limitations. This, again, is bad law, so I ask the Government to look at that for me, please.

**Mr. Valley:** Mr. Speaker, I have a simpler difficulty in understanding what this means, specifically, this concept of “an information”.

**Mrs. Persad-Bissessar:** It is a charge.

**Mr. Valley:** A legal term?

**Mr. Maharaj:** Mr. Speaker, perhaps after I explain. An information is a document whereby prosecution is commenced. In some cases, there is an indictment which is the matter before the High Court, but an information is a matter before the Summary Court.

I think the question which is being asked is, why five years? The reason for the five years for an offence under this Bill is that I understand there have been discussions with the police and the office of the Director of Public Prosecutions and it is said that it is difficult to detect and prosecute offences under the Postal Act within a six-month period or within a year, so they opted for a period of five years. Four years is for civil matters. I was going to suggest three years because I think what they might do is encourage the authorities. So, instead of the five years, we will put “after three years”.

**Mr. G. Singh:** Mr. Speaker, I think this is an appropriate way to end the debate this evening, and I beg to move.

*Question proposed,* That the House doth agree with the Senate in the amendment of clause 58 but for the fact that “after five years” will now read “after

*Question put and agreed to.*

#### SEASONS GREETINGS

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, before I move the motion for the adjournment, this being the last sitting for the year, and the last sitting before the Christmas holiday, I take the opportunity—apart from wishing Members on the other side a blessed Christmas—for us to note with appreciation the Christmas greetings expressed by His Excellency, the President, to Members of the House and for us to return our best wishes for a blessed Christmas to His Excellency, the President, and Mrs. Robinson and members and their families.

We on this side of the House also take the opportunity of wishing you, Mr. Speaker, and your family a very blessed Christmas and a bright and prosperous new year. To the Opposition Members on the other side, we take this opportunity to wish them and their families a very blessed Christmas and a bright and prosperous new year. I do not think it is understood at times by the wider community that we in this Parliament may have differences of views from time to time, we would disagree on matters as far as Government and Opposition is concerned, but I think I can say with authority from both sides that we do wish each other well.

I also extend the same greetings to the members of the staff of the Parliament; the Clerk of the House; the Clerk of the Senate; the members of the police service; the members of the army who come from time to time; the members of the media and their families, also; the public servants who assist Ministers of Government from time to time and staff who assist Members of the Opposition from time to time, to wish them and their families a very merry Christmas.

Mr. Speaker, I do not know why it is always difficult for the public to understand. When a politician says religious things, they do not seem to equate politics with religion. At this time of the year, we celebrate the birth of Jesus Christ and I think it would be correct to say that no matter what religion one belongs to in Trinidad and Tobago, the national community celebrates the birth of Jesus Christ, because his life and his coming have represented peace, love and righteousness. One of the events I always remember in the Bible is where there was a bright lawyer who was trying to trap Jesus and he asked Jesus which is the best law and Jesus said, “Love the Lord thy God with all your soul and all your mind and love thy neighbour as thyself”. As law makers, I think that if we

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remember and practise that, Trinidad and Tobago would be a better society, and perhaps at this time of the year, it may be good for us to recommit ourselves to love our God and love our neighbours as ourselves.

Thank you very much. [*Desk thumping*]

**Mr. Kenneth Valley** (*Diego Martin Central*): Mr. Speaker, I join in the sentiments expressed by the Leader of the House and we on this side of the House extend the best of the season to the President of the Republic and Mrs. Robinson; to you, Mr. Speaker, and your family; to our colleagues opposite; to the staff of the Parliament and the members of the media who are here with us all of the time.

**5.55 p.m.**

Mr. Speaker, as we celebrate for yet another year the anniversary of the birth of our Lord, I ask that we reflect on the meaning of this season, the rebirth, the spiritual meaning and ask that really, we recommit ourselves to what is right and just, to recommit ourselves to all our people in Trinidad and Tobago and to understand as a fact that when we are out of Trinidad and Tobago, it does not matter where we are, whether it is in England, New York, that we see ourselves as Trinidadians and Tobagonians. Having lived out there for seven years, that out there, as a fact, there is no division: there is no Indo-Trinidadian or Afro-Trinidadian; we are all Trinidadians and Tobagonians. I say if that is what obtains out there, that is what ought to obtain here in Trinidad and Tobago and that as leaders, we have an obligation to send that message throughout our communities. We have an obligation also to ensure that we conduct our affairs, at all times, so that they can stand the closest of scrutiny.

My hope is that when we return after the season and into the New Year, we would have that rebirth, that inspiration and live the meaning of the life that is Jesus.

I want to take this opportunity also to wish our Muslim brothers and sisters a holy month of Ramadan.

On behalf of this side, we wish the national community a safe, spiritual Christmas and a bright and prosperous 1999.

Thank you, Mr. Speaker. [*Desk thumping*]

**Mr. Speaker:** Hon. Members, I wish to join both sides of the House and associate with the greetings and felicitations which they expressed in respect of the Yuletide season and the New Year and in respect of the holy month of Ramadan.

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I acknowledge and am grateful for the good wishes which have been expressed to me and my family for this time of the year. I acknowledge on behalf of the staff, the greetings that have been given. That certainly shows some recognition of the hard work they have been putting into this place. As I say, quite apart from joining in the greetings which have been expressed to His Excellency the President and his family, I certainly want to reciprocate the good wishes, the blessings of the Almighty and wish that all Members of this House would have a happy, holy Yuletide season and that more peace and tranquillity would prevail in the New Year, 1999.

It would be remiss of me if I did not express the wish that in the New Year, 1999, the peace, happiness and goodwill that comes over so many of us at this time of the year will continue into the New Year, and that we will have a Parliament which conforms a little more to the Standing Orders. That would certainly redound to the credit of all of you Members.

So, I am grateful to you for the good wishes which have been expressed. I associate with all of them. It is left for me simply to put the question that this honourable House send expressions of goodwill, happiness and felicitations to His Excellency the President and his family for a holy and happy Christmas and for a bright and prosperous New Year. It is quite clear that the Ayes have it.

#### ADJOURNMENT

**The Attorney General (Hon. Ramesh Lawrence Maharaj):** Mr. Speaker, I beg to move that the House do now adjourn to Friday, January 8, 1999 at 1.30 p.m. On that day we shall do the Freedom of Information Bill and the Motion which was in progress.

*Question put and agreed to.*

*House adjourned accordingly.*

*Adjourned at 6.03 p.m.*