

Leave of Absence

Wednesday, February 24, 1999

HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1999

The House met at 10.30 a.m.

PRAYERS

[MR. SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Mr. Speaker: Hon. Members, I wish to advise that I have received communication from the Member for St. Ann's East, who has asked to be excused from today's sitting. The leave of absence he seeks is granted.

**ANNIVERSARY OF THE MACE
(100th)**

Mr. Speaker: I also wish to advise Hon. Members of this House that the Mace they see before them at every sitting of the House, is 100 years old this year. In fact, if anybody cares to examine it, they would notice that it was struck in the year 1899, and it has inscribed on it the names of subscribers to the Mace. I think that it is worthy of note and Hon. Members should appreciate some of the history associated with this honourable House. [*Crosstalk*]

There has been something *soto voce* from the hon. Leader of the Opposition asking whether there would be some more names put on it. Insofar as it is possible for a Speaker to exercise his discretion, I would say to him that discretion is leaning towards the names of all of the Members of this honourable House being there in the year 1999. When it comes to the next 100 years I do not know where the Speaker then would put names, but the suggestion the hon. Leader of the Opposition has made has been taken. [*Crosstalk*]

PAPERS LAID

1. The report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ending December 31, 1992. [*The Attorney General (Hon. Ramesh Lawrence Maharaj)*]
2. The report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ending December 31, 1993. [*Hon. R. L. Maharaj*]

Papers Laid

Wednesday, February 24, 1999

3. The report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Cocoa and Coffee Industry Board for the year ending December 31, 1994. [*Hon. R. L. Maharaj*]
4. The report of the Auditor General on the accounts of the Siparia Regional Corporation for the year ended December 31, 1992. [*Hon. R. L. Maharaj*]
5. The report of the Auditor General on the accounts of the Siparia Regional Corporation for the year ended December 31, 1993. [*Hon. R. L. Maharaj*]
6. The annual audited financial statements of Taurus Services Limited for 1997. [*Hon. R. L. Maharaj*]

Papers 1 to 6 to be referred to the Public Accounts Committee.

7. The annual audited accounts of Trinidad and Tobago National Petroleum Marketing Company Limited for the year ended March 31, 1998.

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

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Performance Bond—Maritime (Payments)

18. (a) Would the Minister of Works and Transport state whether any payments have been made for the Performance Bond provided by Maritime to Northern Construction for its terminal building contract on the Piarco Airport Development Project?
- (b) If the answer to part (a) is affirmative, would the Minister state the quantum of such payments, and the value of the Bond. [*Mr. C. Imbert*]

Local Government Elections (Prisoners' Right to Vote)

19. (a) Would the hon. Minister of National Security indicate whether prisoners and persons on remand at the State's penal institutions will be allowed their right to vote in the upcoming Local Government Elections?
- (b) Would the Minister outline his Government's policy on the right of prisoners and others in state custody to vote? [*Mr. F. Hinds*]

**Report on Ken Soodhoo
(Engagement of Expert)**

23. (a) Did the Minister of Energy and Energy Industries engage the services of any legal experts during the preparation of the report in response to the Prime Minister's request for all details surrounding the hiring of Ken Soodhoo at National Petroleum Co. Ltd.?
- (b) If the answer is in the affirmative, could the Minister identify the expert and state if any reference was made to him/her in the report?
- (c) Could the Minister further give a breakdown of the total cost of legal services incurred during the preparation of the said report and also state the source of funds from which the legal bills were paid? [Dr. K. Rowley]

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, may I request that the answer to question No. 18 be deferred to the next sitting of Parliament and that questions Nos. 19 and 23 be deferred for one week?

Questions, by leave, deferred.

**Maritime Life
(Winsure portfolio)**

16 **Mr. Kenneth Valley** (*Diego Martin Central*) asked the Minister of Finance:

Could the Minister please state:-

- (a) Whether the independent actuary has completed the review of the Winsure portfolio?
- (b) Whether any payment has been made to Maritime Life in connection with the Winsure matter?

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. Speaker, in answer to the first part of question No. 16, the report has not as yet been completed, and the answer to the second question is that no payment has been made to Maritime Life.

Mr. K. Valley: Mr. Speaker, I have a supplemental. Would the Minister of Finance state what has happened to the \$25 million which was on its way to Maritime Life which was placed in escrow at Scotia Bank?

Sen. The Hon. B. Kuei Tung: It is still at Scotia Bank as far as I know. As I said, no payment has been made.

Mr. K. Valley: Mr. Speaker, would the hon. Minister state whether any attempts have been made by the Government to recover those funds from Scotia Bank?

Sen. The Hon. B. Kuei Tung: Mr. Speaker, no attempt has been made to recover the funds. The funds are held in escrow for the purposes for which they were intended.

Mr. K. Valley: Mr. Speaker, if the independent actuary has not completed his report as yet, would the Minister not think that the funds ought to be returned to the Treasury until some report is completed?

Sen. The Hon. B. Kuei Tung: Mr. Speaker, the fact is, the Ministry is of the opinion that the amount of money which is going to be required is far in excess, even with the current actuarial valuation, and already the preliminary data suggests that the amount would not be sufficient, so it does not make sense having the money sent back for it to be re-issued. It is held in escrow. We expect that the actuarial report is going to come in very soon, and as soon as that happens a decision will be made.

Mr. K. Valley: Mr. Speaker, is the Minister saying that there is some preliminary report that is available?

Sen. the Hon. B. Kuei Tung: No, I said preliminary data, I did not say preliminary report. We expect the report to be coming in very soon.

Mr. K. Valley: I just have one more supplemental. Would the Minister indicate whether interest is accruing on the funds, and to whom would that interest be paid?

Sen. The Hon. B. Kuei Tung: I can only assume that interest would be accruing. I am not the person who would have negotiated the rate of interest. I would imagine that the interest would accrue to the Government because the accounts are being held in escrow on behalf of the Government.

Unemployment Relief Programme (Staffing)

17. Mr. Kenneth Valley (*Diego Martin Central*) on behalf of Mr. Colm Imbert asked the Minister of Local Government:

Could the Minister please state:

- (a) The names, qualifications, job positions and responsibilities of all staff selected to administer, manage and implement the Unemployment Relief Programme in the Diego Martin Region in 1999?

- (b) The recruitment process used to select the staff referred to in part (a) above, including the nature and dates of advertisements for the job positions, interviews, ranking of applicants and reasons for selection of the chosen persons?
- (c) Whether the Council of the Diego Martin Regional Corporation was consulted prior to the selection of persons referred to in part (a) above?

The Minister of Local Government (Hon. Dhanraj Singh): Mr. Speaker, question No. 17 comprises three parts. The reply to part A: the job position, responsibilities and names of the staff selected to administer the Unemployment Relief Programme in the Diego Martin region in 1999 are as follows:

NAME	POSITION	QUALIFICATIONS	RESPONSIBILITIES
Wardah Marshall	U.R.P. Manager	O Levels, A Levels and extensive experience in supervisory positions.	Responsible for the overall management of URP in the Region
Thomas Sanoir	Materials Manager	Extensive experience in supervisory positions and former Regional Manager, Materials, at the Ministry of Works.	The co-ordination and maintenance of an inventory system for materials and co-ordination of transport services.
Donald Berment	Engineering Assistant	O Levels, A Levels. Currently completing accreditation in Architecture and Interior Design on a part-time basis from a US university with extensive experience in the Engineering field.	Ensures the implementation of all projects at the construction site in accordance with plans and specifications.
Harold Schullere	Project Supervisor	Primary School Leaving Certificate, computer literate with extensive experience in the supervisory field and former Director of Chaguaramas Development Authority.	Supervises a group of skilled and unskilled workers engaged in the maintenance and care of public buildings, grounds, roads and other facilities.
Helen Addool	Assistant Accountant	O Levels with extensive accounting experience.	Maintains general accounts and supervises clerical staff in the Accounting Unit.

*Oral Answers to Questions**Wednesday, February 24, 1999*

Aliston Joseph	Recruitment Officer	O Levels with experience in the field.	Recruits workers on URP projects from an approved list.
Natalie Lewis	Data Entry Clerk	O Levels, computer literate with experience in the field.	To maintain a register in an efficient and timely manner.
Nancy Lewis	Clerical Officer	O Levels and experience in related field.	Performs routine clerical tasks and able to communicate effectively.
Mohannie Mamdeensingh	Clerical Officer	O Levels with experience in related field.	Performs routine clerical tasks and able to communicate effectively.
Glenda Loreille	Clerical Officer	Experience in related field.	Performs routine clerical tasks and able to communicate effectively.
Jemma Sutton	Clerical Officer	O Levels and experience in related field.	Performs routine clerical tasks and able to communicate effectively.
Nika Julien	Clerical Officer	O Levels, A Levels with experience in the field.	Performs routine clerical tasks and able to communicate effectively.
Karen Karatali	Clerical Officer	O Levels with extensive experience in the field.	Performs routine clerical tasks and able to communicate effectively.
Ann Letren	Stores Clerk	Former Clerical Officer in the Accounts Department of the URP and experience in the field.	Assists the Inventory Control Officer in the keeping and maintenance of stores
Jacinta Sylvester	Accounts Clerk	O Levels and extensive experience in the field.	Assists the Assistant Accountant in maintaining general ledgers, posts entries to these books from supporting records.
Grace Moore	Accounts Clerk	O Levels and experience in related field.	Assists the Assistant Accountant in maintaining general ledgers, posts entries to these books from supporting records.

*Oral Answers to Questions**Wednesday, February 24, 1999*

Mahalia Davis	Accounts Clerk	O Levels and experience in related field.	Assists the Assistant Accountant in maintaining general ledgers, posts entries to these books from supporting records.
Cindy Coonai	Training Officer	O Levels and experience in related field	Among other things, to interview applicants to determine suitability for placement under the Industrial Training Project

10.45 a. m.

As regard part B of the question, Mr. Speaker, the advertisements for Unemployment Relief Programme monthly paid positions were carried in the press from December 15 to December 17, 1998. These advertisements did not specify qualifications. A panel was established by the Ministry to conduct interviews for the positions. Interviews for the various positions were held as follows:-

Position	Date of Interview
URP Manager	January 08, 1999
Materials Manager	January 11, 1999
Engineering Assistant	January 08, 1999
Project Supervisor	January 11, 1999
Assistant Accountant	January 12, 1999
Recruitment Officer	-do-
Data Entry Clerk	January 15, 1999
Clerical Officer	January 14, 1999
Stores Clerk	January 13, 1999
Accounts Clerk	-do-
Training Clerk	-do-

The interview panel comprised senior officials from within the Ministry's head office fraternity. The panel had at its disposal representatives from the chief executive fraternity such as the CEO from the Couva/Tabaquite/Talparo and Princes Town Regional Corporations who could be consulted when necessary. Due to the large number of applicants the panel shortlisted four applicants for the

advertised positions. The panel then selected persons based on the combination of experience and qualifications suitable for the positions.

The answer to the last part of the question. It has never been the policy of the Ministry of Local Government to consult with the Diego Martin Regional Corporation or any other corporation prior the selection of persons to be employed in the monthly-paid positions in the Unemployment Relief Programme. Additionally, it should be noted that the practice in the past was never to obtain inputs from local politicians for the filling of monthly-paid positions. Thank you Mr. Speaker.

Paramin Village

21. Mr. Fitzgerald Hinds (*Laventille/East Morvant*) asked the Minister of Social Development:

Could the Minister kindly state:

- (a) the basis used by the Ministry of Social Development to determine that Paramin Village, Maraval, is below the poverty line and to be declared a poor community?
- (b) the basis upon which the National Lotteries Control Board adopted Paramin Village as a poor community?

The Minister of Social Development (Hon. Manohar Ramsaran): Mr. Speaker, The Adopt a Community Programme is an innovative strategy designed to create the partnership amongst Government agencies, the corporate sector and disadvantaged communities for the development of the latter. The strategy is based on the recognition, internationally, that multi-sectorial and participatory development approaches facilitate sustainable improvements in the quality of life of all citizens. The programme which has been co-ordinated by the Change Management Unit for Poverty Eradication and Equity Building is one of the initiatives of the Ministerial Council of Social Development. The objective of the Ministerial Council is to build collaboration amongst line ministries, non-governmental organizations and the private sector, on the basis of the holistic vision of social development for Trinidad and Tobago and to ensure that all stakeholders, including poor communities themselves, are brought into the process of dialogue and collaborative planning for their own development.

Implementation of the programme commenced in May, 1998 and 14 corporate sponsors have adopted 25 communities throughout Trinidad and Tobago. The sponsors will provide support to the development of these communities in the

areas of education and training, apprenticeship and income-generating projects, sports and cultural development and infrastructural development.

The government sector will be responsible for the overall co-ordination, as well as the collaborative action among agencies to address relevant and specialist needs of the community. Accordingly, such agencies as the Community Development Division, the National Self-Help Commission, YTEPP, the Water and Sewerage Authority, the Regional Corporations, et cetera; are brought into the programme as the needs of the community dictate.

The corporate sponsors were guided in the selection of communities on the basis of data supplied by the Change Management Unit as follows:

Findings of the Report on the Determination and Measurement of Poverty in Trinidad and Tobago, which was compiled by the then Ministry of Social Development on the basis of the 1992 Survey of Living Conditions.

Findings of the 1997 Central Statistical Office study entitled Poverty Analysis of Trinidad and Tobago Communities, which was compiled on behalf of the Community Development Fund Secretariat of the Ministry of Planning and Development.

Recommendations of the field officers of the Community Development Division who interface directly with communities on an ongoing basis.

With specific respect to Paramin, the methodologies adopted in the poverty analysis of Trinidad and Tobago communities is instructive. A very simple methodology was utilized in the evaluation of the communities involving a poverty index of three variables namely: unemployment water supply and household per capita income. Other measurements or value outputs at the community level were also looked at, although they did not form part of the calculation of the poverty index but could be used to draw further inferences. These included:

- i. Percentage of households without certain utilities
- ii Refrigerator
- iii Electric Lights
- iv Telephone
- v Television
- vi Percentage of dwelling units on squatting lands
- vii Number of households and population

- viii The number and percentage of the labour force engaged in the main occupational groups.

With respect to the three main variables used: unemployment, water supply and income, the rates indicated in the 1990 national census or other available data were utilized as base rates in determining the level of deficiency experienced by communities. In the case of unemployment, the rate for the year 1990 was 20 per cent, while approximately 25 per cent of all households obtained their supply from standpipes, springs, rivers or truck borne.

With respect to income, a poverty line figure of \$461.00 was used. This was based on the Report on the Determination and Measurement of Poverty 1996, which established a poverty line figure per single person which now stands at \$623.00 per month. The figure was adjusted to reflect the 1990 value, for consistency with the other measures used. In each case the value of zero was assigned to those communities which recorded higher percentages or lower income levels than the national figures and a value of plus one for those with lower percentages or higher income levels.

Using this methodology, values were assigned to communities from a value of zero to a value of three, representing the greatest of the lowest level of deprivation or deficiency experienced by the communities. It is in this study that the community of Paramin was assigned a value of one reflecting a level of high deficiency. Moreover, the hands-on experience of field officers have confirmed that while Paramin is a strong agricultural community, the people suffer greatly for access to water during the dry season. The lack of water reduces both the quality and quantity of their crops and, therefore, the livelihood of the residents.

Additionally, it is not unusual for insufficient attention to be paid to the needs of poorer communities which are tucked away in the midst of more affluent areas. An assessment of the needs of the community which was provided to the corporate sponsor prior to selection of the community, identified a number of community deficiencies including:

insufficient learning opportunities for children who have failed the Common Entrance Examination and even older unemployed youths;

literacy training for adults;

a reliable water supply for the maintenance of sustainable livelihoods;

infrastructural support in the areas of street lighting, street signs and road maintenance;

development of an indigenous tourism product as an alternative source of sustainable income generation for the unemployed.

The Ministry is therefore not at all seeking to brand Paramin as an impoverished community whose households live below the poverty line. Rather, it recognizes that there is a significant level of deficiency experienced by the community to warrant its involvement in this pilot phase of the Adopt a Community Programme. Moreover, participation in the programme would ensure that the community's development is both holistic and sustainable.

This is the kind of information that was supplied to the National Lotteries Control Board. The company was, however, free to select any community of its choice. The NLCB determined that as a state-owned company which over the years, has been involved in support to community initiatives nationally, would want to maintain this national image in terms of its participation in the Adopt a Community Programme.

10.55 a.m.

The company has therefore decided to adopt seven communities representative of North, East, Central, South Trinidad and Tobago as follows:

In the North Paramin and Success Village, Laventille;

In the East Cumuto;

In the Central Chandernagore;

In the South Siparia; and

In Tobago Castara and Lambeau.

Clearly, there are mixed positions on the state of need of the Paramin community. The hon. Member of Parliament for the area is of the view that the community is wholly self-sufficient and not in need of further development support. This, however, is not the position of many residents of the community who have expressed their views and provided experiential data in several newspaper articles, at the time of the formal adoption of the community.

Oral Answers to Questions
[HON. M. RAMSARAN]

Wednesday, February 24, 1999

One article in the *Trinidad Express* newspaper, conveyed the dichotomous situation of Paramin and I quote:

Vernon Boiselle was born in Paramin in 1923 in a little wooden house that still clings for dear life to the side of the mountain. Now he and his wife of over 50 years live in a little concrete flat with a breathtaking view of the Northern mountain range. They raised their ten (10) children by planting crops and Vernon's sister still lives in the little board house."

This quotation paints a picture of hard work with subsistence level results. The article went on to read:

These Paramin villagers would take issue with being called poor. But the signs are there. The wooden, two storey Paramin RC School is musty and broken...Even the church—a flat galvanize and concrete building resembling a warehouse—is in need of some furniture, some repairs and a coat of paint.

The roads are narrow and filled with potholes and the empty wooden shelves in the old village shops have now become a termite housing settlement."

Miss Nicholson: History is good.

Hon. M. Ramsaran: These views are consistent with some of the disadvantages recognized by my Ministry and reflect the fact that the hon. Member of Parliament for Diego Martin East needs to become more intimately aware of the needs of his constituents, rather than purport his apparently very superficial understanding of the area.

It must also be made very clear that the Government of Trinidad and Tobago is seeking to promote a more collaborative and participatory approach to the eradication of poverty and inequity and is focussing on communities as a target of development which would then redound to the nation as a whole. The Adopt a Community Programme is an ideal vehicle for executing this kind of development, as it ensures that the needs and strategic development objectives of communities are identified with the full participation of the community and that these objectives are satisfied in a holistic manner.

My Ministry has also sought to ensure that the programme is evenly spread throughout Trinidad and Tobago so that each area of the country could benefit in this pilot phase. While 25 communities have been adopted thus far, it is our intention, by the middle of the year, to bring additional sponsors into the programme, so that other communities could be embraced by it.

Every community, and I am sure Paramin is no exception, is considered a "microism"—

Mr. Manning: Microcosm.

Hon. M. Ramsaran: Thank you microcosm of Trinidad and Tobago consisting of well-to-do, middle class and underprivileged. I am glad you are paying attention, Member for San Fernando East. It is this mosaic that makes us all proud of our beautiful nation. Surely, the Member of Parliament is not refusing help for the underprivileged in this community.

Mr. Speaker, I thank you.

**Princes Town Hospital
(Relocation)**

24. Mr. Kenneth Valley on behalf of Dr. Keith Rowley (*Diego Martin West*) asked the Minister of Health:

- (a) Is the Government giving any consideration to the relocation of the Princes Town Hospital to a site away from the existing facility?
- (b) If the answer is in the affirmative, could the Minister state which alternative sites are being considered and also identify the owners of these lands?
- (c) Could the Minister further identify all factors which have contributed or are contributing, in any way, to a delay in the construction of the Princes Town Hospital?

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Speaker, in answer to part (a) of the question, consideration is being given to three alternative sites, as well as the existing site for the construction of the new Princes Town District Health facility.

The four sites being considered are as follows:

Two sites in Craignish, Princes Town, on lands owned by Mr. Byron Gopaul and for which there is an offer by the owner to donate five acres of land for the purpose of construction of the Princes Town District Health facility;

One site in Buen Intento, Princes Town, on lands owned by Caroni (1975) Limited; and

The existing site on lands vested by the state to the Southwest Regional Health Authority.

In answer to part (c), the design for the Princes Town District Health facility is site specific. The site must, therefore, be determined before designs are completed.

NIPDEC
(Amendment of Rules/Regulations)

25. Mr. Kenneth Valley on behalf of Dr. Keith Rowley (*Diego Martin West*) asked the Minister of Finance:

- (a) Did the Board of NIPDEC amend the tender rules and/or regulations of this company at any time during the last three years?
- (b) If the answer is in the affirmative, could the Minister state when this was done and for what reason?

The Minister of Finance (Sen. The Hon. Brian Kuei Tung): Mr. Speaker, the National Insurance Property Development Company's tender rules were amended on three occasions over the past three years.

Firstly, on May 22, 1987 the Board amended Rule No. 8 of the Tenders Regulations. Rule No. 8 refers to the powers of the committee and the authority of the General Manager to invite quotations and place requisitions where the value of the goods supplied or the services or works to be undertaken, do not exceed \$50,000. The rule was amended to reflect an authority of the General Manager to award contracts without recourse to the Tenders Committee of twice that of the public service procedural guidelines for minor equipment purchases which, at that time, was limited to \$25,000 and since an amendment to the public service guidelines now reflects the authority of a Permanent Secretary to be \$100,000, it was requested that similar provision be made to NIPDEC's Tender Rules. The justification for this request lies in the effective and efficient performance of the activities of the company.

Secondly, on January 23, 1998, Rule No. 1 which refers to definitions, was amended to conform to the Interpretation Act. The following amendment was approved:

Words in the singular shall include the plural. Words in the plural shall include the singular. Words in the male gender shall include the female gender and words in the female gender shall include the male gender.

Finally, on September 10, 1998, the following amendments to the Tender Rules were made:

(a) Rule 6(6) Decision of the Committee:

The rule was amended to read:

Subject to Rule 8 where the decision of the Committee is unanimous;" instead of "Where the decision of the Committee is unanimous and subject to

(b) Rule 8(1) Powers of the Committee:

This rule was amended to read:

Where the Committee proposes to consider offers and/or tenders for a contract, the value of which is more than \$1 million, the Committee shall invite the Chairman of the Board or his nominee to take part in the consideration or discussion of the offers and/or tenders and to vote on the matter."

(c) Rule 9 Cases of Emergency:

In case of emergency, the Chairman of the company or, in his absence, the Chairman of the Committee, shall be empowered to authorize, without inviting tenders, the purchase of any goods or services for the performance of works necessary for the expeditious handling of such emergency, the total cost of which does not exceed \$100,000 and when any such action is taken, this fact shall be reported to the Committee Board at the first ensuing meeting." The word "Committee" in the last line of this rule was removed.

(d) Rule 13(b) Invitation to Tender:

This rule was amended to read "subject to the approval of the Board" instead of "subject to the approval of the Chairman."

(e) Rule 25 Prohibition from entering into Contract:

This rule was amended to read "members of the Committee" instead of

WRITTEN ANSWER TO QUESTION

**Common Entrance Examination
(Top Ranking Students)**

- 20. Mr. Fitzgerald Hinds** (*Laventille East/Morvant*) asked the Minister of Education:

Oral Answers to Questions
[DR. THE HON. H. RAFEEQ]

Wednesday, February 24, 1999

- (1a) Would the Minister indicate the top 100 students ranked in order of performance in the Common Entrance Examination, 1998?
- (b) Would the Minister identify the primary schools which registered each of the top 100 students for the said examination?

The Minister of Education (Dr. The Hon. Adesh Nanan): Mr. Speaker, I have passed a copy of the written reply to the Clerk of the House for circulation to hon. Members.

Vide end of sitting for written part of the answer.

CONSTITUTION (AMDT.) (NO. 3) BILL

Order for second reading read.

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

That a bill to amend the Constitution of Trinidad and Tobago be now read a second time.

The policy contained in this Bill is to provide a legal framework so that the rights of the people of Trinidad and Tobago to have their representatives in Parliament and Parliament as a whole, scrutinize the Executive and state administrative action can be enjoined and be enforced by them and their parliamentary representatives. This Bill, therefore, is an attempt to give to the people of Trinidad and Tobago, through Parliament, the right to know what is happening in Government and what is happening in the state administration.

Mr. Speaker, the Bill does not give power to these specialized Joint Select Committees of Parliament to interfere in the decisions of the Magistrates' Court, the High Court, the Court of Appeal or the Privy Council. The Bill does not empower these Select Committees to scrutinize the exercise of judicial power. All that the Bill does is that it gives the Select Committee of Parliament, as representatives of the people the power to scrutinize the exercise of administrative power, that is, the Executive exercising powers of administration and the Commissions exercising powers of administration.

So, Mr. Speaker, when one looks at the Bill, it does not give the power of select committees which would be appointed under the Bill to challenge the decisions reached by the Commissions. The Committee will scrutinize, examine and report to the House. It is a mechanism whereby the House and the people of

Trinidad and Tobago would be able to know what are the reasons for decisions and how these decisions are being effected.

So, Mr. Speaker, it is not correct for anyone to say that section 129 of the Constitution, which deals with the restraint of courts in declaring the decisions of commissions invalid, would be contravened by this Bill directly or indirectly. It may be that people have not studied the Bill properly.

Mr. Manning: What do you mean by that?

Hon. R. L. Maharaj: It may be that people have not read it carefully.

Mr. Speaker, section 129 of the Constitution which is a section which it is being contended this Bill contravenes, and for the purposes of the record, I will put into the record what section 129 of the Constitution says. Section 129 of the Constitution reads as follows:

- (3) The question whether—
- (a) a Service Commission has validly performed any function vested in it by this Constitution;
 - (b) a member of a Service Commission or any other person has validly performed any function delegated to that member or person under section 127;
 - (c) a member of a Service Commission or any other person or authority has validly performed any other function in relation to the work of the Commission or in relation to any such function as is referred to in paragraph (b),
- may not be enquired into in any court.”

11.10 a.m.

Mr. Speaker, these specialized committees are not courts of law. Courts are defined in the Constitution to mean any court of law in Trinidad and Tobago and shall be construed as including the Judicial Committee of the Privy Council. These specialized committees are not courts of law to determine whether the decisions are valid or not. As a matter of fact, they would not be courts of law. They cannot be classified as courts of law. In any event, these specialized committees would not have the power to declare any decision of the Commission invalid.

Mr. Speaker, the empowerment of select Committees to scrutinize the Judicial and Legal Service Commission cannot, and does not amount to an attack on the doctrine of the separation of powers. What does the Judicial and Legal Service Commission do? The Judicial and Legal Service Commission does not decide cases. It appoints, promotes and transfers persons who are covered under it, but this Commission performs administrative functions. It exercises administrative powers. It does not exercise judicial power. So, Mr. Speaker, I find it very difficult to understand how a parliamentary committee empowered to ask questions and enquire about the administration of a commission which performs administrative powers, can interfere and influence decisions of the court.

Mr. Speaker, under this Bill, the committee does not have the power to summon a judge before it, unless the judge is a member of the commission, and if the judge is a member of the commission he is not performing judicial functions on the commission; he is performing administrative functions. Therefore, in the functions that he exercises, he would be exercising administrative powers. Mr. Speaker, as I understand it, Parliament always has the power to scrutinize and enquire about the administration of the state. No sector of the state is immune from the accountability of Parliament insofar as the administration is concerned. As a matter of fact, if we look at the Standing Orders, we would see that the Standing Orders even permit Parliament to discuss the conduct of a judge. One sees that, so to say that the fact that Parliament enquires into the administration of the Judicial and Legal Service Commission means that you are interfering with the functions and duties of the court, is purely to beg the point.

Mr. Speaker, is it not the right of the people of Trinidad and Tobago, through their representatives, to find out the time period, for example, that these commissions take to respond to applications for employment? Is it that these commissions should not be required to give those answers? Is it not right for the people of Trinidad and Tobago to know, through their representatives, why vacancies are not being filled? Is that something which a commission must be immune from giving?

Mr. Speaker, is it not right for the people, through Parliament, to find out matters about the efficiency and the management of these commissions? After all, Parliament performs a very important function on behalf of the people for allocating, and for voting money for the administration of the state sector. Is it being contended that the people, through their representatives in Parliament, must not be able to examine these matters to determine whether money, and what

proportion of money should be voted? Is it that the people want their powers in Parliament exercised blindly, so that the people would not have the information? All these concerns which have been expressed about interference with the administration of justice and violation of the doctrine of separation of powers are misplaced. I will come to it in greater detail later.

But, may I say that if we go to the mother of Parliament, the United Kingdom; one sees what happens in the United Kingdom at the present time. Mr. Speaker, in the United Kingdom, there is a Parliamentary Committee of the House of Commons known as *The Home Affairs Committee*. That committee scrutinizes and monitors the administration of justice. This Bill does not even go that far in monitoring and scrutinizing the administration of justice. That committee also scrutinizes and monitors the appointing system of judges in the United Kingdom, and the head of the judiciary in the United Kingdom has agreed that he would even go before the committee and present a report on the appointment system of judges in the United Kingdom.

Mr. Speaker, if we try to remember what is the concept of Parliament: the concept of Parliament is different to the concept of government. Government and Parliament are two different institutions. Parliament consists of the people represented by Government Members and Opposition Members, and in some cases, Independent Members, in both Houses. The Parliament, comprising representatives of the people, must know how Government and the state is being administered. The concept of having these committees is to provide the mechanisms so that Parliament would carry out its duties efficiently and effectively. That is the concept, and Parliament would want to have these mechanisms so that these duties can be carried out effectively.

Mr. Speaker, when, for example in 1962 we had to go the route of having a written Constitution, there was in the Crown, if I use that expression, at that time, the executive, legislative and judicial arms. Because of the discussions which were held, there were fears that if you do not have independent commissions you could have political interference in the appointment of persons. It was because of that, these commissions had been set up in order to ensure that no Member of Parliament, no Senator, or no person with political office, are members of those commissions. That has been the purpose of it, so that you would insulate the commissions from the politicians by not having them as members of the commission.

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

When the Privy Council, in the case of *Endel Thomas and the Attorney General of Trinidad and Tobago* in 1982, had to look at this matter. It was dealing with the 1962 Constitution, but the same principle applies:

The whole purpose of Chapter VIII of the Constitution which bears the rubric, 'The Public Service' is to insulate members of the Civil Service, the Teaching Service and the Police Service in Trinidad and Tobago from political influence exercised directly upon them by the Government of the day. The means adopted for doing this was to vest in autonomous commissions, to the exclusion of any other person or authority, power to make appointments to the relevant service, promotions and transfers within the service and power to remove and exercise disciplinary control over members of the service. These autonomous commissions, although public authorities are excluded by section 105(4)(c) from forming part of the service of the Crown. Subject to the approval of the Prime Minister they may delegate any of their powers to any of their members..."

11.20 a.m.

In the next paragraph:

In respect of these autonomous commissions the Constitution contains provisions to secure its independence from both the executive and the legislature. No member of the legislature may serve on the commission. This Bill does not give the right to any member of the Legislature to serve on the Service Commission."

Mr. Speaker, in 1994, the then administration introduced such a bill for a politician to be a member of the Commission. This Bill does not do that.

Mr. Manning: Mr. Speaker, I wonder if the Attorney General would tell us which Bill was it, and which politician?

Hon. R. L. Maharaj: An Act to amend the Constitution of Trinidad and Tobago No. 1, 1994; the Permanent Secretary and the Minister of National Security.

Mr. Manning: It is not true.

Hon. R. L. Maharaj: If that is not true, I withdraw it. I merely want to make the point that this Bill does not attempt to make any Member of Parliament a member of the Commission.

The Privy Council was saying that the Constitution itself provides the mechanism for insulation. No member of the Legislature may serve on the commission. All members must be appointed for a fixed term of years which must not be less than three or more than five, during which a Member may only be removed for inability to discharge his function or for misbehaviour. It went on to state that there was a limit period imposed by making it a requirement for persons to be appointed, that Members shall not have served in the public service within the last three years. So, the Constitution, as mentioned by the Privy Council—whether it was a Minister or public officer—provides that there are ways of insulating the Service Commission from political interference in which Members of Parliament and public officers, for a certain period of time, should not be members of the Commission.

The point I am making is that the Constitution expressly states how these commissions could be insulated and that they could be insulated if these matters are not done. This Bill does not attempt to do any of the restraints mentioned in *Endell and Thomas* and mentioned in the Constitution of Trinidad and Tobago. As a matter of fact, Mr. Speaker, the question could be asked: If it is that the Constitution framers and the people did not want Parliament to scrutinize the administration of the Service Commission, would it not have been included expressly in the Constitution, that just as a court would not enquire into the validity of the commission, Parliament and the select committee would not be able to enquire into the validity of the decision of the Commission?

I merely state that at this point, I will deal with some matters of the administration of justice and the Service Commission, and the Judicial and Legal Service Commission later in my presentation. May I say that the history of this Bill showed that this Bill did not come overnight. As a matter of fact, a bill with this policy was introduced in the Parliament on February 13, 1998. When the Bill was introduced, a statement was made on that date by the Attorney General. Mr. Speaker, the statement was made about what the Bill is attempting to do, and it mentioned what powers were being given to Parliamentary Committees to scrutinize the operations and functions of Service Commissions. I quote part of the statement:

The Service Commissions, under the Bill, would be subjected to scrutiny of their operations, functions and powers. It must be pointed out that the proposed measures would, in no way, interfere with the functioning of Service Commissions in the discharge of the duties given under the Constitution.”

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

The Government went on to say:

‘Although this measure is being introduced in Parliament for its first reading, the Government is still open to considering the views of the public, individuals and groups. At the present time, the Government is still having consultation in respect of the matters, and we invite the public to make comments on these measures to which the Government will be open.’

As a matter of fact, the Parliament was prorogued and the Bill was not debated, but the comments were still coming in. We received comments from several individuals and groups including the Service Commission and the Bill was reintroduced in this House on October 2, 1998. May I just say that unless the Opposition sent them and we did not get them, we have not received any views from the Opposition.

Mr. Manning: Of course not! We are talking in Parliament.

Hon. R. L. Maharaj: You are entitled to do that. Mr. Speaker, the fact of the matter is that this Bill has been out in Trinidad and Tobago; members of the public have been invited to make comments, comments have been received and the Government continues to be open in respect of the measure.

The Government has made it quite clear that this Bill is to give effect to the rights of the people to have accountability from Government and the state administration. Mr. Speaker, so that we do not have any misconception as to what select committees do, I will deal with the role and function of select committees. I will quote from a book entitled *Judicial Review of Administrative Actions* by DeSmith, Woolf and Jowell, the fifth edition. I quote from pages 37 and 38, but I will read just one paragraph so that Members can see how these committees have worked in other parts of the world, and what are the roles of these committees.

The author, when commenting on the creation and powers of Select Committees in Britain wrote:

Critical scrutiny of policy and administration is perhaps the most important function of the two Houses of Parliament. But criticism is seldom effective unless it is backed by accurate information about the facts lying behind the shaping and execution of policy. As the complexity of the processes of government increased, the inadequacy of the information available to Members

becomes more apparent. In an attempt to bridge the gap between departments and backbench M.P.s, a small number of select specialized committees of the House of Commons, with inquisitorial powers in respect of defined areas of governmental activity, was set up in each session...”.

Mr. Speaker, one sees that in order for parliamentarians to function competently and efficiently, and in order for people to get justice in respect of the duties which parliamentarians perform, there must be a mechanism for official information to be given to the people and to Parliament. Therefore, that is what this Bill is about; a measure of not only giving information from the service commissions—part of the state administration—but giving information from Government and Government-owned operations.

The people of Trinidad and Tobago, therefore, can and should hold Members of the Parliament and Government departments, statutory bodies and service commissions who spend public moneys accountable for their general conduct in the administration of public affairs. The most effective way in which the rights of citizens can be protected in societies like ours is by accountability and responsibility by those who exercise state administrative powers. These Select Committees would be a novelty in that it would be the first time in Trinidad and Tobago that one would have the situation where on a continuing basis we would have the people, through the Select Committees of Parliament, scrutinizing governmental action and state administrative action. *[Interruption]*

In 1974, after the Wooding Commission sat and reported, the Wooding Commission recognized that the parliamentary processes in Trinidad and Tobago were deficient. It recognized that the people of Trinidad and Tobago were being short-changed. It recognized that unless there was this continuous monitoring and scrutiny by these select committees, the rights of the people of Trinidad and Tobago were going to be denied. It recognized also that there would be instances of official abuse of power, misuse of power and official acts of corruption, unless there were committees like these to monitor state actions.

If I may refer to pages 63 and 64 of the Report which dealt with the question of the proposals for the National Assembly, paragraph 265 says:

‘Accordingly, we recommend that the importance of the committee system should be emphasized by enshrining it in the Constitution itself.’

So, this Bill is an attempt to give effect to that aspect of the Report of the Wooding Commission in 1974, 25 years ago, which said that these select

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

committees should be enshrined in the Constitution. The members of that Wooding Commission were very distinguished people and they recommended that it was important to enshrine it in the Constitution. The Wooding Commission mentioned here some of the names of the committees that one can have, and it says that the Assembly should be empowered to set up any other committee it may wish. So, this is not new. What is new is the implementation of these matters. That is new!

[Words expunged]

Mr. Speaker, therefore, what the Government has done is to give the population and the public time over the years to consider these matters, and, in effect, the Bill would be amended. I will deal with that later.

What this Bill seeks to do is make it mandatory for Parliament within one calendar month after the commencement of this Act to appoint these specialized Joint Select Committees of Parliament to report to each House of Parliament in respect of Government Ministries, statutory authorities, enterprises operated or controlled by, or on behalf of the state, and service commissions on their administration, powers and methods of functions, and any criteria adopted by them in the exercise of their functions.

After a general election, such committees will be appointed within one calendar month after the House of Representatives meets and it would mention as Parliament may prescribe. So, it is walking the walk and talking the talk. *[Desk thumping]*

The Bill seeks to remedy the deficiencies recognized over the years in the parliamentary process and it seeks to remedy those deficiencies to facilitate effective accountability of the Executive and of the administrative arm of the state. It is part of Government's comprehensive plan to reform Parliament in order to strengthen the effectiveness of the Parliament. So that we will understand that this Bill must not be taken in isolation of what Government is doing, this Bill must be taken in conjunction with some of the things that it has been doing to strengthen the Parliament, to make it more effective to perform the duties to the people of Trinidad and Tobago.

For instance, this administration took steps in order to have the Red House used completely for Parliament, and that is in the process of being done. We know that there has been some difficulty, but that is in the process of being done. Mr. Speaker, this Government took steps for the strengthening of the organization of Parliament. On the initiative of this Government, a Joint Select Committee of this

Parliament is at present considering all aspects of the management structure of Parliament with a view to making it autonomous and making it independent of executive control.

11.35 a.m.

Mr. Speaker, this Government has been having discussion with the Organization and Management Division of the Ministry of Public Administration. The proposal included recommendations for increasing the staffing of the Parliament Library, Committees' Office, Hansard, Administrative Services, a unit of the Office of the Speaker has been established and a Human Resource Manager is on board. That is what this Government has done in order to strengthen the Parliament. [*Desk thumping*]

Mr. Speaker, this Government has taken steps to improve the resources at constituency offices in order for parliamentarians to perform their duties more effectively to their constituents and to the people of Trinidad and Tobago. They have increased the amount of money for constituency staff from \$2,500 a month to \$5,000. [*Desk Thumping*] I am saying this, so that one can understand that this Bill cannot be taken in isolation. As a matter of fact, this Government has before this Parliament A Right to the Freedom of Information Bill. That is what this Government is doing in order to give more knowledge and information to the people of Trinidad and Tobago, so that they would know how their representatives are functioning and how state administration is functioning. So, therefore, one has to take this Bill in that context.

I do not know if the Members on the opposite side know, but since this Constitution Commission Report, the Senate has actually amended its Standing Orders to have parliamentary committees along this system in order to have powers, and in order to monitor governmental activities. Mr. Speaker, because the Government of the day wanted, not only to give the committee those powers, but to give the committees additional powers to make it effective and to enshrine it in the Constitution, the Government has taken this road.

The Parliament's right to enquire is at the heart and soul of the parliamentary process and is at the heart and soul of the democratic process. It is part of the *lex parliamenti*, which is the Latin phrase for 'the law of parliament.' As I said, the Standing Orders show how Parliament can exercise those powers enquiry. All this Bill does is to provide the mechanisms for Parliament to enquire into the administration of the state. Are we saying that we want to take away that right?

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

Are we saying that we want to put bodies, authorities and individuals above Parliament and above the Constitution of Trinidad and Tobago? Are we saying that we want people not to be subject to the scrutiny in respect of their administrative powers? Do we want to take away the right of the people and of Parliament to do that? So what these committees would therefore do is, as I said, not to question the validity of decisions of the service commissions; but scrutinize their operations, their functioning and powers. They would make enquiries, but they would not be able to interfere with their decisions.

After the report comes to Parliament that is the democratic process the information is known, it would be in the public domain, people would know about it. That is how democracy works. As a matter of fact, one of the greatest weapons to promote democracy is for the people to have information and for the people to know about it, so that they can comment about it, and the press can comment about it, so that people can be informed and public opinions can be formed. That is what this Bill is about. That is the philosophical underpinning of this Bill.

I know that the last administration do not want to go into that now recognized the deficiencies and they decided to go a certain route. I think that, depending on what is said, I suppose there will be response, but I am not on that today; what I am on is that the record of the Government and of the Parliament would show that it was recognized by the last administration that these administrative matters had to be corrected in the public's interest. There had to be changes. The route that was taken for effecting change under that administration is not the route that we are taking. The route that we are taking is that the commissions remain, but we would make them accountable to the people through Parliament.

Before I go into some of the major aspects which the Bill would achieve an Attorney General in 1994 recognized that when the government analyzed the operations of the independent commissions, the government had to do something in order for them to be better designed. He felt that the Constitution and I will read what he said:

“What we have done is to hand out part of the executive control and put it in the hands of an independent commission; and it is a situation which has clearly given the population some cause for concern.”

Mr. Speaker, I do not want to read the other things which were said by the Opposition Leader and the Attorney General at that time, but what I want to say is that no government can close its eyes to concerns expressed. Therefore, a

government, in its duty to the people, has a responsibility to do something to make that sector accountable to the people.

Those who govern within a democracy, and who exercise administrative power, must be accountable or responsible to those whom they govern, and on whose behalf they exercise power. It is also the responsibility, of those who govern, to see that persons who, and authorities which exercise state administrative powers, also account to the people in respect of the public powers they exercise.

11.45 a.m.

Mr. Speaker, an important function of elected Members of Parliament is to call the Government of the day to account for its actions and performance on a continuing basis. This requires the Government to justify its decisions, by giving the reasons for them and permitting decisions to be criticized that appear unjustifiable or mistaken. The same principle, applies to persons who exercise state administrative powers.

Mr. Speaker, an important reason for accountability, is that it is an essential safeguard against official corruption, misuse of public funds, and abuse and misuse of public power. The process of Government and state administrators having to account on a continuous basis enables the electorate to make an informed appraisal of the Government's record, and generally, of the state administration. It also enables the media and the public to form opinions of the Government and of the state administration. Without effective mechanisms to make Government, or state administrative authorities account, we can have the growth of arbitrary and dictatorial exercise of public power.

Mr. Speaker, the more open and transparent the decision-making process is, and the greater the opportunity to hold Ministers and public officials accountable for their actions, the better the means would exist to ensure that Ministers of Government and public officials perform their functions with propriety and in the public interest.

By the mid-19th century, ministerial and collective responsibility became the accepted basis of parliamentary government. Under our system, the Cabinet, the Prime Minister, other Ministers, are individually and collectively responsible to Parliament for their conduct of national affairs. As such, Parliament has a right to call upon the Ministers to account, and for the Government to account. And we have a situation now, where Ministers are politically responsible for the

administration of the service commissions, and they are accountable for their administration.

The Minister of Public Administration is politically accountable to the Parliament and to the people for the functioning of the service commissions. The holder of the office of the Attorney General is politically accountable to the Parliament for the Judicial and Legal Service Commission, but the Members of Parliament and the Cabinet cannot get information from the commission and cannot enquire. And, it is being said that the Parliament should not enquire.

So, Mr. Speaker, the whole basis of parliamentary democracy and parliamentary government is for those who exercise state administrative power to account to the people. This has nothing to do with investigating a case in court, because this Bill is not about that, and we should not lose sight of that in this Bill. We should not be diverted with extraneous considerations. This Bill is to give the people their right and for them to enjoy that right.

Mr. Speaker, the history of Parliament in several Commonwealth countries, would reveal that before they reformed their parliamentary systems, they found that the mechanisms for causing the state sector and Government to account, alienated the people from Parliament and its process and the people lost confidence in the Parliament and they found that they had to do something in order to restore the confidence of the people in the parliamentary process. And, what did they do? They created select committees of Parliament, scrutinizing state sector.

If we look at what happened in the United Kingdom, we see that is what happened because these countries found that Members of Parliament and members of the public became progressively, less well-informed, and less able to effectively question Government and state action. That is why these governments and these Parliaments took those steps to have these committees.

Mr. Speaker, the mechanisms which now exist for our Parliament to effectively perform these functions are almost non-existent. The present safeguards are weak and inadequate. The absence of adequate mechanisms in Parliament for accountability of state administration on a regular and continuing basis, has contributed, in Trinidad and Tobago, to a decrease in confidence in Parliament as an institution.

When we examine what we have now, we have these committees which are the sessional committees, which really do not provide any form of accountability. We have the Public Accounts Committee and the Public Accounts (Enterprises)

Committee, which are not committees which can be very effective on a continuous basis. Because, in the United Kingdom that has been found too, in other countries which have established the committees system we see that the committees do these reports years after.

You have parliamentary questions, the motions on the adjournment, private members' motions and other matters of debates. It has been found in these Commonwealth countries which have gone this route that those measures and those institutions are not sufficient.

Mr. Speaker, the existing mechanisms in the Parliament of Trinidad and Tobago for governmental and state administrative accountability are the same as those which were in England in 1979. The House of Commons in the United Kingdom, in 1979, 20 years ago, agreed that the lack of knowledge of how the state worked, how the administrative machinery of the state worked, was the main weakness of the Parliament. England decided that it was important to reform, it had to be done. England found that a complete reorganization of the committee system was needed to produce a more rational structure, so that Members of Parliament could regularly and continuously scrutinize the activities of Government departments and state administrators. Several committees in England have been appointed, and the Government of the day, has taken steps to ensure that these committees function effectively.

Mr. Speaker, with respect to the service commissions, I have dealt with some aspects of that, and what I want to say, in addition to what I have said, is that with respect to section 129 of the Constitution, which said that the acts of the service commissions are not subject to review in the courts. What the apparent purpose of that section is for the decisions of the commissions not to be opened up to collateral attack in the courts in respect of the validity of their decisions.

So if, for example, a teacher is disciplined by the Teaching Service Commission, the courts would not be able to change that decision, to investigate and change that, unless the commission did not follow the rules of natural justice and did not act in accordance within jurisdiction.

So the purpose of that section was to have finality in respect of the validity of the decision of the commissions. So Mr. Speaker, section 129, therefore, of the

Constitution does not really assist us in this matter to determine whether the commissions' independence is being violated.

11.55 a.m.

Mr. Speaker, it is important for me to deal with some of the aspects of the Judicial and Legal Service Commission because it is being contended in certain opinions that these committees can have the effect of interfering with the independence of the judiciary. The contention that the investigation by specialized select committees into the functioning and administration of the Judicial and Legal Service Commission interferes with the independence of the judiciary, I would say it is not correct.

As a matter of fact, Mr. Speaker, I have already indicated the nature of functions the commission performs are judicial and we all know that there is the constitutional importance, and it is of universal importance, of judicial independence. But, Mr. Speaker, I believe that sometimes that principle is clouded by mythology and muddled thinking. It is sometimes said that there can be no accountability to Parliament for the administration of justice, because if you have parliamentary accountability for the administration of justice that would amount to interference with the administration of justice.

Mr. Speaker, there are people who are involved in the administration of justice who are not involved in deciding cases, they are involved in administration—the clerks, the public servants, the legal officers, and the primary deliverers of justice or administrators of justice are the judges and the magistrates. So, Mr. Speaker, the specialized select committee would not have any jurisdiction over the people who administer justice as judges or as magistrates. There would be, therefore, no opportunity for the select committee to interfere with their judicial discretion or their functions.

When this specialized committee system was introduced in the United Kingdom in 1979 to monitor and scrutinize State or Crown administration, there were fears that these committees, by scrutinizing the administration of justice, would interfere with the independence of judges and, Mr. Speaker, in 1979 the committee did not go that route. In 1989 the House of Commons reopened the matter because it felt that it was being powerless to deal with State administration or Crown administration. It recommended that the jurisdiction of the Home Affairs Committee should include the administration of justice and the law officers department, and that for the time being it would exclude the appointing system of judges.

That was changed in 1991, but in 1989 the Home Affairs Committee was given the jurisdiction to examine the policy, the administration and expenditure relating to the administration of justice including the work of the staff provided for the administrative work of the courts and tribunals including the appointment system of judges. So from 1991, the Home Affairs Committee of the House of Commons, by a similar committee that we want to appoint in this Parliament, has had the jurisdiction to examine the policy, administration and expenditure relating to the administration of justice.

In 1991 it said that it would also scrutinize and monitor the administrative work of the courts and tribunals. In 1991 it also decided that it would look again at including the appointment system of judges, and Mr. Speaker, the House of Commons Committee in 1997 found that the Home Affairs Committee could not adequately perform its function if it did not also have the power to examine the appointment system of judges. From 1997 the Home Affairs Committee was given that power and it has worked quite well.

Mr. Speaker, so that we have a situation in the United Kingdom where you have judges being appointed to the High Court, the Court of Appeal, the House of Lords and the Judicial Committee and also the Privy Council and you have a parliamentary committee scrutinizing the administration, policy and expenditure relating to the administration of justice and also scrutinizing the appointment system of judges. As a matter of fact, Mr. Speaker, in the United Kingdom the House of Commons is also considering at this time that there should, in addition, be an Ombudsman of Parliament to examine individual complaints of unfair treatment in the judicial appointment process.

So we see that the way the world is going and as a matter of fact, Mr. Speaker, when one goes and one reads all these conferences which we are having, one sees that the trend is that if the people are to be given their just due then the Parliament must have the power to scrutinize state administrative action. Mr. Speaker, what we have done is that in relation to the Bill, therefore and I did mention in my contribution that there would be certain amendments what we have done, the Explanatory Note would be amended accordingly, but in the Bill itself what we would be doing in section 66(A)(1) is make it a requirement for Parliament, within the period of time I mentioned, to have these committees appointed and that as Parliament may prescribe. The effect of that would be that no government can say that it is not doing that. Government cannot say it is not doing this unless it repeals the law.

We have also defined what a state enterprise is and we have taken it straight out of the Constitution and we have said that a committee appointed for the purposes set out in this section would be able to appoint subcommittees, adjourn from place to place and appoint specialist advisers to assist them in their deliberations. We have taken out the parts in the Bill, Mr. Speaker, which deals with the powers of a commission of enquiry and we have also taken out the part dealing with people not answering questions, *et cetera*, because we have looked at the powers of the House and we believe that the existing law should apply. If people cannot answer questions because it would incriminate them, that is the existing law of Trinidad and Tobago.

What we have done, Mr. Speaker, we have said in the Bill that these specialized committees would therefore have advisers. Mr. Speaker, one of the drawbacks of the committee system has been that you appoint parliamentarians as members of the committee but if the committees do not have the advisers, the professional advisers, and cannot have the investigation assisted by these advisers, then the committees would not be able to function properly. Therefore we have specifically put it in the Bill that they would be able to appoint specialist advisers to assist them in their deliberations and we have also placed in the Bill that subject to any order of the House or resolution of the committee the sittings of a committee shall be held in public.

So, Mr. Speaker, in practice, what would happen if this Bill is passed? With these committees, if there are allegations of misuse of power, allegations of corruption against a government department, against any state authority or against any ministry, the committee would be able to investigate it contemporaneously in respect of the functions of the department and have the power to send for the files, send for the records, would have the power to send for persons, including Ministers of Government and the Ministers of Government would have to make themselves available to answer these questions. If it is felt that anybody cannot answer the question, the Constitution in the law provides safeguards.

Mr. Speaker, in respect of the commission, if, for example, the commission believes—I am sorry, if for example these committees believe that there have been many complaints by people about applications being made for positions, there has been no response, vacancies have been filled—sorry, vacancies have remained unfilled or there are many applications for transfer, nothing has been happening; the committee would be able to send for information, enquire, get the information and report it to the House.

Mr. Speaker, I am at a loss to understand why we are afraid for our actions to be scrutinized by people and by the country and by Parliament. I do not understand how it is that if persons occupy public office, they exercise public power which they hold in trust for the people, they do not want that power, the exercise of that power, to be scrutinized by the people who gave them that power.

Mr. Speaker, it must be understood that the service commissions are not there without people. As a matter of fact, the service commissions are appointed in order to exercise powers for people and on behalf of people and they do affect people. If Governments have to account and if Parliament has a duty to be able to determine what these commissions are doing on an administrative basis, it is only fair and just that the people would have the mechanism to compel them to give this information, and Mr. Speaker if for some reason—

Miss Nicholson: When they report to you what would that do? Answer that part. Tell us because you have not been doing that.

[MR. DEPUTY SPEAKER *in the Chair*]

Hon. R. L. Maharaj: Mr. Deputy Speaker, in answer to the hon. Member for Tobago West, when the answers are given they form part of the report, it comes to the House, the House could take whatever action, and for example, if it involves corruption, the appropriate Minister involved would have information, evidence to pass to the appropriate authority.

Miss Nicholson: But that has happened already and nothing happened.

Hon. R. L. Maharaj: Mr. Deputy Speaker, we have a choice and the choice is that we have people who would want to leave it as it is; do not make any reforms, do not give the people their due, do not have the people get additional mechanisms in order to protect their rights.

Mr. Deputy Speaker, you know, when the Wooding Commission had to look at this matter, it was faced with the public comments and with the situation whether we should allow the parliamentary structure to remain as it is, and the Wooding Commission had wide discussions with the people of Trinidad and Tobago. And, Mr. Deputy Speaker, based on the discussions, the people it was felt by the Wooding Commission that in order for the people of Trinidad and Tobago to get their due, actions of government and actions of state administration should

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

be scrutinized so that people would know what is happening. Mr. Deputy Speaker, you know, it is very significant. *[Interruption]* According to the Standing Orders, I will be told when the time expires.

Mr. Deputy Speaker, and it seems to me that here it is that you had governments coming after that report and for one reason or the other it was not done. Those reforms did not take place.

12.10 p.m.

Mr. Deputy Speaker, what we are here for is not to criticize those who did not take action. We are here to determine, is this in the national interest? Is this important for people to enjoy? Is it not important for us to have additional mechanisms so that the people would be able to enjoy their rights?

Whether we liked it in the past or did not like it in the past, whether we made mistakes in the past or not, the fact of the matter is, is this beneficial to the people? If it is beneficial to the people we should not allow our personal emotions or our stand that we took in the past in these matters or whatever views we had, to cloud the issue.

Here it is, we are talking for the benefit of the people of Trinidad and Tobago, all the people of Trinidad and Tobago. What we are talking about is giving them mechanisms and ensuring that they enjoy the safeguards they have so that the state administrators can account.

I think we should all feel that we are privileged to sit in the Parliament at this time, when we have such a measure in which even if we held a different position in the past, we have an opportunity of making recompense to the people of Trinidad and Tobago. *[Laughter]* Here one can see the importance of having such a Bill.

When we look at the Bill and its amendment, we see, therefore, that the contention that the specialized select committee would interfere with the administration of justice or the independence of judges and magistrates, cannot be supported on evidence on the Bill. That cannot be supported at all.

[MR. SPEAKER *in the Chair*]

When we look at the Bill and what the powers are of these specialized select committees we would also see that the contention that the exercise of powers by these committees would contravene the doctrine of the separation of powers cannot be supported by the Bill and what is stated as the powers in the Bill.

Mr. Speaker, whenever any reforms have to occur in any country, especially where those reforms are substantial, you would have situations where people would feel fearful that these changes may affect established principles. That is a matter we as parliamentarians have to deal with, we have to live with it. That is why our people have put us here in order to deal with these matters.

Here we have a situation in which the Government of the day has put this Bill out for approximately a year and has come here today in order to get support for this measure to be passed, so that measures which were advocated since 1974, could be given to the people of Trinidad and Tobago so that justice could be greater afforded to them, and there could be additional means of access to justice in the enjoyment of their civil rights.

Thank you.

Question proposed.

Mr. Patrick Manning (*San Fernando East*): Mr. Speaker, whenever a Prime Minister makes an appointment, he could never be sure that he has made the best arrangement available to him at the time. He can only hope that over time his judgment turns out to be right and that the particular appointee meets the requirements expected of him when the appointment was made in the first place.

Mr. Speaker, it has not been my practice to advise the hon. Member for Couva North on appointments that he has to make. May I say, that when in 1995 the hon. Member for Couva North in his capacity as Prime Minister appointed the Member for Siparia as Attorney General and Minister for Legal Affairs, it was my view then that he had done the right thing.

One of the biggest mistakes that he has made and history is going to vindicate this statement has been to very shortly thereafter and in strange circumstances, change his mind, and to bring the hon. Member for Couva South into his Cabinet, and worse, to appoint him Attorney General of Trinidad and Tobago. [*Desk thumping*]

Hon. Panday: What does this have to do with this Bill?

Mr. P. Manning: Too much of what he brings to this Parliament is characterized by sleight of hand, and the Bill that is before us today falls squarely into this category and is absolutely no different from other approaches to which this House has been subjected.

Constitution (Amdt.) (No. 3) Bill
[HON. R. L. MAHARAJ]

Wednesday, February 24, 1999

The Bill seeks to amend section 66 of the Constitution, but among other things it encroaches significantly on the functioning of the service commissions. Section 66 comes under Part II of the Constitution which talks about powers, privileges and procedures of Parliament. The administration and operation of the service commissions is deemed significantly affected by the measure that is the subject of debate in this House. The service commissions are provided for in Chap. 9, Part I and specially provided for from section 120 onwards.

The reason the hon. Attorney General has chosen to come to the Parliament with a proposal which, even though it impinges very significantly on the administration and operations of the service commissions, a proposal that he chooses to introduce by an amendment to section 66 of the Constitution amending the powers of Parliament he has done it in that way because had he gone the other route, it would have become manifestly clear to everybody that this particular measure before the Parliament, impinges on the service commissions and, therefore, requires a special majority for passage in this honourable House. [*Desk thumping*]

Yet, he invokes openness and transparency, and the desire for openness and transparency in the conduct of the administration of the public sector in bringing this measure before the House today. The hon. Attorney General has been less than open and less than transparent in the direction he has chosen [*Desk thumping*] to proceed with the amendments that lie before the House today.

If we were not vigilant enough or inclined to accept all the arguments that the hon. Attorney General advanced to the Parliament today, then we should stand warned when six of the eminent lawyers in Trinidad and Tobago, two of them former Presidents: the distinguished Sir Ellis Clarke and Mr. Noor Hassanali and Mr. Ellis Clarke incidentally was the author of the Trinidad and Tobago Independence Constitution and then three former Chief Justices: Sir Isaac Hyatali, Mr. Justice Kelsick and Mr. Clinton Bernard getting together with the existing Chief Justice of Trinidad and Tobago, Mr. Micheal De La Bastide, to alert the national community that there are many pitfalls that lie ahead in the piece of legislation that is before the Parliament for discussion today.

In my experience which as you know spans some 28 years in the conduct of the parliamentary affairs never before have I seen such a distinguished collection of experienced persons in the society, who have held positions of such trust and respect, coming forward to alert the national community that trouble lies ahead. [*Desk thumping*]

Mr. Speaker, in the case of all the individuals involved, one of the qualities that was expected to characterize the conduct of their operations while they held office, was impartiality as a judge, and particularly as a Chief Justice you are expected to be impartial. In fact, if you are not impartial then you are in serious trouble, and we have no evidence that has happened. It is no less so for a president. Indeed, a president of the Republic is expected to be above the cut-and-thrust of the politics for a number of reasons. *[Interruption]*

In 1976 when a new Constitution was introduced in Trinidad and Tobago, because of the need to de-politicize those offices, a number of functions previously discharged by the executive were transferred to the presidency as part of the legislature so that we could de-politicize a lot of the decision-making, recognizing the impartiality that is expected of those who hold the office of President. We have six people coming together the characteristic trait being impartiality and alerting the national community that trouble lies ahead with this Bill.

If we, as the People's National Movement, the legitimate Opposition in Trinidad and Tobago at this time and for the time being, had come forward and said that, then I am sure we would have been exposed to allegations of partisanship and partiality by those who occupy the Government Benches, but it is very curious today that the hon. Attorney General remained very silent on the fact. *[Interruption]* Did he mention it? He did not even mention it, not even *en passant*, but remained silent on the fact that last night in watching the 7 o'clock news, people were able to look at a document signed by these six eminent gentleman, that trouble lies ahead. What are we to do?

It turns out that their views coincided with ours and, therefore, we have a voice in this Parliament incidentally, the hon. Attorney General made a comment; I would finish this first and we are going to use that voice to discharge our constitutional responsibility. *[Desk thumping]*

Therefore let me say that we are not going to support this measure we are not going to support it. We think that this measure impinges on the Constitution in a way that causes it to require a special majority for its passage and we can also tell the hon. Attorney General now, that if in their customary way they want to proceed and approve the Bill by a simple majority, it is only a matter of time before a new PNM Government *[Inaudible]*. *[Desk thumping]*

12.25 p.m.

the Commission would consist of the Permanent Secretary, Ministry of National Security, the Commissioner of Police and seven other members with

special skills or representative of the interests of the community appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.”

At no place in this Bill, Mr. Speaker, did we seek to put politicians and in one way or the next, politicize the Service Commissions. In fact, when the hon. Attorney General said that they have not sought to do any such thing, he was also wrong again.

Mr. Speaker I would like to draw your attention and the attention of the national community and all of this is coming up in the face of allegations of a creeping dictatorship that is emerging in this country— a paper which the hon. Attorney General created: House Paper No. 3 of 1998. I want you to listen very carefully to the conclusions and recommendations of this House Paper at page seven. It was laid in Parliament; it is public document. Under Conclusions and Recommendations it states:

4.3 In the light of the above, it is recommended that—

- 1.(a) Legislation should be enacted to provide for the establishment of a Parliamentary Service Commission comprising the Chairman of the Public Service Commission as Chairman, the Speaker of the House of Representatives *ex officio* or in his absence, the President of the Senate, and three other members appointed by the President in his discretion;”

Mr. Speaker, clearly in this House Paper the Government has signalled its intention to put politicians on a Service Commission which in concept was designed to be independent, and to free the decision-making process in terms of appointments and promotions and discipline of public servants from political control and influence. We have a proposal from the Government because this, effectively, is a governmental proposal to appoint a new Service Commission, which has the Speaker, a politician *ex officio*, or in his absence, the President of the Senate sitting as a member of the Commission. The people of Trinidad and Tobago ought to be warned that what this Government, in fact, is doing this is merely a signalis—pursuing a course of action for total political control over the areas of independence of the administration of the affairs of the people of Trinidad and Tobago.

Constitution (Amdt.) (No. 3) Bill
[MR. MANNING]

Wednesday, February 24, 1999

Mr. Speaker: Are you through.

Mr. P. Manning: No I am not through would I press on then? I saw you were

Mr. Speaker: So, I was trying and you did not stop. Anyhow, honourable Members, the sitting is suspended until 1.45 p.m.

12.35 p.m: *Sitting suspended.*

1.47 p.m.: *Sitting resumed.*

Mr. P. Manning: Mr. Speaker, when we took the luncheon adjournment, I had just made the point that the hon. Attorney General was wrong on both counts when he said, one, that the administration that I headed between 1991-1995 sought to politicize the service commissions and, two, that they are making no such attempt.

I had just completed reading from House Paper No. 3 of 1998 in which the Government, effectively, was proposing a Parliamentary Service Commission comprising the Chairman of the Public Service Commission as Chairman, the Speaker of the House of Representatives, *ex officio* or, in his absence, the President of the Senate and three other members appointed by the President in his discretion.

I was also making the point that we disagree very fundamentally with the notion of having a politician sit on the proposed Parliamentary Service Commission and, indeed, on any service commission in this country, the rationale behind the service commissions being that they were a device to free the promotions and disciplines, *et cetera*, in the public service from political influence.

Mr. Speaker, it matters not to me what other jurisdictions have done, but when it comes to Trinidad and Tobago, a very unique country in terms of the composition of our society, we will be well-advised not to move whole scale to admit into our jurisdiction, some provision, merely because it exists elsewhere and it may have worked well elsewhere. It may have been designed to serve a society that was very different from ours, but could, in our society, turn out to be a mechanism that has dangerous implications, having regard to the uniqueness of the composition of the society of Trinidad and Tobago.

So that, Mr. Speaker, we made no attempt at all to politicize the service commissions and our fear is that what we are seeing in the Bill before the House is merely a continuation of a very dangerous trend that has already begun to manifest

itself in the activities of this Government and, now, on the basis of House Paper No. 3 of 1998, a clear statement of the Government's intent, not liking the service commissions as they are and seeking to change them in a way that politicizes them.

That is not to say that we on this side are entirely happy with the operations of these service commissions. In fact, I am on record—

Mr. Panday: We have it here!

Mr. P. Manning: Yes. I am on record.

Mr. Panday: You are taking it before I take you.

Mr. P. Manning: I will read it before you do. I am on record as indicating that between 1991-1995, as Prime Minister of Trinidad and Tobago, I had my own experiences in this regard and these experiences shaped my own thinking.

Mr. Speaker, whatever that thinking is, it does not include politicizing the service commissions, nor does it include abolition of the service commissions. It does not include that. In fact, just allow me to read an article in the *Daily Express* of Monday, April 3, 1995. Mr. Speaker, do you know why? Because you will get a better idea, when I read this article, about what mischief can be perpetrated in matters of this nature. It is 1995 and we were in government at the time. The article is headlined "Govt prepared to dump Service Commissions." That is what the article says and I think it necessary to read the entire article into the record. It goes as follows:

Government will remove the service commissions if it sees it necessary to do so, Prime Minister Patrick Manning said Saturday.

Addressing the PNM Regional Council at North Eastern College, Sangre Grande, Manning said that gearing the economy for free trade competition included making the public sector efficient. We have to review management

If in the public service our arrangements for the promotion of individuals, for the discipline of wrongdoers, for choosing the best qualified for a job, if all of these things are not serving the needs of the country as we operate in a hostile environment, then the responsibility of the government is to change the arrangement and put in place such arrangements as would achieve objectives."

It is most important that we note that.

I will make the point, again.

“..but the party did not have a sufficient majority in Parliament, as he felt that Opposition support would not be forthcoming. Accordingly, he recommended to the audience and the population in general, that if they felt the Constitution needed to be thoroughly reformed, Give us the majority.”

Where in this article is the sub-editor who is responsible for the headline, justified in concluding that Govt prepared to dump Service Commissions? I make the point.

Mr. Panday: You are tackling the media!

Mr. P. Manning: In other words, what I am saying is that the headline is erroneous in relation to the article—

Mr. Maharaj: But we have the Bill.

Mr. P. Manning: It is all right. Please, you will get your chance to speak.

Mr. Speaker, it was a perfect example of an article out of context.

Mr. Panday: We have three more!

Mr. P. Manning: It will explain. There is another. This is an article written by Mr. Reginald Dumas headlined "Not so, Mr. PM."

Miss Nicholson: He is consistent.

Mr. P. Manning: Anyway, the article says in part:

"As far as he was concerned, he was further reported to have said, the Service Commission is an arrangement that has outlived its usefulness."

He left it at that.

Mr. Speaker, the point I was making was this, when I was quoted out of context in this article, that as it now stands, the service commissions as they are currently operating, may be in need of reform to suit our experiences since they have been put in place, at no stage suggesting that we should do away with the service commissions, or that we should politicize the service commissions, contrary to the basic principles for which service commissions were established in the first place. They would get up and misrepresent what I said because they are showing all the signs of it. But that is the position.

In fact, the Constitution (Amdt.) Bill that we brought to the Parliament in 1995, the Bill to amend the Constitution, essentially sought to delegate the authority of the Service Commissions for discipline, to the Commissioner of Police, similar to the arrangement existing in the Army, because that arrangement was found to be far more expeditious and far more effective in dealing with discipline in the particular service and we felt, having regard to that experience in the armed forces, that a similar approach could be taken in the police service. Remember, that the Army has no service commission in that sense and the commanding officer of the Army, the Chief of Defence Staff is responsible for the whole Army.

We were proposing a board for the administration of the police and, as I had already pointed out, a board comprising nine persons, one being the Permanent Secretary in the Ministry of National Security, the other being the Commissioner of Police and seven others chosen by the President, with clear responsibilities as outlined in a bill which we had brought to the Parliament and we were honest enough, something which we find sadly lacking in the conduct of governmental affairs today, to make it clear that this Bill offended the Constitution and,

Constitution (Amdt.) (No. 3) Bill
[MR. MANNING]

Wednesday, February 24, 1999

therefore, it required a special majority. It is not law today because they did not agree. The proposals that were in the bill constitute PNM policy to this day.

They have come up with nothing superior and the PNM is firmly convinced that this mechanism would have given us a proper mechanism for the administration of affairs in the police service without interfering with the fundamental role of the service commissions but operating within that ambit on a modified basis, to take into consideration our experiences. That is the reality of that situation.

I ask the hon. Attorney General a question about this Bill that is before the House today. From whence did this Bill come? It dropped almost like manna from heaven.

Mr. Maharaj: Good thing, man! Not thanning'from heaven! [*Crosstalk*]

Mr. Speaker: Order. Order.

Mr. P. Manning: Except that he does not understand that the last occasion on which those things happened was many, many years ago. It does not happen like that.

2.00 p.m.

Mr. Speaker, what is the mischief? What is the difficulty that this Government is experiencing in the conduct of the affairs of the Public Service that has given rise to a Bill of this nature? If the Government is experiencing some difficulty, they have made it a secret, because they have not taken the population into their confidence, and therefore we have not been told what is the difficulty they have been experiencing that has led them to bring this Bill to the Parliament. All that the Attorney General said today is that the policy in this Bill, notice the slight very carefully. Listen: that the policy, the approach of the Bill is similar to one that was laid in Parliament in February 1998.

Whatever you laid in February 1998, you laid in February 1998. I am asking what about this, but you talk about the principle and the policy, fine. What I am saying, Mr. Speaker, is what is the difficulty in telling us? [*Interruption*]. I remind this Government[*Interruption*]. Mr. Speaker, I hear a voice crying in the wilderness. I wonder if we could be spared of that invective please.

What is the difficulty? What have you experienced? Mr. Speaker, I want to remind hon. Members opposite, that they did not come to Government on the basis of campaign for reform of the country's Constitution. I want to remind them of that. [*Desk thumping*] In other words, they did not go to the people. The hon.

Attorney General keeps talking about the people, and the people and the people—pious platitudes that mean absolutely nothing to him. The last people he has in his mind are the people of Trinidad and Tobago whom he is sworn to govern, and to govern properly.

What is the difficulty? What did he tell them? Did he go out? No. They did not go out. No. They did not campaign on any platform of constitutional reform and, therefore, they have no mandate for major reform of the Constitution. [*Desk thumping*]. They will only be justified, Mr. Speaker, in coming for constitutional reform issues to this Parliament, if some difficulties have arisen. In our case, we too had no mandate for that, because we did not campaign for that. But you see, it was the levels of crime in the country.

Hon. R. L. Maharaj: As a matter of correction, Mr. Speaker, I must thank the hon. Member for giving way. The UNC Manifesto of 1995 page 23 states:

THE PARLIAMENT.

The government of the day must be accountable to the people through the Parliament.

The reforms we propose in parliamentary procedures would facilitate open and transparent government. The UNC proposes that select committees of the Parliament be appointed to monitor the operation and functioning of all Ministries of government.

Freedom of Information legislation would also be enacted by a UNC government so that the government-held information, subject to certain exceptions, would be accessible to members of the public...”

The UNC would take steps in order to ensure that the government is accountable. [*Desk thumping*]

Mr. P. Manning: Mr. Speaker, I am very grateful to the hon. Attorney General and Member for Couva South for his last injection. I want to draw to his attention that at no stage in the manifesto of the last election of his political party, did they mention any reform of the service commissions [*Desk thumping*] requiring, as it does, a special majority in this Parliament for so doing. The mere fact that they do not have a special majority, suggests that the population did not want that. No service commission modification.

Constitution (Amdt.) (No. 3) Bill
[MR. MANNING]

Wednesday, February 24, 1999

Mr. Speaker, I was making the point that this Bill has just come from nowhere and we do not know what is the mischief, because the Government is only justified in bringing a Bill of this nature in the absence of a campaign of reform of the Constitution and a mandate from the people to so do. The Government is only justified in bringing legislation of this nature if some particular difficulty confronts it. In our case, the difficulty was the levels of crime, and the need to modify, update and upgrade the administration of the police service as part of an overall and comprehensive plan to bring a better method of administration of the conduct of police affairs. In the context of the then government's determination to reduce the levels of crime. So we had a basis, Mr. Speaker. What is their basis? There is none.

Mr. Speaker, the hon Attorney General had a lot to say about the committee system. I feel the time has come for this Parliament to seriously address this question of the committee system. Because, you see, the hon. Attorney General makes the mistake of feeling that he alone went to school. That he alone is able to read and understand. He makes the error of assuming that you and I did not go. I know I went, Mr. Speaker. *[Interruptions]* Since the Speaker cannot speak, Mr. Speaker *[Interruption]*

Mr. Speaker: It is quite obvious that the hon. Leader of the Opposition insists on pulling me into the debate...

Mr. P. Manning: No, no, Sir. You know, Mr. Speaker, that I do no such thing, but that I am honouring the time-honoured tradition of Parliament of speaking through the Speaker. I was merely trying to speak not of you at all, Mr. Speaker.

Mr. Speaker, every time the hon. Attorney General talks about the committee system, he always cites the mother of all Parliaments, which is the United Kingdom, or he cites the Indian Parliament, or he cites some other Parliament like that: Zambia, or say, Australia. You understand the difference, Mr. Speaker. Because, we had a seminar here, just two weeks ago, before Carnival. I am very grateful to the CPA for the seminar that we had and for the people who were brought together. I am sure that the younger Members of this Parliament benefited from that discourse. In that discourse what emerged was this: that in the Lok Sabha, which is the Lower House in India, there are some 545 Members. In the British Parliament, Mr. Speaker, there are 659 Members; in the Canadian Federal Parliament, there are 301; in the Parliament of Trinidad and Tobago, in the Lower

House, there are 36. Therefore much of the reasoning for the genesis of the committee system, Mr. Speaker, applicable as it is and I am not condemning the system now but the justification, applicable as it is in India, applicable as it is in the United Kingdom, applicable as it is in the Federal Parliament of Canada, the same justification does not exist in the Parliament of Trinidad and Tobago.

2.10 p.m.

The committee system has its genesis in the difficulties that those in authority have had in controlling the backbenches in large Parliaments and a desire on their part to set up some kind of system that involves those who are not part of the Executive decision-making in the conduct of the affairs of the Government, in some way, to ensure that they are happy and stable and operate in a certain way. That is the idea behind it.

How many people are members of the Executive in the United Kingdom? There are 50. If there are 50 members of the Executive in the Parliament in the United Kingdom, there are at least 609 who are not. If in the Canadian Parliament there are 30 persons who are members of the Executive, there are at least 217 members who are not. If in the Indian Parliament, there are 45 members of the Executive, there are 500 members who are not. In this Parliament, on the Government side there is only one person who is not a member of the Executive.

Mr. Assam: There are three persons.

Mr. P. Manning: Who are the three? Mr. Speaker, the hon. Member for Fyzabad is a Parliamentary Secretary, just in case the Member for St. Joseph does not know that. He does not even acknowledge his colleague. The way the Member for Ortoire/Mayaro has to beg the Government for something, I accept that he has no locus whatsoever in the Government. The Member for Barataria/San Juan is Deputy Speaker and, therefore, not considered a backbencher in that way. If he wants some education, ask us privately. Do not waste parliamentary time to do that. *[Desk thumping]*

So, the genesis of the system is to involve backbenchers. I will readily admit that the quality of everyone on that side after the Member for Siparia is extremely low and, in fact, all of them should be backbenchers. With notable exception, the hon. Member for Naparima, I think, would make an excellent Parliamentary Secretary. *[Laughter]*

Mr. Speaker, it is complicated by the fact that Members of Parliament in Trinidad and Tobago are not full-time. Therefore, when we talk about the

committee system, and when we want to import the committee system into Trinidad and Tobago, wholesale, we have to understand that the major jurisdictions from which that system has been set up are jurisdictions with problems that are very different from the problems we have here. Therefore, we would be well-advised not to import it wholesale into Trinidad and Tobago merely because it has found favour in the British Parliament, or the Indian Parliament, or in the Parliament of the Federal Republic of Canada, or in Zambia, or some other country where the Parliament comprises a large number of members. The number of persons who are not members of the Executive is so large, that a problem of discipline breaks out in the backbenches and there is a need to put some kind of system in place to ensure that members feel an involvement in the conduct of parliamentary affairs in the country. It is not so in Trinidad.

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 a further 30 minutes. *[Dr. K Rowley]*

Question put and agreed to.

Mr. P. Manning: Mr. Speaker, I am grateful to hon. Members for their kind indulgence. The minute they start to talk about a parliamentary system of committees for Trinidad and Tobago where the same problems do not exist and where we have no significant numbers of backbenchers, we are beginning to raise the question of members of the Executive sitting on these committees, and they are beginning to raise the other issue of persons sitting on those committees who may not be members of Parliament at all.

These are serious issues. These are issues of significance that no Government ought to just come in this way, almost like a thief in the night, and drop on the people of Trinidad and Tobago and expect that the Opposition will remain silent or, as the hon. Attorney General put it, act in a statesman-like manner. What it means is to support the Government in whatever they do. They just cannot do that. These are matters for discussion. These discussions have not taken place in the country, and the Government is not justified in coming to this Parliament and introducing matters of such a far-reaching nature without the appropriate consultation. They talk about the population and the people, but where are they?

Mr. Speaker, the hon. Attorney General, therefore, is trying to set up, under this Bill, a number of *ad hoc* committees either Select Committees of each House,

or Joint Select Committees, all of them *ad hoc*. But then he tells us that at the end of the day, when this Bill is passed, what we can expect is that we will have parliamentary committees that will look into the operations of various Government departments, and that can, on a contemporaneous basis, investigate allegations of corruption as they arise in the conduct of Government affairs.

Any committees to be investigating matters of this nature should not be *ad hoc*; they should be standing committees, because what then happens is that the Government will have the option of deciding whether to establish the committee or not, because the Government has the majority in Parliament, and if there is a particular issue of corruption that the Government does not wish investigated, it merely sets up no committee. The Opposition could then say what it wants; we could talk as much as we want, until we are blue in the face. The words of the hon. Prime Minister come back to me clearly: If you do not like it, you could do what you want.' He says that to us all the time.

By setting up these *ad hoc* committees, therefore, or by making provision in this law for the establishment of *ad hoc* committees to investigate certain things, in fact, puts the mechanism squarely in the hands of Government, rather than in the hands of Parliament, and what has been said by the Judicial and Legal Service Commission on this matter comes to mind. They are very justified in asking the question: What checks and balances do you have if these committees decide to exceed their authority? That is not a pie-in-the-sky question. Already it happens with parliamentary committees. I will come to that in a minute.

Hon. Sudama: They reported to Parliament.

Mr. P. Manning: That is the point. If any committee has to be established at all, it has to be a committee established along the lines of the Public Accounts Committee which is a standing committee or the Public Accounts (Enterprises) Committee which is also a standing committee; both of which are chaired by a Member of the Opposition. Because what we are trying to do is investigate Executive action, and at least justice must appear to be done, even if it is not done, and it does not appear to be done if the Government is in control of it and it is a question of Caesar to Caesar. It just does not work that way.

I want to reject, out of hand, the approach of this Government on the committee system. It just would not work. If the Attorney General or the Prime Minister wants a committee, then establish it. Would they establish a parliamentary committee to investigate the InnCogen deal? Establish a parliamentary committee

Constitution (Amdt.) (No. 3) Bill
[MR. MANNING]

Wednesday, February 24, 1999

to investigate InnCogen with powers of the commission of inquiry of which we speak.

Mr. Speaker, let me put the following proposal to the Government. If they bring a bill to Parliament to establish a new standing committee on corruption of the Parliament—

Mr. Panday: But these countries—

Mr. P. Manning: Are you listening to me or not listening? Do you want to fight?

Mr. Panday: Yes. *[Laughter]*

Mr. P. Manning: It is not a threat. It is a question.

Mr. Speaker: Whether it is a question or an assertion, you avoid it all by talking to me.

Mr. Panday: Peace, my brother.

Mr. P. Manning: Mr. Speaker, I was trying to fight him through you, but we will have none of that. *[Laughter]* The proposal is this, through you, Mr. Speaker: There should be established a standing committee of this Parliament, chaired by a Member of the Opposition with a majority of Opposition Members on it to investigate allegations of corruption on a contemporaneous basis. That is the proposal. If the Government brings a proposal like that to this Parliament, the PNM would study it and would engage in discussions with them, with a view to arriving at a piece of legislation that is acceptable. It does not do that.

I thought that the hon. Attorney General was very out of hand to suggest that Sir Ellis Clarke did not read the Bill; that Mr. Justice Noor Hassanali did not read the Bill; to suggest that former Mr. Justice Kelsick did not read the Bill; or Mr. Hyatali who, incidentally, is the Chairman of the Elections and Boundaries Commission. He is casting aspersions, even to suggest that Mr. Justice Clinton Bernard did not read the Bill, and what is worse, to suggest that the current Chief Justice of Trinidad and Tobago is guilty of making a public statement on an important piece of legislation that is before the Parliament without reading and understanding the Bill. *[Desk thumping]*

Dr. Rowley: That's insulting!

Hon. R. L. Maharaj: Mr. Speaker, I just want to make the record clear that I am not surprised, but I never said that.

Mr. P. Manning: Mr. Speaker, he started off his contribution by saying that persons have been commenting on this Bill and clearly did not read it. He will seek to cover it as much as he wants. He has levelled that allegation against Sir Ellis Clarke, Mr. Noor Hassanali—

Mr. Speaker: I think I must intervene. What has happened is that I distinctly remember the Member having said that some persons have not read and understood. For the Hon. Member to say that he said that those distinguished people did not read the Bill is not really right. He has said ~~and~~ it is for the record, if one wants it, we could bring it ~~some~~ some people do not seem to have done ~~we~~ we need to be clear on that. He did not say that the Chairman of the ~~[Interruption]~~ May I?

2.25 p.m.

Mr. P. Manning: Mr. Speaker, I am merely making my comment on the basis of information that is in the public domain, not necessarily in the Parliament alone. You see, they go outside and say all kinds of things, but they would not say them in here. Do you know why? Because they know there is an Opposition who would immediately challenge them. It was clearly implied! We are not fools; we also went to school, that is the point I have been making. They must understand when they speak; sometimes they do not even understand what they say. A clear implication was levelled against the six hon. gentlemen. A clear allegation was levelled against them merely because they are of a point of view that is different. *[Desk thumping]* They are dictatorial in their orientation, and we will be very well-advised to watch how they proceed, so that these dictatorial tendencies cannot dominate the conduct of the Parliament. *[Desk thumping]*

So we have power, under this Bill, to set up parliamentary committees. Mr. Speaker, how many? He talks about Government ministries and departments, but how many ministries and departments are there, 10, 12, or 15? So you set up 12! You understand what I am saying, Mr. Speaker. You set up 12, because on an on-going basis, you are going to have to investigate administration of departments. If these committees are to be effective, they cannot have as a responsibility to look at this one, and then that one and so forth. The system would operate best if a committee, on a continuous basis, looks at a department or a ministry and has exclusive responsibility for doing that and that alone. If you look at it that way, then you are looking at so many committees ~~that~~ that is an impractical approach. The approach is not practical and, therefore, the legislation is yet another item of legislation similar to what the Attorney General has been bringing to this

Constitution (Amdt.) (No. 3) Bill
[MR. MANNING]

Wednesday, February 24, 1999

Parliament all the time, which seeks to place on the statute books, provisions, that in practice we ought not to have. Therefore, we do not agree with this.

I remind the hon. Attorney General that between 1987 and 1991 the Government of Trinidad and Tobago fell out with the service commissions. It was the attempts of a former Prime Minister to deal with the chairman of a service commission that led to a constitution review exercise; and the Hyatali Constitution Commission is a result of that.

The other thing is this, I was a member of Parliament in 1976 when the report of the Wooding Commission came to the Parliament. The hon. Attorney General was not here, so I must tell him what happened—the government of the day took very serious difference with the recommendations of the Wooding Commission. And therefore, the government made it clear that it was Parliament and Parliament only, which had the responsibility for putting a new Constitution in place. Therefore, notwithstanding what the Constitution Commission may have reported and, for whatever reason, because difficulties arose from quite early in the life of that commission, it was the Parliament's responsibility to put a new Constitution in place, a responsibility that we were not prepared to delegate to anyone else. In fact, I now remember, Mr. Speaker, you were a member of Parliament at that time and, therefore, you understand what I am saying.

And so, I would just like to recap by saying that we do not support the Bill at all. We find the Bill quite dangerous. Secondly, if we had any doubts about it—the six wise men, as I would call them, alerted us and the national community of the dangers associated with any simplistic acceptance of the provision [*Desk thumping*] or that the intent of the Government is questionable, to put it very generously and mildly. We have grave doubts about the intent of the Governments; that it is a continuation of the dictatorial tendency which we are seeing, now; it has reached the service commissions. The next thing you will hear from that Government is that it wants to abolish the position of ceremonial President, as it were, and create an executive presidency in the country.

Mr. Hinds: He said so.

Mr. Maharaj: There is nothing wrong with that.

Dr. Rowley: By subterfuge?

Mr. P. Manning: That is the next thing you will hear.

I am just alerting the national community that now they are going to find difficulties in dealing with the service commissions. The next thing that they will do, will be to change the method of appointments; that is to say, to get rid of the President and put an executive president in place, who then we will discuss that then. I am just warning the national community that this is a logical extension to the way these fellas are going. The logical extension is that they are heading for an executive President, which, I may say, the People's National Movement feels has no place in this society at this particular point in time. Let me make it clear from now, so when you are ready to come with that, you come.

It is our view that unusual arrangements are involved in seeking to achieve these objectives by modifying section 66 of the Constitution. We believe that the section of the Constitution referring to the service commissions should have been modified instead. If that were so, it would be clear that the Bill actually offends the Constitution, in certain ways, that cause it to require a special majority for acceptance by the Parliament. [*Desk thumping*]

Finally, the PNM does not propose to be part of the arrangements that talk about *ad hoc* committees of the Parliament to oversee the administration of Government departments. In light of all that I have said, we feel that is a proposal that requires far more study and comment before any proper proposal can be brought to the Parliament on this matter.

Finally, Mr. Speaker, I want to put out the suggestion again, through you, to the honourable Members opposite that if they feel that they want to establish a standing committee of this Parliament, chaired by a member of the Opposition to investigate allegation of corruption on a contemporaneous basis, similar to the way the Public Accounts Committee operates or the Public Accounts (Enterprises) Committee operates, the Opposition is prepared to entertain such a proposal and to enter into discussions with the Government to ensure that a proper formula is put in place.

I thank you.

The Minister of Legal Affairs (Hon. Kamla Persad-Bissessar): Mr. Speaker, the hon. Leader of the Opposition has been quite generous in his confidence expressed in the Member for Siparia and, therefore, I am very happy to be able to respond to some of the comments that he has made, and I trust that he will take those comments with the same kind of confidence that he has expressed.

He says that this stage is mine”and the parliamentary stage that he has been gallerying”on for the past 75 minutes—I believe, that in our minds there is no doubt that what he was doing was really singing calypso and not dealing with serious business of the people of Trinidad and Tobago. He called it his stage.

In the first place, he tells us that a special majority is required. I believe most of us are very familiar with the provisions of the Constitution, and we look at the provisions in the Constitution which deal with making laws in the Parliament. When we look at sections 53 and 54, we see the majorities that are required for particular pieces of legislation. So, section 53 of the Constitution is very clear, it states:

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

Section 54 goes quite clearly to outline the sections which require a special majority for amendment or alteration to them. If I may, with your permission, read section 54 which states:

(1) Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution or (in so far as it forms part of the law of Trinidad and Tobago) any of the provisions of the Trinidad and Tobago Independence Act 1962.

(2) In so far as it alters—

(a) sections 4 to 14, 20 (b), 21, 43(1), 53, 58, 67(2), 70, 83, 101 to 108, 110, 113, 116 to 125 and 133 to 137;

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

2.35 p.m.

It is very clear, in my respectful view, that those sections which require a two-thirds majority, as enumerated in section 54 of the Constitution, not one of those is being altered by the Bill that is on for debate today, in this House.

Sections 22, 23, 24, 26, 28, 34, 38, 40, 46, 49, and, so on. This is in 54, subsection 2(b) and it, again, lists several sections. For this we need a three-fourths

majority in the Parliament. Nothing in this Bill is altering any of the sections enumerated in section 54 2(b) of the Constitution.

Mr. Speaker, it is very clear in the Constitution, which alterations require a special majority. It is our respectful view that the Bill that we are debating today, requires a simply majority, because it does not, in any way, alter any of the entrenched provisions of the Constitution. This is one of the difficulties we have seen, that have been faced by the former administration, the People National Movement Government; that once they heard the word Constitution, they felt that every single provision within the Constitution required a special majority. And, that is why, they were incapable, throughout their administration, of making any changes to the Constitution where simply majorities were required, because they always felt they required a special majority, so to do.

And, so it was, when the Hon. Leader of the Opposition said, when it is that he tried to make changeshe brought changes in 1994he could not do it, and he said: 'I could not do it, because I did not have a special majority in the Parliament.' It is very, clear that their legal advice was totally inadequate. And, whoever provided that legal advice, during that administration, provided very bad advice. We have seen the results of that kind of advice, which resulted in the famouswe keep repeating itlocking-up of a Speaker and hanging of a person whilst his case was being processed in the court of law. We have seen all these things that happened. And, it is very clear that they were incapable of making change and now, would seek to try to put every obstacle in the way of this Government, that is determined to bring change to the society, as we go into the new age, into the new millennium.

Mr. Speaker, if we read the Constitution very carefully, we can see very clearly that there are no changes, whatsoever, being made to any entrenched provision in the Constitution and, therefore, no special majority is required.

In addition, if we look at sections 116+25, those are the sections which deal with the service commissions themselves and it is very clear that this Government has in no way, or is in no way, intending to make any changes by this Bill, to sections 116+25. Those are the sections which deal with the service commissions. That whole part of the Constitution, no change is proposed to that.

So that the structure and the functions of the service commissions would remain intact. The service commissions would continue to maintain their functions, carry out their operations, and they will be totally responsible for the recruitment of staff, disciplining of staff, and all the functions that they now hold. I think there

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]]

Wednesday, February 24, 1999

is a great amount of fear that this Bill seeks to take away those functions from the service commissions. If it is looked at very carefully, the sections which empower the service commissions to carry out their functions, and to carry out their duties, are not being interfered with, at all.

It is very misleading, in my respectful view, to say that the amendment this Bill is making, is seeking to bring political interference into the functioning of the service commissions. That will not happen, at all. The service commissions will continue to carry on their role and functions exactly as has been set out in the Constitution.

So that, the issue that has been raised, to say that this Government is intending to interfere in the functions of the service commissions, to politicize the service commissions, is without any strength, whatsoever.

There was a point that was raised by the Hon. Leader of the Opposition, which had to do with the Working Paper on reform of the management structure of the Parliament of Trinidad and Tobago. With due respect, I believe his comment is misleading to this Honourable House. We would all recall House Paper No. 3, of 1998, laid in the House of Representatives, on June 12, 1998, from which the Hon. Leader of the Opposition quoted. It is very clear that this was a paper that had been prepared by the Law Commission. It was very clear, that this was not the policy of Government. This paper was laid in the Parliament and, thereafter, referred to a Joint Select Committee of the Parliament. Therefore, the recommendation that is contained within it, is a recommendation of the Law Commission and not that of the Government. I think that point needs to be very, very, clear. This is not Government policy. And, therefore, to take the recommendation and read it out, and say that the Attorney General is determined to politicize service commissions [*Interruption*]

Mr. Manning: Mr. Speaker, I thank the Hon. Member for giving way. I just want to remind the Hon. Member that the Law Commission has no authority to publish a house paper. The Government influences that, by way of their majority in Parliament. And therefore, if a house paper is published, even the Opposition, cannot influence that too much, because the Government has a majority, and when a house paper is published, it clearly reflects the view of the Government. And, if it is not, it has no right to find its way in the public domain. What are you now saying?

Hon. K. Persad-Bissessar: I do not accept that reasoning, at all. This House Paper, I did not say it was published by the Law Commission. It was prepared by the Law Commission. That paper was then laid in the House, whereupon it was published as a House Paper by the Parliament.

The point is that this paper is very important, because the Hon. Member, in my respectful view, that comment is misleading, with respect to what is happening with this. This is not Government policy. This paper is now before a Joint Select Committee of the Parliament. And the Members of the Opposition, as well as Members of the Independent bench of the Senate, and the Lower House, we are represented here by Members of the Joint Select Committee. So, this is not policy; it is for discussion, and the recommendations will ensue at the end of the report of the Joint Select Committee. It is not true to say that this is the policy of the Government. This was a paper prepared by the Law Commission. It has been laid in the House, thereafter published as a House Paper. It is before a Joint Select Committee of the Parliament. [*Interruption*] That would be for the Joint Select Committee to decide.

Mr. Speaker, the Hon. Leader of the Opposition, in the words of the Hon. Prime Minister said, was taking front before front takes him," because he got up and read the articles from the newspaper—[*Interruption*]. Taking before, before front takes him," in the words of the Prime Minister, because he knew, and he remembered all the debate that had ensued, when in, 1993 and 1994, the Government of the day, the then People's National Movement Government, was determined to really take control of the service commissions. If we look at the history of what took place then, it is very, clear that what is happening today, in this Bill, is far removed from what the People's National Movement administration had tried to do in 1993 and 1994. Because I have already pointed out, it is very clear that we are not removing any of the powers and functions of the service commissions; we are not changing the composition of the board of the Service Commissions the manner in which that board is set up; the way in which the board is appointed. So that we are not interfering with any part of the structure and function of the service commissions. This is totally different from what the People's National Movement attempted to do in 1994.

When the Hon. Leader of the Opposition stood up He denied the newspaper article of April 3 1994, where the headline carried: "Government to dump Service Commissions," and he denied that, that was it; that the headline was misleading, and so on, and he said that the People's National Movement, had no intention of

abolishing service commissions. It is my respectful view, that is incorrect to say, in the light of the Bill that was actually put in the Parliament by the PNM in 1994.

2.45 p.m.

And let us look at it because it is very clear from the provisions that they intended to abolish the Police Service Commission. They intended to abolish that Police Service Commission, one, and secondly to politicize the functioning of the Police Service Commission, the very things that they are accusing the present Bill of trying to do. First of all this 1994 Bill clearly stated that it was amending the Constitution, the Preamble was there and it was amending entrenched provisions of the Constitution.

I am saying that it is not true to say that the PNM had no intention of abolishing the Commission. Clause 4 of that 1994 Bill clearly repeals sections 122 and 123 of the Constitution and substitutes a whole new set of provisions for 122 and 123. And why that is important is, what is 122 and 123 about? If we look at the Constitution, section 122 which deals with the Police Service Commission says:

- (1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of a Chairman and four other members.”

There shall be a Police Service Commission with the Chairman and four others.

- (2) The members of the Police Service Commission shall be appointed by the President, after consultation with the Prime Minister and the Leader of the Opposition.
- (3) The Chairman of the Police Service Commission shall be either the Chairman or the Deputy Chairman of the Public Service Commission.”

The members of the Police Service Commission shall hold office in accordance with section 126.”

That is in the 1994 Bill of the PNM administration. That is to be repealed completely and replaced, as I shall shortly disclose.

I want to read 123 because 123, which is the other section that they were proposing to repeal, deals with the functions and service of the commission.

- (2) The Police Service Commission shall not remove, or inflict any punishment on, the holder of an office in the Police Service on the grounds of any act done or omitted to be done by him in the exercise of a

judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

- (3) Before the Police Service Commission makes an appointment to the office of Commissioner or Deputy Commissioner of Police, it shall consult the Prime Minister, and a person shall not be appointed to such an office if the Prime Minister signifies to the Police Service Commission his objection to the appointment of that person to such an office.”

So 122 and 123. This is what clause 4 of the 1994 PNM Bill proposed:

Chapter 9 of the Constitution is amended in Part I by deleting the heading ‘Police Service Commission’ and repealing sections 122 and 123 and by substituting the following heading of sections.”

I have already pointed out that our Bill that is for debate does not in any way change the provisions of section 122 or any of the other provisions dealing with all the other service commissions. But here we are in clause 4 abolishing because you are repealing that section completely, it means that you are taking away the whole structure of the Police Service Commission and this is what they intended to have inserted. This is what was proposed by the PNM as section 122A.

- (1) There shall be a Police Service Commission for Trinidad and Tobago which shall consist of the Permanent Secretary, the Commissioner of Police and seven other members appointed as follows:”

Now each of those, in my respectful view, would have created tremendous difficulties as I will disclose in a while. The other members to be appointed are as follows:

- (a) one person with special knowledge and experience in law;
- (b) one person with special knowledge and experience in human resource management;
- (c) one person with knowledge and experience in psychology;
- (d) one person.in finance and business;
- (e) one person...in management;
- (f) two persons representative of the interests of the community.

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]]

Wednesday, February 24, 1999

- (2) The members of the Police Service Commission referred to in subsection (1)(a) to (f) shall be appointed by the President after consultation with the Prime Minister and Leader of the Opposition.
- (3) The President shall appoint as Chairman of the Police Service Commission, one of the persons appointed under subsection (2)."

What we are seeing here very clearly is that a permanent secretary, who is a public officer under the provisions proposed by the PNM administration, would have been one of the members of the Police Service Commission. And, Mr. Speaker, if we look at section 126 of the Constitution it is very clear that as the present structure obtains, a public officer is one of the special persons debarred from sitting on a service commission.

So if you are saying you were not intending to put executive control, then what is the highest public officer in a ministry doing on a service commission? Section 126, again this is the Constitution:

'A person who—

- (a) is a member of the House of Representatives or the Senate; or
- (b) holds or is acting in any public office..."

and not just there but if they had been there at least or within the period of three years preceding his proposed appointment—

is not qualified to hold the office of member of a Service Commission."

So that 126 completely debarred a public officer from sitting on a service commission and here it is that is exactly what the new 122A of the PNM draft proposed to place this public officer on the Service Commission.

Hon. R. L. Maharaj: He was contravening the Act.

Hon. K. Persad-Bissessar: So that he was contravening section 126. In addition to repealing sections 122 and 123 and replacing it with a new 122 and 123, in addition he was contravening 126 and I could not believe that the Bill took into consideration 126 at all. There was no further amendment within that 1994 Bill, as far as I can see, which went ahead to say, "Well look, I'm changing 126." So right away your Bill was in conflict with the existing provisions and you took most steps within that to deal with what was happening in 126.

So that you would have been contravening it in a very serious way. And it is very important to note the hon. Leader of the Opposition said that this

Government had no mandate; we did not campaign on the issue of constitutional reform and therefore we did not have a mandate to come to bring constitutional reform to this Parliament. The hon. Attorney General read quite clearly that one of our campaign promises was the whole business of setting up parliamentary committees and dealing with parliamentary committees. But it goes even further back than 1995 because the hon. Prime Minister as Leader of the Opposition has for years advocated that parliamentary committees be set up to deal with matters.

And I would quote here from a letter sent to Mr. Panday when he was Leader of the Opposition. This letter was sent by the Minister of National Security for the administration of Mr. Manning when he was then Prime Minister and it is dated April 1, 1993. It is sent to the Leader of the Opposition and says:

"I have been directed by the Honourable Prime Minister to forward to you for your consideration the Government's proposals for review of the management of the Police Service."

And in that letter the proposals were the proposals that are contained in this 1994 Bill and the Government's proposals were to establish a Police Service Management Board which was to take over the function of the Police Service Commission.

That Board was to be given power to recruit and promote in ranks below the level of Assistant Commissioner of Police and to discipline the ranks between Assistant Superintendent to Assistant Commissioner of Police. That Board was also to oversee the managerial competence and effectiveness of the Police Service and, as we indicated, the members of that Board were to be the Permanent Secretary out of the Ministry of National Security and the Commissioner of Police and four other nominees, and the role of the existing Police Service Commission, was to be totally reduced that was the proposal to be merely an appeals tribunal.

So do not tell us here today that your intention was not to abolish service commissions. It was very clear from that Bill and from your letter to the then Leader of the Opposition that that was your intention, to abolish the Police Service Commission and replace it with a board and on that board to place a member of the executive, a permanent secretary, and worst of all to place the Commissioner of Police on it. In that sense who would discipline the Commissioner of Police if he were to be disciplined if he himself is a member of the board which is dealing with recruitment and promotion? Himself to himself it would have been. The thing is ludicrous. It is totally ludicrous.

It is obvious, therefore, it could never have gained any support. I mean, it goes even further. Not only did you want to abolish the service commissions, you wanted to appoint a new man to be the Police Commissioner at that time to fire the then Police Commissioner who was at that time—

Hon. R. Maharaj: He wanted to take the Police Commissioner and put him on the Board. He wanted to legislate for the Commissioner of Police a new Commissioner.

Hon. K. Persad-Bissessar: A new Commissioner to come on. So that these were the proposals that were sent to the then Leader and this letter is dated April 1, 1993. In response to those proposals I have here a copy of the letter sent by then Leader of the Opposition, now our hon. Prime Minister, Mr. Panday, dated June 30, 1993 and in this letter he responded to the concerns that were raised in the letter of the Minister of National Security. That letter dated June 30, 1993 was addressed to the hon. Mr. Patrick Manning, Prime Minister of Trinidad and Tobago and it deals with recommendations for review of management of the Police Service and other matters incidental thereto, in response to those proposals.

Before that letter was written in June a series of consultations were carried out by the then Opposition with numerous persons. We have a list of some of the persons here, various interest groups and so on, before the position contained in the letter was sent off to the then Prime Minister. And in that letter the UNC opposed the reduction of the powers of the then Police Service Commission. The UNC, in Mr. Panday's letter to Mr. Manning, stated very clearly that this body was set up by the Constitution to be independent of political and executive pressure and was reduced to almost an appeals tribunal with powers only to discipline the Commissioner and Deputy Commissioner.

The UNC position at that time was that this reverted to the pre-independence position where police officers did not enjoy security of tenure and would be at the mercy of the executive arm. And this is what I am saying was contained in Mr. Panday's letter. At that time the Opposition party proposed that the recommendations of the O'Dowd Report should form the basis of a Green Paper on the Police Service which should be circulated by Government for consultation. Of course, that did not happen at all. In that letter the Leader of the Opposition then, Mr. Panday, wrote as follows.

There should be no police service board of management. Instead the Police Service Commission should be given the powers which it was proposed to give to the Police Service Management Board.”

So we maintained from then that the service commissions should remain and should continue to function as they are functioning now under the Constitution. And most important, and perhaps I should get the exact wording because what Mr. Panday then did was to state very clearly that a parliamentary committee or committees should be established to monitor the activities of the Ministry of National Security which would include the Police Service. So that this did not drop like a thief in the night.

Hon. R. L. Maharaj: Or manna from heaven.

Hon. K. Persad-Bissessar: It did not drop like manna from heaven. In fact, with all due respect, I am being told, it is very true I may agree with you, that manna has stopped falling, but the only thing that is falling now, they say, it is only Manning falling. I am sorry, that is what my colleague says. No more manna.

3.00 p.m.

Mr. Manning: How did the hon. Member come to that conclusion? [Laughter] [Crosstalk]

Hon. K. Persad-Bissessar: Mr. Speaker, the hon. Member from San Fernando East wanted to know how I arrived at that conclusion, [Interruption] I had discussion with one of the hon. Senators who is in the House. [Laughter]

To get back to this point, because I think it is exceedingly important to note that we did not bring this Bill like a thief in the night or like manna from heaven—that was the point I was making. In a letter of June 30, 1993, signed by Mr. Basdeo Panday, as the then Leader of the Opposition, he said it very clearly:

The creation of machinery to make the Police Service, the Government and the Police Service Commission more accountable to the population and Parliament, would immediately improve management and efficiency within the Police Service.

If I may get a second to [Interruption]

consistency with respect to setting out these committees.

Thus, if it is that the hon. Member for San Fernando East is advocating that the 1994 proposal is the way to go and is the proposal to go, this letter of June 30, 1993, makes it very clear that we would have been affecting the independence of the service commission. I would read from this letter with your leave, Mr. Speaker:

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]]

Wednesday, February 24, 1999

Pursuant to discussions you had with me, I received from your Minister of National Security a letter dated April 1, 1993 which contained Government's proposals as mentioned above.

My office informed him that we were having consultation with interested groups in respect of your proposals. We received the First and Second Division Police Officers' Association and the Public Services Association at this office and had discussions with them concerning the proposals.

We also had discussions with Mr. Tony May and Mr. Eustace Bernard, former Commissioners of Police. My parliamentary caucus held consultation with the public throughout the country at public meetings at which meetings the proposals were discussed. I quote:

'The proposed Police Management Board would consist of the majority of persons appointed by the Cabinet, and at that time the proposal was for these nominees to sit on the proposed Police Service Management Board that they were to be persons appointed by the Cabinet'.

At the moment, commissioners who sit on service commissions are all appointed by the President, so this would have been a marked change in the composition of the board. *[Interruption]*

The Police Service Commission according to the proposal would be converted to an Appeal Tribunal in respect of disciplinary matters involving officers of the rank of Constable to Assistant Commissioner of Police and retain its jurisdiction of disciplinary removal of the Commissioner of Police and the Deputy Commissioner.

These proposals attempt to remove the constitutional safeguard of an independent Service Commission entrenched under the Constitution of Trinidad and Tobago, which safeguard was insisted upon by the population to insulate the Police Service from political influence and manipulation, in the performance of its functions.

The importance of this safeguard was emphasized by the Judicial Committee of the Privy Council in the case of *Thomas v Attorney General* at (2) West Indian Reports at pages 381 to 382, a case from Trinidad and Tobago in which the Privy Council had cause to examine the importance of the safeguard of independent Service Commissions."

Lord Diplock speaking for the Privy Council said and the letter quotes the words of Lord Diplock which were repeated by the hon. Attorney General in his presentation. But they basically emphasized the point that service commissions needed to remain separate and apart from Executive and the Legislature.

In fact, in the last part of the page that was quoted by Mr. Panday it reads:

In respect of each of those autonomous Commissions...

These are the service commissions.

the Constitution contains provisions to secure its independence from both the Executive and the Legislature. No member of the Legislature may serve on the Commission. All members must be appointed for a fixed term of years which must not be less than three or more than five, during which a member may only be removed for inability to discharge his function or for misbehaving.

The quarantine period imposed by making it a requirement of eligibility for a Service Commission, that a member shall not have served in any public office within the last three years...

This is the person they were proposing to put, the permanent secretary, who is clearly a public officer. In the words of Diplock that would not have been appropriate at all. Making him ineligible for appointment to any public office for three years after ceasing to serve as a member of the commission, is clearly intended to avoid any risk of his being influenced in favour of the Executive by consideration of advancement in his own career.

It is very clear that the public officer sitting on a body where you are saying you want independence and autonomy, would be like having a member of the Executive and, therefore, the influence of the Executive, on such an independent body.

The letter went on to talk about the Wooding Constitution Commission, the Hyatali Constitution Commission Report, the O'Dowd Report and all these other reports, and concludes, as I have said that the best way to proceed would have been for the setting up of the parliamentary committees. This is merely to emphasize the point that from way back, and I am sure even if we go back to before 1993, we would have seen that the Prime Minister in his post previously as Leader of the Opposition, was consistent in his call for parliamentary committees to be set up.

Mr. Speaker, the other point that has been raised by the Member for San Fernando East was about this whole business of the committee system. We have

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]

Wednesday, February 24, 1999

been speaking about the committee system and the establishment of the committee system. He is saying that it is not good for Trinidad and Tobago, that is for large parliaments, not for us. For two reasons, he said: they are very large Parliaments and they involve many backbenchers, and the purpose of these parliamentary committees is for the involvement of backbenchers. That point is well made with respect to the involvement of backbenchers. He also said that in those cases in those parliaments indiscipline breaks out in the ranks of the backbenchers and, therefore, you need to involve them.

But, Member for San Fernando East, it appears that indiscipline is breaking out in the Front Bench from those who are sitting next to you. [*Desk thumping*] Perhaps you need the parliamentary committee far more than we do. [*Crosstalk*]

He said that in India 600 or 900 and in the United Kingdom 540, yes, they are huge, but what I would like to ask, is he saying then that because our Parliament is a small one with fewer Members, there is no need for accountability? Is he saying that there is no need for transparency? Is he saying that there is no need for information to be brought via the committees to the Parliament and, therefore, to the people of Trinidad and Tobago? Is he saying that we cannot have parliamentary committees because the Parliament is too small? It seems—

Mr. Manning: Mr. Speaker, I thank the hon. Member for giving way. We did not say that. We said that was a major consideration. In fact, I did not exhaust the issue. What I would have said, even if those committees now are irrelevant in another context, we would have to examine our own circumstances in Trinidad and Tobago to see what is relevant for us. A large number of committees is not practicable.

Hon. K. Persad-Bissessar: Very well. The issue as to whether the committee system is relevant to Trinidad and Tobago or not, a large number of committees—again, I am sorry, with due respect, the Member contradicts himself. He talked about a large number of committees, and then when we are dealing with this Bill, he is saying that we cannot have all these committees. He calls for one committee on the one hand, but then he says that several committees would not be able to monitor all these departments, state enterprises and ministries. Then do you know what he called for? He called for one committee on corruption. [*Interruption*]

On the one hand he is saying, "We do not want too many committees," on the other hand he is saying that he wants one committee. But then if we have one committee, it would not be able to monitor all these several ministries, 21 or whatever.

Mr. Manning: That was never the intention.

Hon. K. Persad-Bissessar: That is contradictory. Coming back to the point, whether a parliamentary committee system was set up to involve backbenchers, yes, that is one of the issues, whether it works well in large systems, it is very important.

The hon. Minister of Trade and Industry and Consumer Affairs, the Member for St. Joseph said that it was like saying this is the example he used: if you are 500 pounds in size and someone else is 100 pounds, then you need to bathe five times a week, and that person needs to bathe once in every five. [*Crosstalk*] That is what I am saying, if you have a large parliament, accountability is an issue. If you have a small parliament, accountability is still an issue. [*Crosstalk*] Therefore, we believe that a system of parliamentary committees is the way to go, to have these set up to investigate and deal with issues that arise, such as corruption.

The Member said that he wants one standing committee to investigate corruption, and we had cause to ask whether he had read the Bill, because he said that he wanted a committee to investigate corruption, Inncogen and ministries, but when one reads the Bill it is very clear that is what it is about. It is not one committee but it is going to set up committees to do exactly what he is asking for.

Thus, whether it is in a ministry, a state enterprise, a statutory authority, or wherever it may be, it would be here before the enquiry of the Parliament. [*Interruption*] You cannot have one of those. [*Interruption*] That is exactly the argument the Member for San Fernando East used. How can you monitor all these things? Now he wants to have one to do all of that. It cannot be done.

Clause 3 of the Constitution (Amdt.) Bill states:

"3. The Constitution is amended by inserting after section 66, the following section:

66A. (1) Subject to subsection (2), it is hereby declared that—

- (a) in addition to any other Select Committee which each House is empowered to appoint under its Standing Orders, each House may appoint Select Committees or Joint Select Committees,..."

Listen to what it is they are empowered to do, because that is exactly what he is asking for. These would be required:

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]

Wednesday, February 24, 1999

"...to investigate and report to that House or to both Houses as the case may be, on the powers and methods of functioning of, and criteria adopted by, Service Commissions, Ministries, Statutory Authorities and enterprises controlled by or on behalf of the State or in which public moneys are invested;"

What is so wrong with that? Why is it that the people of this country through the Parliament should not be entitled to know what happens in a state enterprise, ministry, or through the service commissions? Why are they not entitled to have that information? When that comes to the Parliament through the Joint Select Committee then it is brought to the people of this country; it is brought to the citizens of Trinidad and Tobago. Therefore, all the issues that were raised by the Opposition in the Parliament, every issuesø that corruption is seen left, right and centreyøu can bring those to the committees and deal with them.

Right now there is no mechanism for accountability and transparency that can operate to deal with the allegations that are brought.

[*Crosstalk*]

Dr. Rowley: You feel so!

Mr. Speaker: Order! Order! Order please!

Hon. K. Persad-Bissessar: If your hands are clean, there is nothing to fear from this. There is nothing to fear in this Bill, because whatever comes is going to come to all the representatives of the people. They are not going to go to the Government, the Opposition or the Independents, but to all the representatives of the people through the Parliament. When it comes through the Parliament it would reach the people of Trinidad and Tobago. Thus, whatever happens in a state enterprise, statutory authority or ministry will come here. That is what this Bill is about. It is about accountability and transparency. [*Interruption*]

That is why I had to ask whether the Leader of the Opposition was saying that we cannot run these committees, because we do not want that accountability or transparency. This Bill, far from giving dictatorial powers to Government or ministers, far from doing that, the provisions in it would place ministers and ministries under complete scrutiny. There will be public hearings about what is taking place. This would open up the functioning; investigate, report on the powers, the methods of functioning and the criteria adopted by all these bodies.

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

Motion made, that the hon. Member's speaking time be extended by 30 minutes. [*Hon. R. L. Maharaj*]

Question put and agreed to.

3.15 pm

Hon. K. Persad-Bissessar: Mr. Speaker, I am saying there is nothing to fear from the provisions of this Bill. Whilst it is natural for people to fear any kind of proposed amendment to the Constitution and that is a natural kind of reaction because we all hold our Constitution very dear; we hold the democratic rights enshrined in that Constitution in very high esteem and, therefore, we understand that this is the very base on which our constitutional democracy rests; and the value we place on the existence of that Constitution informs the entire life and social structure of the society.

So that we understand that there may be that reaction from members of the public, and it is our duty then, Mr. Speaker, for us to really read the Bill carefully and look at the provisions to see what they really provide. I have seen, for example, in the *Express* dated February 3, 1999 an article by the Chamber of Industry, Trade and Commerce entitled 'A Risky Bill' discussing this Bill. Mr. Speaker, I am saying that some of their fears can be allayed, they can go through the provisions of this Bill and, perhaps, have the benefit of the debate of this House.

Mr. Speaker, I want to make it very clear that I would not advocate changing a piece of legislation such as this with respect to the Constitution without careful consideration, without looking at the advantages and disadvantages, and seeing that the advantages outweigh any perceived disadvantages. We must always remember that no piece of legislation, no law on our statute books is sacrosanct. That is why there is always provision for changes to be made to the law to suit the needs of the people in order to ensure that the people go forward; that they do not remain cast in stone or rock and we cannot move because we say this is the law, this is the Constitution. Do not touch it, do not do anything with it. We have to,

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]

Wednesday, February 24, 1999

where necessary, bite the bullet and go forward in terms of making change that would affect the way the society is structured: the way it functions.

If I may quote from Carla Herbert in an article dealing with Caribbean Public Service Reform—A Legal Perspective from Trinidad and Tobago—which was carried in the Commonwealth Law Bulletin of April 1994, on page 693, she talked about public service reforms and I quote:-

For Caribbean Countries such as Jamaica, Trinidad and Tobago, Grenada, Barbados and Dominica, to mention a few, there must be an understanding of the working of the relevant Constitution if it is to be used as a tool for change. If the perception of the Constitution is that its provisions are imputable, one is ill-prepared to advise or prepare leaders for public service reform before the prospect of the constitutional amendment.”

That is why I am saying it is important for us to really look at it very carefully because of that fear that people have in terms of dealing with the Constitution. What the Bill proposes to do is to create this new section of the Constitution. That new section will allow for the establishment of select committees, joint select committees, as I said before, to investigate and report to each House on the powers of the service commissions, the ministries, the statutory authorities, and the state enterprises. This is intended to make the functions of the Constitution and the other bodies open to scrutiny and to make them accountable for their decisions and the methods they applied in coming to these decisions.

Now, I think that the point cannot be repeated often enough that there is no provisions within the proposed legislation, none whatsoever, or any intention on the part of the Government to change any of the decisions of any of the commissions. So that if the parliamentary committees can investigate the powers and methods of functioning and the criteria adopted by the commissions and others, that is merely for the transparency of accountability, but we cannot and will not change the decisions that have been made. So, there is no political interference or interference with the independence of the decisions of the commissions.

Miss Nicholson: What is the purpose of the implementation of the Committee if when the committee investigates the work of the commission and it has completed its work and reported, all that is to be done, you are saying, is to lay the report and no changes would be made to the decisions of the commission? What is the purpose of this piece of work here?

Hon. K. Persad-Bissessar: In two ways, what would happen in effect from the report of such a committee, is that the report could inform future decisions, but it will not change the decision for individual or individuals because we will not be dealing with individuals on the basis of individuals. So that it will be seeking to bring information to the Parliament with respect to the functioning of the various bodies. *[Interruption]*.

In my own Ministry of Legal Affairs, for example, and throughout the public service there are thousands of people in legal affairs, and many thousands of people in the public service who are employed on a temporary basis and they have been temporary for the past 15 to 20 years. We can ask the service commission to provide information through the Joint Select Committee of Parliament as to why this is so, and what are the proposals for dealing with it. *[Interruption]* Pardon? I am not hearing what you are saying.

Miss Nicholson: If I understand you clearly, Member for Siparia, you are saying that there are thousands of people throughout the country who are employed on a temporary basis. You are saying then that the investigations can now come before the Parliament. Am I correct? What is happening now? We have a Ministry of Public Administration? What is the rule here? What is happening? Nobody can question the commission?

Hon. K. Persad-Bissessar: As it stands now, no Ministry, Government or no one can exactly inquire into their workings. *[Interruption]* I am running out of time on that. So what I am saying is that you have cases like that— I am saying the temporary people, you have cases of persons who have written 10 or 15 years ago, they have applied for a job in one of the commissions; Teaching Service Commission, or whatever it may be, they have applied. They get an acknowledgment letter and 20 years later they are sitting with these letters. So it will provide information as to the operations of the various commissions.

I believe we should not allow the misgivings with respect to the service commissions to outweigh what is clearly an advantage with respect to the investigative work, with respect to ministries, with respect to statutory authorities and with respect to state enterprises. We have seen the words ‘rogue elephants’ used by the Hon. Prime Minister in the consultation on state enterprises. So we have seen, with the state enterprises, talk about rogue elephants. So I am saying

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]]

Wednesday, February 24, 1999

part of it deals with service commissions. Another very, very, crucial part of this Bill deals with the monitoring and bringing of information with respect to state enterprises, statutory authorities and ministries.

3.25 p.m.

So that, in this regard then, we are in a sense following the trend from the rest of the world by making government bodies more accountable, and in trying to make the statutory bodies more efficient in their functioning. Greater efficiency and more fairness would, obviously, be promoted. I am saying that it is a very, very innovative and forward step with respect to statutory authorities and state enterprises and it is a trend that is being followed elsewhere in the world, clearly, for accountability and for transparency.

Mr. Speaker, I would like to close finally with the comments made by the hon. Member for San Fernando East, when he said he had no intention of abolishing service commissions and so forth. He read the article headlined "Govt. prepared to dump Service commissions," from the *Daily Express* of Monday, April 3, 1995.

Mr. Panday: And claims he was misquoted.

Hon. K. Persad-Bissessar: The article started off by saying:

"Government will remove the service commissions if it sees it necessary to do so, Prime Minister Patrick Manning said Saturday."

I have searched far and wide and I have found no denial of what is in here or nothing which says that this was a mistake, or that he was misquoted. In fact, he attacked the particular media house for putting the wrong headline. If I recall correctly, he said the headline did not reflect what he said and he spoke about the sub-editor responsible for that, did not do his or her job. But, we searched far and wide and did not find any denial, until today when he said this headline was misleading.

To top it off, even if that was so, then that headline is, in fact, confirmed by another headline from another member of his Cabinet, the then Minister of National Security. This headline says: "Police Service Commission Huggins: Quicker they move the better for me." It is confirmed by another member of his Cabinet, so that the intention was clear, get rid of the service commissions. Put in place instead one that will be controlled by a Permanent Secretary in a particular Ministry. That was the intention. This article comes from the *Newsday* of April 13, 1995 at page 3 and reads in part:

statement that the Police Service Commission has outlived its usefulness. The latest person to jump into the controversy over Manning's claim is former Commissioner of the Police, Randolph Burroughs.

In seeking to give his Government the power and opportunity to make the necessary changes to place a proper management on the police service, Mr.

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]

Wednesday, February 24, 1999

Manning is identifying the existence of the Police Service Commission as the main stumbling block.”

This is quoting from what the late Commissioner of Police said.

The Prime Minister said that the Police Service Commission system was a creation of the British Imperial Government that has been imposed on all its former colonies and, as far as he's concerned, the Police Service Commission is an arrangement that has outlived its usefulness; Burroughs observed.

That statement has prompted me to ask: When did the Prime Minister realize that the Police Service Commission had outlived its usefulness? I ask this because way back on February 27, 1985...”

And he went on to deal with his case where he was alleging that he had been sunk by the then Police Service Commission and that the PNM had used that group. But, for our purposes, the point is being made in the *Sunday Mirror* of Sunday, April 9, 1995 at page 9.

Mr. Manning: What paper is that?

Hon. K. Persad-Bissessar: *Sunday Mirror*, page 9.

Mr. Manning: The *Mirror*, Ramesh paper!

Mr. Speaker: Order. Order.

Hon. K. Persad-Bissessar: I want to repeat, first of all, in my respectful view and in the view of Queen's Counsel that we have received, the Bill does not require a special majority, because it does not alter any of the provisions as are entrenched and contained in section 54 of the Constitution.

Mr. Sinanan: Would the Member give way, please? She indicated that the advice was given by Queen's Counsel. Would she care to name the Queen's Counsel?

Mr. Panday: No. Not yet. In due course.

Miss Nicholson: If this is the Parliament, you say you are bringing everything.

Hon. K. Persad-Bissessar: I am saying in addition to whatever and in my respectful view, no special majority is needed because none of the provisions as are entrenched in section 54 which I read out to this honourable House, is being tampered with, altered, amended, varied, adjusted, removed, repealed or replaced; totally different from what was the situation in 1994 when the then PNM

administration, clearly, sought to repeal completely the sections dealing with the Police Service Commission, remove them completely from the Constitution and to substitute instead with a structure that would have allowed for Executive interference within the function of that body that they wanted to set up, because they would have placed a public officer on that body, who is specifically prohibited by section 126 from sitting on a commission.

So, I am saying that is a totally different kind of situation from what took place in 1994. There is no intention on the part of Government, nor is there any provision within the Bill to abolish Service Commissions or to stop the service commissions from carrying out the functions that are set out in the Constitution.

There is no intention nor is there any provision in the Bill to reduce the functioning of the service commissions. There is none whatsoever. What we are seeking to do is to allow for greater accountability and transparency of the service commissions, of the statutory authorities, of the state enterprises and, of course, of ministries of Government by having them attend select meetings of the Parliament, parliamentary committees which would comprise all Members, all the representatives of the people of Trinidad and Tobago; that is to say, Opposition, Independent and Government Members. Committees will be made up of representatives of each of these bodies of the Parliament. That, then, is the intention of the Bill, to bring information here so that the public would have the benefit of that information.

I sit in my constituency office on a weekly basis, as many of us do, and it is very clear the numbers of persons who come in to ask questions about the functioning of the Public Service Commission. I spoke about the temporary ones. In fact, just this morning I was told about a person who was given a letter of appointment to a particular public service post and two weeks later the letter was withdrawn, the appointment was revoked and they are saying that the person was not qualified. She applied, was interviewed, went through all the processes; she was then given an appointment and two weeks later, another letter came withdrawing that first letter of appointment. She has no one to go to and nowhere to go.

So that, Mr. Speaker, I am saying that for those of us who are relating to members of the public, to the ordinary man-in-the-street, this is an exceedingly important piece of legislation. On the issue of corruption which the Member for San Fernando East raised and which the Opposition has been raising from time to time, this will also allow us to get information from ministries, state enterprises, statutory authorities as to how they function and the powers and methods used. This information can be brought to the Parliament and from the Parliament to the people of Trinidad and Tobago.

Constitution (Amdt.) (No. 3) Bill
[HON. K. PERSAD-BISSESSAR]

Wednesday, February 24, 1999

I thank you very much, Mr. Speaker.

Mrs. Camille Robinson-Regis (*Arouca South*): Mr. Speaker, the information coming from the Member for Siparia seems at best, farcical, when she misleads this Parliament by trying to state, without any justification, that the Bill which is being given our consideration today is not one which seeks to allow for political interference in the independent service commissions of Trinidad and Tobago. I say this because the Constitution (Amdt.) (No. 3) Bill which is before us says in its Explanatory Note:

This Bill, for the removal of doubt, seeks to amend the Constitution by adding thereto, a new section 66A for the purposes set out below.

Section 129 of the Constitution confers on a Service Commission unfettered power in that no one can question, in a court of law—

- (a) whether a Service Commission has validly performed any of its functions under the Constitution; or
- (b) whether a member of the Service Commission has validly performed any of his functions in relation to the work of the Commission.”

[MR. DEPUTY SPEAKER *in the Chair*]

I continue to quote, Mr. Deputy Speaker.

This form of unrestrained power now seems incompatible with the principles of accountability, transparency and openness in a free and democratic society.

The new section 66A will enable the House of Representatives or the Senate to appoint Select Committees or Joint Select Committees to investigate and report to the House or the Senate or...on the powers and methods of functioning of, and criteria adopted by, Service commissions, and also on the powers and methods of functioning of, and criteria adopted by, Ministries, Statutory Authorities...”

What this Bill seeks to do is allow politicians to interfere in the work of the Service commissions through parliamentary cover and we on this side are stating and insisting that this, in every way, attempts to interfere with the independence of the Service commissions as established by the Constitution of Trinidad and Tobago.

3.40 p.m.

Mr. Deputy Speaker, we do not say this lightly, because this Government has, throughout its short and painful history, indicated that its objective, has at all times been to interfere with the workings of the service commissions. Permit me to quote from the *Trinidad Guardian* of Wednesday, January 27, 1999, the editorial headed 'Missing the mark':

Two weeks ago, this newspaper sounded an alarm over the contents of a Cabinet minute dated October 29, 1998. The minute laid down that ministers should be fully informed and prior approval obtained before ministries and departments engage persons on a temporary basis to fill positions that are either established, temporary or contract."

Clearly, Mr. Deputy Speaker, through a Cabinet Note an attempt was made, and may I point out that this Cabinet Note and Minute have not been withdrawn. An attempt was made to interfere directly in the functioning of the Service Commissions of Trinidad and Tobago. [*Desk thumping*]

The editorial goes on to say:

By the time the story appeared in print, chairman of the Public Service Commission, Kenneth Lalla, had already sought legal advice. Because as Mr. Lalla realized, the minute appears to contravene section 121 of the Constitution, which vests in the Commission the power of appointment to all public offices. There is no question, then, of the approval of government ministers being necessary before appointments are made."

Mr. Deputy Speaker, the Attorney General came to us with this Bill this morning and insisted that it did not need a special majority. However, an examination of the Constitution reveals, that even though, on the face of it, the Bill appears not to need a special majority; it is clear from the intent of this government that they are seeking through sleight of hand, to interfere directly in the functioning of the service commissions, to ensure that their independence no longer exists. What may be before us, may be a Bill which, by its content, and by the section of the Constitution it amends, appear not to need a special majority because it does not amend a section which is stated in the Constitution, but by the very advice that Mr. Lalla got indicating that the Minute appears to contravene section 121, the intention of this government is to undermine the independence of the service commissions. [*Desk thumping*]

Mr. Deputy Speaker, section 54 of the Constitution lists:

Subject to the provisions of this section, Parliament may alter any of the provisions of this Constitution...any of the provisions of the Trinidad and Tobago Independence Act 1962” and it goes on to indicate the sections. May I point out that sections 116+25 are included in this section 54 which states that it needs a special majority. [*Desk thumping*]

Mr. Deputy Speaker, what this Government is attempting to do is by Cabinet authority, undermine the service commissions and alter the intention of section 121 which comes under section 54 of the Constitution, through Cabinet authority and come with a Bill amending a section of the Constitution which does not fall under section 54. [*Desk thumping*] I must reiterate, section 121, about which fears were raised by Mr. Lalla who is the Chairman of the Public Service Commission—section 121 it was stated was being contravened by a Cabinet Minute. Nothing came before this Parliament, because this Government knows, that given its track record, we on this side would never support them amending that section of the Constitution which talks about the independence of the service commissions. [*Desk thumping*]

Mr. Deputy Speaker, section 121 of the Constitution talks about the appointment of public officers to the public service of Trinidad and Tobago. It outlines very clearly, who is to be involved in these appointments in accordance with the Constitution. If I may be permitted to quote section 121(1), it says:

Subject to the provisions of this Constitution, power to appoint persons to hold or act in offices to which this section applies, including power to make appointments on promotion and transfer and to confirm appointments, and to remove and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission.”

Mr. Deputy Speaker, section 121 has nine subsections, all dealing with the fundamental issue on how the public service is to be insulated from political interference by any administration; and by sleight of hand, this Government, through a Cabinet Minute, which has not been rescinded, is making the effort to interfere directly in the ability of the Public Service Commission to appoint persons in the manner explained and expressed by the Constitution in an entrenched section of the Constitution.

So Mr. Deputy Speaker, when they come to us today and say that they are not in anyway attempting to interfere with the independence of the Public Service

Commission or any of the service commissions, we on this side say that your history has shown that you are making every effort, whether by sleight of hand or openly, to interfere in every way with the independence of the service commissions and, indeed, with the democratic bulwark of the society of Trinidad and Tobago.

Mr. Deputy Speaker, we are not alone in this contention. We saw in the *Trinidad Guardian* of yesterday's date a headline which said, coming from the service commissions in relation to this Bill: "leave us alone." Today, Mr. Deputy Speaker, we have heard from six eminent citizens of Trinidad and Tobago who are saying practically the same thing. I am hearing the Prime Minister indicating that they are saying nothing. That is the type of disregard that the Prime Minister of Trinidad and Tobago has for eminent citizens.

It is not only the so-called eminent citizens of Trinidad and Tobago. It is clear from the activities of this Government that they disregard any citizen who does not appear to agree with any of these policies that they attempt to ram down the throats of the people of Trinidad and Tobago.

3.50 p.m.

Mr. Deputy Speaker, we sat a while ago and heard the Member for Siparia indicate that the Member for San Fernando East was behaving like a calypsonian. I ask the question: Is there something wrong with behaving like a calypsonian? Does it mean, as was stated by the Member for Couva North, that some calypsonians, as he said, are semi-illiterate and social deviants? The Prime Minister calling one of the citizens of this country—and he is to govern all citizens of Trinidad and Tobago—semi-illiterate and a social deviant. [*Desk thumping*] It permeates each and everyone of them. That is what they think of certain citizens of Trinidad and Tobago.

When the Member for Couva North sits there and eminent jurists—persons who serve the country of Trinidad and Tobago at the level of Chief Justice and at the level of presidency—are being vilified by those on the other side, it leaves us to wonder what they think of the ordinary citizens of Trinidad and Tobago.

Mrs. K. Persad-Bissessar: Mr. Deputy Speaker, I thank the Member for giving way. I do not recall any Member on this side vilifying any one of those eminent persons. I repeat, not a single Member on this side vilifying any one of those eminent persons.

Mrs. C. Robinson-Regis: Maybe you did not hear the Prime Minister when he just spoke.

Constitution (Amdt.) (No. 3) Bill
[MRS. ROBINSON-REGIS]

Wednesday, February 24, 1999

Mr. Deputy Speaker, the *Trinidad Guardian* of Wednesday, February 24, 1999 states under the headline:

Statement on the Constitution (Amendment) (No. 3) Bill, 1998

Independence of the Judiciary 'serious danger'

Two former Presidents and four Chief Justices said yesterday they were gravely troubled by the Constitution (Amendment) (No. 3) Bill 1998 now before Parliament which will subject the proceedings of the Judicial and Legal Service Commission to investigation and report by a select committee of Parliament.

The Bill, which is to be presented in the House of Representatives today by Attorney General Ramesh Lawrence Maharaj, has been criticised in all quarters. The Government needs a special majority if the Bill is to be passed.

The four Service Commissions have already responded to the Bill asking that it be withdrawn in the public interest."

We have heard the Member for Couva South, the Attorney General, indicate that this Bill is in the public interest, yet two former Presidents and four Chief Justices state that the Bill ought to be withdrawn in the public interest and, in addition, it needs a special majority. These eminent citizens said:

Since Independence it has been a fundamental policy of our Constitution to isolate and insulate the Public Service and the Judicial and Legal Service from political influence by vesting the power to make appointments of, and to discipline, persons in those services in independent Service Commissions."

Mr. Deputy Speaker, these persons have no political interest or axe to grind. They are speaking in the interest of the public, in the interest of the country of Trinidad and Tobago, and I dare anyone on that side to indicate to us on this side—and to the public at large when, if at any time, two former Presidents and four Chief Justices came out publicly and spoke against a Bill that was brought by the Government. [*Desk thumping*]

Dr. Rowley: Never in the history of this country!

Mrs. C. Robinson-Regis: As my colleagues are saying, never in the history of this country has that ever occurred, and we who are given the authority to pass laws in Trinidad and Tobago must sit up and take notice when persons of that

calibre come out and say to the Government, 'Withdraw the Bill in the interest of the people of Trinidad and Tobago?' [*Desk thumping*]

Mr. Deputy Speaker, the point is that this Government has never done anything in the interest of the people of Trinidad and Tobago. They have, from their very inception, done everything and anything in their own narrow, partisan interest. Even from the majority of their supporters, there is concern that there is only a limited number who are benefiting from this Government being in office. They do not look at the wider community; they look at what is taking place for persons whom they feel support them and those from whom they can benefit.

We on this side do not make that assertion lightly. From the time the election of 1995 was called, we on this side have warned the country of Trinidad and Tobago that if, as was requested by the Members on that side, they were given a chance, there would only be a downward slide in the country. We warned the community of that very possibility, and with each passing day, we recognize and the citizenry recognizes that the warnings we gave were, in fact, true and they should have been heeded.

Mr. Deputy Speaker, we have witnessed a situation where the Member for Couva South said that if this legislation is passed, we will have a system of committees which will bring oversight to several departments and service commissions in Trinidad and Tobago, which will be similar in nature to the committees that are established in the British parliamentary system. It is amusing how the British parliamentary system is used conveniently by the Members on the other side. When it is convenient, they say, 'Let us follow the mother of all Parliaments—the UK system, the Westminster system' and when it is not convenient, we hear from the same mouths that the Westminster system is not a system that is proper for Trinidad and Tobago as a country. What are we to believe? I will contend that we are to believe nothing that comes from the mouths of the persons who sit on that side.

I do not say this without evidence. We have sat in this Parliament and nearly every one of them on that side have stood up in this Parliament and misled this Parliament on more than one occasion. Even today, we saw the mover of this Bill, the Member for Couva South, indicating that the legislation that the People's National Movement placed before this Parliament put Members of Parliament on the Commission, and when the Member for San Fernando East got up and refuted that statement, he begged to have the statement withdrawn. A simple issue like that? We had to ask for that to be withdrawn? There was no need for even making

a statement of that nature, and one can be assured that if the statement was not corrected immediately, he would have left it in the *Hansard* much to the detriment of the people of Trinidad and Tobago. Nearly every one of them has a penchant for behaving in that manner.

Mr. Deputy Speaker, I would like to take this opportunity to quote from the text *Constitutional and Administrative Law* by John Alder on select committees. He says at page 182 under the rubric Parliament and parliamentary procedure:

The committees are selected by a Special Committee of senior backbenchers and are not under the control of the political parties. They may also recruit outside advisors such as academics, they follow a judicial procedure, they interview witnesses.”

He goes on to state:

Ministers who appear before these committees have agreed to co-operate with Select Committees by explaining why evidence cannot be given.”

Mr. Deputy Speaker, we have been asked to establish a system of committees which this author has stated, that Ministers have agreed to co-operate with select committees by explaining why evidence cannot be given. From the outset, the committees have proved to have little or no power.

4.05 p.m.

We have a situation in the Parliament of Trinidad and Tobago where we already have Standing Committees of the Parliament and, indeed, the Public Accounts (Enterprises) Committee is one such committee. As a member of that committee, I should like to indicate that under this present Government when we have meetings and we insist upon certain issues being discussed, the Government would have a majority on that committee making every effort to ensure that those issues are not discussed. So even before the plethora of committees are established, those which already exist and are functioning under this Government have the problem of being stymied by the efforts of the Members of Government in terms of issues of public importance being discussed in the full glare of the Parliament and the public. So we are contending that even if a committee system were established, it would have absolutely no effect on us obtaining information from the Government that sits in Trinidad and Tobago at this time.

We heard the Member for Couva South insisting that the Wooding Commission indicates, by clause 265, that we recommend that the importance of

the committee system should be emphasized by enshrining it in the Constitution. The recommendation goes on to outline the names and types of committees which should be established. But on page 94, paragraphs 381 and 382, under the rubric, Service Commission, the same committee states and I quote:

With full internal self-government and subsequently independence, complications were inevitable. The political administration could now be subject to sudden change. The opposition critic of one day could be the government Minister of the next. Yet, if the administration was to be a success, the public officer had to be responsive to the policy demand of whatever government might be in power and equal skill and dedication in their implementation. Understandably the political administrators would wish to have some say in the management of a machine the proper operation of which was important for their success. Any attempt to do this might very savour either of victimisation or of favouritism.

The solution to this problem adopted in the present Constitution was to create independent Service Commissions to which was entrusted the power to appoint, transfer, promote and discipline persons in the public service. This was intended to insulate public officers from direct political influence. Thus protected, they would be free to serve any political administration with equal dedication. This structure appears to have worked well and we recommend that it should be continued.”

That recommendation also came up in the Hyatali Commission and still subsists up to today. So even where the Bill says that with changing times we need to restrain the unfettered power of service commissions, we on this side say that the independent service commissions were established for the reason of insulating the civil bureaucracy against political interference, and we contend that that necessity for insulation from political victimization and political interference still exist today, even more particularly, under this Government. [*Desk thumping*]

4.15 p.m

Mr. Deputy Speaker, it is amazing that when the People's National Movement, was going to Marlborough House, one of the issues that was most contentious, was this desire to ensure that there was some insulation from political interference. The forebear of this UNC, party, the Democratic Labour Party, were insistent that

Constitution (Amdt.) (No. 3) Bill
[MRS. ROBINSON-REGIS]

Wednesday, February 24, 1999

such insulation would take place. I would like to quote from the text, *History of Modern Trinidad*, by Dr. Bridgette Bereton, at pages 247 and 248, where she said:

Essentially, the DLP and other groups sought to place checks on the Prime Minister's powers, and to make the Elections and Boundaries Commission, the Public and Judicial Services Commission and the Senate more independent of the Government. And to entrench part of the Constitution by requiring a three-quarters majority, instead of a two-thirds majority, in the House for amendment.

These were constructive and legitimate amendments. The text goes on to say:

Williams, agreed and made a statement, in which he conceded major points to the DLP. A number of critically important clauses were specially entrenched. Williams agreed to independent Elections and Boundaries Commissions, and he pledged to consult with the Leader of the Opposition on all important national issues and all appointments of national character. Significantly, Williams adopted the recommendations of the DLP. These were statesman-like moves, even if they came at the eleventh, hour. Williams had made major concessions, and in fact, the DLP had achieved most of its aims, with respect to limiting the powers of the Executive and further entrenching important constitutional clauses.

So, Mr. Deputy Speaker, the history shows that those who preceded them, recognized the importance of the independence of service commissions. Those who preceded us recognized the importance of the independence and insulation necessary for service commissions. They would turn in their graves if they realized what this Government was attempting to do now, by interfering, through the cover of Parliament, in the operation of these independent service commissions. It is amazing that the Bill, which we were asked to agree upon today, before the amendment was brought to the House, stated at clause 3:

The Constitution is amended by inserting after Section 66, the following

And it goes on to state the establishment of select committees for examining the functioning and criteria adopted by service commissions/ministries/statutory authorities.

But, what was worse, is that the Bill which was originally before the House, requested that we agree that the provisions of the proposed section 66A(1) as follows:

- (b) any Committee appointed for the purposes set out in paragraph (a) shall have -
- (i) the same powers as those of a Commission of Enquiry appointed under the Commissions of Enquiry Act; and
 - (ii) the power to appoint one or more Sub-Committees;”

Mr. Speaker, among other things, one of the powers of a Commissions of Enquiry, as established by the Commissions of Enquiry Act, is the power to imprison persons who do not wish to appear before the commission of enquiry.

Could you imagine that this Government is saying that it is not interfering in the functioning of these independent bodies yet, the Bill they asked us originally to approve, gave the Parliament the ability to arrest persons who fail to appear before the parliamentary committees.

It is difficult to imagine that they stand here and say that they are all for democracy, and yet in what they want us to believe is an innocuous piece of legislation, they are giving the Parliament a quasi-judicial power, indeed a power to lock-up the citizens of Trinidad and Tobago, who may have legitimate reasons for not appearing before a committee of the Parliament of Trinidad and Tobago.

Mr. Speaker, they have, through an amendment, changed the entire Bill which was brought before the House this morning. The amendment amends, the only section in the Bill.

The list of amendments to be moved in the House of Representatives, by the Hon. Attorney General at the Committee stage of the above-named Bill, amends clause 3.”

And the Bill is one which has three clauses. Clause 3 is the substance of the Bill. The amendment entirely changes the Bill which we were asked to study.

Mr. Speaker, we ask the question, if the kind of hue and cry was not forthcoming, would this amendment have been made? And, Mr. Speaker, we also say that this amendment, should in fact be withdrawn, because even though it takes out the section which says the parliamentary committees would have the powers, as stated by the Commissions of Enquiry Act, it still insists that the committees of the Parliament would have total oversight of the workings of government ministries, statutory authorities, enterprises owned or controlled by, or on behalf of the state and, most significantly, service commissions. Even though the power to arrest has been taken out, the oversight of the service commissions, which we

Constitution (Amdt.) (No. 3) Bill
[MRS. ROBINSON-REGIS]

Wednesday, February 24, 1999

continue to state over and over, needs to be insulated from political interference, that ability still exists in the amendment.

Mr. Speaker, I crave your indulgence to quote from the comments of the Judicial and Legal Service Commission on the draft Constitution (Amdt.) Bill 1997. These comments were signed on the February 10, 11 and 12 of this year, and the persons who signed these comments are:

Chief Justice, Michael de la Bastide	Chairman of the Judicial and Legal Service Commission
--------------------------------------	---

Mr. Kenneth Lalla, S.C	Chairman of the Public Service Commission, and member of the Judicial and Legal Service Commission
------------------------	--

Mr. Justice Gaya Persad, S.C	Member of the Judicial and Legal Service Commission
------------------------------	---

H.A.S. Wooding, Q.C	Member of the Judicial and Legal Service Commission
---------------------	---

Mr. Justice Alcalde Warner	Member of the Judicial and Legal Service Commission.
----------------------------	--

Mr. Speaker, among other things, this is what the Members of the Judicial and Legal Service Commission stated, in relation to their comments on the Bill we have been asked to approve. And they referred to the Endell Thomas case, and said:

‘Although Lord Diplock was giving his opinion with respect to the 1962 Constitution, his observations remain valid with respect...’

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

Motion made, That the Hon. Members’ speaking time be extended by 30 minutes. *[Dr. K. Rowley]*

Question put and agreed to.

Mrs. C. Robinson-Regis: Thank you very much, Mr. Speaker, and I thank my colleagues. I continue the quote:

‘Although Lord Diplock was giving his opinion with respect to the 1962 Constitution, his observations remain valid with respect to the current Constitution and the statement is applicable to the Judicial and Legal Service

is necessary for the purpose of transparency and accountability has a hollow ring.”

And I go on to quote, Mr. Speaker:

It is necessary to point out that the provision in section 179 of the Constitution already cited is not to be construed literally.”

That is the provision which indicates that the workings of the service commission should not be inquired into by a court of law. And they go on to state:

It is now well-known that several decisions of service commissions have been challenged successfully by way of Judicial Review...

Therefore, it is not correct to say there is no accountability or transparency in relation to the functioning of a service commission.

The accountability and transparency is by access to the judiciary...”

And Mr. Speaker, I will repeat this.

The accountability and transparency is by access to the judiciary and not to

In other words, the Judicial and Legal Service Commission in their comments is saying that the accountability and transparency is allowed through the very ability to go to the courts for judicial review of the very actions of these independent service commissions. So where the bill, which we have been asked to approve, is contending that because section 129 of the Constitution states that the activities of the service commissions should not be inquired into by a court of law, the empirical evidence is that, in fact, several persons have gone before courts of law and inquired into the activities of the service commissions. So if the argument of the Government is that to ensure accountability and transparency we need the oversight of Parliamentary committees, we on this side and the Judicial and Legal Service Commission state that that accountability and transparency is ensured by the very judicial system of Trinidad and Tobago.

And, Mr. Speaker, the very fact that the Judicial and Legal Service Commission has not been separated from the intended scrutiny of the proposed committee system is something that goes to the heart of the issue of separation of powers, because we have heard the Member for Couva South on more than one occasion state that perhaps what may be needed is a committee system similar to the one that exists in the United States where all types of issues may be inquired into by the members of the Congress and the members of the Senate.

But, Mr. Speaker, might I point out that whereas in the United States the members of the executive are not members of the Senate and the Congress, in fact they are not members of the legislature, the members of the executive are persons appointed by the President of the United States and do not sit in the law-making body, but in our system the members of the legislature are, for the most part, the same members of the executive. So there is in the United States a clear distinction between the executive and the legislature, whereas in our system there is no such distinction. And the type of committee system that exists—

Mr. Sudama: Would the Member give way to a question? Could the Member advise this House how members of the Supreme Court in the United States are appointed?

Mrs. C. Robinson-Regis: I am sure the Member is aware that they are appointed by election and also through a system of being called before a committee.

Mr. Sudama: The legislature called before the legislature? Right.

Mrs. C. Robinson-Regis: And may I inquire what was the objective attempted to be achieved by the member for Oropouche?

Mr. Sudama: They do not understand what they are talking about and they are talking about separation of powers.

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

4.30 p.m.: *Sitting suspended.*

5.01 p.m.: *Sitting resumed.*

Mrs. C. Robinson-Regis: Mr. Speaker, the argument of the Government continues to be that by this legislation it is not interfering with the service commissions. But by the very fact that this legislation seeks to allow the Parliament to enquire into the very functioning of what should be an independent service commission, an independent body, they are, in fact, interfering with the functioning of the service commissions.

By the very fact that a person who is appointed by the President in his own discretion, after consultation with the Leader of the Opposition and the Prime Minister, and that such a person could be called before the Parliament and asked to explain his actions in any matter, this Government will be, in fact, interfering with the independence of the service commissions.

Mr. Speaker, by the very fact that the service commissioners will have to account to a body which did not appoint them to the office of service commissioner, the Government is, in fact, attempting to interfere with the independence of the service commissions. It is clear that if someone who has been appointed to an independent body in accordance with the Constitution, if that person must be subjected to a scrutiny which is not confined in anyway, then his independence may be compromised to the extent where he or she may feel that in order to avoid the wrath of the politicians, he or she must act in a particular way that would satisfy the needs of the Government in power.

Consequently, we are of the view that such unfettered oversight can do nothing less than compromise the independence of the service commissions, which throughout their very existence, has made the independence of the Judiciary, the Police Service, the Teaching Service, and the Public Service, a clear position in Trinidad and Tobago.

To agree with that contention, I would like to quote again from the comments of the Judicial and Legal Service Commission where it was said:

Constitution (Amdt.) (No. 3) Bill
[MRS. ROBINSON-REGIS]

Wednesday, February 24, 1999

"It is appropriate to point out that the breach of the principle of freedom from political interference with regard to service commissions generally, is even more damaging when it comes to the Judicial and Legal Service Commission."

To strip the Judicial and Legal Service Commission of its independence is an indirect assault on the independence of the Judiciary, one of the pillars of our Constitution.

The independence of the Judiciary is a cornerstone of the democracy that exists in Trinidad and Tobago. [*Desk thumping*] We continuously insist that there must be an independent Judiciary if we are, in fact, to achieve proper judicial decisions in Trinidad and Tobago. If by their comments, the members of the Judicial and Legal Service Commission are expressing a fear that the Bill before us today for consideration is one which could lead to interference in the Judiciary, then it may lead us to ask the question: if a Caribbean Court of appeal is appointed in short order, will that also be a Judiciary that may have some political interference under the present Government of Trinidad and Tobago? Those fears are highly justified.

The Wooding Commission Report stated in relation to the independence of Judiciary that the functions of the Judicial and Legal Service Commission as the body appointing judges and magistrates, demand that its total independence of the Executive should stand out. We would join with those comments of the Wooding Commission and with the several comments made, not only by the Wooding Commission, but also by the Hyatali Commission, and implore the Government to allow the service commissions to remain independent and, indeed, to follow the advice of the two former Presidents and the four Chief Justices, and withdraw this Bill from the consideration of the house this afternoon.

We are not saying this lightly, because we are living in a time where a Government has exhibited, almost from day one, that it has absolutely no respect or care for the democratic institutions of Trinidad and Tobago. Mr. Speaker, in short order, upon their coming into Government, they attacked the freedom of the press, the freedoms of the trade unions in Trinidad and Tobago, particularly the teachers' union. They attacked doctors, dentists, lawyers, almost every institution, I am being reminded that they even attacked dogs; every group in Trinidad and Tobago, calypsonians. Every group in Trinidad and Tobago has felt the wrath of this Government.

We on this side are saying without reservation, that given the history and legacy that this Government has developed in three short years, we cannot, on the

face of the Bill that is before this Parliament, believe that they do not want to institute political interference in independent bodies. We on this side can do nothing less than say that we cannot and will not offer our support to this amendment to the Constitution of Trinidad and Tobago.

Thank you.

The Minister of Trade & Industry and Consumer Affairs and the Minister of Tourism (Hon. Mervyn Assam): Mr. Speaker, I am very grateful for the opportunity to intervene in what I consider to be an extremely important debate on the Bill, an Act to amend the Constitution of Trinidad and Tobago. I do not regard this as an ordinary debate, neither do I regard this as a simple Bill, notwithstanding the fact that it is a very short bill and seeks merely to add a certain clause, clause 66A to the Constitution.

I say so because I was very disappointed having listened to both the Member for San Fernando East and the Member for Arouca South. I could excuse the Member for San Fernando East notwithstanding the fact that he said he has been in the House for 28 years but his discipline does not permit him to understand some of the niceties of constitutional law and political and democratic evolutionary theory. I could understand that. But when I sat and listened to the Member for Arouca South who attempts to be an attorney-at-law, I was very disappointed. I was looking forward to a contribution in the highest intellectual traditions with respect to such an important matter before this distinguished House.

There was so much hysteria, so much emotion evoked, so much politicization of a certain issue, and the calling of names of eminent people which I found was very much out of place here in this distinguished House. Calling the names of eminent people in the House of Parliament is not something that is done. You do not do that kind of thing. Let the newspapers do it, let the scandal sheets, the radio and television do it, but you should never introduce the names and opinions of those whom you described as eminent people, into this parliamentary debate. I think it was a sad day for that to have happened, because you would provoke response on this side, and I do not wish to get into a debate on opinions expressed by those persons whom you have described as eminent. They are entitled to their opinions and I respect that.

Mr. Speaker, what is at stake here in this Bill is the democratic evolution of our society. What is at stake here is not what has been exhibited on that side, paranoia, what we need is to move to metanoia. From paranoia we need to move

Constitution (Amdt.) (No. 3) Bill
[MRS. ROBINSON-REGIS]

Wednesday, February 24, 1999

to metanoia. That is precisely what has characterized this debate, paranoia, when, in fact, we should be moving to democratic metanoia.

The word "democracy" seems to elude many of us. We use many clichés in this country and in this Parliament: parliamentary democracy, Westminster system of government. We use expressions and we do not have a clue what they mean, because we do not understand their origin, their genesis. I would try in my short contribution this afternoon to give you some idea of how all of this thing evolved.

5.15 p.m.

Mr. Speaker, the word "democracy" comes from two Greek words. It comes from *demos* and *kratia*. They mean rule by the people: *demos* is the people, *kratia* is the rule by the people. That is how the word democracy came about. But in the very cradle of democracy which is Athenian democracy, there was no democracy. Democracy as practised at that time of the Athenian era saw great thinkers such as Socrates, Demosthenes, Thrasymachus, Plato and Aristotle who went and formed the Academy thereafter, after the debates in the *Agora* which was the word for the market place in Greek. This is where democracy began to be nurtured, but it was only done by people of a certain class, citizenship and a certain educational qualification, so that the masses were excluded from the Athenian democracy and, therefore, it was not *kratia* and *demos* because it was not rule by the people. But nevertheless, it was called the Athenian democracy.

Many scholars of political theory, when you look at the whole evolution of political theory, they quote the ideas in the model of Athenian democracy but in fact there was no real democracy. If you trace democracy from BC 500 right up to the present time, you will see democracy had a long, rocky road to travel before we reach where we are today and even today, democracy is not as it was envisaged. Mr. Speaker, even in the Roman times you had noble men in the Senate, the Ciceros and those people who went into the Senate [*Interruption*] I have no difficulty; if you want to correct me, fine, thank you. Anyhow, Mr. Speaker, you had always had what is called limited democracy, non-participatory democracy.

In fact, one of the great exponents of democratic theory, one writer by the name of Professor Crawford Brough McPherson would tell you that there were more negative features in democracy than positive in the whole history of democratic theory and democratic evolution. In fact, Mr. Speaker, many people believe that the Magna Carta which is the Latin word for "a great letter" written in

the year 1215 and presented to King John, was not a great letter. It was not a great letter in terms of content, it was great in terms of its length and it was to pacify the barons who were moving into a period of bastard feudalism because John was misbehaving because he felt that the Monarch was all powerful, and pursued divine rights—the divine right of kings—and he could not be questioned.

In fact, subsequent to that, Mr. Speaker, two Kings: Charles I lost his head and James II lost his throne and had to flee to France because they too believed in the divine right of Kings and the power, the super power of the monarchy and that he would not be subject to the barons, and he would not be subject to anyone. This is all the evolution of democracy.

In fact, you had the period, the 11-year rule of Cromwell in the United Kingdom before the restoration of the monarchy. You look at the United States, Mr. Speaker, and you would see that the American colonies revolted against George III—the taxation without representation—because the British Crown again, wanted to impose its rule on the American colonies and they revolted because, no taxation without representation. Again, a challenge to the hegemony and the supremacy of the monarchy which felt it had divine right and it could not be questioned; the monarchy could not be questioned. Whatever the monarch did it was right and not a man bark.

Mr. Speaker look what has happened within recent times in the British monarchy. Elizabeth II has subjected herself to the most intense scrutiny that any modern monarch had ever been exposed to, to the point where now she has agreed—and the royal family—to get off the Civil List, and the royal family now pays income tax, including the Queen. We still have a relic of colonialism and imperialism in this country, where certain officers are exempt from income tax. The Queen and the entire royal family pay income tax, including the rich duchy of Cornwall owned by Prince Charles, Prince of Wales.

You know what is happening again, Mr. Speaker? The whole structure of Parliament of the United Kingdom is under scrutiny and the recently elected Prime Minister Tony Blair is looking at the House of Lords with a view to abolishing the hereditary peerage.

All kinds of changes. I wish I had time. If I had six hours, I would have gone through the whole thing in greater detail to educate some of those people opposite as to what democracy and democratic theory and the evolution of democracy is all about. [*Desk thumping*] We should move from paranoia to metanoia in Trinidad

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

and Tobago and not be afraid of change, not be afraid to grasp the nettle wherever it is possible.

You know, unfortunately, the Member for Arouca South said that we are two-faced and we speak with forked tongues, and we double speak. She used all these fancy phrases, and she said, "When it is convenient for them to claim certain parts of parliamentary democracy and the Westminster system, we claim it. When it is convenient for us not to claim it we reject it." But that Mr. Speaker, is the hallmark of wise leaders. That is the hallmark of wise leaders, when you can separate the wheat from the chaff and when you can take what is applicable and valuable, and beneficial for your society and hone it into your system; that is the hallmark of wise leadership; of prudence and wisdom. So, I am surprised that the Member for Arouca South could have made such a statement condemning her inability to appreciate the wisdom of the leadership on this side.

Mr. Speaker, the American constitution, as I said when we had the CPA Seminar here, sometime ago the framers got advice that was totally misunderstood because Montesquieu followed by Alexis de Tocqueville who informed the thinking of the people who went to frame the American constitution thought that the British constitution included the features of the separation of powers, and that is how they proceeded to frame the American constitution, based on a myth. But, in fact, it was not the separation of powers, it was the fusion of powers so wonderfully expressed in the metaphor of the buckle, by that great political historian Walter Bagehot in his book the *English Constitution*. He demonstrates in that, that same idea that the Member for Oropouche was alluding to before we took the tea adjournment: Who appoints the judges of the Supreme Court of the United States? And similarly, who appoints the Supreme Court judges of this country? We believe that it is the Judicial and Legal Service Commission because that is the ultimate body, what Plato would say you know they talk about the proximate cause, that is the proximate body that does it. What about the other bodies where we have that inter-twining of the powers and responsibilities of both legislature wrapped up in executive, and executive into the legislature, and the legislature appointing the President and the President appointing the various commissions and, in turn, the judges?

People do not seem to appreciate that beautiful tapestry, that wonderful weave that exists within the Constitution that is called the Republican Constitution of Trinidad and Tobago. And you know, Mr. Speaker, many people do not understand, and he was here, I think it was two years ago when you had your

fantastic Heads of Presiding Officers' Conference, in January, 1997, I think it was, when the Lord Chancellor was here in all his flowing robes, a symbol of his office. The Lord Chancellor is Head of the judiciary in the United Kingdom, but do you know he is a Cabinet Minister; he is a politician? Many people do not understand that. The Lord Chancellor is head of the Judiciary; he sits on the Judicial Committee of the Privy Council; the same independence of the Judiciary you are talking about. He is a politician; he is a Cabinet Minister but he is also subject to be summoned to the House of Commons to give account of his stewardship as Lord Chancellor.

5.25 p.m.

Miss Nicholson: What about the Member? Does he account?

Hon. M. Assam: I am amazed that there is a lawyer from San Fernando West, a lawyer from Arouca South, a lawyer from La Brea and a lawyer from Laventille East/Morvant and when they caucused and oh, I am very sorry, a lawyer from Toco/Manzanilla they did not appreciate these niceties so that they could come here to give an intellectual discourse on the evolution of parliamentary democracy and the Constitution of Trinidad and Tobago. I am amazed and that is why I said that I feel so saddened that after three years in this Parliament, I had not heard any kind of healthy discourse emanating from the Benches on the opposite side.

Mr. Hinds: We hear none from you.

Hon. M. Assam: I should not say that. I was going to say that you do not feed sponge cake, but it is okay, Mr. Speaker. [*Crosstalk*]

Mr. Speaker: Order.

Hon. M. Assam: So that, Mr. Speaker, when this Constitution was written, the first one in 1962 on the attainment of Independence, followed by Act No. 4 of 1976 which ushered in the Republican Constitution of Trinidad and Tobago, it was never intended by the fathers of this constitutional exercise, the framers never intended to give any special exemption or privilege to any arm of our Government. They never intended it. What was intended is that certain kinds of unnecessary influences would be avoided and that was so, because Trinidad and Tobago went hurriedly into independence.

You know the story. We became part of a Federal Government. I believe it was in April of 1958 when Lord Hailes inaugurated the Federal Parliament in Port of Spain and by 1962, it had collapsed, in less than four years. The then Premier, I

think he was called, Eric Williams, said one from ten leaves zero and pulled out of the Federation because the then Chief Minister of Jamaica, Sir Alexander Bustamante, did not wish to co-operate in the Federal experiment, as a consequence of which Jamaica left and moved quickly into independence gaining it on August 6, 1962; and Trinidad and Tobago, in good all fours fashion, trumped and also followed suit on August 31, 1962.

We were totally unprepared for independence, to the extent, having served as the principal representative of this country at the Court of St. James, I can tell you that Trinidad and Tobago's foreign policy was never honed out by any government, it was honed out by individual heads of missions who went to London, Ottawa, New York, Washington and so forth, and we still see the effect of that personal stamp in terms of international relations being conducted on an individual basis by men who had a personal relationship with the then Prime Minister being played out today.

Many years ago, and maybe it is changing now because the focus and the orientation has changed in terms of foreign policy being more oriented to economic policy, trade and investment and so forth, but they will tell you that the foreign policy for Trinidad and Tobago was that you should not interfere in the internal affairs of any country. That was the essential plank of the foreign policy of Trinidad and Tobago at the time and it persisted for a long time thereafter. It was the personal belief of Constantine, Ellis Clarke, Andrew Rose and those fellows who were the first ambassadors of this country to those various capitals.

So that we were not prepared for independence and, therefore, we learnt as we went along and, in order to allay the fears of certain groups in the society, Williams had to capitulate eventually, because Dr. Eric Williams wanted to have a Constitution that was workable. Similarly, he wanted a Federal Government which was workable that led him, Willie Demas and his technocrats to write a book called *The Economics of Nationhood*, which I am sure most of them have never heard of or ever read.

Miss Nicholson: I have a copy at home.

Hon. M. Assam: I said most, not all.

Miss Nicholson: Okay, sorry.

Hon. M. Assam: Because he felt that a strong Federal Government was important in order to build a strong Caribbean society and Williams felt that a

strong Constitution was important in building a new fledgling nation. I do not believe Williams, although I was never his friend and I have opposed the PNM since I was 16 years old, had sinister motives. I did not believe so, although, subsequently, some of his actions made me suspicious of his original intentions.

Initially, I did not believe he had sinister motives and, therefore, when he went to the Marlborough House to negotiate a constitution with Sir Iain Macleod, who was then Secretary of State for the colonies, he went with this kind of constitution in mind. But, of course, the then Leader of the Opposition was, I think, Dr. Rudranath Capildeo, having all the primeval fears that could flow from the PNM having that accretion of power at central government level, had to negotiate certain safeguard mechanisms, the same thing that we are doing today. Every time we go abroad in the meetings of the Free Trade Area of the Americas, Lomé and in all these trade negotiations, because we are small countries, we negotiate safeguard mechanisms against the huge giants of the North and across the Atlantic. So, that is what he did.

Some of the safeguard mechanisms were reflected in the service commissions, their composition and their character. That is the genesis, basically, of these service commissions. As a matter of fact, when the then Prime Minister wanted to transfer police responsibility, he had only eight ministers, but created a ninth ministry, called Home Affairs. There was almost revolution in the country when he placed the police under political responsibility and created the Ministry of Home Affairs under the late Dr. Patrick Solomon. Because they felt that having given his word and his guarantee in that meeting at Marlborough House, he reneged on it and came through the back door by now appointing a Minister of Home Affairs and giving the Government responsibility for the police. That was a slap in the face to Rudranath Capildeo and the other people who negotiated the Independence Constitution of 1962.

It is important for all of you and the national community to know these things, because we debate in this House as if we do not have a sense of history, as if we started only last week or yesterday. We must have an appreciation of our own history and our own evolution as a people and as a nation, in order for us to develop that national ethos and pride so that today we can sit or stand here to see the kind of guide posts we wish to erect in order to take us into the 21st Century and into the new millennium, not with paranoia, but with metanoia.

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

So, we come here today, not like a thief in the night, not like manna falling from heaven; we come here today as a sequel to what took place almost two years ago, when this Bill was introduced and lapsed, when papers were circulated, when we had much debate; the Attorney General made a statement in the House. Some of us seem to have very short memories. It almost reminds me as if we are drinking something, as Shakespeare described, that renders our memory a limbec. We seem to have a memory that has been turned into a limbec.

So we bring this here today for second reading and we hear all kinds of accusations about autocracy, authoritarian, dictatorship and all kinds of things, on a matter that was alerted to all of you and the national community almost two years ago. What are we trying to do?

Mr. Speaker, earlier, I alluded to the fact that the framers of this Constitution never intended that any arm of the state should be a sacred cow; no arm of the state should operate in secrecy; no arm of the state should be above scrutiny. Every arm of the state must operate with transparency and accountability once there is an expenditure of public funds and taxpayers' money. That is a fundamental principle in democratic theory and if you are representatives of the people, as you say you are, I am amazed that you would come here today and not defend the right of the people to know and be informed.

It is one of the most important principles in representative and responsible government which you seem not to understand—the right to know and the right to be informed, according to Walter Bagehot in his famous book, *The English Constitution*. That is why the Prime Minister goes every Wednesday to inform the President of what the Cabinet is doing. That is why Tony Blair goes every Tuesday to inform Her Majesty The Queen of what the Parliament is doing because she, too, has the right to know and to be informed. Mr. Speaker, you are very well aware of these traditions.

But the electorate is no different from the Monarch; the electorate is no different from the President of the Republic. Every citizen in this country has the right to know and the right to be informed and, particularly, when a citizen has been aggrieved and that citizen cannot get redress because of the secrecy of a certain type of organization and because it is felt that certain organizations, or arms of the state, are unfettered in their power and in the exercise of their power.

How could any democratic society have any institution or arm of the state exercise unfettered power? Even the courts themselves, which they claim to be

independent, they are not totally independent. A magistrate's decision can be questioned by a High Court judge; a High Court judge's decision can be questioned by an Appeal Court judge; an Appeal Court judge's decision could be questioned by the Judicial Committee of the Privy Council. Is that not correct? That is our system here. When a ministry makes a decision and people in this country are dissatisfied with it, they can ask for what is called judicial review.

But I hear the Member for San Fernando East talking about the Public Service Appeal Board. The Public Service Appeal Board only applies to people who are public servants. If I apply for a job and I am not a public servant and I get no proper response, or they appoint me and two weeks after, according to the Minister of Legal Affairs, they disappoint me, I do not have a leg on which to stand because I do not have *locus standi* before the Public Service Appeal Board, because I am not a public servant. So, he has misled himself. He has no appeal, no *locus standi*. It is only when one is a public servant that one has *locus standi* before the Public Service Appeal Board.

But, we are confusing administration with justice. We are confusing the two, you know. The Judiciary is dealing with the administration of justice and, you know judicial officers have an interesting tenure. As they say in Latin *Quam diu se bene gesserit*. Mr. Speaker, Latin scholar as you are would know that. *Quam diu se bene gesserit*—they hold office so long as they have good behaviour. *Quam diu se bene gesserit*. That is for judges; that is not for service commission people. They are no *quam diu se bene gesserit*.

They are appointed for three or five years and after that they could be removed. They could be removed even before that if it is determined that they have an infirmity of mind, or whatever provision that the Constitution has in it. But, during that three or five years, they cannot and must not be insulated from giving information to the people who pay them and whom they serve. They cannot have that unfettered right. It is repugnant to democratic theory and repugnant to the spirit of the Republican Constitution of Trinidad and Tobago.

That is my essential contention, Mr. Speaker, and I doubt anybody could challenge the essential contention in that every constituent~~the~~ constituents of St. Joseph have a right to be told why so many people in my constituency have not been appointed teachers. Do you know how many people have B.As B.Sc.s? They have applied for years now and they cannot get appointments and they do not

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

know why they cannot get appointed. But, you are telling me that the Teaching Service Commission must not give some explanation why there are so many vacancies in the Teaching Service.

We need to transform this country into a quality nation; we need to change the curriculum; we need to give quality education. There are people out there with qualifications and they are not being appointed and nobody knows why. Even the elected Members of this Parliament who are accountable to the Parliament and who are, under a representative and responsible form of Government, must give information and explanations to the Parliament and, by extension, the national community.

5.40 p.m.

That is a subversion, I contend, Mr. Speaker, of the intent and the spirit of the Republican Constitution of Trinidad and Tobago. Nobody is a sacred cow and nobody must be exempt and nobody should exercise such unfettered power that you cannot even elicit information from them in order that the electorate of this country, the citizens of this country, the taxpayers of this country should have information about themselves.

Miss Nicholson: Nobody.

Hon. M. Assam: Nobody must be exempt from giving information. There is a fundamental difference between that and saying this Parliamentary Committee that we are seeking to establish, if this Bill is passed, can change, can force, can coerce the commission to change its decision or its mind. We are not saying that. We are not saying that at all. This Bill is not about coercing, changing, influencing, removing, truncating, modifying the power; the Bill is not saying so. All the Bill is saying and the Government would be coming to this Parliament very shortly with respect to a Freedom of Information Bill is—if we have a Bill talking about freedom of information, how could service commissions be exempt from that Bill? How could they? How could anybody be exempt?

When His Excellency, the President, was indisposed a year ago, the people were thirsting for information, because they wanted to know that their President was improving, was recuperating, that he was bouncing back. They wanted to know that he was returning to good health, and they are entitled to know that. I was very happy that from time to time, there were bulletins from President House stating that His Excellency is improving, that His Excellency is recuperating, that

His Excellency is doing well. We were happy, that kind of information flow was taking place to reassure us that our Head of State is on the mend and will soon be able to resume his full duties as Head of State. We were pleased, Mr. Speaker, about that. That is the value of information. That is the importance of information. Because in the absence of information, you have rumour, and you know what rumours lead to Mr. Speaker; rumours lead to all kinds of cancerous developments that could create mayhem in a democratic society. Therefore, information is vital for everyone, and no one must be exempt from giving information.

Now, you will observe that there are exemptions in this Bill. A minister does not have to appear if he does not want to. The Chairman of a service commission does not have to appear if he does not want to, he can send his or her representative. *[Interruption]* Well, he asked what is the point. The point is that we are even bending backwards and still according respect to the various offices, which some of you opposite feel are so sacrosanct that you cannot even question a big person.

Mr. Speaker, this Bill, according to the Member for Tobago West, has no teeth. She did not say that but what she said was tantamount to that. What is the point in having a bill that you cannot enforce anything? Information for information sake? I want to tell this Hon. House, Mr. Speaker, that information for information sake is not a bad thing, because the more information you have, it is the better off you are in a society. We live in the information age. We live in a knowledge society, it is what will create the future: knowledge and information. Knowledge is power, information is power. The only way you can make proper decisions is from knowledge and information, and even if it is information for information sake, it has a value, but it has an even greater value than that. If public officials are of the view that their power is unfettered, and they have to account to no one and they do not even have to give information to anyone, they may and I am using my words very advisedly because I do not want anybody to say that I am attacking anybody or any service commission become so comfortable and complacent that from time to time they make decisions and judgments that may not be in-tune and that is the important thing Mr. Speaker with societal needs and societal developments.

You see, it is very easy to sit down in a chair as an official for five, ten, fifteen years when you are re-appointed all the time and lose sight, not only of your function, but lose track of time; you are in a time capsule, you get involved in a time warp, Mr. Speaker. If you do not renew your energies; mental, physical,

spiritual and otherwise, and keep in tune with society, then you can make decisions or judgments that unwittingly, that is the word, not deliberately, or maliciously unwittingly you may make decisions and judgments that are not in the public interest and, indeed, may be inimical to the public interest. That is what is critical about this information thing, that is what is critical about it, and that is what we must understand.

That is why when people accuse us of travelling, you think I could sit at my desk at the Riverside Plaza on the level 15 and know what is going on in the world and sit down there for five years, even though the Member for Diego Martin Central may say that the minister is travelling too much? *[Interruption]* I said you may, I did not say you did. *[Interruption]* The point is, you have to go out into the real world and interact with the real world to find out how the real world operates, how the real world thinks, how the real world reacts. You have to get out there into the real world. You cannot sit in your office and hope that you can create market space and market access, and bring in investors here and create a whole tourism environment, see how technology works, improve the educational system, your health system, your labour laws. If you sit in Trinidad and feel you could do that, you should be in St. Ann's, Mr. Speaker. It cannot happen, it will not happen, it does not happen and, therefore, the same is for officials.

That is why long ago I do not know if it has been stopped I remember they used to have a practice that they called judicial contact. I believe the purpose behind judicial contact was for judicial officers to go to different jurisdictions, particularly within the Commonwealth, but even outside the Commonwealth, I understand, they went to see what is the jurisprudence that is developing in other societies; to see how the administration of justice is conducted in other societies; to see how they have mechanized their courts. We are still struggling with the CAT system here. I believe judges still write in long hand and we are still struggling with the CAT system here and other jurisdictions are in the age of technology. That will be the defining thing between a developed, and a developing society. It will be the defining thing between competitiveness and lack of competitiveness. That will be the defining thing, Mr. Speaker, between development and sustainable development. It is critical. It is very, very critical and, therefore, there should be no arm of the state, no person within any arm of the state who should be exempt from accountability, transparency and providing information on the operation of his or her agency. That is what this Bill is all about.

I do not understand what are the fears. I do not understand the paranoia. I do not understand the political hysteria. I do not understand all the suspicion. I do not understand all the criticism of guile that is being heaped upon us because of what we are attempting to do this afternoon, Mr. Speaker. As I said, this is one of the greatest Bills that I have seen before this House because it has given me an opportunity to express my appreciation and understanding of what I understand to be the evolution of democracy from ancient times to modern civilization. I wish I had more time to go through in greater detail how the whole thing developed and how we in Trinidad and Tobago could benefit from these developments.

5.50 p.m.

Mr. Speaker, all around us, change is taking place at a very swift rate, and if we sit and do not come to terms with the rapidity but even more importantly, with the quality of change we are going to be left behind. So too is our democracy. Our democracy will be imperilled; our democracy will be challenged; our way of life will become obsolete if we do not take the time to revise and review all our institutions, our systems, our Constitution, the way we do things, the way we think and so forth. Why are we so afraid to put under a microscope the institutional infrastructure and superstructures of our society, whether they are political, economic, social, religious and cultural? Why are we so afraid? Why every time we bring a Bill to the House do they have to politicize it?

Miss Nicholson: It is politics!

Hon. M. Assam: Politics is not nonsensicality. It must have a high level of debate to inform the population of one's thinking and not to engage in histrionics and nonsensicalities. [*Desk thumping*]

Miss Nicholson: Why do you not sit and stop wasting time?

Hon. M. Assam: Mr. Speaker, as I was saying, we need to examine on a continuous basis our institutions, whatever the institutions. At one time, it was good for this country to have an economic system of import substitution; at one time it was good for us to have negative lists and licensing; it was good for us to have foreign exchange control, and so forth. At one time, it was good for us to prevent people from coming in here.

The world has changed and the world will never go back. That is what people must understand. We will never go back to where we were, and it is either we go forward or we will slip into total and everlasting oblivion. That is the challenge of this Parliament. That is the challenge of all of us who represent people in this

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

country. It is either we move forward into the 21st Century or we remain as relics, as dinosaurs in the political museum of Trinidad and Tobago forever. [*Desk thumping*]

Every time we bring a Bill here, for example, we laid down the Salaries Review Commission Report in the Parliament, it is a big hullabaloo about who should get five cents for travelling, 10 cents for their parliamentary office, and 12 cents for this and that. Such picayune matters. Mr. Speaker, small things occupy small minds, but large and great things occupy great minds, and I hope this afternoon that this great debate will occupy great minds, because what we are trying to do as a small start is to carve out the future democratic institutions and how this country will operate as an effective and efficient democracy into the 21st Century. Everybody, without exception, sacred cows will be exempt from responsibility, transparency and accountability to the people who have elected us and whose taxpayer's money we spend on their behalf. Nobody at all. That is why this Bill is before the House.

This is not to attack the President. This is not to attack the Chief Justice. This is not to attack the commissioners who sit on the Police Service Commission, the Public Service Commission or the Teaching Service Commission. This is to empower the people of Trinidad and Tobago who we are committed to serve, who we are dedicated to represent, and whose democracy we must enlarge, grow, enrich and nurture with the kinds of progressive legislation that is our duty to bring here from time to time.

Mr. Speaker, I sincerely hope that Members opposite would take a different view of this Bill after I sit. I hope that all of them would realize that there is more in this Bill than simply trying to add clause 66A to the Constitution, whereby we are attempting to establish parliamentary committees to be able to elicit information from Service Commissions. But the emphasis in the debate and I thought that was rather nefarious of some of us was on service commissions. We are trying to elicit information, not only from service commissions, but from ministries, departments, and agencies of the Government. From everyone.

One will get the impression that having listened to the Member for San Fernando East and the Member for Arouca South that service commissions were specifically targeted in a Bill because we have something against them; without realizing that the Bill is all encompassing.

Mr. Speaker: Hon. Members, the speaking time of the Member for St. Joseph has expired.

Motion made, That the Hon. Member's speaking time be extended by 30 minutes. [*Hon. R. L. Maharaj*]

Question put and agreed to.

Hon. M. Assam: Mr. Speaker, some of us may have overlooked in the preamble to the Constitution that the Republic of Trinidad and Tobago shall be a sovereign democratic state. Many of us missed that. It goes on to say in the preamble:

“respect the principles of social justice...”

What is more important than getting information that constitutes one of the most important ingredients in social justice? That is the very essence:

“have asserted their belief in a democratic society in which all persons may, to the extent of their capacity, play some part in the institutions of national life...”

How could people play that part if they do not have information upon which to make decisions and to participate fully to the extent of their capacities in national lives? How could they? It is not possible. But you know, I was rather amused because the Member for San Fernando East was a former Prime Minister. He boasts that he is in the Parliament for 28 years, and I wonder if he has learned anything. When I mentioned that the Members for Fyzabad, Ortoire/Mayaro and Barataria/San Juan are not members of the Executive, he tried to ridicule me and say that I did not even know.

In this country, everybody knows that it is the Members of Cabinet who are considered members of the Executive. Everybody knows that. Although *de jure*, when one looks at the organogram of Trinidad and Tobago, *de facto*, only the members of Cabinet are members of Executive until, of course, they are appointed to act in the capacity of a Minister. Everybody knows that, but he tries to pull wool over people's eyes and tries to ridicule me. Imagine he is trying to ridicule me, as if I do not know the Constitution of this country, which I have studied from cover to cover. For many years, long before I went to university, I was studying the Constitution of this country because it has always agitated my mind. Politics has always agitated me, but he is trying to educate me.

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

He went on to make another fundamental error to say that we do not want an executive president in this country, as if an executive president is like the Bubonic plague and it is like injecting every human being with the AIDS virus in this country. The President of France, President Chirac, is an executive president; so too is the President of the United States, President Clinton. Are they not healthy, vibrant democracies? In fact, it was the monarchies that were despised in a number of countries that led to the transformation into republican status. Very few countries have escaped it; Britain is one of them, but most of the countries in Europe were all monarchies, and it is because of the lack of what we are debating here today: transparency, accountability, information; that is why they were overthrown. Magna Carta!

Charles I lost his head; James II lost his throne; the United States broke away from being American colonies. No taxation without representation, but he talks about not wanting an executive president. What he fails to realize is that the power of an executive president is not unfettered. In fact, the power of a Prime Minister under our Constitution is greater than the power of President Clinton of the United States because of the checks and balances, advise and consent. Has he ever read the book, *Advise and Consent*. Mr. Speaker or the Clerk of the House must give the Member for San Fernando East a few good books to educate him and let him understand how circumscribed and how fettered are the powers of the President of the United States. Compared with the enormity of the power of a Prime Minister under the Westminster or a parliamentary system, it is like chalk and cheese. So, if we transform this country into an executive presidency, the power of our Prime Minister would be diluted. He does not even understand that.

The Member for San Fernando East never ceases to amaze me. I should stop saying so. I have been saying so for three years. I should understand by now that the guy does not have much between his ears, but he makes the most ridiculous statements and, as a consequence of which, he really disappoints and lets down his team.

I am amazed really when people get up in this House and make such wild allegations and accusations. The Member for Arouca South said, "Government never did anything in the interest of the public, except for partisan reasons." Could one imagine this thing? One can go all over this country and never in the history of a Government, in three years, has so much been done for so many by so few with so few resources. [*Desk thumping*]

Wherever one goes, the country is bumping and jumping. The country is bumping and jumping! That is correct! All over this country! I do not know where they are living, because I hear even Laventille has cable television now, and it is said by the Member for Laventille West that crime will be reduced, and vagrancy and criminal activity will reduce because Laventille has, at last, entered into the 20th Century because they have cable television. Imagine she said that! She is quoted as having said so. The PNM is in power for 30-something years, and Laventille, at last under a UNC Government has got cable television.

6.05 p.m.

So wherever you go, this country is bumping and jumping.

It is because of a kind of death wish that some of them on the opposite side have they want to see this country decline precipitously as some other countries unfortunately, I say unfortunately of South East Asia. But, you see, the structure of this economy is different. I am not boasting, this is fact. Whereas those economies engaged in unnecessary credit and consumption spending, backed by portfolio investment which is highly mobile investment, when the flu came, they could not withstand it. The economy of this country has a totally different structure. The investments in this country are not portfolio investments that are highly immobile, cannot just take out and go, like paper money; they are in the ground.

Now, you may say NUCOR closed down, yes it could happen, one or two plants could mothball themselves, but they will return because no company is going to leave a few hundred million dollars in the ground forever. As soon as world conditions change, NUCOR and ISPAT, whose furnace is down now, will return to normal. I know many members on the opposite side do not want it to happen because they like to cut off their noses to spoil their faces as if this country belongs to the UNC. This country belongs to all of us. This country is my country; this country is your country, this country belongs to all of us. Those who want to visit doom and gloom on this country will be punished; I say so. They will be punished for wanting to visit doom and gloom on this country, because this country belongs to all of us. You can hate the UNC, but you must love this country. Every time you make a statement that is not in the interest of this country and it gets on the Internet, it damages this country and, as a result, damages you and the people you represent.

Dr. K. Rowley: Tell the Prime Minister that!

Hon. M. Assam: This country is moving. Unfortunately, we may not have the predicted level of growth that we were expecting in 1999, it may not be five per cent. Whatever it is [*Interruption*] economic growth is for the whole Government. We have a collective responsibility to economic growth.

You see, in your administration, it is only Mr. Mottley who had the responsibility. In this administration, we have a collective responsibility for economic growth. [*Desk thumping*] We are not a one-man government or individual government, you know collective. It may not be five per cent, but whatever it is, I assure you, we will continue to have positive growth in this country, and that is important. I am reasonably sure that there will be some turn-around of this international economic situation before long, and Trinidad and Tobago will continue to benefit from it, particularly from commodity prices such as urea, methanol, ammonia, steel and so forth, which commodities are utilized very heavily by those countries that are now suffering from the flu and even European countries.

So, I have no problem with a little down-turn. It is the nature of the economic situation. We have what you call business cycles; you have peaks and you have troughs. This is part of the human condition. No human being is on a high all the time; you have highs and you have lows. The important thing is, when you put your accounts on a balance sheet, you must have more credits than debits. When you put your accounts on a balance sheet, your net worth must be positive. When you have your assets and you take away your liabilities, you must end up with a positive net worth. That is what this Government is working towards to bring positive net worth to this country to improve the quality of life of all citizens including members of the People's National Movement because we care about everybody in this country.

The Member for Arouca South brought up a red herring about a Cabinet Note. I do not know how people get Cabinet Notes in this country. We need some plumbers in the Cabinet to stop the leaks. She brought up a red herring about a Cabinet Note with respect to ministers approving temporary and contract officers, and she says this offends the Constitution and the Chairman of the Public Service Commission was somewhat concerned about it. There was never any intention to undermine the functions of the Public Service Commission, or in any way, offend the Chairman of the Public Service Commission.

But sometimes we tend to forget that a minister also has powers. A minister has powers under section 85 (1) of the Constitution, which gives him the power to

direct the affairs of his ministry. Part of directing the affairs of his ministry must be a human resource consideration. If, in the case of both temporary and contract officers which are approved by the Cabinet, because it is the Cabinet that approves temporary and contract officers not the Public Service Commission. Contract officers are approved by Cabinet, as you well know. It is my view that a minister has a right to have some kind of input or oversight in that particular situation. This is my view because it is the Cabinet that appoints contract officers, nobody else. So, I would not prolong that discussion because I think it is a non-issue, quite honestly, because this Government does not intend and will not interfere in the workings, operations, powers and responsibilities of any of the service commissions.

In 1962 when we became independent, this country, you can say, was a monarchy because the Head of State was the Queen of England, Queen Elizabeth the II. I wonder what would have been the reaction if the PNM, at the time, had decided that they wanted to establish a republic, move into independence as a republic instead of a monarchy as Dominica did, for example. When Dominica became independent they went straight into a republican situation. When Guyana became independent, they went straight into a republican situation. I wonder what people would have said. I am reasonably sure that it was in Dr. Eric Williams' mind. He expressed it! Not me and the monarchy! I wonder if you remember that famous expression. Not only was it in his head, he expressed it. He said, "Not me and the monarchy." Eric Williams said it repeating a calypsonian. He was bold enough and perhaps honest enough to express what was perhaps going through his mind, that he did not want to continue as a monarchy, and he sought within some period of time, 1962 to 1976, 14 years, to bring about, what I am reasonably sure he wanted from the beginning.

I make this point, Mr. Speaker, merely to show you the inevitability of change and how our constitutional arrangements have evolved. In fact, Barbados, Jamaica, Bahamas and all of the islands of the former Commonwealth Caribbean, except Dominica, Guyana and Trinidad and Tobago, as far as I am aware, are all monarchies still. We find it difficult to make change, particularly constitutional change. It is one of the most painful things for a government to come to a parliament or to go to a country to say we are going to make a constitutional change. I say, if a constitution is so sacred, is so sacrosanct, that if you touch it, the whole system of government and society will collapse. It is the politicians who have that fear, not the people. It is the politicians who are so coward, afraid and

Constitution (Amdt.) (No. 3) Bill
[HON. M. ASSAM]

Wednesday, February 24, 1999

have no confidence in themselves that they have projected this fear unto the population so that the population go through that same kind of reaction. It is like the salaries review. We think that if we raise our salaries, the people out there will say, 'Boy, politicians raise their own salaries;' and so forth. I am saying that it is a problem with all the parliaments and politicians. I am not making an exception. It has happened over time. I am saying, as difficult as it may be, we have got to grasp the nettle of constitutional development; we have got to grasp the nettle of democratic evolution, and the time is now.

If we postpone all these matters, our children and the generations to come will not forgive us, because they are hoping and praying that somebody like the Member for Diego Martin West, a young man of intelligence; the Member for Port of Spain North, a young man of intelligence; they are hoping that people like the Member for San Fernando West, a young man of intelligence; among others, will see that during their time as Members of this House and as representatives of the people that they do what is in the interest of the people; that they make democracy not only a word; but like a living organism, it will breathe, it will grow, it will flourish and it would be like an amoeba, reproduce itself along the way, into healthier and healthier cells. This is my wish; this is my hope and this is my prayer.

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

6.15 p.m

Dr. Keith Rowley (*Diego Martin West*): Mr. Speaker, I apologize for being carried away. I just wanted to thank my friend, from St. Joseph, for the discourse that he has given us in the last hour. It is very interesting to hear certain names called, because it brings back certain memories, contrary to the impression being given, that those of us on this side do not read. That is an assumption which I would not challenge. It is good to hear about the Athenian Parliament, and the point of views expressed. It is also good to hear about the Marlborough Conference, and things like that. But, at the end of the day, Mr. Speaker, we have to come down to earth, and make contact with what is before us.

Notwithstanding the very extensive name-dropping of the last presentation, one thing was missing, and that was an attempt to indicate how the thing will work after the change is made. I would have thought that, given the passion for the Greek and Roman period and the Cicerian discourse, it would have been easy to come to that point, to say, okay, what we are saying is that we want to make this

change, and this is what is going to happen; this is how it is going to work. Because at the end of the day, that is what it is all about.

Mr. Speaker, I claim the right to speak here for, and about change, because I am not afraid of change. I advocate change within my own organization. Recently, I spoke at Rotary and I advocated change in Trinidad and Tobago as one of the things that we have to come to grips with. I agree with a lot of what the Minister has just said, except that, I am not one of those who advocate change for change sake, because some things must remain forever, and ever and ever. Some things are like that. It is like love; you cannot change that, you ought not to.

Mr. Speaker, the presentation of the Member for St. Joseph, if you are not careful, you might lose sight of the issue in front of us, and the issue is: what do we have in front of us, and how is it going to be configured after it is changed by this Bill?

I want to make it abundantly clear, that those of us on this side are not saying that the Constitution of this country is sacred and should not be touched, so all arguments along those line, dismissed. We are not saying that, at all. We are also not saying that service commissions are perfect and should not be touched. We are not saying so at all.

In fact, I would ask these questions. How did we come to entrench service commissions in our Constitution? Those conditions which brought about the introduction and entrenchment in the Constitution, are those conditions still valid? Is the requirement still valid to have service commissions? When you ask those questions you have to go back to 1962, to the Marlborough Conference, and the period of that time when we were going to become independent.

Mr. Speaker, people who know Trinidad and Tobago and I speak for the vast majority of our fellow citizens understand that we are a very complex society; trusting, but at the same time, very mistrustful of each other. And I will tell you something, too: you hear a lot of talk about unity, and many calypsoes being sung, and many politicians advocating, let all of us be one, but at the end of the day, that is platitude. As a reality, it is foolishness. All of us would never be one in this country. There are a number of different groups in this country, different in whatever way: tall, short, white, fat, whatever. Syrians are going to be Syrians; the Chinese are going to be Chinese; the East Indians are going to be East Indians, the Africans are going to be Africans, but at the end of the day, we are going to be what? Trinidadians and Tobagonians, but maintaining those ethnic, our cultural

identities. That is what makes this country unique and strong. So, do not come and tell me, let all of us be one. We cannot be one.

The East Indian Hindu, is never going to be the Afro-Trinidadian Baptist in Charlotteville. No! But because they are not the same does not mean that we cannot live together in peace and harmony. And that point has to be made. We have to understand our differences, and the strengths of those differences, and we have to have discipline; we have to have tolerance, and, that will give us the production for a nation where the quality of life is good, and is on the improve, respecting each other, enjoying each other success and wising each other well and working together towards a common goal. That is what a plural society is.

Let us stop fooling ourselves with platitudes. And it is in that kind of community, where trust is advocated and is to be expected, but where mistrust is also an integral part of the fabric.

I think, it was my colleague from St. Joseph, who mentioned ~~or~~ somebody else earlier on Arouca South, who mentioned the position of the DLP in 1962, spokespersons for a minority group in the country and this country has many minority interests. The minority interest in 1962, on the threshold of independence, was mistrustful of the potential misbehaviour of the majority, or the perceived majority, and took steps to ensure that when the colonial master leaves Trinidad and Tobago, the majority which would inherit authority, would not use that authority to trample on the interests of others. And that is why, quite properly, the leaders of the DLP stood up so firmly for a system which would protect people from abuses of any majority.

And, of course, as part of the backbone of this country's Constitution, and by extension, a pillar of our social fabric, the question of independence of the service commissions was entrenched in our Constitution, to give that comfort to all, regardless of which part of the community you belonged to, or identified with. You have the comfort, that as the state provides opportunities, or dispenses largesse that there is fairness unfettered by political interference, because that phrase means: partisan, self-interest and all the negatives that go with that.

That is why we have service commissions. And I ask the question again: If in 1962, those fears were valid and had to be addressed—the Wooding Commission that went across this country, seeking to find out what the people want—my friend talked about evolution. That is what evolution was all about.

6.25 p.m.

After independence of 1962 this country funded and supported the enquiry of the Wooding Commission to tell us how can we adjust, how should we adjust, and this matter came up again and the conclusion we came to then was, leave that well alone. It still is valid. And subsequently as the evolutionary process advanced we had the Hyatali Commission. Again we canvassed the population. What should we change? How should we change it? And on this subject the Hyatali Commission said, "Leave that alone." It is still valid. And now I ask today; I ask today: is it still valid? And Mr. Speaker, the answer is an unequivocal, yes.

The independence of a service commission free from political fettle is still valid and that is why this bill is dangerous. It runs counter to what we want for this country, and notwithstanding all the travels or what other people are doing, in seeking to look at our own circumstances and plan our own future, decide what is good for us by our own examination and consensus, we have said this is what is good and will work for us. That is all it is, Mr. Speaker. And that is why I have difficulty with the way the Government has gone about this.

Mr. Speaker, I know they do not fool you and they do not fool me either because I agree with my colleague from Arouca South who said that what the Government is seeking to achieve here by the Parliament, is what they sought to do by the Cabinet. What does this Bill seek to do? The Bill seeks to give Parliament the power to enquire into the workings of the service commissions. That is a fact. I am not making that up. That is what the Bill seeks to do. It is precisely because of that the service commissions were set up in the way they were. Because in the absence of that insulation, the commissions cannot then be deemed to be independent and provide that comfort to those who will be mistrustful of a situation where the politicians have this oversight over the commissions.

What is the proof of that assertion, Mr. Speaker? The proof is that I would like the Government to show me any outcries in this country, any outcry in this country or any issue being raised in this country. We have a radio call-in programme at midday on one of the popular radio stations and I listen to it very often and I have never once heard one citizen call in and make a comment about the service commission. It is not a burning issue in front of the people of Trinidad and Tobago. You could assume that is because they are ignorant but I am saying, Mr. Speaker, what we do know is that the service commissions, insofar as their existence is, there is no question about the population wanting them to be independent and insulated from political interference because they know and they

Constitution (Amdt.) (No. 3) Bill
[DR. ROWLEY]

Wednesday, February 24, 1999

are mistrustful and they have good reasons to be mistrustful. They know what political control and political involvement could mean in a situation like that and they prefer to live in a situation where there are these commissions appointed by the President and they trust them to make fair decisions.

Of course, Mr. Speaker, over the years we have seen shortcomings in the operations of service commissions. And the Constitution provides for adjusting that, the existing Constitution; it provides for delegation of powers by the commission and if there is a real problem with our service commission system it is that there is not enough delegation of the powers of the commissions to the managers who have hands-on responsibility for the public service and that is where the PNM's position is being made an issue here as though the PNM said this and the PNM said that.

All we are saying is that these powers are there residing with the commissions. And you had the instance of a Commissioner of Police in the face of runaway crime and the country looking for the Commissioner of Police and indiscipline in the ranks of the Police Service, policemen marching around the Parliament, and the country asking, "What the hell is going on?" and the Commissioner of Police says, "I am a bulldog but a toothless bulldog." And we said okay, in that case let us use the provision of the Constitution to have a delegation of powers. If the Commissioner has responsibility let us give him the authority because that attempt was to marry authority with responsibility.

But let me not go any further than that, Mr. Speaker, because that is not before us today. The PNM's position is not before us today. The PNM has been out of government now for almost four years and we can defend that position in here and outside. What is before us today is a bill that says that the Parliament must have power to enquire into any action of the service commissions, any action. Mr. Speaker—

Miss Nicholson: Interfere.

Dr. K. Rowley: The minute that happens, the commissioners are operating in an environment where they believe that they are going to be second-guessed by the Parliament but we are told if when the Parliament enquires into their actions we discover that something is unsatisfactory or wrong, the question is asked, then what? And I heard the most amazing answer to that question from my friend from the Senate, "No action will be taken about that particular wrongdoing but it will serve to inform them for the next time." What utter hogwash, Mr. Speaker! That

makes no sense. And I do not believe that because that can never be a basis to bring up a law for the Parliament to deal with, to amend an entrenched provision of the Constitution only to say that, "I have found you guilty but I take no action against you."

Let me tell you what is going to happen. It says the Chairman is not supposed to come if he does not want to come, but other members can come." Look at a scenario, Mr. Speaker. The chairman does not come on a matter in which the Government has some interest, either at the personal level, the girlfriend level, the neighbour level or what. The Chairman does not come but the Government, which has the majority in the Parliament, summons the commission under law and we saw by the earlier draft the intention to do it under penalty of jail.

So that the Chairman does not come but members come, but it might have been an issue on which there was a divided vote in the commission and let us say two members who had a different view, they come to the Parliament, and they express their minority view, much to the Government's liking. What then does that do to the commission, Mr. Speaker? And of course you will take no action but the Parliament could issue a report, just a report, saying what they think of the views as expressed by these minority members who expressed their views outside of the commission.

What kind of commission are we going to end up with, Mr. Speaker? And who self-respecting commissioner will remain in office after a development like that? Which one? So you are creating the climate where immediately any person who is worthy of his or her salt would decline to serve on any such commission knowing that the politicians can do that. So immediately you have removed from the potential of public office a large number of self-respecting persons who otherwise would have served this country. That is the danger in this bill. That is only one scenario.

Mr. Speaker, the bill talks about this form of unrestrained power seems incompatible, it only seems incompatible with the principles of accountability, transparency and openness. So they are not sure. It only seems like that, " goes on to say that the commission has unfettered powers. The commission is there, it is spelt out in the Constitution, it is about hiring, disciplining, transferring and promoting public officials. Any public official in this country who feels aggrieved by the action of the commission is free to go for judicial review, so

therefore it is wrong to say that the Commission has unfettered power and its actions cannot be questioned in the court. It is wrong to say that.

In fact, the AG himself in his presentation made reference to that landmark case of *Andy Thomas* who felt that his rights had been infringed and he went as far as the Privy Council and the Privy Council gave a landmark ruling. How can you come to my Parliament now and tell me that the commission, like the President, has the power to carry out actions and it cannot be questioned in any court when we know that is not so? But Mr. Speaker, this Government deals in subterfuge, sleight of hand and ulterior motives. That is what the Government deals in and if you do not believe me let me explain something to you, Mr. Speaker.

This Bill is about service commissions. It is only a facade to throw in ministries, statutory authorities and so on. It says, service commissions, ministries, statutory authorities and enterprises controlled by the Government. Mr. Speaker, that is just a throw-in not to leave the commission there naked in the spotlight, and when the Member for St. Joseph makes the point that this is not about service commissions I say to him, "Thou dost protest too much" because all the other additions we have proof that the Government has absolutely no intention of having transparencies about ministries or agencies. We have proof.

So by throwing that in we are not being sidetracked by that. We know this is about the service commissions. And Mr. Speaker, that being so, if the Government is bringing legislation to amend the Constitution insofar as it relates to the service commissions, where in the Constitution is the matter of service commissions located? It is located at page 76 and following, Chapter 9 Part 1, sections 120 onwards: 120, 121, 122, 123 and so on.

This Government is so deceitful, deceptive and dangerous that in trying to give the impression that this is not about service commissions, it does not add this addition in the section on service commissions, it adds it in section 66 on the section about money. Mr. Speaker, I want to ask you a question in all seriousness. Is the word "jackass" parliamentary?

Mr. Speaker: I will say to you that if you use it in that context it is not, if you ask me the word, but to refer to a Member of this House or the Senate in that way, it will be so.

Dr. K. Rowley: Thank you, Mr. Speaker. So that therefore it is wrong, Mr. Speaker, for the Government to believe that the rest of us in the Parliament are jackasses. This Bill is asking us to add, we are adding this section to section 66.

Section 66, Mr. Speaker. What does section 66 mean? It deals with it is a follow-on from sections 63, 64 and 65. Section 63 is about a money bill. It says how money bills should be handled in the Parliament.

6.40 p.m.

Mr. Speaker, section 64 is about a money Bill; section 65 is about a money Bill; section 66 is about a money Bill, and we are now going to add to section 66, service commissions. The intention is to avoid facing up to the issue that what we are doing is interfering with an entrenched part of the Constitution, the service commissions, which require a special majority. [*Desk thumping*] Do you understand that? By coming to add it in section 66, as against where it belongs in Chapter 9 under 'Service Commissions,' it would somehow mean that it does not require a special majority.

The whole idea behind the service commissions being entrenched in the way they were is to preserve their independence. I am making the argument that if Parliament is given powers to do what this Bill is asking, to allow us to interfere, to have that kind of oversight, to have recourse and to enquire into the actions of the service commissions in a way as to prejudice the commissions' working, to create that environment and that de facto situation, where the commissions' work can be held up to ridicule and, therefore, not give the country the comfort of independence of the commissions; if that is the effect of this amendment as it is, then I submit to you, that it is altering the term and conditions of the independence skeleton of this country. That was a basis on which you got independence.

The Government is coming out by sleight of hand to change that, and the reason it is going this way is because it is a minority government that does not have the parliamentary votes to amend section 121, so it is seeking to amend the Constitution by an underhand move. It must not be allowed to do that. The Government knows full well that it cannot expect to get our support on this side for the measure and it does not have the vote. So what the Government is seeking to do is find a way to accomplish what it wants, without having the requisite parliamentary majority, so to do. Therein lies the dishonesty of this.

This Bill does not stand alone, it is a strategy that this Government is pursuing and believes it is working. Mr. Speaker, let me draw to your attention something that came to the Parliament today. I filed a question which was answered today. The question was: Did the National Insurance Board amend its tender rules in the recent past? The question was answered today. Listen to one of the amendments that the National Insurance Board made recently. This is a board of public officials

Constitution (Amdt.) (No. 3) Bill
[DR. ROWLEY]

Wednesday, February 24, 1999

that meet to conduct public business. The National Insurance is managing a multi-billion dollar business. Listen to one of the amendments it made in February of 1998, the NIPDEC tender rules, on the face of it, naked, I quote:

"Words in the singular, shall include the plural. Words in the plural shall include the singular. Words in the male gender, shall include the female gender, and words in the female gender shall include the male gender."

That is the sum total of the amendment.

Well, my daughter is doing the Common Entrance Examination next month and "I hope she eh hear this, because male cyar be female" and singular cannot be plural. Look at how innocuous that is! That was done in February 1998, soon after the Government announced with public fanfare that it was putting the airport contract under NIPDEC. Thus, having done that it is now paving the way to go back and give the airport contract to NYC without tender. But NIPDEC has tender rules that specifically prohibit sole selective tender, and it refers to companies. They want to make it that they could give the contract without violating the tender rules of NIPDEC, so they change the English language. Therefore, plural equals singular and singular equals plural. Of course, since we on that tack, let man equal woman and woman equal man. [*Laughter*] That was done by the NIPDEC board in February.

Having done that, they will now have no requirement to be forced to go out to tender for contracts above a certain size. "Yuh understand!" They did not want to come forward and say that NIPDEC can now award sole selective tenders for any contract of any size, that would have alerted the country, so to do that they changed all singular equals plural, and all plurals equals this. Of course, they throw in gender, so anything equal anything. We are not jackasses! [*Desk thumping*] This is how the Government of Trinidad and Tobago amends the NIPDEC tender rules to facilitate corruption in the airport. That is how it was done.

When I filed the question I was not crazy, and when the Minister came today and read this answer, I am sure none of you knew what it meant. [*Interruption*] Innocuous on the face of it! Mr. Speaker, you are a brilliant man, I am sure you did not know what this meant. Now the Government can correctly say that the contract was awarded according to NIPDEC tender rules.

Then this Bill from the same Government says [*Interruption*] no, "yuh doh" understand—

"Service commissions..."

A burning issue in Trinidad and Tobago, choking us to death!

"are not compatible with accountability, transparency and openness in a democratic society..."

But you could award a \$200 million contract in this way, breaking the regulation, creating this avenue for corruption, but on this occasion you have no interest in transparency, accountability or public policy. [*Desk thumping*]

Mr. Speaker, I say today, this Government is coming here to tamper with my Constitution and my entrenched provision here. This Government is made up of hypocrites, because it has no moral authority whatsoever to talk about transparency and openness! [*Desk thumping*] This Government is about seclusion, secrecy and facilitating public misconduct. Transparency!

I, as a Member of Parliament this is the most public place in the country. The Standing Orders in this Parliament allow for Members to ask specific questions of our administrators, or Executive. I filed a question in this Parliament asking the Prime Minister, head of Cabinet and the Government, a simple question: Under what authority did you award the NYC contract? After 21 days' notice, this Government that claims to have an interest in transparency and accountability, the Prime Minister comes in the Parliament, and his Government asks for time to answer a simple question like that. Up to this day the question has not been answered. Mr. Speaker, is that an example of a commitment to transparency and accountability?

The Prime Minister of this country being confronted in a situation where his Minister of Finance sought to pass \$52 million across this Parliament to Maritime, and my friend from Diego Martin West stopped it in this Parliament. The Prime Minister asked for an enquiry and put a retired judge to enquire. When the report came he said, "I accept this report", and called on the Opposition Member to assist him to clear the report. What happened after that? Nothing! His Minister of Finance comes to the Parliament, and in the interest of transparency and accountability, speaks falsehood to the Parliament, and said that Soodhoo's job was advertised and he was the best candidate.

At the end of the day, a report was presented to the Prime Minister, the one who loves transparency and accountability, and I asked in this Parliament, "Could we see any part of the report?" He said, "No, it is too libellous for people's eyes!" But today, I am hearing that we must accept the Government's minority point of

Constitution (Amdt.) (No. 3) Bill
[DR. ROWLEY]

Wednesday, February 24, 1999

view that this does not need a special majority because some nameless senior counsel told them that it does not need it. I am asking, is it the same senior counsel who did the Soodhoo report? Because that senior counsel helped them with a report which was total libel, that none of us could read.

So, Mr. Speaker, you understand why I cannot accept anything from this Government? All the evidence is there to show that the Government has no interest in the real issue as written here, and there must be ulterior motives. Thus, while my friend from St. Joseph said that we should not have concerns, and he accuses of being paranoid, if we are paranoid, we have good reason to be! When the Government had the opportunity to hire people outside the process of the service commission their behaviour was scandalous. We only have to think, suppose this power was wider over the wider public service?

Take my friend from Princes Town, he had the opportunity to influence the hiring of a contract officer. What did he do? Whatever he wanted to. He did what he wanted to do. He hired the No. 6 person for the position. All I asked him in the Parliament is, "How did you come to do that? Rather than do what my friend from St. Joseph said, which is stand here and say, "I am Minister, I have Executive authority and I want to have control of the human resources, so I hired the No. 6 person". He could have done that, and I could not say anything about it, because he would have been within his rights.

Do you know what he did? He came to the Parliament, spoke magnificent falsehoods, implicating an international agency, and when the evidence was brought in written form to this Parliament, this Cabinet defended the Minister and he remains there to this day holding the portfolio. But today, they are telling me, that this Cabinet somehow has some interest in transparency, accountability and fair play. Their short dismal, miserable record is good basis for paranoia on the part of the whole country, [*Desk thumping*] because the record shows that they are not above abusing their authority and lying about it to hide their actions. I am sorry to say that.

Permanent secretaries: the Government has a certain amount of freehand in dealing with permanent secretaries. I need not go into the details of the behaviour of the Minister of Education. He terrorized public servants in his Ministry to the end where he has brought the education system now to a point where only he knows what is going on. In a short space of time, he has terrorized three permanent secretaries and, therefore you ask yourself, what kind of system would

we live under if people like that have a freehand to hire, fire, discipline and promote public servants in general? So if I am paranoid my friend from St. Joseph— have good reason to be. The record speaks for itself. [*Desk thumping*]

6.55 p.m.

Mr. Speaker, we are not saying that service commissions are sacrosanct. In fact, a very good case can be made for, as I said earlier, the delegation of authority. A stronger case can be made for improvements in the methodology and the pathway with respect to discipline, how the system of application of discipline of public servants applies. Those are the two areas of concern with respect to the Public Service Commission.

A point raised by the Member for St. Joseph about the tardiness in appointments, is something which must concern us and which requires rectification. But, Mr. Speaker, notwithstanding the fact, that we need to revisit the whole question of disciplinary procedure in the public service within the ambit of the entrenched service commissions, without political interference; notwithstanding the fact that we need to modernize our system to bring about a marrying of authority and responsibility under the service commissions system, nothing that we can say about the requirement for improvement of the service commissions system can warrant this attempt at intrusion on the independence of the service commissions and, therefore, there is no way we are going to support this measure ~~the~~ way.

Mr. Speaker if this measure is passed and is put into force, it has the potential to escalate the mistrust, in this country to something unwarranted and something quite dangerous. If the people of this country believe that the political arm is showing the kinds of things, that this political arm is showing that it can do, there will be such dissatisfaction in this country, that this country can become ungovernable.

The whole idea behind the service commissions concept was to prevent that from developing and fermenting in Trinidad and Tobago, and Mr. Speaker, as I said earlier on, it has worked well and the proof of that lies in the findings of the Wooding Commission and the Hyatali Commission and in the minds of all of us who are in contact with the people of Trinidad and Tobago. Mr. Speaker, do not let the Attorney General and his cohorts mislead you into believing that there is any good to come out of this, because this is a keg of dynamite, with careless smokers.

Mr. Speaker, listen to the Attorney General speaking this morning:

Is it not a right for the people of Trinidad and Tobago to know, through their representatives, why vacancies are not being filled.”

So somewhere on the priority list of grievances in this country, is the right of the people of Trinidad and Tobago to know. I agree, they have the right to know, but, Mr. Speaker, are their rights limited to this? I think their rights are also extended to finding out who is responsible for the importation of rice at NFM; rice that became bicycles on the way down and expressed itself in losses to the treasury. The Prime Minister promised an inquiry

Mr. Speaker: Hon. Members, the speaking time of the Member for Diego Martin West has expired.

Motion made, That the hon. Members' speaking time be extended by 30 minutes. [*Miss P. Nicholson*]

Mr. Speaker: I honestly do think that both the Member for Oropouche and the Member for Tobago West owe the Chair a not mean apology. I think so.

Miss P. Nicholson: Mr. Speaker, I apologize.

Question put and agreed to.

Dr. K. Rowley: I thank you, Mr. Speaker, and also my colleagues for the extension.

Mr. Speaker, I was saying the Attorney General himself the Attorney General, was saying to us today in support of this dangerous measure and asking the question: Is it not the right for the people of Trinidad and Tobago to know? And later on he repeated it. As a matter of fact, he went on to say: One of the greatest weapon to promote democracy is for the people to have information and to know.” Mr. Speaker, this is the same Attorney General who in the face of a question asking: What advice did the Attorney General give with respect to our moneys that are spent at the airport, with respect to the contract being legal or null and void? And the answer we got was that the advice of the Attorney General is not available to the Parliament. It is only available to the Parliament to defend the crooks in the Inncogen deal, because the same day or the same week, that we were told that the Attorney General's advice could not be made available to us, so we could know whether in fact Cabinet was advised that the contract was null and void, we were told that the Attorney General said that the signing of the Inncogen contract was

illegal. And you want us to believe that these people have some commitment to honesty, accountability and transparency

Mr. Speaker, this Government has no moral authority to advocate any measure that has anything to do with giving the semblance that they have any interest in accountability, transparency or basic honesty. [*Desk thumping*]

When we have a project at T&TEC and no public bids are invited and a friend of the Prime Minister becomes the major beneficiary of a hand-pick contract which ties this country's hand with a 235 mega watts power station that is coming on stream in October, to undermine our very economic existence in this country, for which we have to pay and wrapped up in twine to the extent where if we sell the company the state still owes that responsibility, where is the commitment to transparency and accountability then?

My friend from St. Joseph says, when he speaks for the Ministry of Finance at least this year about economic growth that they are all joint and severally bound. I agree that you are joint and bound by the corrupt actions as it is around you [*Desk thumping*], who do not even pretend—in fact, I heard a magnificent statement today from my friend from Siparia, which probably explains the behaviour of the Government. She said that there are no mechanisms to demonstrate accountability. I mean I could not believe my ears and it has to be that this Government and its corrupt friends are operating under that premise and that they believe when they give out the state teak plantation to their Campaign Manager and the Campaign Manager from Princes Town and a front man from Couva, those of us in the country have no mechanism of seeing what they are doing.

7.05 p.m.

What a revelation when a senior Minister of Government gets up in the Parliament and says she is operating on the basis that there are no mechanisms to demonstrate accountability and transparency and when questions are asked in the Parliament, specific questions of the Government—Was the Soodhoo report assisted by legal counsel? If so, who was the counsel and how much was paid for the advice? The question came up for answer today.

The Government refuses to answer a question like that, a simple question requiring the Government to account for some action that is taken in a state agency and the Government refuses to even be transparent on a little matter like

that, the reason being they have cocoa in the sun and they have no interest in accountability.

But, of course, they want to wield control over the service commissions to do as they please, as they are wont to do, so they ask the Parliament to assist them in their minority position to adjust the entrenched provision that requires a special majority. Mr. Speaker, we cannot assist this Government in violating the protections from its excesses. We cannot do that.

If they go ahead and pass this, as I think they will do because they have done it before, they can do that. They can go ahead and pass this and my advice to any person in Trinidad and Tobago who is a commissioner is, if this thing is passed and comes into law, if they want to defend Trinidad and Tobago, refuse to appear before any such parliamentary committee and let them take them to court. Because I want to see, when they pass it and decide to interfere in the commissions and the commissioners refuse to come, where are we? Can you imagine, Mr. Speaker? They must refuse to come to the Parliament to take part in any travesty because this, if it is passed without a special majority, must be tested in the court.

Mr. Sudama: By your advice to the commissioners, are you interfering with the independence of the commissions?

Dr. K Rowley: Yes, I am interfering with the independence. I am asking the commissions to preserve their independence by refusing to surrender it to you in your illegal act. You are using the Parliament as a front to do something which you do not have power to do.

Mr. Maharaj: Well, take it to the court if you say so.

Dr. K Rowley: You do not have the requisite votes to change the Constitution and as long as you do not have the votes to do it and you try to do it, it is an improper act.

Mr. Speaker, I have no problem with the Government wanting to apply this measure to ministries, alternate bodies, or to whatever, but I have a problem with them trying to apply this to service commissions. If this Government seriously considered the integrity of our society, social and economic, and it wanted to do this, it would have done so if only to give comfort to the population of Trinidad and Tobago, it would have approached this matter along the same lines as the Wooding Commission, or the Hyatali Commission. It would not have approached it in the way that it has approached it. But, it is because the Government's intention is not honourable, that it has to go by this roundabout, subterfuge way of trying to

sneak it into section 66 among the money bills and away from section 121 where it rightly belongs, because the intent is not honourable. It is the Government's intention to deceive the Parliament and the population and we cannot allow that.

The Government has a commitment to transparency. A state company that suffered severe losses under this administration had the temerity to hire an international accounting firm to inquire into a transaction and that transaction showed things that the Government did not like. What did the Government do? The Government took steps to blackball and blackmail the international agency. *[Interruption]* Yes, you would hear it as long as you are in this Parliament because that is what you all do and it runs contrary to your hypocritical position.

Mr. Maharaj: Why did you not prepare the Bill?

Dr. K Rowley: So when you come here and talk about giving effect to the principles of accountability, transparency and openness," I am talking about that, accountability, transparency and openness and I am saying that the record is replete with proof of your lack of commitment to accountability, to transparency and to openness and, therefore, none of your platitudes would convince us that the measure here is for our good.

Mr. Speaker, we do not want this Bill because it will create dislocation in the public service in Trinidad and Tobago. The public service is too large a part of our well-being. I take you back to the discussions of 1962; I take you back to the whole concept that the public service and its independence and continuity, as having been described by those who wrote our Constitution, as something that if it was not handled properly, could have stymied the development of Trinidad and Tobago. It was out of a recognition of the fact that an independent public service that can survive a change of government over and over, why the service commissions have been entrenched in our Constitution. What this Government is seeking to do, in the name of evolution, without telling us how it will operate, because to tell us how it will operate is to show us how the dangers that we were fearful of in 1962, how those same dangers would now threaten us even more so.

If the people of Trinidad and Tobago, in 1962, were afraid of governmental interference and lack of independence of an appointing/hiring/firing body, the people of Trinidad and Tobago, in 1999, are even more fearful.

It was only last week that the Public Services Association was accusing the Government of discrimination. It is the first time I have ever heard a President of

Constitution (Amdt.) (No. 3) Bill
[DR. ROWLEY]

Wednesday, February 24, 1999

the Public Services Association accusing a government of Trinidad and Tobago of discrimination. It was the first time I heard that. So, there are large numbers of people in this country, the vast majority of people, who now, more than ever, are saying to us, leave well alone.

Mr. D. Singh: They used to allow it to take place before.

Dr. K Rowley: They are not saying do not modernize the service commissions' operations. It is a fallacy to say that if we do not give the Government this insight into threatening the commissions, this insight into inquiring into their actions, into politicizing them, into giving the Parliament a role that cannot be for our benefit, that if we do not do that, we cannot modernize the service commissions.

If the Government had come here with a bill or any instrument which was reasonable, we would have supported it. If the reason and the practicality was to bring about an improvement in effective discipline in the public service, both in terms of the time involved and the course of actions to be taken, we would have supported that.

Mr. Sudama: Is that your party's position?

Dr. K Rowley: If the Government came here with a measure about delegation of authority to the public service management from the commissions, we would consider that. Those are progressive measures which are worthy of consideration, but do not come here and tell me that what you want to do is to appoint a parliamentary committee which can just *ad hoc* inquire into anything. So, somebody comes and tells you, 'I was supposed to be appointed to the commission meh'head because I have the wrong colour hair,' or because I am tall, or because I am from Tobago or I am from Cedros, and the Parliament inquires into that.

The minute you start going down that road, we might as well disband the commissions completely, because the strength of the commissions in our system is the perception that they are independent of that kind of shenanigan. That is the very kernel of the contributions that the commissions can make to our well-being. They have been seen to be independent, to be believed to be independent, to be accepted as independent. So when appointments are made, people trust the appointments and any public servant who feels aggrieved; in fact, I venture to say any person in this country who feels that the commissions have done something wrong, can approach the Judiciary for review and for a ruling. So, why is this required? Why is this necessary? *[Interruption]*

Mr. Speaker, did you hear that statement? He is now saying that it is expensive and, therefore, we should not go that route. Last week, there was a measure here where the Government was seeking to trample on people's rights where, if someone grew a tree in his or her yard, he or she could not cut it down without the Government's approval. When we said that they were trampling on people's rights, we were told that anybody who felt aggrieved should do what, go to the court. So last week, who does not like it should go to the court, but this week, "No, do not go to the court. It is too expensive." This Government ought not to be trusted; it ought never to be trusted and if there are any people in this country who had any doubts about the intentions of these individuals who came out of the cold into the corridors of power, this Bill shows their intention.

What priority is this, Mr. Speaker? From where did this priority come? The economy is collapsing. Three months ago, there was a Minister of Finance in here telling us that we were insulated from the Asian situation and he had a plan; that if oil prices fell to \$5.00 a barrel, there was nothing to worry about.

Mr. Sudama: He never said so.

Dr. K. Rowley: We have the Prime Minister now, going to a southern point of the country in Moruga, in the forest, where he thinks we would not hear him, saying all hell break loose. But, of course, he did not count on the media. The media were there and told us that the Prime Minister was saying there are rough times ahead and, instead of us dealing in the Parliament with those current and pertinent issues, real and present dangers, we are dealing with the figment of the imagination of the Attorney General.

What this Bill represents is not a well-ordered priority in the Cabinet, it is the action of a Cabinet where the Attorney General is 90 per cent of the Cabinet and the rest is 2.5 per cent.

Mr. Manning: He is at large.

Dr. K. Rowley: Any Cabinet that was looking at the priority list for the people of Trinidad and Tobago could never have called a special sitting of the Parliament today, Wednesday, to deal with an attack on the Service commissions, an attack which is so vulgar that people who normally would not have got into the public domain to make any comment have seen it fit, in the interest of this country, to come out and stand in front this Government.

I heard peewats' from the other side this afternoon talking about these eminent citizens, one of whom is Sir Ellis Clarke, who is an architect of the said Constitution, but yet, these two by fours over there would tell me he does not know what he is talking about.

Hon. Member: Nobody said so.

Dr. K. Rowley: I am amazed and pleasantly surprised that a man of the ilk of Mr. Noor Hassanali came out and put his name to this public document. When Mr. Noor Hassanali said that something was wrong with this, Mr. Speaker, I know that something is very wrong with it. I am warning this Government that it could turn its back on the collected wisdom of six Trinity Cross holders, but it can do so at its own peril.

7.20 p.m.

Today I want to pay public tribute to these six outstanding citizens for standing up in our hour of need. This is what Trinidad and Tobago needs. Mr. Speaker, about four years ago, I happened to ask an outstanding national in this country in the legal fraternity: what is it about the Member for Couva South that causes him to be such an aggravation to this country? And you know what he told me? He told me he said, he is not very bright, but he has the brass face to argue the most illogical argument in such a way, that if you do not know what you are doing, he might convince you. That was a profound analysis of the Member for Couva South.

If you could see Sir Ellis Clarke, who crafted our Constitution and is recognized as one of the brilliant legal minds in this country. You look at the point of view of Mr. Noor Hassanali, the current Chief Justice, Trinity Cross holders, eminent men and they want me to accept the point of view of lawyers who have never even argued in a fowl case far more to win. *[Interruption]* This is an affront to the country and all that we are saying to the people of Trinidad and Tobago, take note that on February 22, 1999 you have been warned; you have been warned.

Mr. Speaker, I represent Diego Martin West and there is no clamour in Diego Martin West for the UNC minority government to interfere with our Constitution, to interfere with service commissions, to take unto themselves the authority to manipulate the hirings and firings, of promotions, of transfers of public servants. I speak for the people of Diego Martin West; there is no clamour in Diego Martin

West for that, Mr. Speaker. And on that score, I ask the Attorney General and his cohorts to leave the Constitution alone. Leave it alone.

Mr. Speaker I would not engage in any debate about investigating corruption with the UNC because as far as I am concerned from here on in, the UNC is on borrowed time. They have gone beyond recall. They have committed so much corrupt acts in this country, that it is only a matter of time before the people use their fingers in this country and one by one kick them out of office. They are corrupt. [*Desk thumping*]. So no amount of fallacies about investigating corruption will sway me. This Government is on record, as demonstrating to the country, in more ways and in more days that it is the most corrupt government in the western hemisphere.

Mr. Speaker: Order. Could you continue please.

Dr. K. Rowley: Thank you Mr. Speaker. To seek to amend the Constitution in this way is an act of corruption. To seek to amend it in this way, because Mr. Speaker, I want to quote~~[~~*interruption*]

Mr. Speaker: Order please.

Dr. K. Rowley: Mr. Speaker, I speak only for the record here. I want to put on the *Hansard* the comments as recorded in this~~fr~~om the commission, the Legal Service Commission, it says at page 10 of the *Guardian* of February 24, 1999:

‘Also summoning before the committee could be used as a subtle device for influencing an appointment or even a dismissal which is under consideration.’

Mr. Speaker, I subscribe to that view. Just the very fact of summoning the commission could be viewed as a subtle device for influencing an appointment. Once that is the case, Mr. Speaker, as it is the case, then the effective independence of the service commissions would have been undermined and any action like this that does that undermining, is going against the spirit and the letter of the entrenched provisions of section 121 onwards, and therefore, if the Government wants to put that in place, it must first get the requisite mandate. The Government does not have it, and therefore, if the Government seeks to use the Parliament to do that, I submit Mr. Speaker, that too, is an act of corruption. Because the intent is evil, and the actions can be disastrous.

It goes on to say, Mr. Speaker; it raises the question:

‘about service commissions and their total independence going by the board, with or without justification; political interference and influence will be suspected and inferred. If you create a situation where the public has reasons,

justifiable reasons to suspect or infer interference, then the commissions' usefulness would have been terminated."

Mr. Speaker, I associate with those comments.

Mr. Speaker, the note from the Chief Justice and his colleagues ends by saying that this action is a retrograde step and against the public interest. When the sitting Chief Justice of a country stands up and makes a statement like that, all you people in Trinidad and Tobago with ears to hear you must hear. The sitting Chief Justice is saying that the—

Mr. Singh: Who is he? *[Interruptions]*

Dr. K. Rowley: Mr. Speaker, I rest my case and I take my seat. Mr. Speaker, I done. *[Desk thumping]*

Mr. Maharaj: He is entitled to his view. Do you want to make a contribution?

Dr. K. Rowley: No Sir.

ADJOURNMENT

The Attorney General (Hon. Ramesh Lawrence Maharaj): Mr. Speaker, I was going to move the adjournment of the House. As I move the adjournment of the House for Friday, may I state that on the last occasion I did announce that the Opposition had agreed to give us Private Members' Day on Friday, but there has been some changes to that, following discussions with the Opposition Chief Whip and by agreement, we have agreed for Friday at 1.30 p.m which would be Private Members' Day. The Opposition has indicated that we will do Motion No. 2 on Friday.

Mr. Speaker I move the adjournment of the House to Friday, February 26, 1999 at 1.30 p.m..

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.30 p.m.

Written Answer to Question

Wednesday, February 24, 1999

WRITTEN ANSWER TO QUESTION

**Common Entrance Examination
(Top Ranking Students)**

20. Mr. Fitzgerald Hinds (*Laventille East/Morvant*) asked the Minister of Education:

- (a) Would the Minister indicate the top 100 students ranked in order of performance in the Common Entrance Examination, 1998?
- (b) Would the Minister identify the primary schools which registered each of the top 100 students for the said examination?

The following reply was circulated to Members of the House:

COMMON ENTRANCE EXAMINATION—1998

TOP 116 STUDENTS

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
1	MAHARAJ ANJALI D	02175	CHAGUANAS GOVERNMENT	1 st
2	SCHOELLER ANDREA E	14428	CUREPE PRESBYTERIAN	1 st
3	TEWARI SHIVA ANAND	24169	SAN FERNANDO MUSLIM TML	1 st
4	BOOCHOON VENESSA A	14340	CUREPE PRESBYTERIAN	4 th
5	ANANTHAN ARAYANAN PA	02525	EXCHANGE PRESBYTERIAN	5 th
6	RAMCHARAN TRISTAN	06185	MONTROSE VEDIC	5 th
7	THOMPSON ADIO	27382	SAN FERNANDO S.D.A.	5 th
8	SEEPERSAD SHANE	22143	PRINCES TOWN PRESBYTERIANNO.1	5 th
9	NANAN LEELA	23318	VOS GOVERNMENT	9 th
10	SIEW VIJAYA R	24005	ST GABRIEL'S GIRLS' R.C.	9 th

*Written Answer to Question**Wednesday, February 24, 1999*

11	PERSAD CHANDIKA	17039	DON MIGUEL HINDU	9 th
12	LAMONT ANDREW	10606	SARAH'S PREPARATORY	9 th
13	KHAN NADIA C	01626	MONTROSE VEDIC	9 th
14	DAVIS MARIESEL	28177	SCARBOROUGH R.C.	9 th
15	RAMNATH KAI	21458	RIO CLARO HINDU	15 th
16	YETMING KRISTEN	08595	HOLY NAME PREPARATORY	15 th
17	MACKHAN SHANIDA	20952	DAYANAND MEMORIAL VEDIC	15 th
18	ANTOINE BRANDON P	23711	ST PETER'S PRIVATE SCHOOL	15 th
19	MAHABIR SHIVAANI	23966	ST GABRIEL'S GIRLS' R.C.	15 th
20	RAMPERSAD ALICIA J	18538	PENAL ROCK PRESBYTERIAN	15 th
21	RATTAN MARK A R	14424	CUREPE PRESBYTERIAN	15 th
22	RAMOUTAR AMRIKA S	14416	CUREPE PRESBYTERIAN	15 th

COMMON ENTRANCE EXAMINATION—1998**TOP 116 STUDENTS**

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
23	PERSAD SHIVANI	07702	MARIA REGINA GRADE SCHOOL	15 th
24	BABALL ASHVINI A	15247	ST JOSEPH MUSLIM (TML)	15 th
25	DEEN DENAH F	15262	ST JOSEPH MUSLIM (TML)	15 th
26	MOHAMMED SANA J	15299	ST JOSEPH MUSLIM (TML)	26 th
27	GILLETTE JOHN	07744	HOLY FAITH PREPARATORY	26 th

*Written Answer to Question**Wednesday, February 24, 1999*

			(ST MONICA'S)	
28	LUCES VACHEL	12044	ST JOSEPH BOYS' R.C.	26 th
29	ANANDEE ALLISON L	20633	SIPARIA UNION PRESBYTERIAN	26 th
30	GENE KRISTELLE T	23924	ST GABRIEL'S GIRLS' R.C.	26 th
31	TIRBANY VISHAAL	18670	TULSA TRACE HINDU	26 th
32	GOORACHAN STEVEN	11401	SAN JUAN PRESBYTERIAN	26 th
33	LEE WANHOY MATT J	03685	MAMORAL R.C.	26 th
34	KADIR SORAYA	01926	CHARLIEVILLE MUSLIM (ASJA)	26 th
35	TELFER SHYANNE	02615	EXCHANGE PRESBYTERIAN	26 th
36	POW NISSAN	26518	SAN FERNANDO BOYS' R.C.	26 th
37	DEOSARAN JOHAN L	15263	ST JOSEPH MUSLIM (TML)	37 th
38	FARAH CHRISTIANE	07739	HOLY FAITH PREPARATORY (ST MONICA'S)	37 th
39	BAILEY OMARI	07212	RICHMOND STREET BOYS' A.C.	37 th
40	DHARAMRAJ SHASTRI B	21241	ROBERT VILLAGE HINDU	37 th
41	SIEURAJ SINGH V	20988	DAYANAND MEMORIAL VEDIC	37 th
42	PILGRIM ADEIYE	13778	ARIMA (NEW) GOVERNMENT	37 th
43	JOSEPH JARED	05750	CUNAPO R.C. (ST FRANCIS)	37 th

TOP 116 STUDENTS

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
44	SHAH STUART FIADH	24160	SAN FERNANDO MUSLIM (TML)	37 th
45	RAMLOGAN STEPHANIE N	14414	CUREPE PRESBYTERIAN	37 th
46	MITCHELL DARREN	26489	SAN FERNANDO BOYS' R.C.	46 th
47	MAHARAJ SATIRA	02736	CARAPICHAIMA R.C.	46 th
48	KHAN SAYEDALI	22497	PRINCES TOWN ASJA	46 th
49	MARAJ HEMA D	04196	SANGRE GRANDE HINDU	46 th
50	SPICER DEE ANN	07188	NEWTOWN GIRLS R.C.	46 th
51	NELSON DUANE	12054	ST JOSEPH BOYS' R.C.	46 th
52	PIERRE STEFFAN M	10441	DIAMOND VALE GOVERNMENT	46 th
53	RAMLACKHANSINGH A J	23723	ST PETER'S PRIVATE PRIMARY	46 th
54	AUGUSTUS KALIFA	06532	MUCURAPO GIRLS' R.C.	46 th
55	RAMSAHAI ARVIND	21321	ROBERT VILLAGE HINDU	46 th
56	SEEOBIN NARESH D	18668	TULSA TRACE HINDU	46 th
57	BAKSH SHERA	22059	PRINCES TOWN PRESBYTERIAN NO.1	46 th
58	PERSAD CLIFTON	25498	ROCHARD DOULAS PRESBYTERIAN	46 th
59	KIPPS APPLELONIAH	13417	LA HORQUETTA NORTH GOVERNMENT	46 th
60	MOHAMMED NABILAH Z	24142	SAN FERNANDO MUSLIM (TML)	46 th
61	BUDRIE LEANNA	24406	GRANT MEMORIAL PRESBYTERIAN	46 th

*Written Answer to Question**Wednesday, February 24, 1999*

62	ALEXIS AFE	14213	ST JOSEPH'S GIRLS' R.C.	46 th
63	JORDAN JESSIE K	14370	CUREPE PRESBYTERIAN	46 th
64	TOUSSAINT JENNA	08180	BELMONT GIRLS' R.C.	46 th
65	GANPAT JOEL	16123	TUNAPUNA BOYS' R.C.	46 th

COMMON ENTRANCE EXAMINATION—1998**TOP 116 STUDENTS**

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
66	MAHARAJ VISHALA	24491	GRANT MEMORIAL PRESBYTERIAN	46 th
67	RAGHUNANAN BARRY	24535	GRANT MEMORIAL PRESBYTERIAN	67 th
68	AIYEJINA ARARIMEH	16205	UNIVERSITY SCHOOL	67 th
69	HANNAYS CHRISTINE	08483	BISHOP ANSTEY JUNIOR	67 th
70	LATCHAN ZAFIR	26693	SAN FERNANDO MUSLIM (TML)	67 th
71	MARAJ NICHOLAS	15114	LUCIA'S PRIVATE SCHOOL	67 th
72	MANMOHAM STEVEN	15113	LUCIA'S PRIVATE SCHOOL	67 th
73	NIXON CEMMONE	17474	BARATARIA A.C.	67 th
74	NANDLAL ADRIAN A	22414	JORDAN HILL PRESBYTERIAN	67 th
75	JAGGERNAUTH NIKITA S	04159	SANGRE GRANDE HINDU	67 th
76	SILVERTON LATOYA	100936	ST CATHERINE'S PRIVATE	67 th
77	JAIKARANSINGH K	23942	ST GABRIEL'S GIRLS' R.C.	67 th
78	POORAN ASHA	26027	CANAAN PRESBYTERIAN	67 th

*Written Answer to Question**Wednesday, February 24, 1999*

79	RAGBIR MELANIE	18725	AVOCAT VEDIC	67 th
80	BELFIELD-MATAMORO J	14946	MOUNT LAMBERT R.C.	67 th
81	MAHARAJ PRANAV S	00327	ST HELENA HINDU	67 th
82	BASANOO JOSANNE	22893	ST MICHAEL'S A.C.	67 th
83	NAIPAUL JASON	01662	MONTROSE VEDIC	67 th
84	EDOO ANDREI	24122	SAN FERNANDO MUSLIM (TML)	67 th
85	THOMPSON KRISTIN	14312	ST JOSEPH GIRLS' R.C.	67 th
86	LEWIS RONEL	10229	ROSARY BOYS' R.C.	67 th
87	LEWIS CINDI	10003	SACRED HEART GIRLS' R.C.	67 th

COMMON ENTRANCE EXAMINATION—1998**TOP 116 STUDENTS**

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
88	JAMUNAR RAI R	12362	SPECIALIST LEARNING CENTRE	67 th
89	LALSIN ZALINA Y	12369	SPECIALIST LEARNING CENTRE	67 th
90	LOURENCO KIERA C	12370	SPECIALIST LEARNING CENTRE	90 th
91	RAMCHARAN RAVI	12568	EL DORADO HINDU SOUTH	90 th
92	SINGH NATASHA N	24585	GRANT MEMORIAL PRESBYTERIAN	90 th
93	KOCHHAR AMRIK	16218	UNIVERSITY SCHOOL	90 th
94	RAMDIAL RAYANNA	16235	UNIVERSITY SCHOOL	90 th
95	MAXIMIN BRENT	08442	ST GABRIEL'S PRIVATE	90 th

Written Answer to Question

Wednesday, February 24, 1999

96	KHAN SHARIFAH	15280	ST JOSEPH MUSLIM (TML)	90 th
97	RAMNARINE NEERA	20427	PEPPER VILLAGE GOVERNMENT	90 th
98	RAMDHANIE ANIL C	22423	JORDAN HILL PRESBYTERIAN	90 th
99	SOOKHAI SHARLENE	03998	ESPERANZA PRESBYTERIAN	90 th
100	MAHARAJH VIVEK ANUP	01640	MONTROSE VEDIC	90 th
101	BARTHOLOMEW S E	01337	CARAPICHAIMA MUSLIM (ASJA)	90 th
102	RAMKHELAWAN SHARDA A	23997	ST GABRIEL'S GIRLS' R.C.	90 th
103	WHITE JODY ANAND	23732	ST PETER'S PRIVATE PRIMARY	90 th
104	SULIMAN SIDDIQUE D	25403	INVERNESS PRESBYTERIAN	90 th
105	MOHAMMED SOBINA S	25308	LENGUA ISLAMIA (TIA)	90 th
106	GOMES LAURA	09447	DUNROSS PREPARATORY	90 th
107	KHAN REIAD	22093	PRINCES TOWN PRESBYTERIAN NO.1	90 th
108	ST HILL ANDERSON	13527	ARIMA S.D.A. PRIMARY	90 th
109	MARAJDEEN VANDANA S	01644	MONTROSE VEDIC	90 th

COMMON ENTRANCE EXAMINATION—1998**TOP 116 STUDENTS**

NO	STUDENT NAME (Surname first)	C.E. NO	PRIMARY SCHOOL ATTENDED	PLACING
----	---------------------------------	---------	----------------------------	---------

*Written Answer to Question**Wednesday, February 24, 1999*

110	ALI ALISHA	24104	SAN FERNANDO MUSLIM (TML)	90 th
111	BEHARRY SONIA NIKITA	24118	SAN FERNANDO MUSLIM (TML)	90 th
112	JURAWAN KEREN T	14371	CUREPE PRESBYTERIAN	90 th
113	SEECHARAN SIMMIKA	14429	CUREPE PRESBYTERIAN	90 th
114	GOPAUL ANDREW M	02136	CHAGUANAS GOVERNMENT	90 th
115	LALL ALEX P	02167	CHAGUANAS GOVERNMENT	90 th
116	INDARSINGH DEVON	24451	GRANT MEMORIAL PRESBYTERIAN	90 th